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Crime, Control and Complexity

On the 'Crime and Security Complex' in Modern Western Society

Patrick Van Calster

A Thesis Submitted for the Degree of Doctor of Philosophy by
Publication at Huddersfield University

June 2015

There is no escape from philosophy.

Karl Jaspers

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Abstract

The dominant scientific methodology utilised by social scientists to study problems of crime and disorder is a macroscopic perspective that focuses on order and control; the molar. It assumes the 'outside' position of the researcher who focuses on functionality. Researchers construct their object of research as a distinct phenomenon and try to find links between it and its environment: the research object is assumed to be goal-driven. However, social reality is much more complex than this dominant perspective is able to research.

This thesis argues that the molar cannot be fully understood without the molecular, a concept that expresses the idea of the unpredictable: sentiments, such as misunderstandings, fears and aspirations are key. However, the molar and the molecular are inextricably connected and emerge at the same time. Consequently, small changes on the molecular level could have huge and unpredictable effects on the molar level. Then, it becomes key to study the emergence of systems of control, such as law and partnerships, in relation to these molecular liquidities. Such an approach might teach us how crime policies deviate from the goals intended and start to produce undesirable side-effects.

The thesis explores an alternative epistemology for examining issues of criminological concern which centers the molecular. It presents three case studies to illustrate the way both levels are interconnected. The first is concerned with the messiness and unpredictability of everyday relations and interactions in a criminal network. The second explores two Dutch police partnerships. Molecular elements such as personal preferences, frustrations and tensions are found to have a significant impact on the outcome of these partnerships. The third examines a measure introduced to prevent anti-social behaviour in the Netherlands which made shopkeepers and security personnel co-responsible for detecting and punishing acts such as shoplifting and fraud. The case is embedded in civil, not criminal, law and it is the diffuse nature of quasi-criminal law that leads shopkeepers to refer to internal rules to justify their own actions.

The cases show that the molecular is crucial in understanding crime problems and possible solutions, and the thesis concludes that the molecular should form the basis of a new epistemology for criminology research.

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CHAPTER 1

Commentary

1.1. General Statement and Purpose of the Thesis

The aim of current research is to question, by adopting a particular epistemological perspective, the way that policy-makers in the Netherlands, and the social scientific research that is affiliated with policy-making, tend to react to problems of crime and crime control¹. It presents the preliminary contours of an alternative criminology which is, it shall be argued below, better able to understand problems with which more traditional crime control perspectives often struggle. The reason for this renewed philosophical approach in criminology is based on two observations.

First, scholars who have conducted research on the efficiency of crime policy programs in the Netherlands have found that most policies have little control over the ‘criminal’ choices people make, the actions they perform and the interactions they maintain (Blok, 2011; Van de Bunt, 2003; Nelen, 2009). Even the considerable amount of technological means deployed in cities to prevent people from committing criminal offences has not had the impact policy-makers wished for. The implementation of CCTV, for example, often leads criminal hotspots to relocate to other geographical areas, and some people tend to wear particular clothing with the intention of making identification impossible (see on this Terpstra, 2010; Crawford, 2002; Boutellier, 2002; Calster & Gunter-Moor, 2010a)². Researchers, such as Bernasco, Elffers and

¹ Obviously, there are different types of crime, criminals, crime policies and crime policy initiatives. However, as I will explain later, the main focus of the thesis is on the dominant epistemological perspective that seems to underlie most of the ideas on crime and crime policy in the western world. Expanding on the different types of crime and crime policies would therefore exceed the scope of the thesis.

² Obviously, crime is never fully transferred to other areas or transformed into new types of crime (see for example Clarke, 2007). Some researchers have even observed a diffusion of benefits, such as a reduction in crime in nearby areas (e.g. Clarke, 2007; Clarke and Weisburd, 1994). See for the Netherlands Stol (2007) and Willemse (1994).

Bruinsma (2006) and Schulenberg, Leidelmeijer, Nijland, Marlet, van Woerkens and Ponds (2011) have observed a so-called 'waterbed effect'.

According to David Garland (2001) western governments now tend to accept the possibility that they could never completely purge society from crime and that, rather, they need to adapt to crime rate fluctuations, and to their own limited capacity to stand up to problems of crime and safety. This brings us to the second observation that encouraged me to rethink the traditional crime control perspectives and to take up an alternative epistemological approach. In this 'culture of control' (Garland, 2001), the aim of criminal justice in modern western society is no longer centred around the rehabilitation of individuals and the mere (reactive) maintenance of order, but is focused, on the contrary, on the (proactive) management of situations that might represent a potential threat to safety (see on this also Lippens and Calster, 2013; Helsloot, 2010; Kortleven, 2010; Furedi, 2009; Arcuri, 2005; Trouwborst, 2006).

In his 2011 book 'De Improvisatiemaatschappij' (The Improvisation Society, PJVC), Dutch criminologist Hans Boutellier made an analysis of these developments (or what he has called 'chaos and complexity') in contemporary Dutch society. For his analysis, he studied three governmental programs which are all aimed at establishing a certain amount of order and at bringing society's fears for crime and incivilities, and the complexities of modern life, under control. The first program is about civilization and society's call for a moral code (Boutellier, 2011: 49-64). Boutellier (2011: 51; 53) discusses the public debate that took place about the restoration of traditional Dutch norms and values, such as the family as the cornerstone of society, respect, tolerance, empathy, equality, integrity and responsibility. The second program involves the stimulation of citizenship and responsibilisation (Boutellier, 2011: 83-100). This program revolves around the attempts to engage citizens to take part in collective activities. The third and final, and according to Boutellier the most successful, deals with safety and security (Boutellier, 2011: 65-82). Boutellier (2011: 65-82) argues that there are two major processes at work here. First, western society has gained a renewed trust

in the effectiveness of punishment. This, on the one hand, has led to an increase of the number of convictions, and, on the other, has hardened society's approach on the fight against crime, insecurity and antisocial behaviour (Boutellier, 2011: 69). The second development revolves around the observation that governments have embraced the idea of prevention. Both of these developments have caused a shift in terminology; 'crime' (which is relatively easy to define) has been replaced with 'unsafety' (which is more difficult to define) (Boutellier, 2011: 69). Crime has now become one form of risk among many others and is managed accordingly. Indeed, as Ulrich Beck (1986), Zygmunt Bauman (2006) and David Garland (2001) have suggested, there is a trend towards increasingly precautionary societies.

Dutch criminologists Henk van de Bunt (2003) and Hans Nelen (2009) spoke out about their concerns about these developments in contemporary society. Because of the lack of impact that most crime policy programs seem to have (in reducing crime), governments tend to generate more and stronger legislative and operational efforts in the fight against crime and insecurity (van de Bunt, 2003). Much in this effort is of a precautionary character, and often introduces forces of exclusion, such as the removal of homeless people from shopping malls and train stations (e.g. Doherty et al., 2008; Van Steden, 2009; Boutellier, 2007; Calster, 2011c; Calster & Schuilenburg, 2012a; Van de Bunt, 2003). As Van de Bunt (2003) observed, in most cases this has led, in the Netherlands, to complications and new problems. Inge Onsea (2002) argued that these problems are frequently characterised by the emergence of undesirable side effects such as the curtailment of fundamental rights and liberties (see also Nelen, 2009) and dynamics of exclusion (Van de Bunt, 2003). In other words, the fight against crime and anti-social behavior seems to resemble a never-ending cycle of interventions in which it becomes necessary to use ever more forceful strategies and methods in an attempt to break the resilience of crime and anti-social behavior. That seems paradoxical. Policy-makers create more and stronger legislative and operational tools in the fight against crime but, at the same time, they fall victim to their own efforts because of what Bernasco et al (2006)

and Schuleberg et al (2011) have called the mechanics of the waterbed effect and the unintentional effect of encouraging the professionalization of crime and anti-social behaviour. As I have pointed out earlier regarding the research on CCTV, much of the scientific literature shows that perpetrators for whom the policy innovations are meant tend to react flexibly to it (see also for example Terpstra, 2010; Crawford, 2002; Boutellier, 2002), and are thus able to tackle or circumvent most government efforts. In other words, the innovations and new strategies only seem to work for a short amount of time and their benefits end almost immediately, leaving policy-makers with no other alternative than to develop yet more and stronger strategies. This might eventually lead to the installation of a police state. Indeed, whilst I am writing this, Belgian newspapers report on the decision of the Antwerp mayor to call in the help of the Belgian army as a response to the recent terrorist threats in the city. Efforts to establish certainty and controllability may indeed ultimately lead to just the opposite and cause uncertainty and instability instead³.

However, much in current criminology seems to lack the theoretical and conceptual tools for an adequate understanding of why most instruments of crime policy founder (Nelen, 2009: 8). It is precisely this concern which I have tried to address in my research on Dutch crime policy. I have adopted the view that an alternative epistemological perspective would be helpful in order to understand why most of the crime policies and policy initiatives seem to misfire against and, ultimately, endanger fundamental rights and liberties.

Epistemology is the study of knowledge. It is (as it says in the Stanford Encyclopedia of Philosophy) concerned with questions as to the necessary and sufficient conditions of knowledge, its sources, and its structure and limits. I hasten to add that I am not setting out to evaluate the success of particular crime policy programs. I am, though, trying to

³ Researchers such as Shaw (2002), Fonseca (2002), Stacey, Griffin and Shaw (2000), Stacey (2001), Griffin (2002), Prigogine and Stengers (1984), Nicolis and Prigogine (1989), Stuart Kauffman (1995) and Cilliers (1998) have made such arguments very explicit.

understand, at least in part, why they may be flawed. Thomas Kuhn's *The Structure of Scientific Revolutions* (1962) is one source of inspiration. According to Kuhn, researchers tend to work within a framework of assumptions about their field of study. These assumptions act like the roadmaps explorers use when they set foot in unknown territories. Without these assumptions, researchers would be lost and would not know how and where to begin or even which data to collect. It was precisely this valuable insight which set me off on a journey in an attempt to uncover these assumptions and which led me to try to find out how they work in relation to crime policy programs and corresponding research.

For the purpose of my research I focused on three crime policy initiatives that took place in the Netherlands between 2008 and 2012. The Netherlands has developed a culture of civic collaboration in research matters. Public actors, such as the police and public prosecution service, as well as private actors, such as private security companies, have the tendency to fully cooperate with researchers. In addition to this research-friendly climate of collaboration, there is also a more scientific reason why the choice of Netherlands as the location for my research is significant. The Netherlands plays a leading role in developing new initiatives in safety management and crime governance. The Collective Shop Ban, for example, is no longer based primarily on criminal law, but on civil law, and is aimed to make private actors co-responsible for maintaining security. Political efforts to establish collaboration between public and private actors in order to reduce crime and insecurity in the Netherlands could easily be considered as pioneering compared to most western countries. Public-private partnerships in this area have spawned a myriad of covenants which are aimed at defining responsibilities and missions of each of the partners in the fight against crime and insecurity. As Hans Nelen (2009: 3) has argued, Dutch policy-makers have widely embraced the idea and the practise of evidence-based research, and researchers have been eager to lend them their services. Let us now explore into some detail the epistemological perspective which I have used for my analysis.

1.2. Epistemology: researching why we know what we (think we) know

Contemporary society has its roots in the Enlightenment that brought forth for the first time in human history the idea of autonomy (Wouters, 1999; Smith, 1998). This idea would become one of the foundations of modern Western thought as it found its way in science and society.

In his seminal book *Kritik der Reinen Vernunft*, Immanuel Kant (1781 [2003]) argued that structure is not inherent to objects or impressions; on the contrary, structure is something the human mind seeks to apply. Mental frameworks are constantly at work to bring structure in experiences and impressions. This argument was never heard before; Kant called it his Copernican revolution since it turned over the existing scientific views (Wouters, 1999: 39). Kant was very intrigued by the seventeenth century scientific method (see Buchdahl, 1971), and although he immediately acknowledged its potentials, he also understood the method could not be applied to social reality. After all, humans are self-conscious and have free will while nature operates in a deterministic way (Kant, 2003: 48; 129-131; 137-157). About 10 years later, in his *Kritik der Urteilskraft* (1790 [2003]), Kant introduced the idea of nature as an organism that is brought forth by its parts. This was such a powerful idea that it started to play a leading role in the development of scientific methodologies and social organization. Typical for organisms is that they move towards their final state or end condition which, somehow, according to Kant, can be known in advance (Brittan, 1978; Stacey et al, 2000). One of the more well-known examples Kant used was the growth of seeds into trees; seeds cannot choose what to become, they merely end up as trees. The parts function to form the whole, or end condition (Kant, 2003: 296). Kant, however, had to reconcile free will and ratio of the individual with the deterministic context of nature (Stacey et al, 2000). He resolved this conflict between free will and determinism by accepting two sets of rules (Stacey et al, 2000): one for organisms which he represented as systems that move

towards an end form and rationality for humans whom he credited with free will, and therefore the power to make choices autonomously.

These Kantian assumptions are, although widely utilized for the management of corporate cultures and structures in order to control and to monitor their employees and generally accepted by the scientific community (Smith, 1998: 141), also contestable. As Weischedel (1985: 175-178) and De Bruyne (1943: 95-99) have noted, Kant himself was very well aware of the assumptions underpinning his method. He argued that although we can never know whether social reality acts according to the rules of determinism and rationality, we have to act 'as if' it does.

Mark Smith (1998: 141-144) has argued that the influence that (neo-)Kantian philosophies had on society and social sciences was so powerful and influential that it is rarely recognised and acknowledged. He continues: 'They have become such an integral part of social scientific inquiry that few feel the need to acknowledge them. They are simply part of the conceptual landscape of social science' (Smith, 1998: 141). It is easy to understand why Immanuel Kant has been considered as the father of modern science (see for example Wouters, 1999: 38; Capra, 1984).

It may not come as a surprise that (neo-)Kantianism is at the heart of the largest part of social scientific research into the governance of crime and safety in the western world. In the past eight years, I have studied modern criminal policy in the Netherlands extensively (e.g. Calster & Schuilenburg, 2012a, 2012b, 2012c, 2010; Calster, 2011c; Branderhorst & Calster, 2011; Claessen et al, 2011; Calster, 2011a, 2011b; Calster et al. 2011; Blad et al. 2011; Calster et al, 2010; Schuilenburg and Calster, 2010a, 2010b; Calster, 2010a, 2010b, 2010c, 2010d, 2010e; Calster and Toenders, 2010; Calster & Gunther-Moor, 2010b; Calster et al, 2010). I arrived at the provisional conclusion that Dutch criminal policy is in line with (neo-)Kantianism.

Most often criminal policy hinges on the fallacious assumption that individuals and actions can be steered by 'outside' or external systems (see especially Calster, 2010a; 2008). It is often assumed that individuals act as an integral part of a system purported to have a pre-determined impact on action. Here we see Kant's rule of determinism at work. Authorities then try to manage or manipulate the systems, by using law and covenants, that aim to steer human action. They often assume that human interactions are driven, for example, by economic principles, or by a certain organizational culture, or regulation, and so on. Responsibility (one could even say, ethics) is placed within those systems that are supposed to govern human behaviour. Actors are assumed to act as mere pawns and have no or little responsibility for what happens. As a result, it is often believed that human actions can be controlled and steered if these systems are managed and changed. Policy-makers are often under the impression that well-designed systems have the power to steer and control human action in the ways they predict.

When confronted with the fact that criminal policy has little or no grip on 'criminal' choice, action and interaction (see on this Van de Bunt, 2003), policy-makers' almost 'automatic' response is to expand the system of control as extensively as possible (Calster, 2010a; 2010b). In other words, policy-makers try to solve problems by designing new systems that are supposed to achieve the goals intended in a more capable manner. This might lead to an expansion and amplification of systems ad infinitum. However, policy intervention embodied in both policies and initiatives, very often achieves very little of what was originally intended (see on this, for example, Van de Bunt, 2003; Nelen, 2009; Terpstra, 2010). Frequently the outcome attained will not be particularly effective or efficient in bringing down the level of crime and unsafety (Bernasco et al, 2006), since extensive intervention often leads to extensive unintended complications, which bring new problems and side-effects to the surface, such as the curtailment of fundamental rights and liberties (see for example Onsea, 2002) and the professionalization of crime (McIntosh, 1975). As Cilliers (1998) argued, these new and unintended outcomes are frequently poorly understood, which then in

turn tends to result in precautionary intervention, indeed in the further crystallization of what Pieterman (2008) has called a stifling precautionary culture. It is these concerns that also underpin the thesis.

1.3. Introducing a Framework for the Analysis of Crime and Crime Governance

The first two chapters of the thesis analyse this (neo-)Kantian perspective in more detail. It will be argued that one of the ways to think through the problems with the (neo-)Kantian approach to crime control and crime policy is to understand that the problems mentioned above in essence derive from what could be called 'molar thinking', a concept borrowed from thermodynamics (and deployed in later 'Deleuzoguattarian' post-structuralism). This molar thinking could be best described as a macroscopic approach which has its focus on order, stability and control. Scholars who adopt this molar approach usually consider themselves as objective observers (Chalmers, 1999). It is precisely this macroscopic approach that is at the centre of the largest part of social scientific research on crime and security governance.

In these chapters, I argue that the main reason for introducing the idea of precautionary measures into criminal policy is based on the assumption of Kant's dualism between determinism and autonomy. Due to this duality in focus, and its accompanying scientific theoretical assumptions, logic and methods, in the second chapter it is argued that the (scientific) discourse on safety and security generates political and ideological statements, rather than scientific ones. It addresses problems that are selectively framed. Since authorities have little or no grip on non-linear interactions⁴ and the choices people make, they tend to expand control systems as extensively as possible.

⁴ Russ Marion (1999: 5) defines non-linear interactions as interactions in which the reaction is disjointed with the cause. "That is, a change in a causal agent does not necessarily elicit a proportional change in some variable it affects, rather it may elicit no response, dramatic response, or response only at certain levels of cause." (Marion, 1999: 6).

In chapter 3, it is then proposed that research in the field of security and crime control might benefit from the study of 'the molecular', i.e. the level of description with which the 'molar' is inseparably connected. The level of the molecular (as said above, the concept is actually derived from thermodynamics) consists of interactions between elements that in a sense constitute order and stability but are rarely studied or considered in policy strategies. In this chapter I map out the molecular by elaborating on Gabriel Tarde's sociology, as well as on complexity theory. It is argued that the study of crime, crime control and security governance, requires us to make attempts to analyse 'what happens' without reducing the findings to structure or to fixed order. Attention for the molecular means attention to small variations and transformations that may ultimately form the basis of newly emerging stabilities.

Chapter 3 also stresses the need to study the molecular in order to better understand how the molar works. In this case this means how crime policies work and how the anomalies (e.g. perverted outcomes) that they produce are generated. It shall be argued that the foundations of molar thinking in the social sciences, although inspired by Kant's dualism, have been expressed in the work of Emile Durkheim. According to Durkheim, a social fact is an independent entity that imposes certain views and ways of acting on the individual which he or she would not have displayed spontaneously. As I have mentioned earlier, the dominant perspectives in the field of the governance of security are based on this 'logic' which allows them to break down reality into parts in order to focus attention on isolated and controllable elements. Whereas Durkheim, simply put, held that social facts should be analyzed as separate entities, his contemporary Gabriel Tarde argued quite the opposite. According to Tarde, sociologists should focus precisely on the interpersonal interactions that provide the social with some degree of stability or indeed, structure.

The Durkheim-Tarde debate is not of matter of choosing one over the other. Both are not necessarily incommensurable. They both just seem to focus on different aspects. Contrary to Durkheim's structuralist view,

which concentrates on studying the shared convictions produced by a group or a collective as a whole, Tarde considers the interpersonal interactions themselves to be a social fact that is worthy of scientific research.

The Durkheimian strand of thought would identify 'the criminal justice system' with systems of rules and regulations, such as law and covenants ('Tardian' researchers would describe these systems rather as repetitive patterns of language and power), but ignores the complex processes of interaction from which this 'order' has emerged. It abstracts and names these systems (or 'repetitive patterns') as if it were a system that already existed outside processes of interaction. Here we see Kant's 'deterministic context of systems' at work. In such a perspective, change and transformation can only occur (and thus be explained) as the result of interventions by (an)extra-ordinary individual(s) who is (are) held responsible for the transformation of these systems. This is Kant's 'rationality and free will' that he attributed to humans. Consequently, when these systems are 'broken' (to use Stanley Cohen's (1988: 9) terminology here), governments try to fix these systems by introducing new systems (e.g. new laws and regulations) that are aimed to streamline all behaviours and thus restrict or even exclude the free will of the people who are involved in the systems. Hence, one of the consequences of this approach is that it tends to tackle problems by expanding the systems of control. The *raison d'être* of systems of control then is to eliminate all free will in order to give the systems the opportunity to move towards their end form and fulfil their purpose or end goal. As explored in chapters 4 to 6, the effectiveness and efficiency of such interventions, however, are, at best, unclear. This Durkheimian strand of thought will ultimately lead to an unbridled expansion of control systems, generating perverted outcomes, such as the curtailment of fundamental rights and liberties.

On the other hand, 'process thinking', which is based on Tarde's thought and further developed in complex systems theory, suggests the need to analyse actions within social processes, whereby emphasis is

placed on perceptions, world views, and interaction styles of all who participate in (and not with) those processes. This then suggests that, for example, criminal activity, or attempts to control it, are not just a matter of rationality or functionality, and thus of willful change and control, but that they are effects of various complex processes operating on a molecular level, over which one has little or no control. Far more than focusing on the molar level in isolation, therefore, we must also look at the molecular level and its ever-emerging effects. For even when everything appears to function well, the smallest of actions and passions –on the molecular level- may have unexpected consequences on the molar level.

Obviously, several attempts have been made by others to theorize and conceptualize the connections between the molecular and the molar. I have to mention here Taylor, Walton, and Young's *The New Criminology* (1973), or Anthony Giddens' structuration theory (e.g. 1984). The first pictured an overall social theory of crime and crime control, based on the Marxist study of political economy (molar) combined with symbolic interactionism (molecular). But this project remained, to a large extent, untried. The latter claimed that structural conditions (or the combination of structural possibilities and constraints) are the (result of the) intended and unintended consequences of that which knowledgeable actors, who constantly monitor and interpret the conditions and constraints they perceive, decide to do. These decisions, in turn, may, or may not, perpetuate or, as the case may be, change these very structural conditions and constraints. Structural conditions and constraints, in short, are structured, while, at the very same time, the actions through which structures are structured, are themselves structured by their structural conditions (Lippens and Calster, 2010: 8).

Since then, more attempts have been made to give attention to the micro level, or to what has come to be known as post-structuralism or complexity theory, in the social sciences (e.g. De Meyer, 2001; Kiel & Elliott, 1997; Richards, 1997; McBurnett, 1997a; 1997b; Brown, 1997; Dendrinos, 1997). Criminologists too have tried to incorporate the

molecular into their research (e.g. Young, 1991a; 1991b). These studies had a significant impact on the postmodern criminological debate in the early and mid nineties of the last century (such as Arrigo, 1994 and Milovanovic, 1992; Pepinsky, 1991; 1991; Arrigo, 1995a, 1995b; Milovanovic, 1992; 1996; 1997). Schehr (1996a; 1996b) and Young (1992) for example did research on social movement theory and community building. Milovanovic and Henry (1996) have developed a constitutive criminology that tried to analyse several perspectives in a postmodern context (see also Milovanovic, 1996; 1997). They were inspired by post-structuralism and by chaos theory, and argued that the outcome of structuration (whether it be in processes of criminalization, or in crime, or crime control) tend to be, to a large extent, unpredictable and contingent.

The theoretical, rather abstract nature of all these attempts is apparent. Efforts to apply these approaches to more empirical research or practical problems often found its roots in abstract imagery and terminology. What these researchers tended to do was to assimilate the terminology and the imagery of, for example, 'Deleuzoguattarian' post-structuralism or complexity theory into their research program (McMillan, 2008: 101). Campaigns to criminalize particular behaviours or groups of people are then described as "assemblages of desire" (Lippens and Calster, 2010: 9). For example, the concept of 'strange attractor' is often used to describe the system's movement between alienation and repression (Forker, 1997: 64). Milovanovic and Henry (1996: 178) made references to the body of work of George Herbert Mead, and compared the 'I' and the 'me' with respectively unstable and stable attractors. Young (1991: 19) has argued that the behaviour of 'white-collar' criminals who have conned their clients in order to maintain a luxurious lifestyle, resembles the dynamics of a stable attractor. The actions of a lynch mob are described as "forms of action that self-organize around attractors that are already on their way to dissipation" (Lippens and Calster, 2010: 9). In other words, complexity terminology is usually being used metaphorically, and serves merely as an attempt to bring structure or insight to the findings. Few attempts have been made to

explore the molecular in a more traditional empirical way. This is the substance of part 2 of this thesis.

1.4. Research Methods

As I have mentioned earlier, researchers of the molar usually hold the view that they can stand outside the project, as mere objective observers, and build models to control the object. The focus then is on crime policy as a goal-driven object. Researchers study the parts, such as organizational structures, tasks, working methods and roles, as a function of the end goal or end product (see for example Carr, 2005; Dekkers and Hombrug, 2006). The end goal or end product determines size, structure and activity of the organization and the instruments needed (see for example Hoogenboom, 2006). In others words, they determine the types of organization, the types of roles, the types of tasks and the types of judicial instruments. As shall be argued extensively in chapters two and three, the emphasis in molar thinking is on 'control' and 'stability'. Molar researchers pay little attention to the informal and often emotional interactions between people, verbal or non-verbal, and the part those interactions play in the generation and construction of social reality. If they did, it would put the notions of 'control' and 'stability' in perspective.

Traditional, that is, molar research, tends to break down the object of research into sets of objects and allocates well-defined theoretical frameworks to each of those. These frameworks are very practical and serve very specific needs, such as the need to define the object(s) of research, how to research them and how to make sense of the data thus generated. The choice for a specific theoretical framework then depends heavily on the *raison d'être* of the project. After all, each theoretical framework has its own premises and preferences for both research questions and the data needed⁵.

⁵ Bouw et al (1982) have edited an excellent collection of papers that expands on the reason why certain research interests always utilize the same theories and research methods.

Mahoney (1976) and Barber (1976) have argued that the traditional (what is called here 'molar') type of research often neglects small aberrations and peculiarities because they seldom fit the theoretical framework or the prevailing scientific views deployed in the research project. This may not be so surprising. It is precisely what theoretical frameworks are supposed to do: they streamline most, if not all, of the findings (van de Port, 2001: 54). However, this often prevents new insights from finding their way into the research program and it is frequently the reason why new discoveries (often of a molecular nature) and phenomena are left unnoticed. Even when researchers undertake explorations of an anthropological nature into crime or policy management, these frameworks work as a block against out-of-the-box reasoning and research (see e.g. Zaitch, 2002).

How then to research the molecular? The analysis, based on the work of Tarde (1962) and complexity theorists (e.g. Kauffman, 1993; 1995; Watts and Strogatz, 1998; Shaw, 2002; Fonseca, 2002; Griffin, 2002; Stacey, 2001; Stacey, Griffin and Shaw, 2000; Cilliers, 1998; Kauffman, 1994; Nicolis and Prigogine, 1989; Prigogine and Stengers, 1984), suggests that the molecular has a preference for a type of data that is often used in anthropology and journalistic studies. It goes beyond data of a police and/or judicial nature, economic analysis, and functionalities in networks, organizations, partnerships. In short, it goes beyond stabilities and structures. Rather, it probes the quality of interactions, and thus the hopes, fears and conflicts that may occur during these interactions, just as it probes the ways by which cooperation is achieved. Researchers of the molecular tend to focus on reflections, on twists and turns in justifications of actions, and on experience. The data in which they are interested is naturally revealed in narratives and storytelling, in the informal way in which people tell their motivations and experiences. As Schafer (1992) put it, people construct all kinds of narratives through which they try to account for the events in their lives. Research of the molecular thus has a preference for ethnography, because of its potential for the generation of personal and emotional data.

As Orne (1962) and Riecken (1962) have pointed out, all methodologies suffer from bias and are more or less subjective. This is also the case with molecular research and data, although the subjective tone can be tempered by efforts to triangulate data and draw comparisons between molecular data and secondary sources, such as police files, policy covenants, statutory provisions and the like. Let us for example take the techniques of face-to-face interviewing. As Sigall, Aronson and Van Hoose (1970) have showed, interviewees nearly always try to show themselves in their best possible way. Moreover, interviewees think they can only contribute to the research project when they try to meet the expectations of the researcher. As a result, they adopt and engage in socially accepted social roles and role patterns. Rosenberg (1969) for example came to the conclusion that interviewees attempt to come across as competent, normal and healthy persons. Masling (1966) and Argyris (1968) however, observed a 'screw you effect' when interviewees tried to frustrate the interviewer and refused to go along with the instructions of the interviewer. In short, face-to-face interviews suffer from problems of suggestion, non-response, hiatus, distortion and misrepresentation.

In my research, therefore, I have tried to avoid these biases by combining interviewing with the method of participative observation. I went to meetings and specific locations and asked questions about people's behaviours, thoughts and feelings as well as the way the partnerships in which they were involved functioned, such as 'why did you do it this specific way?', 'how did you feel when that happened?', 'what was your reaction?', 'what were you thinking when you heard this?', 'how did you react?', 'what did you expect when you did that?', 'what did you try to accomplish?', 'why and how did you deviate from the agreements you have made?', 'can you give me some examples of what went wrong?' and so on. I asked people to tell me detailed stories about their hopes and aspirations, setbacks, failures in communication, misunderstandings, or about the way they performed an action or interacted with others. This approach really paid off, generating the data I was interested in.

As it turned out, biased or partial data or interpretations (and the outcomes they produce) of life experiences are not so much a problem that threatens the validity of the data; they are, rather, an invitation to become more absorbed in these interpretations or data sets. As Pierre Nora (1987: 365) put it, it is exactly these biases that structure both past and current experiences. Again, these are the data researchers of the molecular tend to be interested in. In other words, the subjectivity of narratives or storytelling is no reason to ignore them. On the contrary, they give valuable insights in the workings of the social. This also puts the external or 'outside' position of the researcher in question, in favour of a more involved and interpretative position. These issues are elaborated upon in more detail in chapters two and four.

As the work of Tarde (1962), Elias (1991) and Kauffman (1993; 1995) suggests, and taking into account the need to 'include the molecular in the molar', both the molar and the molecular emerge together. Interaction can be characterised as a process whereby people negotiate with each other and account for what they did and do. Coherence and order are thereby produced, and potential transformed, in a process of what is called self-organization (Kauffman, 1995: 43). Here, no distinction is being made between the individual and the social. Both 'levels' are merely different aspects of the same process of self-organization. Consequently, there is no difference between theory and practice, because theory (or the explanation of action) is precisely that which is negotiated in interaction. This approach is built not so much on assumptions about implicit rules that are supposed to steer conduct as, rather, on the direct observation of what people are doing when they interact in everyday situations. Thus, to study factual events is to study subjectivities, and subjectivities always have the potential to reveal (parts of) factual events. This made me decide to incorporate both data with regard to covenants, official agreements and statutory provisions, and data in relation to aspirations, reflexions, ponderings and – to put it somewhat in an abstract way - other 'assemblages' and 'events' into my empirical research.

To recap, the analysis that I have made of the molecular, to a large extent inspired by the work of Tarde (1962), Elias (1982; 1991) and complexity thinkers, suggests that there is a need for empirical research to avoid abstract thinking. In trying to accomplish this I have addressed two main research themes. The first intends to look at the developments and the dynamics of patterns. As Tarde (1962: 6, 7, 14) wrote, patterns are nothing more than the temporary structure that has emerged out of interactions. Interactions are characterised as fluid, in the sense they are always on the move and bring on the change of patterns. Organizations, such as crime prevention partnerships and criminal networks, emerge out of interactions, and are, therefore, temporary structures that always have the potential to change. Simply put, they are dynamic processes that hold or carry a temporary structure. This theme, then, is about the repetition of interaction or patterns.

For that reason, the second theme has its focus on variations in interaction, which bring forth the study of sentiments, such as misunderstandings, fears, risks, excitement and aspirations. This theme was to a large extent inspired by the work of anthropologist Mattijs van de Port (2001). He brought to my attention the importance of emotions and sentiments for the study of the life in the 'crime and security complex'. Elsewhere I have argued for the development of a criminology of the body (Calster, 2006a). There I discussed the impact feelings and emotions have in the process of committing crime, where rules of conduct, rather than steering individuals' actions, are used more as instruments of justification and persuasion in the interactions people engage in. Attention for the variation in interaction puts 'acts of interpretation' into the spotlight and makes them thus the focal point of research. The molecular concentrates on the social nature of interactions whereby people give meaning to their actions and to each others sensibilities. Those are processes that are, inevitably, shot through with emotion. This suggests that social and cultural orders are the outcome of non-linear interactions (see also Mainzer, 1996).

For the empirical part of my research, I have, in the course of my career, selected three types of partnerships. The first is about crime, more specifically, about life in criminal networks. The second revolves around crime control partnerships that involve the participation of the police. This includes a partnership with a private partner (insurance companies) and a partnership with the public (e.g. neighborhood watch). The third type includes a partnership in the field of private security.

1.5. Introducing the Case-Studies

Chapter four explores the messiness and unpredictability of everyday relations and interactions in a criminal network. Studies of organized crime often focus almost exclusively on its functionality and rationality, and therefore on organized crime as a goal-driven object. This view holds that success in crime depends on the roles and tasks that people are able to assimilate. It equates success in crime with functional secrecy and obedience, and therefore with stability. Inspired by the work of complexity theorists Watts and Strogatz (1998) and Kauffman (1993; 1995), chapter four illustrates the usefulness of the molecular for the study of organized crime through a re-reading of Howard Marks' autobiography which Carlo Morselli had analyzed earlier in his work on network dynamics and criminal career opportunities. The main focus in this chapter is on the often crucial importance of everyday informal elements and events such as coincidental encounters that occur in everyday life, or personal relationships which have no direct connection with criminal activities.

Chapter five studies two partnerships in the Netherlands in which the police are involved. The paper was originally published in a peer-reviewed journal for applied sciences. Its purpose was to provide insight in the workings of these partnerships for the benefit of the police and the Ministry of Justice. The first is a partnership between police and insurance companies. The second is about the partnership of police and citizens in a neighbourhood project. 'Molecular' elements such as personal preferences, frustrations and tensions had a significant impact on the outcome of these partnerships. The research shows that these

partnerships always had the potential to break open and transform socio-cultural fields. It illustrates that both stabilities and instabilities (or the molar and molecular) are interconnected, and that the mechanics of the partnerships cannot truly be grasped without significant knowledge of the underlying micro-dynamics. I observed that sometimes formal conversations and communications engendered the emergence of alternative ways of interaction, and the development of new modes of speaking and related attempts to stabilise these newly emerging patterns ('camping contacts', 'rock & roll') by trying to make them a part of the official communication patterns. Most often though informal communications found their way into formal communications and transformed what was initially considered as casual information into significant information. In other words, the interactions between the actors changed continuously, and had a significant impact on the stabilities and structures as expressed in covenants and agreements, which in turn had an impact on the very local interactions themselves. That is that partnerships are not so much stabilities, as dynamic processes that require constant interpretation in terms of relationships, unexpected events, adaptations and coincidences. As a consequence, these police partnerships were constantly on the move, always transforming in unintended ways what they had accomplished at an earlier stage. Police attempts to steer or control these partnerships always failed. These attempts nearly always generated unintended outcomes.

Chapter six studies the collective shop ban in the Netherlands (in Dutch: Collectieve Winkel Ontzegging). This measure was introduced in downtown The Hague in order to prevent anti-social behaviour. It made particular parties (i.e. shopkeepers and security personnel) jointly responsible for detecting and punishing acts such as shoplifting and fraud. The Collective Shop Ban is interesting, all the more because it is no longer primarily based on criminal law, but also on civil law, which makes it a kind of quasi-criminal law. It is precisely the diffuse nature of quasi-criminal law that leads shopkeepers in The Hague to refer to all kinds of internal rules that are supposed to justify their own actions. The

findings show that the Collective Shop Ban is applied in numerous gradations and with an ample dosage of arbitrariness. Personal convictions of the shopkeepers themselves played a major role here.

1.6. Where do we go from here?

As I have argued, dominant perspectives on the governance of security are based on a linear logic and are breaking down reality into parts in order to focus attention on isolated and supposedly controllable elements. One of the consequences of this approach is that it tends to tackle social problems and issues by quantitatively expanding systems of control. The focus is almost exclusively on functionalities and rationalities. This view holds that success in control depends on the roles and tasks people assimilate, and on the conformity to rules, regulations and covenants, and therefore on stability. The effectiveness and efficiency of this approach, however, remain undecided.

Inspired by the work of Tarde (1962) and complexity thinkers, I have suggested a complementary perspective to more traditional analyses with roots in post-structuralism and complexity theory. However, I have tried to avoid the abstractness of post-structuralism and complexity sciences that is usually deployed in micro-level research. I have also placed notions of 'control' and 'stability' into perspective. The study of the molecular seems to suggest that the lack of effectiveness and efficiency may have to do with the abundance of small variations and transformations in interpersonal interactions. These in turn often form the basis of new stabilities which may deviate from the goals as originally intended. Researchers are rarely interested in these small variations, usually expressed in everyday, informal elements events such as aspirations, fears, conflicts, frustrations or personal relationships which have no direct connection with professional activities. Indeed, small variations and transformations in interpersonal interactions have the tendency to double-cross intentions of control and the aim for end goals. So where do we go from here?

Although several attempts have been made to explore the connections between the molecular and the molar, the introduction of what has come to be known as post-structuralism never really reached the mainstream in criminology and criminal justice studies (Lippens and Calster, 2010).

Transformation and conversion are of all times and places and always happening. The production of knowledge too is constantly subject to transformation. Gibbons et al (1994) introduced the notion of 'mode 1 science' to describe the way research was organised until the 19th century, which is academic, investigator-initiated and discipline-based. More recently, however, as we may believe Michael Gibbons and his colleagues (1994), research is characterised by a 'Mode 2 knowledge production'. I hasten to mention that there is a variety of concepts available that are used to describe this 'mode 2': 'strategic science'⁶ (Irvine and Martin, 1984; Rip, 2004), 'post-normal science'⁷ (Funtowicz and Ravetz, 1993), 'post-academic science'⁸ (Ziman, 2000) and 'triple helix'⁹ (Etzkowitz and Leydesdorff, 2000), just to name a few. Although they differ in a few nuances, these concepts all represent a more or less similar analysis of the transformation in knowledge production. Broadly put, they all argue that professional managers are now in control of scientific research programs and its funding. Science and research have to meet standards of social relevance and 'impact', outcome strategy and accountability (Rip, 2004). Ziman (2000) has argued that science has been reduced to a collective activity and has dissolved the boundaries between universities, governmental research centres and industry. The organization of research and research teams differs from project to project, making them ad hoc projects. Tight research budgets compel

⁶ Irvine and Martin (1984) have defined strategic science as: 'basic research carried out with the expectation that it will produce a broad base of knowledge likely to form the background to the solution of recognized current or future practical problems'.

⁷ According to Hessel and van Lente (2007: 8), the most striking characteristic of post-normal science is public participation. The solutions that proponents of this model offer generally boil down to engaging stakeholders in decision-making processes or in the quality assessment of scientific knowledge production.

⁸ Post-academic science refers to a 'radical, irreversible, worldwide transformation in the way science is organized, managed and performed' (Ziman, 2000: 67)

⁹ The central insight that this approach has yielded is the observation of 'an overlay of reflexive communications' between universities, industries, and governmental agencies (Hessels and van Lente, 2007: 12).

researchers to deliver 'value for money' (Gibbons et al, 1994). Success in funding depends on the social significance of the project, as well as on applicants' presentation skills. This compels scientists to kneel before the gods of Supply and Demand. The dominant funding strategy is based on contract research. Gibbons et al. (1994) refer to this as the commercialisation of science and research. Marginson and Considine (2000) claimed that university management has adopted a corporation mentality.

Where does all this leave the researchers of the molecular? After all, researchers of the molecular are not necessarily interested in the effectiveness and efficiency of systems of control. They do not provide clear-cut answers to governmental and policy needs. In other words, since social relevance and 'impact' have become crucially important in today's 'mode 2' of scientific research, why would there be a need for research that is concerned with the molecular?

1.6.1. Why the study of the molecular is important.

As I have argued earlier, it seems that the largest part of research into the governance of crime and insecurity is based in the molar way of approaching problems, and tends to solve these problems of crime and insecurity by, on the one hand, fixing the systems that are broken in order to allow them to achieve the goals intended, and, on the other, by designing new systems that are supposed to achieve the goals intended in a more capable manner. I have argued that this often leads to an endless expansion and amplification of systems and to what has now become known as the precautionary principle, and the precautionary measures that are based on it (see for that Pieterman, 2008; Bauman, 2006; Garland, 2001).

However, a close study of policy interventions shows that these interventions achieve very little of what was originally intended (e.g. Blok, 2011; Nelen, 2009; Van de Bunt, 2003, Concept Rapport Trendanalyse, 2010). Gemma Blok (2011) who conducted research on the effectiveness of the drugs policies and initiatives deployed in the

Netherlands from 1975 to 1990, came to the conclusion that the drug policies had little or no effect on the control of the drug epidemic in the Netherlands at that time. Moreover, as Gemma Blok (2011) further argued, extensive intervention often lead to extensive unintended complications. This often brings, as Henk van de Bunt (2003) has argued, new problems to the surface, such as the abridgment of fundamental rights and liberties (see on this Onsea, 2002) and the professionalization of crime (see on this McIntosh, 1975).

By studying public private partnerships and similar processes of organisation from a molecular perspective, it becomes clear that managing the social is hard. Nobody and nothing is actually able to fully and completely enforce or impose their systems of control or systems of organisation upon the social. Although policy-makers keep trying to manage and manipulate the social by fixing broken systems or by installing new systems of control, the myriad of interactions in which people, who have to carry out or implement these (new) systems of control, engage in, alter these (new) systems significantly.

As the empirical part of my research shows, the reason why these interactions have such a huge impact on the implementation of crime policy programs has to do with the condition that knowledge (or meaning) is a feature of interaction and does not exist outside it. Knowledge (or meaning) emerges out of the very interactions which people have with each other. Whatever it is that is stored in instruments and artefacts such as procedures, covenants and rules of conduct, it does not have any value or meaning at all until someone uses them. In other words, the meaning and value of crime policies as written down in, for example, covenants emerge out of the interactions in which they are used. Before they get used, they are mere texts or instruments without real or practical meaning. The many seemingly non-efficient and messy interactions in which people engage make up a large part of the end result, that is success or failure, of a project and they explain to a large extent why the goals intended are seldom achieved.

Consequently, as argued in chapters 5 and 6, the practices of crime policies seem to emerge out of process of interaction between formal (e.g. law and covenants) and informal (e.g. emotions of frustration and the level of trust) elements. This is why the molecular perspective pays attention to trust, anger, frustration, anxiety, helplessness, and to a variety of related feelings that people experience when they participate in crime governance projects. Research from a molecular perspective tends to provide insight into the processes of crime policy production, which are not just about formal systems, such as covenants, but are also about disagreement, misunderstanding, levels of trust or distrust, and the robustness of the already established patterns of interaction. In other words, although one could argue that the origins and further development of crime policies are driven by a rational actor (e.g. the government, or the police) and the accompanied systems of control (e.g. law, covenants), attention for the molecular makes clear that crime policies can only be understood in a much broader, more intricate context.

The molecular perspective places interaction at the forefront, and everyday experiences, such as worries, rationalizations, anxiety, motivations and intentions in the center of research. In doing so, the perspective provides insight into the dynamics of social development. It stresses the interconnectedness between people, their surroundings and the social. As a consequence, the perspective urges us to study crime policies within a wider context, and encourages researchers to collect and analyse so-called 'insignificant' or emotion-related data.

With an emphasis on the experiences people have and the life-styles they maintain, the molecular has a clear interest in the way people behave, their narrative styles, the way they view the world, their attitudes, opinions, and their manner. This is why the molecular perspective, as developed by nineteenth century sociologist Gabriel Tarde and twentieth century complexity theorists Duncan Watts and Steven Strogatz, tends to avoid high levels of abstraction that are usually deployed in micro level or poststructuralist research (think of concepts

such as 'assemblages', 'event', 'self-organization', or 'dissipation'). It does this by paying attention to the linkages that tend to exist between people's multiple lifestyles and behavioral repertoires in relation with the intentions set out by systems of control or in crime governance instruments such as covenants. As a result, the perspective provides us with additional data beyond that which is habitually generated by research. Especially in a fast changing society the attention for the molecular could have the potential to give us an insight in the many emerging problems that come with these changes.

We should, however, also look at the molecular approach with a critical eye. First, molecular research tends to be very time consuming and the empirical findings are often hard to quantify or to generalize. In addition, the most significant 'problem' with the molecular perspective is the vulnerability which it recognizes in all research strategies, its very own included. Prigogine and Stengers (1984: 204) have put it this way: "in complex systems, both the definition of entities and of the interaction among them can be modified by evolution. Not only each state of a system but also the very definition of the system as modelized is generally unstable, or at least metastable." The relevance and impact that molecular research could have depend to a large extent on the emotional and intellectual skills and competences of the researcher. In other words, the perspective itself is in need of more research¹⁰. Here, we touch on the sensitivities of the methodology of the participating observer. The researcher's own life experiences, emotions, prejudices and intellectual endeavors could all easily interfere with the objectives of the research and may engender subjective angles of incidence.

Although presented here as an disadvantage, it also could easily be considered as an advantage, sending the researcher on an intellectual, self-reflective journey in which he or she becomes a significant part of the research. Such an approach has already proved to be successful in the work of Hunter S. Thompson, who designed and developed what he

called Gonzo journalism. Elsewhere I have tried to do something similar for criminology, calling it a Gonzo criminology (Calster, 2009).

Let us now try to briefly explore the contours of a research program that takes account of the above insights. It may perhaps be possible to introduce molecular research into mainstream criminology.

1.6.2. A Brief Research Agenda

An avenue for future research could still focus on 'control' and 'organization'. However, a hybrid framework that interweaves both the molar and molecular, or as Brown (2006) suggests, a 'criminology of hybrids', does not so much focus on economic, cultural, psychological or social forces (or a combination). On the contrary, it asks for an alternative view. A hybrid framework has no need for constructs such as 'the environment' that are supposed to steer human behaviour. As Bruno Latour (1996: 370) has put it: society has a 'fibrous, thread-like, wiry, stringy, ropy, capillary character that is never captured by the notions of levels, layers, territories, spheres, categories, structure, systems'. The horizontalisation of society (Cleiren, 2009) which has led society to 'chaos and complexity' - to quote Hans Boutellier (2011) once more - will ultimately lead crime into 'chaos and complexity' as well, if it hasn't done so already. We therefore have to rethink criminology's terminology and constructs. Take for example cybercrime (see on this also Van der Wagen and Calster, 2012; 2013). Yar (2005) has depicted cyberspace as a space with dissimilar ontological and interactive rules where traditional criminological theories such as Routine Activity Theory are incapable to comprehend new crime phenomena such as some forms of cybercrime¹¹. Moreover, in the case of cybercrime, it would be difficult to hold on to dichotomies such as 'human' versus 'technology' because of the introduction of smart technologies and artificial intelligence (Hinduja, 2012; Brown, 2006). Cybercrime is the phenomenon par excellence that intertwines the local and the global, the technological and the social, the

¹⁰ Sutherland has made similar remarks in relation to his theory of differential association. See for that, Sutherland, 1947: 8.

¹¹ For the old wine in new bottles discussion, see e.g. Brenner (2004).

physical and the virtual, the sociological and the psychological. Indeed, these 'chaotic' and 'complex' new crime phenomena put concepts such as 'organization' and 'control' into perspective. 'Organization' and 'control' do not exist as such, that is, as social facts in the Durkheimian way, separated from local interactions. Neither are they just at one's disposal, reducing them to expressions of power and defining them as causal forces. This does not mean that 'organization' and 'control' are absent. On the contrary, they do certainly exist. They are subsistent and intrinsic to the dynamics of interaction. Actually, they emerge out of chains of associations (McLean & Quattrone, 2008) – or 'assemblages'- and are always on the move, transforming itself, partnerships, end goals, covenants, police strategies and so on. 'Control' and 'organization' do not hold an 'outside' position from which they then steer human action or impose their intention. On the contrary, 'control' is probably best described by the constraints that interactions impose on the dynamics in local situations. Maybe John Law (1992) said it best: 'we might start with interaction and assume that interaction is all there is. Then we might ask how some kinds of interactions more or less succeed in stabilizing and reproducing themselves: how is it that they overcome resistance and seem to become 'macro-social': how it is that they seem to generate effects such as power, fame, size, scope or organization which we are all familiar [with].' One could explore these concepts more thoroughly in a molecular way. Bruno Latour's Actor Network Theory (e.g. 2005) may prove to be useful here (see also Van der Wagen & Calster, 2013). It could set off new dimensions in crime control and privacy research.

Another avenue for future research could involve the study of objects and the interactions they uphold in the chain of associations. Take for example the impact a uniform might have on the conversations and negotiations individuals have in the crime complex (Van der Wagen and Calster, 2013). From a molecular perspective, humans are not more important than objects for the study of social reality (see also Law, 1992) and objects always transcend being mere objects. According to Latour and Venn (2002), they have the potential to generate morality. This brings ethics (and by extension existentialism) into the center of crime

research, a theme often overlooked in scientific criminological research. This also brings questions such as what it means to be 'human' or 'a citizen' in a hybrid society to the forefront, along with inquiries on responsibility and morality. It could also open up new dimensions in research into processes of criminalization, law breaking and crime control.

A third avenue for future research could involve the study of cultural artefacts and the emergence of new languages and thus new thinking patterns. The molecular, with its focus on gestures and language, spotlighting things such as personal preferences, tensions, fears and casual conversation, touches the issues dealt with in cultural criminology, a fairly new field of research that places crime and crime control in the context of culture, viewing both as cultural products, as creative constructs (Hayward and Young, 2004). In this line of thought, cultural artifacts could be seen, for example, as a source of information and emotion in interactions in the 'crime and security' complex. Movies for example produce narratives and storylines that express meaning and help to understand both crime and our everyday lives (see also Calster, 2011a; Calster et al, 2010; Branderhorst and Calster, 2011; Calster and Koemans, 2009). The study of emerging or alternating concepts in crime prevention and crime policy could lead to a more detailed comprehension of the working of crime strategies and expand the theoretical and methodological frameworks of criminology. The workings of the Collective Shop Ban, for example, that is studied in chapter 6, show us that the molecular tend to get legitimized in and by a formal (often scientific driven) language of effectivity and safety. It is an excellent example of how the molar and the molecular are connected, and how they both are producing (in the sense of 'to emerge') alternative thinking patterns and behaviour arrangements that deviate from the goals intended.

Consequently, a fourth avenue could involve the perspective itself. As mentioned earlier, the molecular perspective itself needs more research. More research might be able to shed a brighter light on the fundamentals of micro perspectives and might start up the development of a

researcher's manual on how to act in situations that are steeped in emotive materials. In short, the more ideas, the broader and more solid the framework of research might become. Obviously, this would be a long-term project. In this regard, I would like to make a reference to the work of Rick Aniskiewicz. When he was working on the expansion of the theoretical frameworks underlying the study of organised crime, he came to the conclusion that researchers can only grasp organised crime in its true form when they are prepared to focus on 'an existential understanding of microstructure (that) would concentrate on identity, danger, violence, risk, and excitement within the criminal lifestyle.' (Aniskiewicz, 1994: 324)¹². Peter Klerks (2000: 353) however has noted that criminology as it stands lacks the necessary frameworks and tools to fulfil these ambitions. I hope to have been able to show that the analysis which I have made in chapters two and three, along with the arguments developed in chapters four to six, represent a modest attempt to draw the outlines of an attempt to contribute to this ongoing debate.

¹² Jack Katz wrote something similar in his 1988 'Seductions of Crime'.

Part 1:
A Framework for the Analysis of Crime and Crime
Governance

CHAPTER 2

Studying Society, Safety and Security. Notes on Observer Involvement¹³

2.1. Introduction

According to Ulrich Beck (1986), Zygmunt Bauman (2006) and David Garland (2001), our society is moving towards a risk-obsessed society of control¹⁴. One of the more recent developments in this evolution is the so-called precautionary principle, and precautionary measures based on it (Pieterman, 2008; Ericson, 2007). These measures differ in significant aspects from preventative ones. The main difference is in the degree of uncertainty on which the measures are based (Ewald, 2002). Prevention aims to prevent a real proven danger, while precautionary measurers aim to avert possible, not yet proven problems that could or might pose a threat, sometime in the future (Pieterman, 2008: 40). The idea behind this is that not all dangers or threats can be known, or proven. Therefore, a lack of clear evidence of threats and danger does not necessarily mean there is a lack of danger. A lack of evidence is no reason to forsake precautionary measures. This shows that knowledge (or the lack of it) actually plays a rather minor role in our precautionary risk society.

This chapter tries to establish the extent to which science has contributed to the development of a precautionary culture such as ours, and what the role of science is or should be in these developments. I will argue that the scientific debate generates political and ideological statements, rather than scientific ones. I will argue that this is due to the particular systems-theoretical reason, logic and methods used. These methods led to the fragmentation in the social sciences also. Scientific

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¹⁴The phrase ‘risk society’ here does not refer to an actual increase of risks in society, but, rather, to a society which aims to prepare and equip itself against risks.

research (and social sciences are included here) address selective and clear-cut problems that are often posed in a wrong way. In order to state my case, I will undertake excursions into the epistemology of Immanuel Kant, Norbert Elias's long-term research, and Stuart Kauffman's pioneering research on complexity theory.

2.2. Scientific Discourses as System Perspectives on (Social) Reality

In his *Problems of Involvement and Detachment* Norbert Elias (1956) makes a distinction between two ways of addressing reality. The first he calls involvement. It reflects the way nature was (or is) experienced in a pre-scientific era. Nature here is experienced as a collection of mysterious forces to which one is exposed. People did (or do) not understand nor control these forces, and were afraid of them. They were involved in what they experienced and had plenty of trouble trying to maintain themselves. The questions they asked themselves were mostly personal ones: "what danger does this flash of lightning pose for me?" As a result, they tried to allay these fears in a magical or mythical manner. Nature, it was believed, was populated with ghosts and other personalized forces. The only way to control nature was through sacrifice, including human sacrifice (Elias, 1982: 11).

The second approach, Elias calls detachment. Scientific method enabled man to conquer his fears and to reflect on nature as something that can be controlled, even mastered. By approaching nature in a detached way, and by acting as a (supposedly) objective observer, man felt less emotionally involved in his experience of nature. His fears disappeared to a large extent and, one could argue, led him, to some extent, to a level of mastery of nature. Questions asked were: "what is it?", or "how does it work?" (Elias, 1982: 11). Successes in physics led to its application to the study of social reality. The German philosopher Immanuel Kant played a significant role in this process of application (Smith, 1998: 141-144).

Immanuel Kant was an 18th century philosopher who, amongst other things, thought through the conflict between free will and determinism. The scientific method as developed by Bacon, Galileo, Newton and Leibniz (see Buchdahl, 1971) is, basically, about observation. Hypotheses are tested by measuring the actual movements of an object (Chalmers, 1999: 23-40). Such tests suggest causal relations between the movements of an object and the nature of the object. This way of thinking immediately draws attention to the connections between cause and effect using an "if (cause)... then (effect)" structure which is then applied to one or a few particular parts of the whole (Stacey et al, 2000). In other words, the method isolates causal relations (in an attempt to achieve efficiency of explanation). Therefore, this method is reductionist. The attention is focused on (some of) the parts of a phenomenon or object. The parts are supposed to act in a predictable manner. Little or no attention is given to interactions between parts (Stacey et al, 2000). As one can imagine, Immanuel Kant was very intrigued by this method. However, he had to face, immediately, its flaws. Causality of a "if... then" type left no room for human freedom and morality. In other words, this method could not be applied to social reality. After all, humans have free will (Kant, 2003: 48; 129-131; 137-157). Therefore, humans must be subject to a causality based on freedom, not on determinism. Kant had to reconcile autonomy of the individual (freedom) with the context within which the individual is defined (determinism) (Stacey et al, 2000).

In trying to resolve the problem Kant accepted different forms of causality. Besides the causality of nature, he also accepted two other forms of causality, i.e. one for humans, and another for organisms (Heinrichs, 1986; Kemp-Smith, 1984; Stacey et al, 2000). Kant argued that organisms should be studied as systems. He distinguished a formative process in the course of which parts work together in a functional way to form the whole, or the end product. This is no mere "if... then" idea whereby one takes the parts separately in order to study the essence, or nature of each part, to then put them back together in order to understand the whole. The logic here assumes that the system, the whole, moves towards its final state or end condition which somehow

can be known in advance (Brittan, 1978; Stacey et al, 2000). The parts function to form the whole, or end condition (Kant, 2003: 296). The identity of the organism (its end condition) is somehow fixed in advance, and the organism in formation moves towards it.

Although Kant knew that this approach could not explain the emergence of newness (i.e. could not explain novel and unknown forms) the method, he believed, could be useful for the study of social reality. However, Kant also argued that this form of causality could never be applied to (individual) human beings, because they have free will. If they hadn't, there would be no sense in having ethics; the world would be reduced to an a-moral place. Therefore, Kant claimed, human actions should be understood according to another form of causality, i.e. one based on rationality.

So the conflict between free will and determinism was resolved by accepting two kinds of causality (Stacey et al, 2000). One for organisms which are represented as systems that move towards an end form. And rationality for humans who have free will, and who can decide autonomously what they will do. This solution had an important implication. Kant (2003: 129-132) actually argued that humans can not know reality as such. They can only know reality as it appears to humans (Brittan, 1978; Friedman, 1968; Parrini, 1994). Kant therefore postulated that nature as such is, by no means, a system. It is humans (e.g. researchers) who can think as if nature is a system (Smith, 1998: 141).

The success of this way of looking at the world led to the abstraction of systemic models which, eventually, came to be considered as reality itself (Calster & Vander Beken, 2004: 13). This way of looking at reality is of extreme importance today. It has developed into a dominant paradigm in science. It has also deeply impacted upon the social sciences. I will call this way of looking at the world the dominant scientific perspective. I hasten to add that there are –and have been- many scientific attempts to escape from this Kantianism. The work of Michel Foucault (1975; 1988), Gabriel Tarde (1962), Bruno Latour (1996; 2005), Gilles Deleuze and Felix Guattari (1983; 1987) or Anthony Giddens's structuration theory

(1976; 1979; 1984; 1991) may come to mind here. But I shall not deal with those here.

2.3. The Dominant Scientific Perspective...

Social scientists, like all researchers, tend to break down reality into parts in order to then focus their attention on isolated and controllable matters. They draw boundaries around that which they research or investigate. Doing this they make their object of research discernible from the rest of the world. That which counts as the more or less undisputed research program of a particular discipline is then what determines such boundaries (Hoogenboom, 1996: 142; see also Foucault, 1988; Kuhn, 1962). This research program will narrow down the focus of attention to a few recurring research questions.

Typical for this way of doing research is the 'outside' position of the researcher who, furthermore, focuses on functionality. Let us take research on organised crime as an example. Elsewhere I have noted how the body of organized crime related research could broadly be divided into three dominant perspectives (Calster, 2006b). Researchers in all three perspectives however construct organized crime as a distinct phenomenon, or as an object, and then try to find relations between 'it' and its environment. In each of these perspectives the focus is on organized crime as a goal-driven object. Researchers study each of the parts, such as individuals, organizational structures, tasks and working methods, as a function of the end goal or end product. The *raison d'être* of these parts is the end result and the need to maintain the 'it' of the criminal organization. 'Organized crime' is thus reified as 'a thing' with characteristics of its own. Most researchers therefore tend to distinguish between 'organized crime' as a goal-driven object and its parts. As Vander Beken et al (2002: 795–796) argue, the nature of organized crime is not the crime itself, it is the way of its execution. 'Organized crime' exists separately from its activities. In other words 'organized crime' is assumed to be more than the sum of its parts. The characteristics of 'organized crime' are not reducible to those of the parts. Moreover, 'organized crime' functions according to particular

principles which are different from those of its parts. As a result, researchers are sometimes obsessed with functionality. Let us have a look at some recent organized crime related research literature pertaining to, e.g. steroid hormone mafia (De Ruyver, et al, 1999), trafficking in human beings (Foster, 1997), car fraud (De Bruyn, 1997), drug cartels (Bullington, 1991; de Kort & Korf, 1992; Jenkins, 1992), violent organizations (Van San et al, 2002), fraudulent criminal organizations (Bologna, 1993; Clarke et al, 2001), smuggling organizations (Jamieson, 1998; Junninen & Aromaa, 1999; Saba et al, 1995), laundry organizations (Beare & Schneider, 1990; Santino 1988; Shana, 1988) and blackmail organizations (Catanzaro, 1994; Nelli, 1976; Roache, 1988). In research such as the above the goals and tasks held by criminal organizations determine their form and nature. Consequently, researchers tend to analyze organized crime and criminal organizations from a macro point of view.

In this macro view processes of functional determination are supposed to underlie the execution and performance of criminal projects. Organizational goals are determined and, in a way, given beforehand, and will in turn determine criminal activities. In this view it is assumed that a determined criminal plan or idea exists before criminal activity – functional to the plan or idea- takes place. This dominant view is capable of explaining stability as well as change, but the pattern of change is always somehow predetermined. No significant change can emerge at the level of the organization itself. This mechanism of determination cannot explain the emergence of protean¹⁵ transformations; it can only explain (slight) variations in performance and execution. This dominant view can only explain the origin of newness and fundamental change by pointing, ex machina, to the exceptional qualities or visions of particular individuals (leaders, entrepreneurs, brokers, and so on) who happen to appear within the criminal organization or network. Such individuals, it is then believed, initiate and control new projects and are therefore not subjected (and quite enigmatically so) to mechanisms of determination.

¹⁵ Evoking here the many metamorphoses of Proteüs, the Greek sea god.

This view implies that such individuals actually stand outside organizational dynamics, evaluate them, devise a new plan, and prescribe appropriate action, rationally and autonomously. It seems to me that this dominant macro-level approach presents a clinical and mechanical description of life in general and human behaviour in particular. It often ignores complex micro-dynamics between individuals and criminal organizations.

However, this dominant scientific perspective achieved many practical successes. Norbert Elias (1990) noticed that these successes tend to produce a growth of complexity¹⁶ in human interactions. For example, more institutions get to be established and become ever-more complicated and more tightly interwoven (Elias, 1956: 232). Take the information wave at the end of the 20th century, which had –and still has- an important impact on the way of (everyday) life (Castells, 1996; 1997; 1998). Because of these changes, people become more dependent on one another (Elias, 1956; 1990). Knowledge grew rapidly and transformed human relations and interactions. Indeed, an increase of technology and prosperity brings about extensive social organisation (Elias, 1990). This in turn had –and has- as a consequence that more social groups -and therefore more individuals- become interdependent for the fulfilment of their needs and their safety. More importantly, all happens in ways that seem to be beyond most people's comprehension. Norbert Elias (1956: 232) uses the metaphor of a chain: 'It is as if first thousands, then millions, then more and more millions walked through this world their hands and feet chained together by invisible ties. No one is in charge. No one stands outside. Some want to go this, others that way. They fall upon each other and, vanquishing or defeated, still remain chained to each other. No one can regulate the movements of the whole unless a great part of them are able to understand to see, as it were, from outside, the whole patterns they form together.' In other words, the scientific method which aimed for control and mastery over nature, brought about other types of insecurity, uncertainty and powerlessness

¹⁶ In this chapter, I will use the concept of 'complexity' as it is used by complexity science.

(see also Nowotny et al, 2001: 1-29). These new problems are an unintended consequence of human interactions: caused by people, but not intended as such (Elias, 1956: 232).

2.4. ... and Complexity

Elias's description resembles what scientists such as Stuart Kauffman (1993; 1995) and Gregoire Nicolis en Ilya Prigogine (1989) call complexity. The latter remark that complexity can not be located in one identifiably place in a system (Nicolis & Prigogine, 1989: 5). Stuart Kauffman (1993; 1995) discovered that complexity is the result of interactions between the different components of a system. It manifests itself on the level of the system itself. There is a difference to be noted here between complexity and complication (Cilliers, 1998: 5). Some systems have a large number of components and carry out varied, sophisticated tasks, albeit that they do so in a quite linear manner that can be accurately analysed and precisely described. Such systems are complicated. Other systems include intricate sets of non-linear relations and feedback loops. Only a few of their aspects can be analysed. The analyses themselves, moreover, always create distortion. These are complex systems. On the basis of computer simulations researchers uncovered a few basic principles of complex adaptive systems. They discovered that complex adaptive systems constantly produce unexpected results and opposite effects (see Mainzer, 1997). They also found that in complex adaptive systems it is difficult to establish the relation between 'cause' and 'effect'. It is very hard to say what exactly is causing what. The problem gets even worse with coincidental events which look like causes, but are actually relational by nature (Shaw, 2002; Stacey et al, 2000; Stacey, 2001). This makes it really hard to make specific predictions, regarding complex systems, of future events in a specific place over a specific period of time.

The work of Stuart Kauffman suggests that complex adaptive systems are not built according to a predetermined design, but emerge and evolve through processes of spontaneous self-organisation that produce emergent outcomes. If there is a design in complex adaptive systems, it

is the design principles of that kind of system itself, i.e. its network type features (see also McMillan, 2008: 60-66; Stacey et al, 2000). Such systems are networks of agents, each driven by iterative, non-linear interactions in the course of which they produce emergent outcomes which form patterns. There is an inherent order in complex adaptive systems though, albeit one which nobody could possibly know what it is until it actually emerges. Agents interacting in a complex system may produce newness, but nobody can predict what it will be. In other words, complex systems are best described as self-organising processes which lead to emergent coherence (Kauffman, 1995: 23-24). All attempts to predict long-term futures of (or in) complex adaptive systems, or to change their culture and behavioural patterns, may, or will generate resistance. Little of the planned changes will therefore be achieved. More often than not, such attempts will start unintended changes.

Now, in what way is the dominant scientific perspective dealing with these relatively new and complex problems? As I argued earlier, the dominant perspective developed two ways of dealing with these problems. Each is based on the types of causality or rule sets. First, there is determinism. This means scientists search for those systems that (seem to) determine human interactions. The causes of what people do are then located in a system which is supposed to determine human behaviour, e.g. economic dynamics, culture, values, mentality, and so on. They are supposed to precede interactions, and are that through which these interactions develop in a knowable and predictable way. An impression is cultivated here that provided these basic systems are optimal, human actions and interactions could be directed in an orderly (and controllable) fashion. But there is, as we have seen, also 'rationality', and thus individual autonomy. Here the hope is to be able to control the individual action through e.g. incentives. In this perspective many are convinced that it is possible to intervene in human systems in such a way that aims and goals (e.g. in policies envisaged) can be achieved in a controlled way. Unfortunately however, such interventions very often achieve only very little of what was intended. This often leads interveners with no other alternative than to create yet more, or and

stronger interventions. These interventions often do produce outcomes, but very often they will be less than effective and efficient (Calster, 2005a; 2006b).

Let us take again the example of organised crime. Whichever way scientists, researchers and policy makers try to get a grip on it (in both senses of the term), it seems to elude them. Criminal organisations transform and shift; they constantly change their MO. As a result, some researchers (e.g. McIntosh, 1975) suggest that an arms race seems to be going on between criminal organizations and governments, which often results in the (unintended) professionalization of organized crime. The fight against organized crime, then, resembles a never-ending cycle in which it becomes necessary to deploy ever more and stronger strategies and measures in an attempt to break the relentlessly inventive resistance of criminal networks. This is not to mention the fact that such strategies often have side effects, such as endangering fundamental rights and liberties, that are perhaps less than desirable (Onsea, 2002). The reason for all this mishap is that the dominant perspective, which was developed and which does an excellent job for complicated systems, is seriously lacking when it comes to complex adaptive systems. As I discussed earlier, the researcher in this dominant perspective is assumed to be an objective observer, whose role enables him or her to distinguish stable patterns in 'objects' out there. It is, moreover, this 'outside' position which gives the researcher the impression of control. The focus of research is on the 'whole'. Consequently, the parts, such as individuals, organisational structures, culture, interactions, ... are studied as functions of this whole. The parts exist for the sake of the whole and in order to maintain the whole. Problems are defined restrictively e.g. as 'police' and 'justice' matters, which in turn leads to well-defined system-theoretical concepts on for example organized crime. The research 'object' is thus nicely delineated and research is almost invariably characterised by a confirmation of what we already know.

But it seems to me that complexity sciences provide us with an important insight. Stuart Kauffman's work (1993; 1995) for example

makes us see how many, if not most relations are non-linear and are subject to unpredictable patterns which are in continuous transformation. The development of what has become known as 'chaos theory' during the 1970s was an important eye-opener. 'Chaos' was a powerful metaphor that brought unpredictability under attention, in sciences as well as in governmental matters and everyday life (Gleick, 1989). Chaos theory had an enormous impact. Suddenly 'expert' knowledge appeared to be limited. As a result, the political, social, economic... distance between e.g. government and citizen was reduced even further and traditional power hierarchies erode (Nowotny et al., 2001). Chaos theory seemed to suggest that many 'expert' opinions on determinism and predictability were not tenable (Broer et al, 1995).

These insights and findings are completely in line with the work of Ulrich Beck (1986). This sociologist argues that political debates on the topic of safety and security amongst other things are quite hypocrite, since most of the problems which threaten life and society are an additional (and of unintended) product of rules and regulations themselves. Each and every 'solution' unleashes new problems. Interventions and measures often have undesirable, indeed even opposite effects (Calster, 2006b). According to Beck (1986) it has become very difficult, if not impossible, to manage new problems with 'old school' laws, regulations and structures. Politics then tends to be reduced to a collection of merely symbolic gestures and manoeuvres that aim to spread the impression that all is under control. Beck argues, just as Elias did in 1956, that western societies in particular produce in their very attempts at control all kinds of unintended consequences or side effects over which there is very little control. These side effects were at first hardly noticed, but the increase in the number of relations and interactions, and thus the interdependence and complexity between people, institutes and even nations made them more visible.

The problems mentioned by Beck and Elias ask also attention from a philosophical point of view. One could argue that all kinds of supposed remedies (e.g. penal law) are an important element in the emergence or

exacerbation of that which they intend to control. Take risk seeking behaviour. The danger inherent in, and the ban on specific behaviour can themselves be a trigger for engaging in that behaviour. Risk seeking behaviour can become attractive precisely because of the ban that rests on it. The ban plays a role in the construction of enjoyment and danger, which in turn plays a role in the increase on said behaviour, which in turn leads to more stringent interventions, which in turn ... (and so on). It seems that linear solutions to problems often generate opposite effects. In many western societies we have now reached a point where everyday behaviour is being criminalized (Presdee, 2000) and where measures are taken with an eye on the precautionary prevention of hypothetical, potential, not yet proven problems which might cause damage in the future (Pieterman, 2008).

Let us recap. First, there is the nuisance of non-linearity and complexity. Problems as described by Beck answer to the criteria of complex adaptive systems. Think about the rich interactions that exert influence on each element in the system and which in return become influenced (see Kauffman, 1993; Cilliers, 1998). Then there is the assumption of the 'outside' observer. Many researchers tend to assume that their own role is merely one of an observer who does not have any influence at all on what he or she observes. Of course, researchers may take a step backwards, in order to reflect upon what happens. But however sophisticated the level of reflective observation may be, models of the observed system will always be partial. Any model of a system will necessarily neglect details and focus on what itself finds important. The model will never comprise the full complexity of the system (Holland, 1995: 107 a.n.; Stacey, 2001). As a matter of fact, the system is itself always in constant formation and evolution. Furthermore, such models in turn will act as resources for others to react (upon). A researcher may for instance develop specific insights into the nature of crime and disorder. These insights however will in turn evoke many reactions not just in the scientific community, but also in police services, in politics, or in society more broadly... Let us take the example of organised crime once more.

Winlow (2001: 167), for example, noticed how many of his 'organized crime' respondents would imitate Robert de Niro's character in Goodfellas. He was told about a raid on a truck, just as the one Joe Pesci and Ray Liotta did in the movie. Remnick (1994: 316–317) reports a similar experience. It came to his attention that one of his respondents imitated the laughter of Robert de Niro's character in Mean Streets. Van de Port (2001: 146–156) noticed how the alleged violence of East Europeans as described by academic researchers is often copied by the former. Bovenkerk (2001: 48) writes about Dutch criminal Klaas Bruinsma and the interest he had in books about the mafia. Gangsters imitate the characters of Robert de Niro, Joe Pesci and Marlon Brando and in turn provide new material for criminal fictitious heroes (see also Bovenkerk & Yesilgöz, 1998; Mangione & Morreale, 1992; Rudolph, 1993). The same goes for criminal practices and methods (Bovenkerk, 2001). According to Van de Port (2001: 51) criminals are interested in what is written about them and they conscientiously follow up journalistic publications.

Criminological knowledge finds its way to criminal milieus and becomes a part of the self-image of criminals who subsequently confess their exploits in these new terms to police and press, whence it returns to academics and criminologists (Van de Port, 2001: 54). Criminological knowledge, as well as policy efforts, structure what organized crime is and how it develops. Consequently, researchers and their work do not stand 'outside' the phenomenon they observe. They could never be mere 'observers'. Researchers inevitably participate in what they research. This is not too extraordinary an insight. The physicist Heisenberg (1962: 19) already claimed that even physicists inevitably participate in the phenomenon they (supposedly) 'objectively' study. Researchers can form certain ideas concerning the nature of criminal organizations, the nature of leadership, the roles in and between criminal networks, and so on. But these are mere interpretations and, indeed actions which themselves will call forth particular responses from others, offenders included. This calls for an interpretative methodology.

It seems to me that complexity sciences have uncovered a fundamental shortcoming of systemic (i.e. Kantian) thought and method. Complex adaptive systems are accomplished in and through the interactions between their components, not by the sum of their components, nor by cooperation of parts that produce a pre-determined end product (Goodwin, 1994; Holland, 1998; Gell-Mann, 1994; Kauffman, 1993; 1995). By delineating and dividing the system –any system under observation- the dominant though reductionist method demolishes what it tries to understand. By focusing on functionality and on end products, it neglects the many ‘non- functional’ transformations and the emergence of newness.

Scientists like Stuart Kauffman (1993; 1995) and Tom Ray (1992) point to the possibilities offered by technology study non-linear interactions. Technology enables us to study things which we do not fundamentally understand. According to Cilliers (1998: 1) powerful computers are able to simulate the behaviour of complex systems without understanding the complexity of it. In Kauffman’s and Ray’s computer simulations, each phenomenon consists of a large number of agents, and each agent behaves according to its own interests, intentions, behavioural patterns, and so on. Because the focus lies on an agent-based approach, the object of their research is expressed as a population of agents which interact according their own local “if... then” rules (Mainzer, 1997; Lewin, 1993). Research on complexity does not work with rules, laws or regulations that are deemed valid for the whole population, but, rather, with rules for individual entities that together form a population or system. No agent has ultimate control over the interactions and reactions of others, nor over the behavioural patterns of the system, or the way in which the system develops (Stacey, 2001). This approach makes no appeal to someone or something ‘outside’ the system, who then impose their, or its will.

Stuart Kauffman (1995: 63–64) demonstrates that systems which consist of a large number of randomly interacting agents will develop into connected, autocatalytic networks (see also Mainzer, 1997: 97). In other

words, when entities interact with each other randomly, some entities will start to play a part in the constitution of other entities. This is catalysis. Eventually the strings of emerging catalytic interaction will fold back and form autocatalytic networks (Stacey et al, 2000: 110-111). This means that entity X will play a part in the construction of entity Y which will play a part in the construction of Z that will play a part in the construction of X¹⁷ (Kauffman, 1995: 49). There is no design or blueprint for this network. Interactive cooperation has the intrinsic capacity to produce both transformation and coherence. Both, however, are unpredictable (Mertens, 2000: 91–96; Shaw, 2002; Stacey, 2001). According to Kauffman, variation simply emerges in interaction between entities. The amount and strength of the connection(s) between the entities in a network make up the dynamics of the network (Taylor, 2001: 188).

Notice the difference with the dominant systemic approach. Typical for the systemic approach is the process of reification by which one reduces phenomena to ‘things’. Rules of conduct, for example, are supposed to exist outside the system from which they structure and determine the behaviour of the system. As a result, culture for example becomes individualised and attributed with values and motives. The conduct of the members of a system, such as an organisation, is supposed to be determined by the values, or ‘culture’, of that organisation. Put slightly differently, reification idealises the collective, which is depicted as a personality that structures the conduct of its members. This idealisation, however, distracts attention from the crucial importance, for the emergence of conduct, of everyday interactions. Let me illustrate this with the example organised crime, as observed by Mattijs van de Port (2001: 51).

He noticed that criminals study newspaper and other media coverage conscientiously. “Repeatedly, they told me about television programmes” (translation PJVC). Van de Port mentions a detective who told him that criminals find it very important to be mentioned in television

¹⁷ Notice the connection with what I mentioned earlier on the topic of *risk seeking behaviour*.

programmes. Many of the criminals studied by Van de Port carry newspaper articles in their pockets. Van de Port tries to explain it with mechanisms such as blow back (Naylor, 1997), imitation (Taussig, 1993) and self-fulfilling prophecy. However, he admits that these concepts do not fully and adequately describe reality (van de Port, 2001: 55). He places these (dominant) systemic concepts within what he calls the imaginary space (Van de Port, 2001: 45-55). He argues that the world of organized crime is characterized by not-knowing. Every question asked by researchers about criminals' motives, about the why of their actions, about the violence in criminal projects, or about the shared life histories of criminals, lead to the imaginary space (the space of not-knowing). This not-knowing should have a central place in the analysis of data collected by researchers, Van de Port claims. "I am convinced that this starting point will eventually lead to a more faithful interpretation of the data collected (...)" (Van de Port, 2001: 55) (translation: PJVC). What Van de Port intimates, but fails to put in words, is that all described processes are self-referential. Culture, for example, could not be captured by terms such as 'feedback'. Simply because there is no fixed, external point of reference, i.e. 'culture' (see for example Baumann, 1998: 11; Cohen, 1998: 135). Self-reference is a process that tries to provide an answer to the question of how a phenomenon becomes what it is by referring to itself. All given examples (Van de Port, 2001; Van San et al, 2002; Siegel & Bovenkerk, 2000; Winlow, 2001) are self-referential. This suggests that rules of conduct (and therefore values and norms) are functionalized in everyday interactions. Because of that, conflicts are emerging all the time. Those conflicts are constantly negotiated and contested.

Research of complex adaptive systems focuses attention on the processes of interaction in which all, researchers as well government as police and criminals, are involved. As I stated earlier, the researcher can not escape the fact that he or she is part of what he researches. And nobody is able to put in words what the researched phenomenon exactly is, or how it is interwoven with society, myths, research findings, and so on ... All research attempts are bound to lead to so much interpretations.

2.5. The Magical-Mythical Nature of the Dominant Scientific Perspective

I have so far been arguing that research is often characterized by a dualism between on the one hand attention for systems which (supposedly) explain concrete interactions and behaviours. It is then often assumed that there must be someone or something (e.g. culture, values, or 'mentality') that precedes those behaviours and interactions and that make the latter knowable and predictable. On the other hand, there is also room in such explanations for 'rational' (i.e. cognitive, autonomous) capacities of individuals. I also argued that the practical success of the dominant perspective led to ever more complex forms of interaction, in the course of which ever more people became (and become) interdependent for the satisfaction of their needs and safety. This in turn led to new types of problems emerged. More often than not these new problems were unintended consequences of the aforementioned complex interactions (Elias, 1956). Many attempts to solve these new types of problems generate opposite effects, which often leads to more problems.

With the assumption of the existence of systems that guide behaviour and interaction it seems to me that many social scientists are actually fetishists (see also Calster & Verfaillie, 2007). As I argued earlier, the main reason for this is that they tend to reify what they research. Berger and Luckmann (1967: 106-109) defined reification as a way of approaching reality by which social phenomena are seen as being 'apart' from concrete human interactions. When actions are objectified and people experience those actions as being 'outside' themselves, reality may indeed be experienced as something 'out there'. Structures, cultures, rules... are then seen as 'natural' and 'necessary'. Roles and identities also may be the object of 'reification'. In the first case, people identify strongly with the roles they act. As a result they often tend to restrict their degrees of freedom and choice because they assume they have to act according to the position or role they hold. If that happens, identity boils down to the identification of the individual with a particular type. According to Berger and Luckmann, reifications are the result of a

process of objectification that is taken too far. Reifications are forms of modern idolatry (Elias, 1956; Calster, 2006b; Calster & Verfaillie, 2007). Organisations, culture, organisational structures, laws and regulations are such idolatries, which are idolised as something inevitable and necessary. As a consequence, people tend to believe or assume that dynamics and even change are subject to forces outside their reach on which they can exercise little influence (see also Calster, 2005a, 2005b; 2006a; 2006b). They then often assume that human interactions are driven by e.g. economic principles, or by a certain organisational culture, or a regulation, and so on. Responsibility is placed within those systems that are supposed to be in the driving seat. Actors are merely victims and have no or little responsibility for what happens. As a result, it is often believed that human actions can be controlled and steered if these systems are (to an extent inexplicably so) changed. This dominant scientific research perspective has taken a specific form for which Immanuel Kant himself, long ago, warned us. Kant after all argued that humans could never be the subjects of this kind of causality, because it would make ethics and morality impossible (Weischedel, 1985: 175-178; De Bruyne, 1943: 95-99; Shaw et al, 2004; Fonseca, 2003; Stacey et al, 2000).

The dominant perspective has –in the words of Norbert Elias- magical-mythical features. Researchers talk about the economy (e.g. supply and demand market dynamics) and culture as if those are systems which determine behaviour and interactions. This reminds us of the pre-scientific, magical-mythical era: the world is a bundle of forces to which people are relentlessly subjected. This magic-mythical nature is now represented in a rational, scientific language that conceals its mysterious aura. Very few seem to find it odd that the ‘economy’, ‘culture’ and all the other systems are considered to be ‘things’ that, from the outside, determine human interactions (Stacey et al, 2000). Now this could of course be an effective way to suppress fears, uncertainties and anxieties. However, as Elias (1956) and Beck (1986) observe, the world nowadays is experienced as more capricious, and uncertainty is growing. All attempts to control this capriciousness generate even more problems.

And yet, most researchers seem to retain the dominant perspective in an attempt to try and understand social reality.

Research on complex adaptive systems showed that the dominant systemic methods mentioned above are successful for understanding phenomena with a low degree of organisation, but are unsuitable for understanding more complex phenomena with higher levels of organisation, and that are characterised by processes of emergent order. Scientists such as Stuart Kauffman (1993; 1995), John Henry Holland (1995), Murray Gell-Mann (1994) and Tom Ray (1992) made clear that complex adaptive systems that are characterised by a certain level of openness, and by emergence, ask for a different approach. Such characteristics (i.e. emergence, openness, complexity, and so on) can not be derived from the characteristics of the parts. Applying the dominant perspective to complex adaptive systems will only lead to more and new problems.

Now, let us go back to the precautionary principle mentioned at the beginning of this chapter. Just because these new problems are difficult to understand and cannot be controlled, governments and researchers try to intervene even before these problems (including imaginary ones) emerge. Let us take the collective shop ban (in Dutch: Collectieve Winkel Ontzegging) in the Netherlands. In The Hague, shopkeepers have recently introduced safety measures under the guise of precaution. They are reasoning: since there is no certainty about future threats (or about the lack of them), it is legitimate to intervene now, e.g. by banning particular groups of individuals from shops (Wesselink et al., 2009). In other words, unproven danger gives cause for precautionary measures. One of the implications is that individuals and activities are held to be dangerous, unless proven otherwise. Van Gunsteren (2008: 19) puts it this way: "it is not because everybody wants to do harm, but because it is not known who won't" (translation: PJVC). Against this background all kinds of security mechanisms are now being deployed. They focus on the prevention of crime and the reduction of fear. To that end techniques such as identification and classification of individuals according to

(supposed) degrees of dangerousness are used (Feeley & Simon, 1994; van Swaaijingen, 1996). Attention hereby seems to be shifting to the control of potential risks and to interventions before any problem occurs.

Note that the main reason for introducing precautionary measure is based on the assumption of Kant's dualism between determinism (formative process) and 'rationality' (autonomy). Since governments (or other institutions) have little or no grip on non-linear interactions and the choices people make, they expand the system of control as extensively as possible. We now see the genesis of all kinds of models that try to assess potential risks. The profiling of risk is one such model. Profiling assesses specific characteristics of individuals that might classify them as potential offenders. To wit, 'male', 'coloured skin', 'baseball cap' (and so on) ... (Schuilenburg, 2007: 50). It subordinates human action (and thus free will) to a formative, organizing principle. As I argued earlier, this method shows magical-mythical features. It reminds Elias (1956) of the Aztecs who thought that there were certain periods in time when the sun (which they worshipped as a god) would disappear and abandon them. They tried to persuade the sun to stay with ritual and human sacrifice. Compare this with the way we try to secure safety (our new god) by excluding vagrants from public spaces such as shopping malls. These are also, in a way, human sacrifices.

2.6. ... Leads to Pseudo-Detachment and Bad Science

Scientists such as Kauffman and Ray compel us to rethink the nature of knowledge and the way we obtain it. Many of today's researchers rarely scrutinise the methods they use and seldom ask themselves whether those methods are able to cope with the problems they address. There is a kind of hardboiled habit among researchers to cling to the dominant, 'systemic' method. But this also leads to a misconceived formulation of problems and to a restrictive selection of research problematics (e.g. with an eye on quick short-term solutions).

The practical success of the dominant systemic perspective and method has led to an increase of levels of interdependence between

people (see again Elias, 1956; 1990). This involves strain, tension and conflict. Emerging changes that are the product of concrete human interactions, and that often have forms which were not intended, can have advantages for some, but will be to the detriment of others (see also Elias, 1956). As I have suggested above, the systemic approach assumes that order is imposed by something or someone 'outside' the system¹⁸. Therefore, the person or group that are facing disadvantage will tend to look for the person or the group that (supposedly) imposed the order. Often overwhelmed by uncertainty, fear, and feelings of vulnerability, they are unable to study the problems in a detached way, like beta scientist do (Elias, 1956: 234). They believe they have little or no control on developments. It is therefore difficult for them to master their emotions. According to Elias (1956: 233), it is precisely this heightened emotionality, in connection with the acute social and political tensions, that block the progress of research in the social sciences. On the one hand there is pressure to bring solutions to problems in the short term, while on the other it is realized that these problems can not be resolved in the traditional (i.e. old style, 'systemic') way. Also, there is this increasing complexity of human relations and interactions. Many researchers resort to a flight in small, nicely delineated research topics. After all, short term solutions to problems ask for quick fixes. But the downside of this is that the acute difficulties posed by the consequences of unmanageable forces of social change, and the mutual frictions and conflicts that go hand in hand with them, keep on emerging (see also Elias, 1956).

Social scientists are very much involved with the problems of the society they observe. Often quite literally so: they try to secure the prosperity of their society; they feel responsible for well-being and welfare they want to protect their own lifestyle (and so on). Norbert Elias (et al., 1997: 152) writes about double binding: a high level of perceived danger or threat leads to high levels of emotionality in human relations

¹⁸ Note the difference with complexity science, where order emergence spontaneously.

and interactions, which, however, hamper a realistic analysis of the dangers and threats, and eventually undercut control efforts.

The researcher's involvement inevitably has an impact on the questions he or she asks. In the debate on security one could distinguish between two opposite positions. On the one hand, there is the position that emphasizes human freedom and its protection by means of human rights interventions and safeguards. Here, we hear once again the argument about individual rationality and autonomy. Authors such as Britta Böhler (2004), Herman van Gunsteren (2004) and Benjamin Barber (2003) point emphatically to the infringement on human freedom and civil rights. On the other hand, there is a focus on the rights and obligations of individuals in society. Here society, or the collective, is considered more important than its individual citizens. This is clearly a formative argument, which puts the collective first. The parts (the individuals) have to accomplish the whole (safety) which is paramount. In other words, the answers given are not so much scientific as ideological. Within their own internal 'logic', both positions make sense. But since they are ideological, discussions never stop, with hardly anyone persuaded by the other position.

These discussions keep generating tensions and conflicts because they continue to turn around the question of what the relation between individual and society should be (an attitude which expresses the observer's involvement), rather than the question of what the relation between individual and society actually is (a question that would betray the observer's detachment). The latter is the question with which sociology began. And it is this question that resides at the heart of complexity (social) science. The incapacity to isolate this question from the ideological and political debate is perhaps the most important reason why social sciences are unable to let go of the dominant 'systemic' perspective and method. The dominant perspective and method pose the wrong questions. There is a pseudo-detachment. As I argued earlier, scientists such as Kaufmann, Holland and Gell-Man teach us that some problems can not be solved and understood properly because they are

posed the wrong way. What can reifications tell us when we know they are reifications, magical-mythical constructions?

2.7. Exit

In this chapter I argued that scientific debates on crime control and crime governance generate mostly ideological and political statements, rather than scientific ones. This is largely due to the dominant, 'systemic' perspective and method. It is used for the study of complex adaptive systems, while it is applicable only to the study of complicated systems. This same perspective and method also led to the fragmentation of social research, whereby much, if not most research focuses on selected, delineated problems and issues that are, moreover, often wrongly posed.

CHAPTER 3

On Gabriel Tarde, Complexity Theory and Complex Interactions¹⁹

3.1. Introduction

In *The Dark Knight* (2008), the only Batman film without the word 'Batman' in the title, the Joker -brilliantly played by Heath Ledger- likes to emphasize the need to create a little chaos in Gotham City's civilian life. Since it is in moments of chaos that everyone becomes more aware of what really is at stake, it is important to disturb and break the order every now and then, the Joker explains, sitting by the sickbed of Harvey Dent, the district attorney charged with responsibility for investigating and prosecuting organized crime in Gotham City. 'Introduce a little anarchy. Upset the established order, and everything becomes chaos. I am an agent of chaos. Oh, and you know the thing about chaos? It's fair!'

For those acquainted with reflections upon the relation between chaos and order, the Joker's attempts to derange the order in Gotham City are akin to the occurrence of a forceful event that manages to upset established forms of knowing (Badiou, 2005). In such an approach, popular opinion is challenged so fundamentally that everyone is compelled to reassess their position in light of the event. In philosophical terms this means opening up new space in which, what Badiou (2002: 42) calls, a 'truth-process' begins. By consistently studying each specific situation in relation to that event, the life of Gotham City's citizens will again be given unity and direction. This way the individual -the subject of loyalty- thus never precedes the event. Here, truth as well as the subject are post-eventual.

¹⁹ Published as: On Gabriel Tarde, Complexity Theory and Complex Interactions in: *New Directions for Criminology. Notes from Outside the Field*, Antwerpen/Apeldoorn/Portland: Maklu, 2010, p. 171-190, in collaboration with Marc Schuilenburg. (Double blind peer reviewed). Patrick Van Calster thanks Marc Schuilenburg for the many discussions he had with him on the work of Gabriel Tarde, and Gilles Deleuze and Felix Guattari, and for helping out with the section on Tardian philosophy (here page 60-69).

Alain Badiou (2002; 2005) and Slavoj Žižek (2002) argue that such events usually manifest themselves through revolutionary turns. These turns ‘punch a “hole” in the knowledges’ (Badiou, 2002: 43), implying a distinction between ‘knowledge’ and ‘truth’, and that truth is not a part of ‘knowledge’. For Badiou, the introduction of different party politics or a different state apparatus are not the objective of such a revolutionary turn. Revolution constitutes a clean break with the past. By this, Badiou undeniably upholds the modern view that in politics the new can only emerge from revolutionary thinking (Schuilenburg, 2006).

However, in order to study the impact of events on everyday life and social change a more modest perspective could be opted for. Without introducing the political event of a revolution that is beyond any form of representation, one could attempt to show how, at the most basic level of social existence, interpersonal interactions cause the disruption of an existing social-cultural field, which subsequently develops in unexpected ways. This approach is best expressed in the work of the French sociologist Gabriel Tarde (1843-1904).

Tarde was a contemporary of Emile Durkheim (1858-1917) and one of the founders of French sociology. While Durkheim, and later the majority of social scientists, criminologists included, focused on large collective structures ('culture', 'the organization', 'society'), Tarde emphasized the small changes and details in social life. He depicted these changes in *Les lois de l'imitation* (1890), *La philosophie pénale* (1890) and *Les lois sociales* (1898), using interactions he described in terms of 'imitation' and 'invention'. In this paper we consider the importance of Tarde's work for criminal policy and criminal justice. We do this by situating his work in the history of social science. More specifically, by showing how Tarde's way of thinking relates to Durkheim's definition of a social fact. Subsequently, we discuss his concepts of 'imitation' and 'invention', and explain how these can be understood as series of interactions ('process thinking') that continually ramify and multiply. These 19th century concepts have recently been given a scientific foundation by and in

complexity research. We conclude this paper by providing concrete suggestions as to how this process thinking can be deployed to resolve criminological issues, to which end we will make reference to developments in complexity sciences.

3.2. On the Social: Emile Durkheim and Gabriel Tarde

Although Gilles Deleuze writes in praising terms about Tarde's insights in *Difference and Repetition* (1968), and, together with Félix Guattari, pays homage (1987: 218) to his work in *A Thousand Plateaus*, Tarde has for a relatively long time received only marginal attention. This has gradually changed over the past few years, mainly owing to Michel Alliez's efforts to have Tarde's entire oeuvre republished, and to Bruno Latour's admission that it was Tarde who provided the basis for his Actor Network Theory (2002; 2007). Apart from the importance of Tarde's insights for Deleuze's differential philosophy and Latour's theoretical sociology, Tarde himself was active in many areas. In addition to being a lawyer and a criminologist, he was intensively involved in statistics and social psychology. He was a magistrate in his hometown of Sarlat, a director of the Ministry of Justice's Bureau of Statistics in Paris and a professor of modern philosophy at the Collège de France. He also found time to write essays and a science-fiction novel entitled *Underground Man* (1905), a novel about an ice-covered world where people live underground and art and music are the most important aspects of life.

So why then has Tarde's work received so little attention over the years? This is largely due to his debate with Emile Durkheim, who was appointed to a Professorship at the Sorbonne in 1902, two years after Tarde. Durkheim went on to become Professor of Pedagogy in 1906, and, in 1913, the first person to hold the 'chair de sociologie de la Sorbonne'. Tarde's debate with Durkheim revolved around the issue of continuity and change, and the relationship between the whole and its parts in social reality (Van Ginneken, 1992: 203).

3.2.1. Emile Durkheim on the Social

According to Durkheim, a social fact – in other words, the description of what the social precisely entails or defines - is characterized by the power of external coercion it exerts upon individual behaviour and the influence it has on personal attitudes or needs. An example of such a social fact is the language in which we communicate. The language we learn to speak from birth is inescapably imposed upon us and has a compelling and invisible force that no one can escape.

According to Durkheim, a social fact is identifiable not only through its external influence on what individuals do and say, but also because it has a reality of its own that cannot be reduced to the qualities of separate individuals. In other words, it is an independent entity that imposes certain views and behaviour on an individual that that individual would not have displayed spontaneously. With his sign theory, for instance, Ferdinand de Saussure showed that an extensive system of rules (*langue*) functioning independently of any single individual's use, underpins the individual use of language, i.e. the spoken dimension (*parole*). Although no-one is obliged to accept or follow the rules of language, failure to apply such rules makes natural and normal interpersonal interactions virtually impossible. From that perspective, a social fact is not only coercive and supra-individual, it can also be understood as objective (in the meaning of 'thing'), as Laermans (1995) summarizes Durkheim's views.

The characteristics of a social fact feature most clearly in Durkheim's thesis of a conscience collective, the largest common denominator of the content of the consciousness of individuals in a society. This collective consciousness manifests itself as a separate variable and forms the foundation for cohesion in a community. Not only does it generate emotions that are qualitatively different from individual perceptions, but it also has specific characteristics (Durkheim, 1977: 12).

If we apply those characteristics to society itself, society will have a reality of its own, a philosophical point of departure called 'realism'

(Durkheim, 1977: 8-9). In 'realism' society has its own nature. The independence of society as a whole gives rise to convictions, norms, ideas, and perceptions that are shared by the members of that society. We should not infer from this, however, that a society exists eternally and completely on its own, as if functioning totally separate from the individuals who compose it. Durkheim opposes a transcendental view of society as an entity operating independently from its constituent individuals. To Durkheim, society, through the associations of individuals, gives rise to specific behaviours that together form a collective unity.

In *De la division du travail social* (1893), for example, he analyzed the development of a moral solidarity in different types of society. While the earlier, more primitive society enjoyed a mechanical solidarity based on equality, the modern industrialized society is characterized by an organic solidarity based on differences and inequality and caused by factors such as the new division of labour and the sharp rise in population that have further increased the number of mutual interactions.

To properly understand the debate between Durkheim and Tarde, it is important to appreciate that both of them considered interpersonal interactions in a society to be social. All things considered, Durkheim would say, these, together with other factors, underlie the changes occurring at the level of moral solidarity in a particular type of society. But, Durkheim emphasizes, they depend primarily on an individual's psychological characteristics and the specific circumstances in which they occur. In that respect, interpersonal interactions are not phenomena that Durkheim considers typical of the science of sociology. He uses the term 'socio-psychological phenomena'; they are of interest to sociologists without being an immediate subject for sociological study. Although psychological insights about associations of individuals can help understand changes in solidarity in a society, it is up to the science of sociology to study that solidarity as an independent social fact. This can be accomplished by using scientific methods and models which, as Durkheim demonstrates, can be applied to objectify and verify statistics about birth, marriage, suicide and crime rates. It is possible to analyze

the average numbers of births, marriages and voluntary deaths, and also the degree of criminality that expresses the collective consciousness or morality of a society, without discussing the related individual circumstances (Boutellier, 1993: 17-23).

3.2.2. Gabriel Tarde on the Social

Whereas Durkheim, simply put, maintained that social facts should be analyzed as separate entities ('as something unique'), Tarde argued that sociology should focus precisely on the interpersonal interactions that provide society with some degree of social structure. Although the two positions are not necessarily diametrically opposed, they do focus on different fields of research.

3.2.2.1. Interactions

Contrary to Durkheim's structuralist view, which concentrates on studying the shared convictions of a group or a collective as a whole, Tarde considers the interpersonal interactions themselves as a social fact worthy of scientific research. We should take this to mean that the 'metaphysical meaning' that Durkheim attaches to a social fact has no absolute validity or value to Tarde. Tarde's interests could be said to lie in the dynamics of social life. He thus draws our attention to an essential aspect that remains unanswered in Durkheim's thinking. In other words, 'How can so many different individuals together form one whole?' Or, to put it differently, 'How can the resemblance between thousands of different individuals be explained?' (Deleuze, 1994: 314 n.3, Deleuze & Guattari, 1987: 218).

Instead of disputing Durkheim's concept of social facts or questioning his scientific analysis of suicide, criminality and so on, Tarde uses a different approach. On the one hand he questions the rigidity of Durkheim's assumption of a collective whole underlying a society's shared solidarity, morality and culture, while on the other he asks how a social fact can exist outside the individuals themselves (Rhoads, 1991: 119). After all, Durkheim's assumption of a social fact is based on the never-tested assumption that such a 'shared conviction' exists.

Tarde does not deny the possibility of solidarity and morality between individuals, but focusses the attention on how resemblances between individuals (that entail a degree of solidarity or morality) arise. Durkheim simply assumed that resemblances multiplied, and that these resemblances formed a reality of their own that more or less transcended the individual level. Acting morally then simply means that someone subjects to the force of a collective externally imposing rules, norms, and codes on individuals. But that assumption, Tarde argues, is merely an 'ontological illusion' (Tarde, 1969: 115), and basically implies a revival of Plato's doctrine of Ideas (Tarde, 1969: 117). In a way similar to Durkheim's social facts, Plato sees Ideas as representing eternal, stable, and archetypical things that can be known only through spiritual experience. The Ideas themselves are not confined to matter, time, and place, but lie in a higher world that, according to Plato, is fixed forever and that leads an autonomous existence independent from thought.

Tarde, however, prefers, as he puts it, a 'pure sociology' or a 'general sociology' (1962: ix-x) that interprets the general character of social interactions and can be applied to every social fact. He uses the term 'general laws' (1912: 326) in that respect, when discussing series of interpersonal interactions that are perpetual rather than temporary. Although the terms 'general laws' and 'general sociology' may seem to suggest otherwise, Tarde's method should not be defined as structuralist (Barry & Thrift, 2007). While Durkheim places the emphasis of social sciences on structures underlying social relations (i.e. structures that are therefore not directly visible), Tarde focusses attention on concrete relations between people. So before we can deal with the question of whether an underlying structure exists and, if so, how it affects daily life, we should –according to Tarde- explore how resemblances develop in the behaviour of all these different individuals who constitute social life. According to Tarde such resemblances arise through repetition. 'All resemblance is due to repetition', he writes in *The Laws of Imitation* (1962: 14). This does not mean, however, that a linear process unfolds in which people continuously repeat each other's behaviour, or in the

style of a monomaniac. In *The Laws of Imitation* (1962: 7) Tarde also writes that 'repetition exists for the sake of variation'. And just before the previous excerpt he hypothesizes that 'resemblances and repetitions (...) are the necessary themes of the differences and variations which exist in all phenomena.' (Tarde, 1962: 6)

In his 'general sociology' Tarde essentially attempts to find a mean between Scylla's absolute relativism and Charybdis' absolute absolutism. In this approach, a society corresponds with a 'group of beings who are apt to possession of common traits which are ancient copies of the same model' (Tarde, 1962: 68). In *The Laws of Imitation* he analyzes such resemblances as series of imitations that he links with notions such as somnambulism and hypnosis -frequently debated notions at the end of the 19th century. Entirely in line with his thinking, society then is 'imitation and imitation is a kind of somnambulism' (Tarde, 1962: 87).

The emphasis on somnambulism and hypnosis reappears in *Penal Philosophy* (Tarde, 1912: 192-201) where Tarde discusses in detail the idea of hypnosis as 'the experimental junction point of psychology and sociology: it shows us the most simplified sort of psychic life which can be conceived of under the form of the most elementary social relation.' (Tarde, 1912: 193) In his later work, somnambulism and hypnosis are relegated to the background, yielding to a more abstract and horizontal approach to interpersonal interactions, that he terms 'repetition, opposition, and adaption' (Tarde, 2000: 8). Proceeding from this conditional formulation of action, Tarde further stretches the notion of society.

In *Monadologie et sociologie* he writes (Tarde, 1999: 58) that 'all things are society and any phenomenon is a social fact,' a view which Latour (2002) describes as 'a flat society argument'. In the framework of this paper, however, it is important that, from Tarde's perspective of interactions, the Durkheimian issue of structure and order is a secondary issue. Initially there is change, movement, and difference (Tarde, 1962: 71; Latour, 2007: 13-16; Deleuze & Guattari, 1987: 218-219), while

order and stability always follow later. They emerge from the dynamics of social life, as temporary congealing points of continually branching series of interactions that are not so much 'things' as events that never obtain their final meaning.

3.2.2.2. Imitation

To answer the question of how interpersonal interactions take place in general and, more specifically, with what variation, Tarde makes a systematic distinction between processes of 'imitation' and 'invention'; two series of interactions, each of which forms a reality in itself, but also influence the other. Tarde (1862: 17) defines imitation as the movement by which something is repeated and diffused. In the preface to the second edition of *The Laws of Imitation*, he speaks of 'the action at a distance of one mind upon another' (1962: xiv) and of 'every inter-psychical photography, so to speak, willed or not willed, passive or active.' (1962: xiv) In specific terms, this means that people consciously or unconsciously imitate each other's behaviour. They copy certain methods or preferences, such as the way they work (process or technique), the way they dress (fashion) or the music they prefer. But imitation is found in smaller things as well, such as in the minute adjustments in behaviour seen when youngsters copy each other's body movements or adopt certain expressions. In his book *Kapot moeilijk* De Jong (2007) shows how the behaviour of Moroccan youths reflects shared street values (such as loyalty, courage and success) and relate norms about what behaviour is deemed good or bad in specific circumstances. De Jong explains why phrases like 'typically Moroccan' do not adequately explain or capture delinquent group behaviour among Moroccan youths. Explanations that assume a 'cultural' base (e.g. a 'warrior culture', with male virtues such as courage, honour, and respect) do not adequately explain why Moroccan youths form groups that the public perceives to be threatening. A better explanation, De Jong writes (2007: 211), can be achieved by considering the dynamics of group processes and the specific circumstances in which youngsters grow up in certain neighbourhoods. It then becomes clear that striking resemblances arise through individuals

copying each other's behaviour and attaching a shared meaning to certain actions.

In this respect it is important to point out the branching character of series of imitations. This means that, in the dissemination of behaviour, all kinds of new series will form and may produce new relationships. These in turn may generate other series of imitations. Adding new series to existing ones leaves open the possibility of creation, and keeps the social-cultural field in motion and thus alive. This is how criminality should also be approached, Tarde writes in *Penal Philosophy* (1912: 362). In other words, as 'a phenomenon of imitative propagation'. Forms of criminality spread 'like every industrial product, like every good or bad idea' (1912: 338). Tarde does not claim here that criminality can be studied as a separate entity, independent of other developments in society. The question, he states (1912: 362), is 'whether the many other phenomena of imitative propagation, which taken all together are called civilization (...) foster or impede the progress of the propagation of crime. Or rather, the aim is to discover, if that were possible, which among these various spreadings of example which are called instruction, religion, politics, commerce, industry, are the ones that foster, and which ones that impede, the expansion of crime.'

Tarde (1962: 140 ff) distinguishes two laws to elucidate the process of imitation. He speaks of a 'logical law' when imitation starts from the idea that it will contribute to a higher objective or is expected to solve a problem better than other inventions. More often, however, than arising from rational or well-thought-out considerations, imitation occurs in response to 'extra-logical laws'. The emphasis in these laws is on cultural elements, but psychological and sociological influences also play a role. Tarde shows that certain forms of crime occur increasingly frequently as the number of interactions between different people increases (through processes of urbanization, for example, or following the move from aristocracy to bourgeoisie). He illustrates this with the notorious case of nursemaid Henriette Cornier, who in 1825 decapitated a 19-month old child and subsequently threw the head out of a window. Not long after,

other nursemaids also yielded to an 'irresistible impulse to cut the throats of their employers' children' (Tarde, 1912: 340).²⁰

3.2.2.3. Invention

Tarde uses the term 'general laws' to indicate that the process of imitation not only plays a role in social life, but also in other areas, such as geology, astronomy, and chemistry. But even though he refers to these laws as 'general', their effect is different in each area. The process of 'invention' is distinctive in this respect. An invention is not social until it is imitated in social life, Tarde writes in *Social Laws* (2000: 23, 78). From a societal point of view, inventions that are not imitated are not relevant (Tarde, 1912: 396 n.1). This means that an invention does not produce effects until it is included in series of imitations 'which have fallen one after another into the domain of the commonplace, the traditional, and the customary' (Tarde, 1912: 118). This includes both small and large imitations; imitations occurring within a short space of time or over a longer period.

Tarde (1969: 153) defines an invention as the combination of dissimilar imitations as, he believes, inventions, too, branch into series, like links in a chain with 'highly variable intervals, sometimes of a few days or months, sometimes of several centuries' (1969: 160). They merge into series of imitations, spreading in turn like an oil stain and leading a socio-cultural field increasingly to achieve sameness. How should we interpret this? Inventions spread, to use one of Tarde's favourite analogies, like ripples in water, moving steadily towards the shore until they hit an obstacle. According to Tarde, that obstacle will often be the imitation of a previous invention, and their collision (in dialectic terms 'opposition') will generate a new product, a new invention that may in turn be imitated, until it, too, hits new obstacles (Tarde, 1969: 21). Following on this analogy, society can be seen as one large irrigation system. In other words, a system with constantly moving

²⁰ For fear of imitation, certain incidents, such as throwing stones from viaducts onto cars, or suicides from certain buildings, are kept out of the news even today.

currents, undercurrents, and counter-currents (Van Ginneken, 1992: 200).

Although invention and imitation should not be considered hierarchical opposites (as they are mutually influencing forces), Tarde seems, in his approach to inventions, to adhere to the classical notion of 'genius' as found *inter alia* in the final of Kant's three *Kritiken*, being *Kritik der Urteilskraft* (1790). According to Kant, a genius is characterized by an autonomous creativity (autonomy literally means 'self-legislating'). He appreciates positively what others consider to be merely coincidental or trivial. In a similar fashion, Tarde attributes inventions to the ability of a 'true great man'. In *Penal Philosophy* (1912: 164-165), for example, he asserts that such people can reform the crowd and gradually make it conform to themselves. At the same time, Tarde believes that this rationalist view only partly explains why we are 'more imitative than innovative' (1962: 98). Contrary to the more rational approaches of Durkheim and Weber and following Théodule Ribot's *Essai sur l'imagination créatrice* (1900), Tarde (1969: 150) also points to other factors that influence the generation of new inventions, such as emotion or desire ('fear or anger, sadness or joy, hate or love'). In *The Laws of Imitation* (1962: xiv), therefore, he refuses to distinguish between conscious and unconscious inventions: 'I have certainly applied this name [invention, PJVC] to all individual initiatives, not only without considering the extent to which they are self-conscious –for the individual often innovates unconsciously, and, as a matter of fact, the most imitative man is an innovator on some side or another– but without paying the slightest attention in the world to the degree of difficulty or merit of the innovation in question.'

Tarde seems to imply that an invention is a strictly individual matter, while imitation requires two separate individuals. In other words, to what extent is Tarde's approach simply a plea for practising 'psychologism' or 'spiritualism'? In *Difference and Repetition*, Deleuze refutes the criticism that a psychology lies hidden behind Tarde's 'general sociology'. According to Deleuze (1994: 313-314 n.3), Tarde realizes a

'microsociology, which is not necessarily concerned with what happens between individuals but with what happens within a single individual: for example, hesitation understood as "infinitesimal social opposition", or invention as "infinitesimal social adaptation".' By this, according to Deleuze, Tarde demonstrates that there is always a second issue besides the issue of structure. More than on the structural level of order and stability, which Deleuze terms 'molar' (1987: 213 ff.), this involves a 'molecular' level (1987: 213 ff.), with a very different rhythm and speed. This level is not necessarily manifest or noticeable, but does have the potential to break open and transform a social-cultural field. Or, as Deleuze and Guattari state in *A Thousand Plateaus* (1987: 215): 'Although it is true that the molecular works in detail and operates in small groups, this does not mean that it is any less coextensive with the entire social field than molar organization.'

3.2.2.4. Variation and Movement

At the risk of simplification, it could be argued that the question of variation and movement is key to Tarde's approach (Alliez, 2001). More specifically, Tarde claims that it is not productive to reason from the mere assumption of a fixed order or structure. In Tarde's words (2000: 93): 'To understand social conditions, we must seize social changes in detail as they pass.' After all, the smallest body movement, such as the knowing wink which board members of a multinational during a meeting, can initiate quite significant change in a social-cultural field. In this light, the elementary social fact is not the individual or the whole, but a series of interactions that produce a difference, i.e. movements that differentiate something qualitatively and quantitatively (Barry & Thrift, 2007).

It will be obvious by now that we are far removed from the classical way of looking at meaning or purpose in which the human subject is at the centre of attributing meaning and purpose. That classical view is largely inspired by Descartes' magical maxim 'I think, therefore I am'. In this view, a person's actions are the product of a free, autonomous, and immutable actor. This individual is in opposition to his immediate

environment, without forming part of it. From an external position he is able to comprehend and grasp social reality in its entirety. However, like Tarde, we may want to assume that interaction cannot be reduced to the action of the individual or the substance or subject it refers or is ascribed to. Interaction is an autonomous process. It expresses a 'becoming', as Deleuze puts it.

The above observations raise questions as to how existing practices and institutions can be transformed, and what attitude should be adopted as regards policy and practice. In other words, how can we demonstrate that 'molar' organizations (Deleuze) are dismantled as a result of the introduction of new openings on a 'molecular' level, and the creation of other connections? Can Tarde's body of thought be applied to develop a different approach to criminality and conflict control? And, if so, how?

3.3. Towards a Complementary Approach²¹

Tarde's basic assumption of a molecular 'sublevel' of series of interactions underlying the molar level is not as self-evident as it would seem at first sight. It is, in any event, at odds with the perspectives in which the potential and effect of policy initiatives, or the freedom of choice of governmental and non-governmental actors, are assumed without question. Distinct from the idea that changes can be brought about effectively in society, the idea that social change can be effected by government policies –in other words, deliberately and strategically- might be problematic (Schuilenburg, 2008; Calster & Verfaillie, 2007).

In this respect, Tarde highlights the dangers of 'reification', an approach to reality in which social phenomena are separated from concrete human action. According to Berger and Luckman (1967: 106-109), reification is the result of an over-applied process of objectification. When, for example, people have applied a process of 'reification', they no longer experience social reality as a product of human interactions.

²¹ This section draws on the groundbreaking work of Shaw (2002), Fonseca (2002), Griffin (2002), Stacey (2001), Stacey, Griffin and Shaw (2000), Cilliers (1998), Kauffman (1994), Nicolis and Prigogine (1989) and Prigogine and Stengers (1984).

Reality is then given an ontological basis that is detached from all concrete human interaction, and institutions are regarded as independent, as 'natural' and essential. Roles and identities, too, can be the object of reification. In the former - the roles - individuals are no longer able to distinguish between the roles they play and their true self. They limit their own freedom of choice because they feel they have to act in accordance with the position they hold. In the latter - the identity - the individual completely identifies with specific socially attributed characteristics (Calster & Verfaillie, 2007).

According to Dutch criminologist Bianchi (1980: 384), criminal law and the criminal justice system are such 'false gods'. They credited with having an immutable life of their own and are subsequently worshipped as something inevitable and necessary. However, when institutions such as the police or the judiciary are reified, they are imagined as a 'thing' and thus as a whole, acting according to their own order (Calster, 2008; 2006; Calster & Verfaillie, 2007). In other words, we ascribe a purpose to reification and the parts are studied to the extent that they help accomplish that purpose. As a result, the whole is imagined as a determining force, which has to be obeyed by its parts. Consequently, people no longer believe they can exert an influence on, or transform their institutions, or rather, they assume that the dynamics of those institutions are subjected to forces that are beyond their control.

The only way this framework allows for any real change, is by emphasizing the remarkable qualities or views of (individual) reformers such as scientists, legislators, practitioners, politicians, and policymakers. They then are expected not to be subject to the determining forces of the whole. This approach implies that these individuals are somehow outside the dynamics of the whole. They evaluate these dynamics as 'outsiders', devise plans, and prescribe the correct remedies which may then subsequently be deployed (Stacey et al, 2000). This is a very mechanical way of looking at social reality, and ignores the many series of interactions that continuously take place and exert an influence on what occurs at a molar level (Calster, 2006b; Calster & Verfaillie, 2007).

Complexity scientists such as Stuart Kauffman (1993; 1995) and Gregoire Nicolis and Ilya Prigogine (1989) have put attention to these series of interactions. Stuart Kauffman (1993; 1995) and Tom Ray (1992) have pointed to the possibilities offered by technology to study non-linear interactions (see also Cilliers, 1998: 1). Indeed, in Kauffman's and Ray's computer simulations, each phenomenon consists of a large number of agents, and each agent behaves according to its own interests, intentions, behavioural patterns, and so on. Because the focus is on an agent-based approach, the object of their research is expressed as a population of agents which interact according to their own local "if... then" rules (Lewin, 1993; Marion, 1999; Mainzer, 1997; Stacey et al, 2000).

Research on a molecular level does not work with rules, laws or regulations that are deemed valid for the whole population, but, rather, with rules for individual entities that together form a population or system (Kauffman, 1995; Lewin, 1993; Fonseca, 2002; Stacey et al, 2000). No agent or system has ultimate control over the interactions and reactions of others, nor over the behavioural patterns of the (sub)systems, or the way in which these (sub)systems develop. This approach makes no appeal to someone or something 'outside' the system, imposing their/its will. As Alliez (2009) already mentioned, the molecular level revolves around "small complex relations", rather than "huge dialectic structures" that direct the whole. Consequently, small changes could have huge and unpredictable effects. In terms of the social, it means that attention goes out to interactions that have no reference to a centre, standard or norm. On the contrary, rules of conduct, rather than steering individuals' actions, are used more as instruments of justification and persuasion in the interactions people engage in (Fonseca, 2002; Calster, 2006b; Stacey, 2001; Shaw, 2002). The focus is on becoming, and not on being.

3.3.1. A Focus on the Molar as Repetitive Patterns

By taking series of interactions as their point of departure for analysing life in society, Gabriel Tarde and complexity scientists have laid out the foundation for a 'process thinking'. Process thinking assumes a long concatenation of forms of interaction that have often completely lost their original meaning. The relationship between cause and effect in those concatenations is highly ambiguous and difficult to determine, and it is very difficult to even discern cause and consequence (Shaw, 2002; Stacey, 2001). Take Kauffman's autocatalytic networks, for example. The problem is aggravated by the many coincidences that look like causes, but are actually relational in nature (Cilliers, 1998). This makes it difficult to accurately predict what will happen in a specific place over a specific period of time. To summarize, if we were to research the operation of a public-private partnership, or private security organization, as a pattern of interaction that is not so much the implementation of a preceding design, but rather the result of an ever-emergent process of interactions, the focus of research would be on interaction themes that organize experiences, such as themes that are considered unpleasant and are usually avoided (Griffin, 2002; Fonseca, 2002; Stacey, 2001; Shaw, 2002).

This, of course, does not alter the fact that there are frequently elements of rational planning and determination through and in the many processes of policy making²². Just as it does not alter the fact that intense negotiations (and thus social networks) will be entered into and result in various agreements that may or may not be observed. In other words, from the perspective of process thinking, the issue of control and the extent to which social change can be brought about by government intervention or policy seem only relative. Attempts to achieve them may produce unintended outcomes over which one has little control. For that reason, objectives, models and good intentions often 'lose their innocence' after a 'confrontation' with social reality itself (Calster & Verfaillie, 2007).

²² The same goes for research (Stacey et al, 2000).

It then becomes evident that 'partnerships', 'security organisation', 'the criminal justice system' are simply a series of temporary 'successful' patterns and themes of interaction, accepted by the participants as 'good enough' to be repeated, and thus becoming organizational customs (McMillan, 2008; Griffin, 2002; Fonseca, 2002; Shaw, 2002; Stacey, 2001; Stacey et al, 2000). The repetition of these patterns and themes creates stability in the collective identity (or organizational culture) and organizes cooperation.

These patterns and themes are expressed through a certain organizational language; in other words, in certain ways of doing and saying things. These ways create the collective identity (the criminal justice system, for example), as well as various aspects of their individual identities. The repetition of organizational customs (culture or language) that are 'good enough' will increase efficiency as the constant repetition of these customs in a similar way will improve people's performance (McMillan, 2008; Fonseca, 2002; Griffin, 2002; Stacey, 2001; Shaw, 2002). These customs (a certain way of speaking, for instance) are safe themes that organize cooperation. They reflect what has emerged as a standard of conduct, and make prevailing power relations seem natural. Newcomers to 'the partnership' or 'the security organisation' then believe that they have to use this particular way of speaking to express involvement in or commitment to the organization. We hasten to add, however, that these patterns are not recorded anywhere and are not fixed. Precisely because they are repeated constantly -imitated, as Tarde calls it- they always have the potential for transformation and thus for change. We will expand on this later.

But if the dynamics of the partnership and the judicial system are emergent and do not necessarily, therefore, correspond with the predetermined designs and intentions, how do these institutions change? As the research by Kauffman (1993: 1995) shows, new patterns, and thus new meanings, arise primarily in interactions that are characterized by diversity. When there is little diversity between people and they have

developed solid (and often rigid) conceptions and ways of interacting with each other, their interactions are unlikely to generate anything new (Stacey, 2001). Their patterns of interaction are more likely to be repetitive. Conversely, groups with a full range of diversity will have to contend, incessantly, with dissonance and forms of 'disobedience'. Successful transformation, therefore, falls somewhere in between these two extremes, in a zone Kaufman (1995: 26) calls 'the edge of chaos.'

As we noted earlier, there is a strong probability that behaviours arising from these complex processes of interaction become routines and customs, stabilizing themselves on a molar level. Routines and customs are identifiable by their clear and delineated meaning. That is what determines the reliability and robustness of these routines. If such routines are deemed successful, that success will strengthen them, and this may make them seem rigid to reformers. Routines are often accompanied by a certain formal use of language (usually excluding other forms of interaction), within which tasks and roles are clearly defined. As a result, they exert considerable influence on cooperation. This way, the constant repetition of customs generates stability of the collective and, for example, 'a working culture'. Criminal law and partnerships, then, should be considered as stable series of interactions, rather than determining forces. These customs embody the official standards of conduct and generally make the power relationships formed in this process seem natural. Over time, actors tend to abstract, objectify or reify this repetitive behaviour, and consider it to be something that has always existed and as self-evident (Berger and Luckman, 1967; Fonseca, 2002; Stacey et al, 2000). In other words, they 'forget' that it has been generated in and through human interactions. People in organizations become habituated to this stability and feel threatened, or may even become aggressive, if new ways of interaction are introduced (see the research by Fonseca, 2002 and Stacey, 2001). We therefore believe that those applying themselves to studying 'partnerships', 'organisations' or 'the criminal justice system' must also focus on the smallest deviations or slightest changes in series of interactions.

3.3.2. A Focus on Series of Interactions: The Potential for Transformation

From a molecular perspective, all knowledge (including scientific knowledge) is a social activity that can evoke varied reactions from and within the professional field. Criminologists and policymakers should not, therefore, be placed outside the reality and social dynamics. When, for example, they devise new methods of conflict settlement to be imposed on that reality, they do not do this from 'outside' the system. Researchers unavoidably participate in what they research, while policymakers participate in the policies they design. Hence, they contribute considerably to what they attempt to research or reform (see also Heisenberg, 1962: 19; see also Griffin, 2002; Streatfield, 2001).

It is more plausible, therefore, to define 'partnerships', 'organisations' or 'the criminal justice system' as a complex social process of interactions (which includes both linguistic and non-linguistic dimensions), not only between people, but also between objects – including abstract items such as rules, regulations and territories (the court, a police station and so on) (see also on this Latour, 1996; 2002). This is because, as Tarde and complexity thinkers argue, people constantly interact, and it is precisely in and through those series of interactions that all kinds of actions, such as cooperation and conflict, emerge. Those interactions can take many different forms and may include innocent, conformist and deliberate, but also confrontational or unintentional interaction (McMillan, 2008; Shaw, 2002; Fonseca, 2002; Stacey, 2001).

A focus on these series of interactions raises the question of how reforms actually occur, and what the impact is of the actions of people commonly considered the source of those reforms (legislators, politicians, practitioners in management positions, policymakers or scientists). These reformers, after all, design the desired changes. They devise models and plans and draft legislative texts or policy documents. This process takes form through and in the very interactions these actors have with others – actors with different interests, or conflicts; actors that harbour particular rational and emotional considerations. Hence, at the time when these

models, action plans or legislative texts are actually being introduced or implemented, reformers have no certainty about their impact (Griffin, 2002; Streatfield, 2001).

In criminal justice or crime governance, for example, the impact of interactions that the many managers have with the lower echelons will undoubtedly be far greater than the impact of interactions within and from the lower echelons since actors in management positions tend to reach a far greater audience and, in addition, may be able to enforce their decisions and measures (Griffin, 2002). But practitioners in management positions, politicians, policymakers, legislators and criminologists cannot de facto determine what the reactions from the professional field to their plans and intentions will be. The value and importance of the measures they take depend, therefore, on how others respond to them. Thus it is in and through series of interactions that the dynamics and developments of the process of criminal justice and its many institutions emerge. Not one person will ever be able to determine the dynamics of interactions within an institution or during a collaborative undertaking because those dynamics depend on what others will do (see the ground-breaking research of Shaw, 2002; Fonseca, 2002; Griffin, 2002; Streatfield, 2001; Stacey, 2001). Moreover, the manner in which external organizations and actors respond co-determines these dynamics of transformation. In short, the whole process can better be described as – to borrow a notion from complexity sciences – emergent or self-organising as it will never be the exact realization of a preceding design.

This immediately brings the attention to emotions and sentiments. When people interact, they are always engaged in emotions, such as the (unconsciously) approval or disapproval of people, or ways of doing things (see e.g. Stern, 1985; 1995; Damasio, 1994; 1999; 2003). The same goes for individual matters. When people think – what Herbert Mead (1934) has called ‘private conversations’-, they are immersed in emotions (see also Baldwin, 1985; Caton, 1993; Stacey, 2001). Then, it becomes intriguing to study the emergence of meaning; or put differently, the emergence of systems of rules and regulations, such as

law, covenants, organizations, and partnerships (as repetitive patterns) in relation to sentiments and emotions, such as fears, dissatisfactions or hopes.

As we have mentioned before, it is extremely important to understand that the molar and molecular are not thought of or studied as two separated levels, being the first a collective (a criminal organization, a public-private partnership, a private security compound, an individual...) and the latter a series of interactions bringing these collectives about. Both are inextricably connected and emerge at the same time. This means, small variations in the patterns of repetition -what complexity scientists have called a strange attractor (see for example Marion, 1999: 17-18) and what we have called 'series of interactions'- have the potential to break open social-cultural fields and to introduce novelties, moving them into unknown territories. In other words, both the molar and the molecular have always the potential to transform; neither the molar (meaning, organisations, laws, individuals...) nor the molecular (interaction rules) are fixed. Therefore, interactions have the ability both to sustain meanings or identities, and to dissipate or transform these identities.

3.3.3. A Focus on Local Interaction Rules: The Way Rules of Conduct are Functionalized in Everyday Interactions

The question that immediately arises is how can it be that interactions of thousands of people are able to produce, for example, a particular policy or 'culture'? (Deleuze & Guattari, 1987: 218; Stacey, 2001) The answer to this question relates to the intrinsic self-organizing, emergent properties of interaction itself (Kauffman, 1993; 1995; Mainzer, 1997; Marion, 1999; McMillan, 2008; Taylor, 2001; Lewin, 1993). Complexity research has shown that, under certain conditions (such as diversity), interactions between large numbers of entities that react to one another's locally-oriented behaviours, customs and principles generate coherent and potentially renewed behavioural patterns (Kauffman, 1995: 296-297). Abstract systems thus have the ability to self-organize and hence

produce patterns and behavioural patterns without these having been imposed.

We should add, however, that not only does the pattern of interaction organize itself on a molar level, but also on a molecular level. Since these two levels appear together and concurrently, separating them would be problematic. As the scientists Kauffman (1995) and Ray (1992) have shown, the molecular level forms the molar level, while at the same time it itself is formed by that molar level. Let us examine these complexity sciences in more depth.

In the computer simulations performed by Stuart Kauffman (1993; 1995) and Tom Ray (1992), every agent is represented as a computer program. Each computer program contains a set of rules and instructions determining its interaction with other computer programs. As the emphasis is on an agent-based approach, the research object is represented as a population of agents that interact according to their own local rules (Mainzer, 1997; Lewin, 1993; Stacey et al, 2000). So, rules or patterns should not be formulated that apply to entire populations, but rather interaction rules for the individual entities that together make up a population or system. A complex adaptive system consequently comprises a large number of agents, with each agent behaving in accordance with its own local interaction rules. As we argued earlier, no individual agent, or group of agents, determines the behavioural pattern displayed by the system as a whole, or the manner in which this pattern evolves (Fonseca, 2002; Griffin, 2002; Shaw, 2002). This approach does not include anything imposing its will from outside the system. As mentioned earlier, there is no blueprint for the organization of the entire system (Prigogine and Stengers, 1984; Stacey et al, 2000). It emerges and sustains itself in a self-referential manner. The emerging pattern is self-organizing. Here, self-organization is an intrinsic property of interaction, which causes the emergence of patterns (Kauffman, 1995: 152, 75, 89, 91; Mertens, 2000; Johnson, 2001; Griffin, 2002; Streatfield, 2001).

Once again, note how different this line of thought is from thinking in terms of the molar, stability and reification. Reification implies giving a certain content to various concepts, which is then used as a reference to give meaning to social reality (Calster & Verfaillie, 2007). This causes them to become systemic or molar frameworks (feedback mechanisms), where the rules of conduct are seen as being outside the system, and which are referred to in order to correct or streamline behaviour. One consequence of this can be that 'culture' is individualized as a collective to which we can then ascribe values and motives. This way of thinking depicts the collective as an acting individual. The behaviour of members of an organization or partnership, a society or, for example, the criminal justice system is then driven by the values of that 'whole'. Hence, norms and values become abstracted from daily life (see also Calster, 2008). In short, reification idealizes the collective, which is represented as a personality that can justify the actions of the members. This idealization, however, diverts attention from interactions in everyday life and interactions in the here-and-now. And it is precisely this everyday-life dimension, which, according to Gabriel Tarde, continuously affects the formation of stabilities and which he believes deserves research attention.

This aspect of research suggests that rules of conduct (covenants, working practices, working cultures...) do not steer human behaviour of conduct, they rather are functionalized in everyday interactions. Because of that, conflicts are emerging all the time. Those conflicts are constantly negotiated and contested, and may transform the rules of conduct. This once again puts the emphasis on the role emotions, desires and sentiments have to play in series of interactions, as Gabriel Tarde (1969: 150) already suggested, and the impact they have on the way covenants, laws, working practices and such are functionalized in these everyday interactions. This calls for an interpretative methodology.

3.4. Exit

In this paper, we have argued that the dominant scientific perspective, as expressed in the work of Emile Durkheim, put focus on stability and

control. It is a macroscopic approach, by which the system of control gets expanded in order to deal with problems of crime and disorder. New systems of control are constantly being introduced which are aimed to streamline human behaviour. However, social reality is much more complex than this dominant perspective is able to research.

We have argued stabilities (or the molar) cannot be understood without the molecular, a concept that expresses the idea of the unpredictable and the liquid; both are constantly in a state of flux, and are never absolute. Although complexity scientists consider the molecular as the most fundamental level of interaction, from which order (or the social, such as organisation, law, governance...) emerges, they also recognize that this line of research is still of a premature nature.

Part 2: Three Case-Studies

Part two presents three case studies. With these case studies, I want to scrutinise in what ways traditional empirical research is able to uncover both the works of the molecular and the molar. The insights acquired may contribute to a strategy to deal with the problems as introduced in the first chapter. The case studies, therefore, are rather modest explorations of attempts to start empirical research of a molecular nature. The aim is to deepen theoretical notions and to experiment with methodologies. I will make use of interviewing, text analysis and participating observation, in order to examine how these relate to the uncovering of the dynamics between the molecular and the molar. However, as I have mentioned throughout part 1 of the thesis, the research questions at hand are distinct from those that are usually deployed in scientific research on crime and crime governance. In stead of focusing on functionalities and effectiveness, the centre of attention is on the divergent. In that regard, it seems that my efforts to study the impact of events on everyday life and social change from a molecular perspective already have generated novel ways of addressing the social.

CHAPTER 4

Re-visiting Mr. Nice On Organized Crime as Conversational Interaction²³

4.1. Introduction

Organizational crime is arguably one of the most challenging phenomena today. Take organized crime. Neither scientific research, nor criminal policy seems to fully understand what it is. Whichever way scientists, researchers and policymakers try to get a grip on it (pun included), it seems to elude them, it transforms and shifts, it pops up elsewhere and in other forms, and it constantly changes its MO. It never fails to surprise. Organized crime seems to be a protean phenomenon (evoking here the many metamorphoses of Proteüs, the Greek sea god). As a result, some researchers suggest that an arms race seems to be going on between criminal organizations and governments (e.g. Kleemans et al, 1998; Kleemans et al, 2002). McIntosh (1975) suggests that powerful governmental intervention often results in the (unintended) professionalization of organized crime. The fight against organized crime, then, resembles a never-ending circle in which it becomes necessary to use ever more and stronger strategies and methods in an attempt to break the relentlessly inventive resistance of criminal networks. It seems to me that this is a paradoxical movement. Governments after all create more and stronger legislative and operational means in the fight against criminal organizations, but at the same time, they are victim of their own efforts, because criminal organizations react flexibly, often in unpredictable ways, and manage to tackle most governmental efforts. In other words, the head-start of governments dissolves in no time, leaving them with no other alternative than to create yet more and stronger legislation. One could argue that most governmental effort aimed at establishing security and stability have the opposite effect and create

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insecurity and instability instead. Efforts to establish stability and controllability ultimately lead to more instability and complexity. And much in current organizational criminology seems to fail to bring forth an effective analysis of why most instruments of policy founder. It even fails to formulate an effective analysis of the many protean transformations of the phenomenon. Perhaps there is a problem with the approach and research methods used by many organizational criminologists when describing and analyzing organized crime. This issue will be the theme of this contribution. The focus in this contribution, then, is on the ways in which organizational criminologists tend to describe, analyze, indeed construct organized crime, and on the assumptions and perspectives which seem to underpin their efforts. Later on I shall propose an alternative, or at least an additional or complementary perspective. I will then hopefully also be able to illustrate, before concluding, the usefulness of this alternative perspective by means of a case study.

4.2. Assumptions underlying research on organized crime

Organizational criminologists, like all researchers, tend to break down reality into parts and focus their attention on isolated and controllable matters. They ascribe boundaries to what they research. Doing this they make their object of research discernible from the rest of the world. The more or less undisputed research program of criminology determines such boundaries to a considerable extent (Hoogenboom, 1996: 142; see also Kuhn, 1962; Foucault, 1988). This research program narrows the focus of attention down to a few recurring questions. With regards to organized crime, these questions have to do with the activities of transnational organized crime (for example Fijnaut et al, 1998); the dimension, importance and complexity of criminal networks (for example Klerks, 2000); their capacity of adaptation and innovation (for example Williams, 1995; 1999); their ways of settling conflicts (for example van de Port, 2001); and embedded positions in illegal markets (for example van Duyne et al, 1990; Naylor, 1997). These object(ive)s determine the use of particular theoretical frameworks or perspectives. It is of course unavoidable for research to build on earlier research efforts and results. This means that each time a researcher works within a particular

perspective, he or she will tend to refine its footing. Based on Klerks (2000), Kleemans (et al, 1998) and Aniskiewicz (1994), I would like to distinguish, within the body of organized crime related research, three dominant perspectives.

The first perspective has its roots in the 1967 American President's Organized Crime Commission and Donald Cressey's *Theft of the Nation* (1969). This 'hierarchical' perspective arose from data collected by police and juridical services and was intended to overcome specific policing and political needs. The focus here is on formal organizational structures and, in particular, on leaders and strategists in criminal organizations. Reality, in this perspective, appears as a collection of uncomplicated processes whereby a predictable consistency exists between action and response. The hierarchical perspective assumes that criminal organizations function according to linear dynamics. Order and predictability are dominant in this perspective. It urges researchers to focus on the top of organizations and on those who are in charge of plans and strategies. In other words, the primary focus of the hierarchical perspective is on intention and control. It assumes that leaders are in control and make choices in order to achieve the organization's goals. The perspective emphasizes the importance of systems of control for streamlining information, activities and behavior. It focuses its attention on stability, consistency and harmony. Criminal projects emerge because some exceptional individuals have creative and innovative ideas. The perspective makes a distinction between leaders and the rest of the organization. Leaders act in a rational way and they function autonomously. They determine strategies and control the performance and execution of projects through systems of control such as the use of violence, codes of conduct, and corruption. The rest of the organization is subjected to these systems of control and has no role of importance in the planning of projects. According to this perspective, all criminal organizations are alike and have the same structure, which is linear, hierarchical. Criminal organizations, which tend to be ethnically based, and which tend to act 'underground', aim to reach monopoly positions.

The second perspective starts from the economic principle of supply and demand. It assumes that criminal organizations originate in and profit from the demand and need for particular goods and services. Criminal organizations observe the functioning of (il)legal markets and locate economic niches, to which they respond. Therefore, market dynamics are assumed to determine size, structure and activity of criminal organizations. In others words, these dynamics determine the type of organization, the types of roles and the types of tasks (Albini, 1985; Zaitch, 2002). In their study of three illegal markets, Bruinsma and Bernasco (2002) for example analyzed the characteristics of criminal organizations active in these markets. They concluded that market dynamics dictate the type and structures of criminal organizations. Organized crime appears here as a determined as well as rational phenomenon geared towards profit and wealth. Determinism equally applies to codes of conduct, or criminal 'cultures'. For example, Kenney and Finckenauer (1995: 28), Potter and Lyman (1997: 8) and Kleemans (et al, 1998: 101) all argue that codes of conduct facilitate the execution of criminal projects and enforce success in crime. These codes of conduct are assumed to streamline individual behavior (Tremblay, 1993). Success in crime follows from obedience to these codes of conduct (De Ruyver et al, 1999: 1-2; Cressey, 1969: 167; Hess, 1998: 107). For this reason, researchers tend to focus their attention on the coding of practices, on embedded knowledge in artifacts and on the use of information technology (Klerks, 2000: 235; Hester & Eglin, 1992: 254). This perspective often also assumes autonomous rational action (van Duyne et al, 1990: 14). After all, criminal entrepreneurs have to reckon with market demands and needs and have to make decisions for the organization (van Duyne, 1995; Reuter, 1983; Smith, 1975). Petrus van Duyne (et al, 1990: 45) suggests that the determination and allocation of tasks (or central management) originates with the leaders at the top of the criminal organization. Entrepreneurs search for economic opportunity, after which they formulate strategies. The individual entrepreneur is thought as an autonomous actor who incorporates superior qualities. Albini (1971) argues that those involved with organized crime have special skills, or relations (Rebscher & Vahlenkamp, 1988). Not everyone

has access to useful relations, only exceptional individuals with certain skills and a good reputation have the capacity to lead a criminal organization (Bovenkerk, 2001: 41-79; Williams, 1993; 1994). This economic approach led to two important understandings about illegal markets. First, because of economic laws, illegal markets can accommodate only a small amount of workers. Second, these very laws dictate the segmentation of criminal organizations. Both are necessary to minimize visibility. Researchers thus became more interested in the dynamic relational aspects of criminal organizations and gradually turned to anthropological network theories.

This third network perspective has its roots in the work of authors such as Ronald Burt. Ronald Burt (1992) argues that the best strategic position in organizations or networks exists in-between dense clusters of people rather than within. Burt denominates the space in-between clusters as structural holes. A structural hole is defined as "an opportunity to broker the flow of information between people, and control the form of projects that bring together people from opposite sides of the hole" (Burt, 1999: 6). Bridging this space makes it possible to connect dense separate networks. The emphasis lies on the possibilities individuals have to exploit the structural holes in-between dense relations in a network. These brokers look for partners with whom they then form unique or non-redundant relations through which they can acquire new information. They negotiate new possibilities in-between competitive groups. By forming new and unique relations, they transform the structure of networks. Non-redundant relations therefore offer additional benefits. Network research uncovered that ad hoc structures ensue from practical problems and opportunities. For example, Haller (1990) emphasized that individuals in organized crime have to act proactively, flexibly, and with an eye on counterstrategies. Block and Chambliss (1981: 56) expressed the opportunistic character of the composition of ad hoc organizations like this: "their informal structures and probably short life spans were exceptionally responsive to the necessities of the drug trade. First, entry into the trade was simple; involving few costs beyond the initial capital investment, few contacts in the area of supply,

and hardly any organization for distribution. (...) It would be foolish to stake one's career around a particular combination, given the chances that there would be nothing to sell. (...) It demanded entrepreneurs who were flexible, who had numerous contacts, and who were able to raise capital at unexpected times and to pull together a small organization with little effort". The accomplishment of ad hoc cooperation is, however, not random. Reuter and Haaga (1989: 35), who interviewed 40 importers, wholesalers and retailers in illegal drugs, stipulated that the basis of cooperation is reputation. The necessity of a good reputation discourages opportunistic and egoistical behavior and it stabilizes cooperation (Raub, 1997). Reuter and Haaga (1989: 54) suggest that successful criminal projects do not need the creation of a large or long-term organization. The power of organized crime lies in its loose structures, flexibility and adaptability. Key figures in organized crime occupy hubs in many social networks, and join both individuals and organizations in private as well as in public sectors (Naylor, 2002: 133-195). These brokers occupy crossroads and offer solutions for many problems (Kleemans et al, 2002: 63; Williams, 1998: 157). Often they are part of networks which include police and government officials or other criminal organizations (for example Albini, 1971; Block, 1979).

All three perspectives assume the 'outside' position of the researcher²⁴, who, furthermore, focuses on functionality. Researchers in all three perspectives construct organized crime as a distinct phenomenon, or as an object, and then try to find relations between 'it' and its environment. In each of these perspectives the focus is on organized crime as a goal-driven object. Researchers study the parts, such as individuals, organizational structures, tasks and working

²⁴ Damian Zaitch, for example, who collected data on Colombian narcotics traffic in the Netherlands by means of participant observation, and who had access to micro-events and -relations, nevertheless interprets data from a macro perspective. Damian Zaitch (2002: 14) discovered that the narcotics traffickers trusted him more than he had expected. He explains this by the bitterness that he thought he noticed, the victim role that the traffickers assumed, and the feeling of superiority that he thought he observed. Zaitch interprets this frankness towards him as an exceptional situation. He does however not take into account the possibility that the traffickers may display this behavior also to others. He does not see their behavior as communicative processes in which he himself takes part, but places himself outside these processes. As a result, he tries to find an 'objective' explanation.

methods, as a function of the end goal or end product. The *raison d'être* of these parts is the end result and the need to maintain the 'it' of the criminal organization. 'Organized crime' is reified as 'a thing' with characteristics of its own. Most researchers therefore tend to distinguish between 'organized crime' as a goal-driven object and its parts. As Tom Vander Beken (et al, 2002: 795-796) argues, the nature of organized crime is not the crime itself, it is the way of execution. 'Organized crime' exists separately from its activities. In other words 'organized crime' is assumed to be more than the sum of its parts. The characteristics of 'organized crime' are not reducible to those of the parts. Moreover, 'organized crime' functions according to particular principles which are different from those of its parts. As a result, researchers are sometimes obsessed with functionality. Let us have a look at recent organized crime related research literature: hormone mafia (De Ruyver et al, 1999), trafficking in human beings (Foster, 1997), car fraud (De Bruyn, 1997), drug cartels (Bullington, 1991; De Kort & Korf, 1992; Jenkins, 1992), violent organizations (Van San et al, 2002), fraudulent criminal organizations (Bologna, 1993; Clarke, Kemper & Wyckoff, 2001), smuggling organizations (Jamieson, 1998; Junninen & Aromaa, 1999; Saba et al, 1995), laundry organizations (Santino, 1988; Shana, 1988; Beare & Schneider, 1990) and blackmail organizations (Catanzaro, 1994; Nelli, 1976; Roache, 1988). In this research, the goals and tasks performed by criminal organizations determine their form and nature. Consequently, researchers tend to analyze organized crime and criminal organizations from a macro point of view.

I would like to refer to the three perspectives as the dominant view on organized crime. In this dominant view processes of functional determination are supposed to underlie the execution and performance of criminal projects. Organizational goals are determined and in a way pre-given, and in turn determine criminal practice. In this view it is assumed that a determined criminal plan or idea exists before functional criminal activity takes place. What does this mean for the protean transformations of organized crime in general and criminal organizations in particular? This dominant view is capable of explaining stability as well as change,

but the pattern of change is always predetermined. No significant change can emerge at the level of the organization itself. This mechanism of determination cannot explain the emergence of protean transformations, but only variations in the performance and execution. This dominant view can only explain the origin of new activities by pointing, *ex machina*, to the exceptional qualities or visions of particular individuals (leaders, entrepreneurs, brokers, ...) within the criminal organization or network. Such individuals initiate and control new projects and are therefore not subjected, enigmatically so, to mechanisms of determination. This view implies that such individuals can stand outside organizational dynamics, evaluate them, devise a new plan, and prescribe appropriate action, rationally and autonomously. It seems to me that this dominant macro-level approach presents a clinical and mechanical description of life in general and human behavior in particular. It often ignores complex micro-dynamics between individuals and criminal organizations. Behavior often noticed in empirical research, such as emotionality, gossip or fantasies, tend to be neglected and/or streamlined so as to maintain a fit with dominant theoretical assumptions. Such behavior is often regarded as extraordinary, deviant, or irrelevant. Authors such as Cressey (1969: 186) have argued that secrecy is an important condition for success in criminal activities. Economic principles of efficiency dictate the engagement of persons who are knowledgeable only of their own function and their own activities in the venture (Reuter, 1983; Hellman, 1980). According to Ronald Burt (1992), a person acquires power and influence by occupying unique positions in-between networks whereby he or she only has access to particular knowledge. Emotions or gossip, from an economic point of view, would put efficiency and success at risk. Therefore, data about micro processes, for example everyday conversations, is often not taken into account. Its importance for criminal processes and practices is often not taken seriously. In addition, researchers tend to equate success in crime with stability, regularity and predictability. The dominant view does not often recognize internal organizational activity and creativity as important. This then leads to confirmation of what researchers already know and to theories that look for general principles, without saying much about the nature of criminal

organizations and criminal actors. Much research attention goes to actors' capacity to fulfill organizational goals and tasks or to his or her place in the network. Only little attention is focused, for example, on why actors are able to occupy this or that place in the network in the first place; or why someone radiates strong authority. Very little attention at all goes to the messiness and unpredictability of everyday relations and interactions. Damian Zaitch's research (2002) on drug activities for example (see *supra*) by Colombians in Rotterdam is a case in point. Zaitch spent a lot of time in Latino settings such as salsa bars, Latin-American restaurants, churches, red light districts, social and cultural happenings, phone booths and private parties in Amsterdam, Den Haag and Rotterdam. He received a lot of information on rumors, gossip, lies and exaggerations (Zaitch, 2002: 15). He got comments on social events, he got information on political positions, social and economic backgrounds, families and reflections on drug traffic (Zaitch, 2002: 8; 14). He obtained considerable amounts of data on everyday micro-processes and interactions. However, he failed to make use of much of this data. Thus, while he obtained much more data than he intended to collect, he focused his attention exclusively on "specific views and practices regarding the cocaine business, and the particular social relations they establish as illegal entrepreneurs and employees" (Zaitch, 2002: 8). It may therefore not surprise us that his conclusions (Zaitch, 2002: 283-301) for the best part are confirmations of what we already believe we know about organized crime and criminal organizations. Zaitch expressly agrees to the proposition that his findings confirm previous research results (Zaitch, 2002: 283). Confirming the economic and network perspectives, he reaches the conclusion that drug traffic is executed in ad hoc operations which involves legal as well as illegal activities, in the course of which actors interact flexibly (Zaitch, 2002: 283; 286). "They are more often decentralised, amorphous and fragmented networks (...) articulated by precarious and variable transactions" (Zaitch, 2002: 286). He notices that a spectrum of organizations and individuals, like bona fide enterprises, friendly lawyers, or people who offer their services, are active on the cocaine market. According to Zaitch, criminal networks are heterogeneous. "This heterogeneity can be explained by a number of

reasons: the rather 'open' nature of the cocaine business, the fact that it is not restricted to one particular set of political actors or social conflicts between specific groups, the prospects for quick upward mobility for all (both included and excluded from legal activities) and the relative wide range of social acceptance, toleration and legitimacy attached to this activity, at least until the mid-1990s." (Zaitch, 2002: 285). Zaitch thus confirms the economic oriented research tradition when he notices that the cocaine market functions by supply and demand, is embedded in the legal economy, and is populated by types of organizations, types of offenders and types of activities (Zaitch, 2002: 287; 288; 289; 291; 292; 293; 296). He notes the good infrastructure in the Netherlands and also notes that the surroundings can support criminal activities (on these matters see also Kleemans et al, 1998: 61-92). Furthermore, Zaitch notices that the individuals involved in organized crime usually avoid the use of violence. It is counterproductive and attracts the attention of police (Zaitch, 2002: 289). Zaitch (2002: 299) finds that individuals in organized crime make use of their reputation, which is more important than the use of violence. Like the principal tenors of the economic oriented research approach, Zaitch repeatedly argues he found no indications that criminal networks strive for monopoly of the illegal market or display a hierarchical-bureaucratic structure (Zaitch, 2002: 285; 288; 289; 297). Zaitch (2002: 284) argues: "Ethnographic research on drug dealers can address often neglected issues behind 'criminal organisations or networks'. It can reveal the socio-cultural context and background of the people involved, and their views about their own activities and the surrounding environment, including their opinions on enforcement agencies, other entrepreneurs and the society as a whole. Moreover, this sort of research has the potential of reflecting internal conflicts and differences between those involved in the cocaine business. It can eventually raise new critical questions about their motives, their risk perceptions, and the rationality behind illegal entrepreneurship." This (short and incomplete) evaluation of Zaitch' research shows that some research findings seem to produce or generate new insights, whereas they already lay embedded in their points of departure.

4.3. Organized Crime as Conversational Interaction: towards an alternative, complementary perspective

So far I have argued that the research program for analyzing organized crime has produced perspectives that search for general principles which allegedly determine the actions of categories of individuals and organizations. In doing so, many researchers tend to assume that their own role is merely one of an observer who does not have any influence on what he or she researches. This may be in contradiction with common sense. How could it not? During the conversations Winlow (2001: 167) had with his respondents, he noticed, for example, how many of them would imitate Robert de Niro's character in Goodfellas. He was told about a raid on a truck, just as Joe Pesci and Ray Liotta did in the movie. David Remnick (1994: 316-317) reports about similar experiences. It came to his attention that one of his respondents imitated the laughter of Robert de Niro's character in Mean Streets. Mattijs van de Port (2001: 146-156) noticed that the alleged violence of former east Europeans as described by academic researchers is often copied. Frank Bovenkerk (2001: 48) writes about Dutch criminal Klaas Bruinsma and the interest he had in books about the mafia. Michael Taussig (1993: 78) calls this "a space (...) in which it is far from easy to say who is the imitator and who is the imitated, which is copy and which is original." Gangsters imitate the characters of Robert de Niro, Joe Pesci and Marlon Brando and in turn provide new material for criminal fictitious heroes (see also Mangione & Morreale, 1992; Bovenkerk & Yesilgöz, 1998; Rudolph, 1993). The same goes for criminal practices and methods (Bovenkerk, 2001). According to van de Port (2001: 51) criminals are interested in what is written about them and they conscientiously follow up journalistic publications. Criminological knowledge finds its way to criminal milieus and becomes a part of the self-image of criminals who subsequently confess their exploits in these new terms to police and press, whence it returns to academics and criminologists (van de Port, 2001: 54). In 1975, Dwight Smith argued that "mafia" leads a life of its own. Criminological knowledge, as well as policy efforts, determine what organized crime is and how it develops. Consequently, researchers and their work do not stand 'outside' the phenomenon they research. They

cannot be mere "observers". Researchers inevitably participate in what they research. This is not extraordinary. The physicist Heisenberg (1962: 19) already claimed that researchers inevitably participate in the phenomenon they "objectively" study. Researchers can form certain insights concerning the nature of criminal organizations, the nature of leadership, the roles in and between criminal networks, and so on. But these are mere interpretations and actions, which themselves will call forth particular responses from others, offenders included. This calls for an interpretative methodology.

This interpretative methodology already exists in conversation analysis. Conversation analysis (CA) suggests that reciprocal understanding comes about through cognitive and emotional capacities. CA describes the form interactions take, rather than the content (Zimmerman & Boden, 1991). According to Boden (1994: 18), the value of a proposition is "constructed interactively" by the non-stop creation of the situation by all participants. In other words, people do not apply the rules, but refer to it to explain and to justify their action or to condemn those of others (see also Geis, 1995: 37). Moreover, structure is "accomplished in and through the moment-to-moment turn-taking procedures of everyday talk" (Zimmerman & Boden, 1991: 17). This process of turn-taking takes care of the formation of interpersonal interaction (Boden, 1994: 66). The process of turn-taking "depends on the presumption by all parties to the interaction that any particular turn was intended -and accordingly shaped- for the specific audience at hand" (Zimmerman & Boden, 1991: 11). A conversationalist creates his or her turn after an analysis of what he or she wants to achieve (Sacks, 1992; Shegloff, 1991). Anyone who followed the orderly conversation tries to understand how the last turn fits in the structure of the conversation. Participants are able to understand how a turn fits in a larger structure of conversation because turns are organized in adjacency pairs, that "build in a kind of matching process: greeting/greeting or question/answer" (Boden, 1994: 68). The nature of interaction determines the nature of the answer (Boden, 1994: 111). Weick (1979) suggests that the only way to find out what you are doing is through the reaction of the other.

Interactions are processes of meaning. In other words, rather than a necessary condition for interaction, content (meaning) is its result. Let us now focus on interactions in networks.

Complexity scientists Watts and Strogatz (1998) have recently demonstrated how a few connections, arbitrarily made, in a network, can make a big difference for the global structure of that network, without changing the local structure much. These new connections accomplish "a small world". Watts and Strogatz (1998) started their research by distinguishing between two network extremes. The first was a random network, in which the nodes were randomly connected. The second network was regular, in which the nodes were orderly connected. A regular network displays clustering. The members of a regular network are connected with a large number of closely located nodes, and scarcely connected with far away located nodes. Because there is a high density of connections of close by nodes, these networks are highly clustered. If you want to give a message to a far away member of the network, it has to pass through many others before it reaches him. Random networks are not highly clustered, because the length of the routes to a randomly chosen person will be short. However, at the same time more links connect the one part of the network with the other one. Random networks display the small world effect. When Watts and Strogatz calculated the average degree of separation between two people in a random network, the result was four. They then focused on what happened in between these two extremities. They started with regular networks and rewired the nodes. They did it randomly, with a probability p for every connection. When p equated to zero, the original network remained unaltered. When p equaled one, a completely new random network emerged. Their computer experiments indicated that by introducing a relatively small amount of random connections the character of the network changed. They named this new emerged network as 'a small world network'. With few random encounters, the big world becomes as small as a random world. Strangely perhaps, but rewiring the nodes had almost no effect on the level of clustering of the network. With their work, Watts and Strogatz (1998) challenged the

proposition that brokers are in charge of putting together joint ventures or alliances. They also challenged Burt's proposition (1992) on the importance of keeping positions in criminal networks exclusive. As they suggested, processes of interaction can avoid any so-called "exclusive positions". Their work puts in perspective the importance of strategies and the location someone occupies. It points to the capriciousness of life, which sometimes leads to success and sometimes to failure. Of central importance is the quality of interactions. Watts and Strogatz produced evidence for the hypothesis that organizational transformations only emerge in and through interactions. They furthermore suggested that organization always goes hand in hand with randomness and messiness. This puts in perspective the co-existence of a framework that combines both determinism and assumptions about rational-autonomous action. In this dual perspective, criminal organizations and organized crime are considered as determined systems, which are fundamentally guided by their systemic goals. Cultural and economic systems and social networks are then assumed to functionally streamline criminal projects. It focuses on the functional performance of systems and the performance of systemic plans. Newness, or change, then, must be explained ex machina by bringing in autonomous rationality. The leader, broker or entrepreneur must impose structure and order in criminal organizations from outside the organization. The emphasis Watts and Strogatz place on interaction makes clear why criminal organizations are able to adapt to changing and hostile environments, without losing their coherence (see also Calster, 2002). Randomly chosen individuals can bring in important information for setting up new criminal projects. How it then goes from there will depend on the reaction of others. Watts and Strogatz' work announces the importance of micro relations and interactions for the emergence of transformation. It indicates that all who interact within networks can bring global changes to the network, without necessarily changing local clusters. Therefore, it points to the importance of interaction and diversity for the emergence of transformations. It takes account of human freedom and participation. It even stipulates that these are necessary for the emergence of transformation. Watts and Strogatz' model suggests that the shape and nature of networks and organizations

are formed in and through interactions. Interactions and diversity lead to organization and organizational transformation. Actors in organizations or networks who think they can obtain or keep power by keeping information secret or by occupying a “unique” position can and often are pushed aside or excluded by other members. The work of Watts and Strogatz points to the importance of interactions and thus the necessity of talk. Conversational interaction makes it more likely that projects come about or are successful (Calster, 2002).

But there is more. Stuart Kauffman (1995: 63-64) argues that systems which consist of a large number of randomly interacting agents will develop into connected, autocatalytic networks (see also Mainzer, 1997: 97). In other words, when entities interact with each other randomly, some entities will start playing a part in the constitution of other entities. This is catalysis. Eventually, the strings of emerging catalytic interaction will fold back and form autocatalytic networks (Stacey et al: 110-111). This means that entity X will play a part in the construction of entity Y that will play a part in the construction of Z that will play a part in the construction of X (Kauffman, 1995: 49). There is no design or blueprint for this network. Interactive cooperation has the intrinsic capacity to produce transformation and coherence. Both are unpredictable (Mertens, 2000: 91-96). According to Kauffman, variation just emerges in interaction between entities. The amount and strength of the connection between the entities in a network make up the dynamics of the network (Taylor, 2001: 188).

Complexity scientists such as Watts and Strogatz (1998) and Stuart Kauffman (1993; 1995) employ a micro approach to phenomena. Each phenomenon consists of a large number of bodies, and each body behaves according to its own interests, intentions, behavioral patterns and so on. Exceptional leaders or brokers can of course make statements and commands, but they have no ultimate control over interactions and reactions of others. These complexity scientists also point beyond the cognitive and autonomous aspects of individuals and argue for the study of the bodily man, that is, including everyday emotions, jealousy, fear,

misunderstandings, gossip and so on. It seems to me that this also links arms with the observations Rick Aniskiewicz made on organized crime. In his analysis of research on organized crime, he concluded that organized crime could only be understood if researchers should focus on "an existential understanding of microstructure (that) would concentrate on identity, danger, violence, risk, and excitement within the criminal lifestyle." (Aniskiewicz, 1994: 324). Peter Klerks (2000: 353) added to this that criminology is not ready for it because it does not have the means, instruments and methods to realize this ambition. However, an interaction-based perspective which encourages research to take account of everyday (conversational) interactions between people of flesh and blood, with frustrations, feelings of love and hatred, with political views and aesthetic preferences, gossiping and telling everyday lies, and so on, might go some way to remedy criminology's current shortcomings.

4.4. Case-study: Howard Marks' Mr. Nice

Micro-research probes the quality of relations and for that reason it probes the conflicts that take place during cooperation. Interest in micro-level dynamics entails interest in the personal experience of actors involved in micro-interactions. Such data is often expressed in ego-documents where participants in criminal activities report on their inspirations and motivations²⁵. In the remainder of this contribution, I would like to analyse one such ego-document, Howard Marks' Mr. Nice. Carlo Morselli (2000; 2001) already analysed Mr. Nice from a macro-level point of view. I wish to study the same document from a micro-level point of view. First, I shall represent the main findings of Carlo Morselli's research. Then, I will present a microanalysis of the ego-document.

4.4.1. Carlo Morselli's reading

Carlo Morselli (2000; 2001) has already studied and analyzed the ego-document of Howard Marks. Morselli (2000: 87) was in search of two

²⁵ There are of course methodological problems with ego-documents. However, as my intention is provide the reader with two alternative readings (Carlo Morselli's and mine) of one and the same ego-document (Marks's *Mr. Nice*), we may perhaps be allowed here to make abstraction of said problems.

forms of data: (i) data on contacts for committing crime; (ii) data on profitable illegal activities and career relevant events. His main aim was to retrace Howard Marks' criminal career from his social networks. Morselli's research is an exploration of the structural advantages within Marks' networks and the roles he took up as a smuggler. Because of this, Morselli's research focused on 'macro-level' dynamics. Morselli (2000: 210) argues that Marks was the autonomous initiator of his criminal projects. According to Morselli, Marks reflected, rationally and deductively, on market opportunities. In short, Morselli (2000: 210; 212) couples the concept of the rational entrepreneur with the concept of the social network (and therefore culture, codes of conduct...). He argues that Howard Marks' criminal career depended on a small number of key persons who provided him with the opportunities to develop a successful criminal career. According to Morselli (2000: 211), Marks' criminal career reflects the development from follower to founder. According to Morselli, Marks was incorporated in the world of organized crime where he had to carry out a role. "It tells us how he comes to be accepted and of interest to established others via mutual contacts." (Morselli, 2000: 211). Morselli's research emphasis is on efficiency, which is understood as the avoidance of noise and redundancy. There is no room for variation, arbitrariness or chance. "To understand" is at issue and "misunderstanding" is not considered as essential. Misunderstanding never emerges between rational individuals. When it does, it is assumed to be inefficient and it must be removed. Success in organized crime is about eliminating uncertainty and insuring stability and regularity. A leader or broker, who operates outside the organization or network, sets up criminal projects. Then the social network (or criminal organization) takes over and executes the projects. The leader or broker is rational and calculating, and stipulates the outcome of the project. This way of thinking presupposes the possibility of designing criminal projects under the right conditions, i.e. if the right visions, structures and behavioral patterns, such as reputation, are present. It is merely a question of the right sequence of tasks. Entirely in accordance with the dominant way of thinking, Morselli's explanation for new criminal projects and transformations starts with an entrepreneurial idea. Then the

organization or network executes the idea. Morselli's (2000: 206) main argument is that Howard Marks' social networks were vehicles for the success he had. In accordance with the economic and network perspective, this argument (the importance of social relations) enables Morselli to distract the attention from the use of violence (and authority) for establishing success in organized crime. According to Morselli (2000: 206), the study of the use of violence (and authority) in relation with success in organized crime can only produce limited insights because it emphasizes the criminal element rather than the economic element. This does not mean that violence is not used or that it is not a problem (Morselli, 2000: 149-150). Morselli however argues that cooperation can not be enforced by means of violence, for it would restrict working conditions (Morselli, 2000: 207). Morselli argues that cooperation emerges because of a higher goal, profit making (Morselli, 2000: 208-209). Morselli concludes that Marks built his criminal networks purposefully. He also concludes that Ronald Burt's argument of structural holes can be usefully deployed for an adequate understanding of organized crime. However, an important observation must be made here. Morselli makes use only of information on criminal deals. Because of this, he leaves very valuable data untouched. He does not study Marks' legal transactions (and the attitudes he there adopted and developed). Although he does note (2000: 87) that criminal ego-documents do contain a lot of additional information, such as the perception of the ego and the justifications of his or hers efforts, Morselli only uses data which suggests patterns and processes in the criminal career of Marks. He also develops (2000: 214) the argument of the necessity of secrecy for success in organized crime. According to Morselli (2000: 213), Marks' displayed imprudence led to his arrest. In short, Carlo Morselli confirms the dominant way of thinking on organized crime and presents criminal organizations and networks as systems. Allow me to analyze the same ego-document from a micro-level point of view.

4.4.2. Howard Marks' Mr. Nice

A number of experiences as presented in the ego-document do support the dominant way of thinking about organized crime. The document

contains both rational and network (social) behavior. Howard Marks was indisputably a criminal entrepreneur, who behaved in many ways as the concept of the rational entrepreneur suggests. For most of the projects, Howard Marks did discover an economic need or market opportunity. He examined possibilities and made calculations. He experimented with an eye on establishing adequate smuggling routes and methods (see for example Marks, 1998: 103; 110; 113). He also engaged in all sorts of negotiations and networks in order to get his projects off the ground and making them successful. A mass of examples show Howard Marks as a typical entrepreneur, who worked in messy, intuitive ways to develop his projects. He encountered many obstacles because of the obstructive environment in which he was active. His projects were often thwarted by the police or magistrates, but also by competitors and sometimes even his own partners. If Howard Marks wanted to make his projects successful, he had to encircle himself with trained and capable people, who more or less shared the same ideas and opinions (see for example Marks, 1998: 77; 103; 107; 123; 161). However, the same examples do point to many other processes of organized crime. Marks lived a complicated life -a life of everyday interactions and conversations.

4.4.2.1. Interactions and conversations

Howard Marks engaged constantly in all kinds of interactions and conversations. Criminal activity depended on many other people and many other organizations (see for example Marks, 1998: 215-220). All kinds of opportunities and difficulties emerged during interactions and conversations with this multitude of people and organizations (see for example Marks, 1998: 220-222). The value of certain decisions was never clear-cut. Sometimes it looked like a waste of time, sometimes it seemed redundant, and sometimes it appeared to be useful. Take the beginning of Howard Marks' criminal career. Howard Marks entered the world of hash smuggling without any general plan. The plans and intentions he developed emerged in and from daily life experiences. Actually, one Graham Plinston initiated Howard in smuggling activities (see Marks, 1998: 55-68). Howard was acquainted with Graham Plinston during his years at Oxford University. However, after these college years

they lost track of each other. Howard's life went on with some difficulty. He worked as a teacher for 5 hours per day and read philosophy books. He lived with Ilze, his first wife, in London. There he met Graham, who, just like Howard, had moved to London. They met on a regular basis for a game of Go (Marks, 1998: 55). In the meantime, Howard regretted he had not squeezed more out of his college years, and intended to start all over again. Together with a friend (Bill Jefferson) he went looking for a small house near Oxford. Graham Plinston visited Howard on a regular basis and brought with him some hash for Howard. Sometimes Howard purchased more hash than he needed and dealt it at the university (Marks, 1998: 60). Although Howard smoked hash on a regular basis, he was never interested in dealing the goods (Marks, 1998: 63). Howard's ambition focused on developing an academic career. Philosophy of sciences in particular took his interest. For that, he received the Thomas and Elizabeth Williams scholarship. His wife, Ilza, had a teaching job. They barely made both ends meet on what they earned, "but I managed to make up the shortcomings to almost survival level by getting more hash from Graham Plinston, who often came down to Brighton for a weekend by the sea and a game of Go, at which we were both now becoming proficient" (Marks, 1998: 63). Howard Marks continues: "Graham had visited Morocco, where he met Lebanese Joe. Joe's mother was an entertainer in Beirut. Joe knew Sam Hiraoui, who worked for the Lebanese airline, Middle East Airlines. Sam also had a textile business in Dubai, the great Middle East gold- and silver-smuggling port on the Persian Gulf. Sam's partner in Dubai was an Afghani named Mohammed Durrani. Graham explained that through these people he was being delivered fifty pounds of black Pakistani hash every month or so. (...) But Graham was merely treating me as a confidant. He was not making me any propositions. I was just another provincial dealer selling a couple of pounds a year to survive and not wanting to do too much other than survive" (Marks, 1998: 63). When Graham Plinston disappeared in Germany, Mandy, Graham's wife, asked Howard to travel to Germany to find out where Graham was. Mandy told Howard, Graham had an appointment with one Klaus Becker. Klaus told Howard that the deal Graham was involved in had failed. Graham was arrested and he stayed

in Basel prison. Howard travelled to Basel. Reading the newspapers, he found out what had gone wrong. Because Graham had no visiting rights, Howard arranged for a lawyer. Back in London, Mandy asked Howard to give an account of what happened to Graham's friend. This friend was Mohammed Durrani. Durrani was impressed by the way Howard handled things and offered Howard to handle Graham's affairs as long as he was in prison. Howard refused and said that he wasn't "that kind of dealer" (Marks, 1998: 66). Howard added he did not know that many people to sell kilo's of hash to. Durrani however insisted, and Howard accepted the job.

This example does illustrate the 'theory' of the rational entrepreneur. There was unmistakably a plan. There was a plan in the sense that Howard did consciously take up dealing, and later on smuggling. Howard Marks dealt hash on a small scale. Although Howard initially declined Durrani's proposals, he intentionally decided to take up Graham's activities. This 'plan', however, emerged out of a complicated amalgam of desires, opportunities, chance events, interactions, and conversations. Howard got tickled and excited by Graham's success and money. He saw what Graham did and fantasized of doing the same things (Marks, 1998: 75). However, what Howard did not do, was to act as an objective observer who formulates a plan to become one of world's biggest and most important smugglers of hash in Europe. Howard admits he didn't even know how to handle the agreement he made with Durrani (Marks, 1998: 67). He didn't know how to sell Duranni's hash. What he did emerged while he interacted with others, as he went. Eventually he decided to move to London to visit parties.

After his imprisonment in the 1980's, Howard got involved in smuggling activities the same way as he did the first time (Marks, 1998: 194-214). Old John, Howard's smuggling partner from Katmandu, shortly after Howard's release, traveled to France where they had an appointment to celebrate Howard's birthday. During drinking parties in the vineyards of Beaujolais, the idea emerged to import wine to England. Although they admitted knowing nothing of wine, they decided to do it

anyway and to install someone who would take charge of the enterprise. Back in England, Howard moved into an apartment in Soho which he had lived in before at the time of his earlier smuggling activities. While staring out of the window, he noticed the many secretary shops and pondered the amount of money he spent. Whenever he took up a new identity, he had to buy an address, a phone number and notepaper. He considered opening such a shop in order to make money by dealing with other people's letters and phone calls. Immediately, he thought of the front it could be for smuggling activities. In no time, he set up two companies: (i) Moontape that dealt with secretary matters and (ii) Drinkbridge for importing wine from France. For many months Howard stayed on the straight and narrow. His office in Soho did only legitimate business (Marks, 1998: 206). His secretary company had already more than 50 customers. Also Drinkbridge did well. Drinkbridge did business with some important customers like Margaret Thatcher's throat doctor. Nevertheless, Howard could not stop thinking about his activities as a smuggler. His mind was occupied with his former life as a smuggler. His legal activities bored him. Although he made good money, it was little, compared to what he earned as a hash smuggler (Marks, 1998: 207). Then he got a phone call from Jim McCann, a member of the IRA with whom Howard had smuggled hash before he got arrested. McCann asked Howard if he still had connections. Howard, glad to have been woken from his boring life, answered almost immediately "yes". Just as was the case with Durrani, he did not know how to meet with Jim's request. He asked himself how to organize his commitment. After all, he had no contacts within the milieu anymore. Haphazardly he calls a friend, Mick Williams. Williams agrees, but the deal fails and Williams is arrested. Howard has a narrow escape. Again, this, to some extent, reflects the views about organized crime as rational enterprise. A plan and a purpose existed in the sense that Howard consciously took up smuggling. But again we might argue that things are more complicated than that. One of the most important patterns that emerged during Howard Marks' entire career was that the emergence of new meaning (imbedded in every new criminal project) could not be located in one single point in time or in space, nor in one single individual. Ideas did not emerge as an immediate

product of a search triggered by the observation of the problems. Ideas rather resulted from interactions and from conversations, and from the many misunderstandings in them. Setting up a project took months, sometimes even years. Each new project was the product of an extensive series of conversations. The ego-document suggests that when a new criminal project was in development and was accepted, and thus mastered the interactions and conversations, all involved with the project started to act sequentially. In the dominant way of thinking, this moment is denoted as the discovery of an (economic) opportunity or need. Usually this moment is indicated as the starting point of a criminal project. However, as the ego-document suggests, a criminal project often does not start as the rational search for an opportunity, after which the right persons, competencies and instruments are brought together. The ego-document rather suggests that new plans and projects emerge and transform in and through a never-ending process of all kinds of (everyday) interactions and conversations. Such interactions did enable Howard Marks, as well as his partners, to get a grip on their environment. They developed fraudulent identity cards and airway bills; they developed all kinds of materials such as phone protections that extended communication possibilities, and so on. However, these plans and materials were always in transformation. Marks tried to improve forged identity cards. He constantly tried to secure phone connections in a more adequate way. This finding suggests that the beginning of a transformation is a result of success rather than a condition for it. Let me illustrate this.

Take for example the way Howard Marks, together with Graham Plinston and Charlie Radcliffe, came to the idea of smuggling hash themselves (Marks, 1998: 77-79). This idea popped up in the interactions they had. The idea emerged in the flow of everyday activities. Although Graham, Charlie and Howard earned quite some money as assistants to Pakistani traders, they were unhappy with the situation. The smuggling they did for the Pakistanis placed all risks on their shoulders. They had to pick up the hash, carry it to England and distribute it to street dealers. For this, they got 20% of the retail price. Graham, Charlie and Howard

discussed this situation and felt lucky that the Pakistanis did business with them. They knew there were others waiting for them to quit. While they were discussing this, the idea popped up that there would be only one way to make more money. That way was being bosses themselves. The conversations went off and on and many plans emerged. Howard had the plan to visit bars in search of someone who wanted to help them with the smuggling. Eventually Charlie said he had recently interviewed someone from the IRA for a magazine. That person (Jim McCann) smuggled weapons; and "if he can smuggle in guns, he can smuggle in dope" (Marks, 1998: 78). Recruiting Jim McCann did not go smoothly. The conversations with Jim McCann were turbulent, but ultimately they resulted in a change of relations; old relations weakened (the contacts with the Pakistanis were cancelled) and new ones (Jim McCann and his partners) were established.

4.4.2.2. The importance of emotions: trust

Criminal activity cannot exclusively take place in and through verbal interactions alone. The ego-document suggests to a significant extent that a criminal project is also to do with trust. Trust is often of decisive importance. Howard Marks explains his choice of partners by saying that a certain person looked okay (for example Marks, 1998: 224). Emotions play an important part in the emergence and development of criminal projects. Howard Marks always tried to convince others of the potential success of his ideas and opinions. Often he felt that others did not acknowledge the value of his ideas and his work. The technological, logical, rational and financial aspects of his plans often were obvious and clear-cut only to him. Howard tried to explain to his partners why his plans were good. He informed them on his ideas, so they could share his thoughts and could understand what his intentions were. Howard undertook several attempts to gain their sympathy. He tried constantly to involve others with his plans and projects. Sometimes he experienced the attention of others as supportive and this attention became a basis for trust (see for example Marks, 1998: 234). Efforts to remain neutral (and thus to be an observer) often turned out to be counterproductive. The fact that others got emotionally involved, that they improved the project

and got in favor of his thoughts and ideas, was exactly the reason why Howard wanted them to be involved with the project (Marks, 1998: 234). He offered others the opportunity to get involved with the project, because he felt they were reliable. In their interactions and conversations, they already got a glimpse of what they tried to realize. They tried to legitimize what they were doing. In academic literature, this is called trust. But note that trust emerges out of interaction. It is not a point of reference that exists outside interactions.

Like academic research (see for example Williams, 1995; 1999; Kleemans et al, 1998; DeFilippi & Arthur, 1998; de Man, 2000; Bovenkerk, 1995), Marks' ego-document suggests that potential participants are chosen from a pool of existing contacts. When Howard wanted to talk about his smuggling, he visited persons he already knew and trusted. Trust enables people to participate in conversations that are characterized by lots of misunderstandings. Problems and difficulties within already stabilized behavioral patterns can convince participants that the usual way of doing things no longer satisfies. Trust then becomes a crucial factor for introducing new behavioral patterns (see for example Marks, 1998: 75). Let me illustrate this. Howard Marks discussed his joint smuggling activities during the 1970's (with Jim McCann) with only a few people. These smuggling activities developed according to a fixed pattern of routine (see Marks, 1998: 77-193). Continuity was high, without much inspiration or variation. At this stage in his career Howard had few relations and thus his smuggling activities were very repetitive. In this period Howard also went through a number of interactions which led to instability. There were many misunderstandings, which led to suspicion and distrust and, ultimately, to a number of aborted deals. Many of these activities failed, whereby nearly all members of his group, including Marks himself, got arrested. The 1980's were much more successful and ambitious (Marks, 1998: 215-366). Marks still worked with Jim McCann. But now he was able to discuss his ideas with a greater variety of people from whom he got comments, information, remarks and suggestions. The majority of ideas however he got through conversations he had with people who were not

active in the criminal milieu, or when he was reading books. These findings contradict existing conceptions about success in crime. As I already mentioned earlier in this text, success in crime is supposed to be a result of secrecy. The conversations he had with the couple Balendo, who headed a company called Hong Kong International Travel, had a significant influence on many projects (for example Marks, 1998: 215). The conversations he had with geishas April and Selena, whom he met in a yuppie titty joint (Marks, 1998: 225) had an immediate effect on many of his smuggling activities.

One could claim that most of the useful ideas for projects, smuggling methods and routes did not emerge out of the criminal milieu. In addition, Marks' emotional life, as well as his cultural and aesthetic preferences (his reading philosophy books, for example) had a significant influence on his projects (Marks, 1998: 224). I do not want to suggest here that Howard Marks was a blabbermouth who constantly discussed his projects with everybody. As I already mentioned, trust is a key factor in the emergence of new ideas and therefore the emergence of transformations. Nor do I suggest that no plans or intentions were involved. There are many examples where Howard Marks contacted certain people for practical and/or economic reasons (see for example Marks, 1998: 219; 236). However, such contacts are only part of Marks' story. Howard Marks also took part in 'redundant' interactions and conversation. Such interactions and conversations had no direct crime-related efficiency. Through these redundant interactions Howard acquired all kinds of information which often at first he was not interested in. Yet, through many of these interactions, Howard got to solutions for all kinds of problems he had. Sometimes these interactions led to new opportunities for his project. He acquired information about competitors, about partners, about new technologies, about hotels, about new institutions and businesses. Often Howard did not look actively for this information. He had no intention to know. Take for example the interactions he had with geishas April and Selena. During these conversations, both girls told him they wanted to leave China. They wanted to buy false papers to become British and marry millionaires

(Marks, 1998: 225). Immediately Howard's thoughts focused on the false identity card he had acquired under the name of Mr. Nice. He asked himself if one of these girls would like to become Mrs. Nice. He fantasized about obtaining many false identity cards, and marrying many Chinese women. He imagined the amount of money he could get with this swindle. Later that night, Howard and the geishas exchanged phone numbers. Howard promised the women he would get in touch. The women told Howard that if he would need something, he just had to ask and they would take care of it. Howard then actually got down to it and set up a new business (for another example, see Marks, 1998: 247). With hindsight, much of what Howard did makes sense, but when it happened, it did not. It often seemed unnecessary and redundant. Looking back, however, it is striking to see how small and apparently insignificant events such as Howard's acquaintance with April and Selena led to new projects.

The ego-document also illustrates that there is only a partial understanding between partners at the beginning of projects, especially when the communication is complex and deals with financial matters. In such interactions Howard often had to face ambiguity and sometimes he had to make some effort to understand the meaning of what others were saying. The reason for this ambiguity can be found in the fact that, in conversational interactions, people tend to make references to their own past life experiences. In Marks' case this often led to misunderstanding, distrust, fear, and ultimately even liquidations. The ego-document however does suggest a link between fantasies, fear, misunderstanding and the emergence of transformations. New meanings (and thus new ways to deal with problems) can originate from misunderstandings and conflicts between the members of the network (for example Marks, 1998: 139-141), provided there is sufficient trust and confidence for members of the network to conquer their fear of change.

4.4.2.3. The importance of past life experiences

The ego-document indicates that Howard Marks was able to establish connections with various groups of people. He had connections within the

IRA, the CIA, MI6, and the mafia. He had fruitful relations with bookkeepers, researchers, and many others who helped him (deliberately or not) with his projects. Although in academic research the birth and development of criminal projects is often associated with other criminal and legitimate organizations (see for example Williams, 1998; Sterling, 1994; Robinson, 2000: 197-219), Howard Marks himself always refers to individual people rather than organizations. Personal aspects of social relations rarely get noted in research, particularly research that focuses on economic dynamics (see for example Williams, 1994; 1995; Robinson, 2000). Such research tends to explain criminal networks and alliances by their mutual benefits. It holds that organizations form alliances in order to share targets or markets. Alliances are understood as rational answers to e.g. problems of globalization (Williams, 1994; 1995).

Howard Marks had a rich network of relations. However, he often did not know how to use it. He engaged constantly in interactions and conversations, often fumblingly (see for example Marks, 1998: 215; 223; 225; 326). The ego-document suggests that the persons with whom Howard was in business were rarely chosen beforehand. They were mostly introduced during conversations about new smuggling activities (see for example Marks, 1998: 139). He never knew when he had to appeal to individuals whom he had met years before. For example, it is not very clear when the project with Malik began. Marks had met Malik just one time before at the deathbed of Mohammed Durrani (Marks, 1997: 215). Durrani was the man who had introduced Marks into the business of smuggling. There was a reason why Howard had to think of Malik. Marks had received a phone call by Ernie, who asked him if he still had any contacts. On top of that, Howard remembered he met Malik when he walked the earth as Mr. Nice. Immediately Howard assumed that the chance Malik wanted to do business with him would be very small. However, he decided to call Malik anyway to arrange a meeting on neutral grounds, in Hong Kong. In other words, the beginning of the Malik-project is not very clear. Does it begin with the encounter at the deathbed of Durrani? Does it begin when Marks phoned Malik? Does it begin in Hong Kong? Or does it begin during the conversation between

Marks and Malik when possibilities for setting up smuggling activities were discussed? That meeting did not go smoothly. After a few minutes Malik told Howard to leave his phone number. Hours later Malik called for a new meeting. This time the meeting was less stiff. Malik had researched Howard's history, reputation and potential. Both Malik and Marks then decided to set up a deal and agreed on money transfers and instructions about the export of hash. So perhaps the project took off when they both checked out one another's reputation, and knew what they both were able to accomplish. However, this is arbitrary, for the beginning of the project could also be located at the time when Marks had conversations with Plinston and Durrani, when he met Ernie, who brought him in contact with Malik. Often individuals work on several projects at the same time. For example, Malik (but also Marks) worked on several deals at the same time. In fact, one deal often led to several others (for example Marks, 1998: 267). Although a beginning and an end can be ascribed to a chain of interactions, any description is very arbitrary, because each of the actors has a history of life experiences. That history is shaping their thoughts, and it determines the way they (re)act. Those past life experiences determine the intellectual and emotional reactions of actors. In order to understand why Howard was able to become one of the most important hash smugglers of his time, we must take into account his earlier life experiences which, together, built the diversity of his framework of reference. 'Marks' was the result of a long string of interaction with many others, over many years, in many places, across the legal/illegal divide. Many of his experiences in legal activities were instrumental for resolving practical and important problems in his illegal dealings (for example Marks, 1998: 236). It also worked the other way around. All the experiences Marks had were relevant, at least potentially, to his illegal business. All his experiences made him into who he was.

4.4.2.4. Instruments of communication

So far I have been suggesting that decisions to carry out plans emerge out of interactions and conversations. It is important to note that interactions and conversations do not necessarily produce continuity and

stability, but also have the potential for engendering transformation. In conversational interaction all kind of topics can emerge. Marks writes about the many personal and business-related topics that popped up during conversational interactions (see for example Marks, 1998: 234-248). The conversations he had with Malik, McCann and Plinston triggered many conversation topics. The conversations he had during moments of relaxation with strangers sometimes led to new criminal projects (see for example Marks, 1998: 225) although he never or only rarely had a clue where these connections would bring him. A considerable amount of coincidence seems to have been at work. For example, after the release of Marks in 1982 from his conviction for the use of false identity cards, he promised his second wife Judy, that he would never deal or smuggle again. Life was good, he had three children and there was no pressure whatsoever. To celebrate his release, his wife treated him for a holiday on Corfu. During this holiday, he met the former British consul on Corfu and a few retired men, such as a former civil servant of foreign affairs, journalists and a merchant in arms. They were there because of the Falkland war. During one of the nightly trips, Howard told his guests he was a former hash smuggler who just was released. The merchant in arms took Howard apart and gave him his business card (Marks, 1998: 199), and provided him with a new contact.

When Marks prepared for his criminal activities, many conversations took place between two or maybe three people, each of whom influencing the flow and direction of interactions. Interactions and conversations had many dimensions. People taking part in them discussed false documents, risks and fears, profits and costs. In other words, they used all these issues as instruments in their interactions. For instance, they used the issue of false documents as an instrument to persuade others to change their views and opinions. Sometimes conflicts emerged which then prompted the exploration of alternatives (see for example Marks, 1998: 95). Even when plans and projects were clear and agreed, Marks and his partners kept redefining them. Each of the plans and projects continued to be topic of a constant and never-ending re-definition. The ego-document suggests that the value of the plan was determined during the

activities. After the people who developed the plan considered the plan as "done" or "finished", the plan was passed on (as an object) to a new context. In the dominant view on organized crime, this phase is named as the starting point of a project. The assumption there is that the leader or "broker" controls the plan. The leader (or entrepreneur or broker) controls the performance of the plan. He is assumed to be observing from the outside, making sure that everybody follows the instructions. He does not tolerate protest. The ego-document seems to confirm this to a point, but not quite. It also shows conflict, dissent, protest, disobedience, and so on. Again, I do not deny the existence of plans and intentions. Plans and intentions however emerge in the interactions and conversations between partners in a network, and are constantly in a process of transformation. The ego-document clearly points to the many misunderstandings during the development of a project. It illustrates the importance of unforeseen problems. The sequence of events during the early phases of a project illustrates a process of uncontrollability, often filled with anger, conflicts, problems and adjustments of the original plan. Friendship suffer and mutual trust gets damaged.

All kinds of new strategic configurations and even the use of materials for projects emerged from the conversations between Howard and his partners. The executors of the project in turn started new conversations about the project, pushing all others into a new period of redundant conversations and a search for new meaning. Sometimes potential users refused to engage in new conversations, or refused to absorb newly emerging meaning in their actions (see for example Marks, 1998: 253-257). Sometimes such new meaning was perceived to be a threat to habits and actions (see for example Marks, 1998: 261-263). In other words, the emergence of new meaning also had to do with power. When new meaning was perceived as a threat, the most powerful in the network tried to prevent conversations about the new meaning. They supported the potential for misunderstandings by excluding the new concept out of the conversations and actions. They made it difficult for others to talk and act on it (see for example Marks, 1998: 86-90). From a micro point of view, it makes sense to take account of such conflicts

misunderstandings, rather than focus solely on mutual benefits of network members.

4.5. Conclusions

The aim of this contribution was to suggest an interaction-based perspective on organized crime, inspired by the work of Watts and Strogatz (1998) and Stuart Kauffman (1993; 1995). Traditional macro-analyses about leaders, brokers and linchpins as the initiators of cooperation have been challenged by the mathematical work of Watts and Strogatz (1998; see also Milgram, 1967; Calster, 2002). The "small world" model of Watts and Strogatz has provided support for the empirical observation that everyone in the world is only six steps separated from any randomly chosen person, without bringing the local network cluster out of balance. The emphasis in such research is on interaction. In addition, macro-analyses about networks adapting to their environments and market dynamics have been challenged by the work of Stuart Kauffman (1993; 1995). Kauffman suggested that interactions are self-organizing processes, which have the ability to produce coherence. Kauffman's experiments with computer models showed that interactions have the internal capacity for producing coherence, continuity and transformation, without the need for an imposing "mastermind". Researchers such as Watts, Strogatz and Kauffman lead us to recognize the importance of studying micro-relations for understanding organized crime.

The dominant view on organized crime tends to ignore micro-relations. This view holds that success in crime depends on the systemic roles and tasks people assimilate. It equates success in crime with functional secrecy and obedience, and therefore with stability. (Reuter, 1983: 109; van Duyne et al, 1990: 24). Criminal organizations employ and direct people whose knowledge is limited to their particular systemic, functional roles and activities. The use of violence serves as a means to bring about group allegiance, and therefore to enforce current standards and codes (for example Kleemans et al, 1998: 9; Abadinsky, 1997: 8; Kroese & Starink, 1991: 80; Zaitch, 2002: 216; Van Veen & De Vogel, 1997: 2;

van de Port, 2001: 71-74). It postulates that cultural systems and social networks streamline criminal processes, and that rules, culture and expectations steer human behavior. It tends to discard the study and analysis of everyday emotions, gossip, fantasy, and so on. Emotions or gossip are often interpreted as dysfunctional elements which endanger the efficiency and implementation of criminal projects. The dominant view of thinking focuses attention on efficiency, functionality and on the removal of redundancy and inefficiencies. It ignores micro-processes, such as everyday conversations, rumors, gossips, and the influence it can have on the emergence and organization of criminal projects. It is not very interested in everyday, informal elements and events such as coincidental encounters that may occur in everyday life, or personal relationships which have no direct connection with criminal activities. As Carlo Morselli (2000; 2001) has convincingly shown, the ego-document of Howard Marks, to some extent, supports this dominant perspective. There is, however, much more to tell about organized crime. An analysis of the micro-dynamics mentioned by Marks in this very same ego-document does notice that, while the members of a criminal organization or network do strive for efficiency, they also engage in redundant, diverse interactions and conversations with colleagues, friends, consumers, occasional passers-by and other people with whom they tend to interact on matters that are not related with the criminal organization or its aims and procedures. As our microanalysis suggests, this diverse, redundant, unnecessary and inefficient behavior seems to be very important for the emergence of crime-related network transformations nevertheless. As the analysis of the first period of Howard Marks' criminal life has shown, the failure of criminal project can imputed to stability and repetition. Our microanalysis also noticed that creativity and new ideas emerge in ordinary everyday interactions and conversations. Behavioral patterns such as a criminal enterprise or project emerge out of interactions between people, not in the least everyday, banal, interactions and conversations, many of which tend to be shot through with emotionality and chance. This alternative perspective on organized crime, I believe, complements the dominant, systemic-functionalist view.

Chapter 5

Partnerships and Collaborations as Complex and Dynamic Processes of Interaction²⁶

5.1. Introduction

Social, cultural, economic and geographical developments have transformed significantly what some have started to call 'the safety complex' (see for example Young, 2007; 1999; Garland, 2001). Over a few years of time, various agencies, public as well as private, got gradually involved in safety and security governance and eventually became full players in the field of crime control. Private agencies for example got licensed to monitor shops, football arenas and pop concerts. The administration of parking fines no longer exclusively belongs to the police; private companies too are now entitled to levy and process such fines. During the last two decades, the concepts of 'crime' and 'criminality' have been shifted and redefined to include 'anti social behaviour' and 'safety risks' (e.g. Boutellier, 2003). Governments have come to realise they can no longer deal with crime and safety issues on their own and that they need support. On the one hand, they have called upon the joint responsibility of other parties, such as citizens and business companies. On the other hand, market mechanisms started to kick in and have led to the introduction of new public and private agencies into the management and the enforcement of safety risks (Garland, 2001: 106; Garland, 1996: 158; Hoogenboom & Muller, 2002: 9). Consequently, the organisation of law enforcement in general and that of the police in particular have changed accordingly. Local police forces for example have evolved to include a community oriented police.

²⁶Published as: Reassurance Policing als middel tot betere communicatie en samenwerking. Samenwerking als een Complex en Dynamisch Proces, *Cahier*, Dordrecht, 2010, December, p. 151-177 (Double blind peer reviewed). See also Calster, P.J., van & Schuilenburg, M.B. (2009) Burgernet vanuit een nodal governance-perspectief. *Justitiële Verkenningen*, 35 (1), pp. 93-112 and Schuilenburg, M.B., A. Coenraads & P.J. Calster, van (2009) Onder de mensen; de aanpak van transportcriminaliteit door politie, verzekeraars en schade-experts, *Justitiële Verkenningen*, 35 (1), p. 43-62

It started as a general model of policing (community oriented policing), but rapidly progressed into more operational models, such as problem oriented policing, intelligence led policing and reassurance policing.

It is safe to say that modern policing now centers on notions such as communication, collaboration, coping mechanisms, responsibility, accountability and empowerment (Ponsaers & Gunter-Moor, 2007). In addition, the belief that people can and must be held responsible and are accountable for the safety risks they meet, is reflected in this modern policing model. It places the police into the driving seat of the empowerment idea. It made scholars wonder whether the police (and by extension the State) are able to collaborate with private actors and carry the weight to initiate processes of accountability and empowerment in the field of crime control. We will try to make a modest contribution to this ongoing debate on the basis of two research projects we did on police partnerships. The first deals with the partnership of the police and insurance companies in the Netherlands (see also Schuilenburg et al, 2009). The second considers the partnership of police and citizens in a local neighbourhood project, also in the Netherlands (see also Calster and Schuilenburg, 2009).

5.2. The Divergence in Theory and Practice

For the research we did on intelligence led policing in 2009 (Calster and Vis, 2009), we had numerous conversations with police practitioners. A recurring topic during these conversations was the incompatibility or divergence between theory and practice. These practitioners told us that in most cases a statutory provision, agreement or covenant often seems to look good 'in theory', but eventually always fails 'in practice'. It seems that 'theory' in all its shapes, such as law and scientific endeavours, is often used to grasp or streamline 'practice', but it rarely ever does satisfactorily (Calster, 2010b). How is that possible? Why isn't theory more successful?

It might have to do with the idea that theory, on the whole, ought to give insight in the workings of reality and thus to provide in (predictable)

patterns. It is then believed that theories are able to help bring reality under control, or at least to see to it that reality acts in the ways predicted. Consequently, researchers look for patterns, which they categorise in order to find correlations, and, ultimately, to build blueprints of the object of research. In doing so, researchers tend to assume that their own role is merely one of an observer who does not have any influence on what he or she is researching (see also Calster, 2010b). This allows them to focus their attention on pervasive dynamics in order to find explanations and solutions for emerging problems. Consequently, they construct models with the purpose of understanding and controlling behaviour, and in due course, altering it. When this process does not proceed according to expectations, they assume the hypothesis used was insufficiently correct, which then triggers the search for a new and better one. The reasons for failure of a partnership intervention are often deemed to be found in inefficient working cultures, corruption, an inferior organisational structure, insufficient law or regulation, and such more. It is believed problems of crime can be efficiently dealt with by fixing these broken systems.

This approach leans heavily on the work of Emile Durkheim (1858-1917). Durkheim (and from then on the majority of social scientists, including criminologists) had his focus on large collective structures (for example 'culture', 'organisational structure'). According to Durkheim, the social is best characterised by the amount of coercion it performs on individual behaviour and the influence it has on personal attitudes and needs. In other words, it shapes, from an outside position, individuals. Berger and Luckman (1967: 106-109) have described it as 'a process of reification'. When people no longer experience social reality as a product of human interaction, reality is separated from human interactions (see also Calster and Verfaillie, 2007) and institutes are seen as free-standing, as 'things', 'natural' and 'necessary'. As a result, collective structures such as 'organisational culture', 'organisation', and 'partnership' are scrutinized and assessed, in the assumption that when these collective structures perform well, all will be well. In short, this approach considers

social facts as separated from its actors. Elsewhere we have called this the molar, a macroscopic perspective that put focus on order and control.

It is fair to say that a growing amount of scholars are now starting to claim that traditional frameworks in crime control studies are seriously lacking the adequate tools and terminology for the study of the organisation and enforcement of all kinds of newly emerging hybrid constructions in safety governance and crime control (see for example Wood and Shearing, 2007; Johnston & Shearing, 2003; Burris, 2004). Since the eighties of the last century, crime control and safety governance have evolved into a free market commodity which has increasingly cancelled out the State monopoly on crime control. Tasks and responsibilities that once belonged exclusively to e.g. the police have little by little been handed over to many other crime control-oriented organisations, public as well as private, that have entered the field of safety governance (Wood & Shearing, 2007: 9-11). If we were to classify and study these developments and newly established collaborations and partnerships in terms of merely the sum of the tasks these public and private organisations perform, we would be denying the many dynamics that take place in and between these organisations (see also Garland, 2001: 117). Consequently, we would be blind for the way (new) safety needs emerge and (new) crime control initiatives and assignments start to develop. The problem with traditional frameworks is that they all too often reflect, on the one hand, on dualities, such as 'public' versus 'private benefits', and, on the other, on the straightforward sum of private and public concerns. For a more up to date analysis, we need to develop (new) frameworks that are more able to study the transformations that are taking place in the safety complex.

We believe we have made a modest beginning with such a framework, on the basis of Tarde's sociology and the complexity sciences (see Calster, 2006b; 2010a; 2010b; Calster & Schuilenburg, 2010; Schuilenburg & Calster, 2010b). We have called this the molecular, a concept that expresses the idea of the unpredictable and the liquid, and thus introduces sentiments, such as misunderstandings, risks, excitement

and aspirations into the framework of research. Gabriel Tarde, a contemporary of Durkheim's, argued that scholarly attention had to go to the interactions between individuals, as they bring forth structure (Calster & Schuilenburg, 2010). In contrast with Durkheim's 'structuralist' approach that has its focus on the macro level and thus on 'systems', the Tardian strand focuses on the micro level and takes therefore a rather process-oriented approach. Tarde's attention to the interchangeable relations in social reality makes clear the problem of structure and order is of a secondary nature (Tarde, 1890: 71). Order and stability are established at the end of process. First there is movement, change and difference. It is this Tardian approach that inspired both research projects.

A lot has already been written on citizen's empowerment and neighbourhood projects to enhance the governance of safety (see for example Terpstra and Kouwenhoven, 2004; Scholte, 2008). Less has been written on the partnerships that have a link with private businesses. The first part in the remainder of this paper discusses research we conducted on the topic of a local partnership between the police and insurers, which aimed to prevent crime in the Dutch transport industry. The second part is about a local partnership of the police and citizens.

5.3. A Local Partnership of the Police and Insurance Companies

European Union studies on crime in the transport industry suggest that the industry in the period between 2003 and 2006 faced a loss of 15.5 million euros, (EP, 2007: 77)²⁷. In the Netherlands, these losses are mainly caused by cargo theft (or breaking and entering of cargo) and the theft of goods from industrial areas (KLPD, 2008: 4). Dutch police and insurance companies are now working together in an attempt to bring a halt to these losses and to establish a more effective way to combat

²⁷ Fraud is included here. Some researchers (Kuppens et al., 2006: 25) claim damage might vary from 11 million euros to hundreds of millions. This might be imputed to the damage-indexes which are often based on registered direct damage, such as the value of a stolen cargo or lorry EP, 2007: 83-89). In reality, the indirect damage would be higher, such as unable to deliver the goods on time, the costs of a delayed production process and reputational damage. Some estimate reports claim these damage could be double the amount of the direct damage (EP, 2007: 15).

crime in the transport industry. The content of the partnership is laid down in three covenants²⁸. Besides that, a special team of investigators (called project team 'Ladingdiefstallen') was created to prevent crime in the transport industry for the regions Brabant, Zeeland and Limburg.

Our research is based on the interviews we conducted over a period of three months with police officers (financial as well as tactical investigators), insurers, senior policy advisors with the Ministry of Security and Justice, damage experts, insurance policy advisors and assistants working for the project team 'transport crime'. We used the snowballing technique to gain access to new interviewees. That way, we were certain that interviewees knew each other. This also increased the prospect to map the partnership and its assemblages as much as possible. Each interview took about two to three hours. All the interviews were recorded, written out and made anonymous. We have combined these interviews with participative observation and a light form of contextual enquiry technique.

We were interested in the way interactions, events and fortuitousness might change standards and regulations and how they may well start to evoke new meanings. We were also interested to see how and to what extent the partners in the process might (be forced to) take alternating positions. In short, we analysed how assemblages of transport crime have transformed and how they have (re-)invented, (re-)formulated and (re-)legitimised the commitments and responsibilities of the partners. We

²⁸ In the report 'Aanpak Criminaliteit Wegtransportsector', Transport Logistiek Nederland, Eigen Vervoerder Organisatie, Verbond van Verzekeraars, Ministerie van Economische Zaken, Ministerie van Justitie, Stichting Aanpak Voertuigcriminaliteit en Koninklijk Nederlands Vervoer promise to decrease crime in the transport industry in the periode 2006 to 2009, by at least twenty-five percent. In the report 'Openbaar Ministerie en Transportsector' agreements are made on the improvement of communication, registration and expertise in the fight against crime in the transport industry. The partners in this covenant are: Public Prosecution Agencies, Eigen Vervoerder Organisatie, Transport and Logistics in the Netherlands and Koninklijk Nederlands Vervoer. The third covenant is called 'Informatie en Registratie Ladingdiefstal'. The aim is to get a more complete picture of the nature and dimension of the damage caused by crime in the transport industry. Responsibility for all the registration acts is with Stichting Verzekeringsbureau Voertuigcriminaliteit. It was accompanied by the establishment of a website (www.isgestolen.nl). The

asked the interviewees about the informal encounters they had and what shape they took. We asked about both individuals' and companies' goals and interests, about the way trust came about and changed its form, and how and when the sharing of information took place.

5.3.1. Analysis

The data, on the whole, seems to suggest that the organisation and management of partnerships represent much more than the mere design of formal agreements into contracts or covenants, the furnishing of consultation structures or even the setting up of teams of investigators. There are many more dynamics at work here, e.g. the myriad of 'informal contacts' underlying –and every now and then undermining- the official partnerships and the amount of 'trust' that needs to be at hand just for people to work with each other in confidential and very often complicated matters. In addition, the arrangements that must be in place to structure the sharing of information are also not easy to come by, as is the harmonisation or sometimes just the combination of the goals and interests of both the police and insurance companies. These issues are difficult to write down in contracts or covenants, and it is even more difficult to control them.

First, it takes a considerable amount of effort and understanding to bring all partners together. The police have to know exactly what type of information they need in order to manage the case they are working on. That is not a straightforward job. A small-scale inquiry into the different types of insurance companies active on the market showed that the range of insurance companies is all too immense and too diverse to allow for a clear and simple overview. A policewoman told us: 'I recently started to study the diversity in insurances available and it looks like an exceptionally disorderly world of specialism.' (translation: PJVC) The conversations we had with police officers show that the police do not really know much about the insurance industry or the work that these companies actually do. We have to add here the fact that not all

partners in this partnership are: Verbond van Verzekeraars, Korps Landelijke

insurance companies are engaged in the covenant, which makes it more difficult for the police to find the company that is needed or most suitable for the job at hand.

Another thing is that insurance companies do not really open wide for police business. This makes it even harder for the police to select the appropriate insurance company with whom they could team up. Although insurers do trust the police with the information they pass on, they have less confidence in the way the police handle individual cases. The main reason for the mistrust is that cases are often made public. Insurers told us: 'Obviously, the police are not to be blamed here. But it acts upon the relation and interactions we have with them.' (translation: PJVC) It goes so far as that they deliberately provide the police with what they have called 'semi information'. It is not so much that they pass on false information; it rather is about what they don't pass on to the police, such as information that discredits their clients.

Another thing that seems to disrupt these partnerships is the imagery used and preconceptions which both partners seem to harbour. The police believe that insurance companies will eventually recuperate all costs made and profits lost by raising the clients' fees and contributions. They also blame insurers for the lack of crime prevention strategies that they seem to display in the transport industry. The 2003 national report on crime prevention, *Tegenhouden troef* (2003: 52), specified several measures which were aimed to prevent crime in the transport industry. One of these measures revolved around the idea of bringing an end to the State's efforts to compensate the financial losses of entrepreneurs when they refused to participate in certified safety projects. Another measure revolved around the discount in contribution fees as incentives for taking prevention safety measures.

The same goes for insurers; they too suffer from fixed ideas and rusted sentiments. One of those is to do with the alleged inertia of the

police and their refusal to conduct more surveillance in industrial areas. Such sentiments are rather unpleasant, than they are new. First, it shows that trust is difficult to come by. But more importantly, it illustrates that sentiments and preconceived notions are at least of equal importance for an understanding of the dynamics in these partnerships than the covenants are. We have witnessed failures in the cooperation between people because of the personal sentiments and impact they had of and on each other, such as disapproval and dislike, even though the covenant required them to work together.

But there is more. The partnership to prevent crime in the transport industry is not limited to the police and insurers alone. In fact, insurance companies hardly play any role in the partnership. It is damage experts who are really in play. Damage experts are self employed and are usually hired on a contractual basis by insurance companies in need of specific knowledge and expertise. When hired, they function as 'the eyes and ears' for insurers and provide the information that is needed for the specific job, such as the recuperation of stolen goods. It is the information which these damage experts bring in that is the basis on which the insurance companies make their managerial decisions. Damage experts hold expertise and knowledge which insurers don't have, or don't even have access to. There are as many damage experts as there are specialisations; some are specialised in vehicle damage, others in injuries, and so on. In view of the fact that damage experts play such a leading role in the investigation of transport crime, it is nearly incomprehensible that they were not consulted when the covenants were written down. It makes damage experts the most important informal contact there is outside the covenant and partnership. Let us take a closer look at what damage experts do and how they work.

First of all, damage experts are hired experts. They 'merely' report to their employer and have only their employer's financial considerations to reckon with. The research shows that insurance companies only put investigative efforts to the front for cases that might lead to the loss of profit. The 'loss by crime' is just one of the many losses insurance

companies are confronted with. As a respondent told us, 'Insurers and damage experts do not attend to public goals, they primarily serve financial interests.' (translation: PJVC) The police on the other hand have to bear the responsibility for the organisation of the public good. Their core task is written down in section two of the Dutch Police Law, which is to maintain and to enforce the Dutch legal system. The dominant perspective often overlooks these conflicts of interests, the hostility and distrust actors might have with regards to the goals and interests of the partnerships they are involved in (see on this Johnston & Shearing, 2003: 147). In short, the way each of the partners think and act makes sense to their own professional context, and is not necessarily in harmony with those of others. Our research shows that in private public partnerships there is always a conflict at play between the subjectivity of financial interests and the objectivity that comes with public office. Let us elaborate on this a little more.

The police are not all that interested in finding every stolen cargo or lorry. A police investigator told us, one single report is not sufficient to lead off a police investigation. When it contributes to the likelihood of catching the perpetrators in the end, the police are prepared to let go stolen cargos more than once. For the police it is more important to eliminate the criminal organisation that runs the thefts, than it is to recover all the stolen goods. Or as a police respondent told us: 'we wait for cases that are in connection with each other in order to be able to map the criminal organisation.' (translation: PJVC) When police have high hopes of catching the criminal organisation, they are prepared to invest a lot in surveillance. Police officers call this 'rock & roll'. In short, the police are perpetrator-driven.

The main goal of insurers and that of damage experts especially, on the other hand, is to recover all stolen goods. In most cases, the lack of focus on individual cases by the police seems to pave the way for great annoyance and incomprehension with the insurers. An insurer expressed it to us this way: 'This kind of attitude resembles carelessness. The police seem to forget they can guard insurers against bankruptcy. When the

police let go of cargos, the insurance company has to take the rap for the losses. When that happens two or three times a month, it sooner or later has the bankruptcy of that particular company as a result. I've seen it happen.' (translation: PJVC)

As a result, damage experts take action immediately in order to limit losses as much as possible. A damage expert told us: 'I do not wait until the police are done with their investigation. Most often, I start an investigation before they do and in most of the cases I'm done before they are as well.' (translation: PJVC) On their own initiative and without reckoning with the interests of the police, damage experts place reward adds in the newspapers, and photographs and images on the internet. In this process, damage experts often behave like they are police officers. 'We deploy the same interrogation techniques the police are using when we interview thieves. However, we work on a much detailed level than the police do.' (translation: PJVC) In short, although the police made covenants and contracts with insurers, it is actually damage experts who play the most important part in the investigation of transport crime and the recuperation of the stolen goods.

Consequently, it may not surprise us that damage experts have close relations with individual police officers. Before damage experts start an investigation, they always take time to telephone people who they know with the police, no matter what the assignment is. Now and then both police and damage expert want to talk to the same person. As one damage expert told us: 'I always talk first with the man I know at the police department. Usually I get a phone call when it is okay to talk with the suspect.' (translation: PJVC) These interactions take place outside the partnership. As damage experts told us, 'the police are very cautious to cooperate with us'. (translation: PJVC) As a result, no real arrangements exist on how to act, or who to contact, or what responsibilities damage experts have in these 'extended partnerships'.

This might have to do with the covenants addressing solely the police and insurance companies, leaving out the damage experts. After all,

these covenants play a major role in the regulation of the exchange of information between police and insurers, after an official registration of a criminal offence. However, in the end it is always the Public Prosecutor who has the final word on the information that is made available to insurers. On the other hand, the information that is gathered by the insurance companies may also be important for police work. Insurers are asked by the police to provide serial numbers from stolen goods. Sometimes the police may ask information that addresses the personal possessions of suspects (such as cars, real estate, boats...). Information provided by police may be of extreme value for insurers as well. It could be used in civil court procedures for example. In short, expectations are high when information exchanges take place. Everyone seems to expect to get something in return.

Consequently, since damage experts are left out, they go their own way. This lack of formal arrangements has led, on the one hand, to the construction of personal networks, and, on the other, to parallel investigations. Damage experts strive constantly to expand their personal network. They keep notes of each contact they had in order to facilitate the selection of contacts for future jobs. Damage experts told us that setting up a personal network is essential due to the lack of structural partnership between them and the police. Since any outline of structure is missing, they keep intensive contacts with individual police officers.

This probably has to do with the exchange in expertise that is going on. Former police officers often start to work for private companies, and the police start to hire private companies, such as accountancy and insurance companies, for the expertise these companies have with crime control. Bayley and Shearing (2001: 14) point to the fact that police officers in the USA are now allowed to keep on their police uniform for additional jobs. It would be interesting to study the effects of these metamorphoses. Although not familiar with these USA clothing practices, police officers in the Netherlands too are starting to make transfers to private companies. One of the respondents told us that when he started to work as a damage expert, he had to invent new ways of working.

'When you wanted something as a police officer, you could get it. Now I have to approach things differently.' (translation: PJVC) Former police officers who now work for private companies feel chagrined and they complain about the police austerity on information. 'All at once they won't help you anymore.' Another respondent testifies, 'When you work for the police, they act as your best friend. But when you leave, and then ask for information, suddenly they aren't your best friend anymore.' (translation: PJVC) The damage experts we spoke with all claimed that personal networks outside the covenants are needed just to overcome these situations.

Although the covenants can make the exchange of information flexible, there are still several formal limitations at play. Police can not in all cases exchange information with private partners, just as they can not use information they get from private partners for criminal investigations. To get around these formal problems, partners start to leak information in a more or less hidden way. This has led to the emergence of a different language aimed to pass on information without bringing the company's interests in danger or to put police officers in compromising positions. When a police investigator says: 'I have trouble hearing', he actually means the suspect is being monitored by the police. Not only police talk in a 'strange language' (to use Marcel Proust's expression here), damage experts also mix hidden messages into the conversations in order to pass on information to their partners. In most cases, damage experts have more information they actually need or pass on. Often they know who has stolen the goods before the police do. To expose the criminal's identity to a police officer they trust, the damage expert makes use of expressions such as: 'person (name of suspect) is not allowed to attend my birthday party this year'.

As we have mentioned earlier, in contrast to the insurance companies, the police are not that interested in the recuperation of all stolen goods. As a result, damage experts conduct not only parallel investigations and maintain personal networks, they also have cooked up several mechanisms to encourage the police to take action. One of the

respondents told us he occasionally had to set fire to a depot, just to 'force' the police to take action. The thing is that when a fire brigade hit upon a stolen cargo, police are forced to start a criminal investigation. Another way 'to help' the police locate the cargo is to break in and then alarm the police about the burglary. In other cases the damage expert just waits for the next theft to catch the thieves in the act. And last, damage experts also try to buy stolen goods from internet sites such as marktplaats.nl. After the online purchase has been made, they pick up the goods and confront the seller with the illicit sale. Afterwards the thieves are handed over to the police.

Damage experts call it, 'being creative'. It led to their nickname of 'cowboys', because of their Far West attitudes. Damage experts try to accomplish the goals and interests they have set in every possible way, not necessarily of a legal kind. As we have seen, contacts and connections outside the partnership start to take place. Damage experts are hardly ever troubled or inhibited by the Dutch Law on Private Security Organisations and Investigation Agencies (in Dutch: Wet Particuliere Beveiligingsorganisaties en Recherchebureaus). Quite the contrary, they rather enjoy that their work is less bound to rules and regulations than that of the police. 'You come to understand you don't need rules and authority to get some work done', a damage expert told us. (translation: PJVC)

The irony is that covenants have been brought into play with the purpose just to avoid Far West attitudes and to eradicate any discomfort or suspicion between the partners. These covenants are very specific on how to treat the information at hand. Integrity and confidentiality are the keywords here. And yet nobody seems to act up to it. It seems that even covenants can not provide the conditions to guarantee the settlement and establishment of trust.

The research shows a lot of this distrust is due to a certain lack of professionalism with the police. First, there is the inaccurate registration of transport crime. Registration is usually done by an administrative co-

worker or counter clerk. According to damage experts and insurers, these people lack knowledge about the subject of transport crime. 'They don't know what a chassis number is, or a semi-trailer or even a container. As a result, they make no distinction between in a sailing car, a 'kistenwagen' or a container. It is all the same to them. But it really isn't.' (translation: PJVC) Similar problems occur with the categorisation of criminal offences. 'A stolen cargo may be categorised as 'cargo', or as 'breaking and entering', or 'social safety'. It all depends on who is at the desk.' (translation: PJVC)

Respondents also point to the lack of staffing capacity and the low priority transport crime has with the police. The first might lead to amateurish scenes. 'It happened that a chauffeur was asked to come back later that week to report the stolen goods. It shows incompetence. Most often that chauffeur is already somewhere else in Europe.' (translation: PJVC) Besides that, the police say they have other priorities: 'transport crime is still a blind spot in police work.' (translation: PJVC)

Secondly, insurers complain about the lack of knowledge and expertise with the police. 'When the police climb a truck, they use the same handles the thieves may have used, thus wiping out all the fingerprints. They neither check the alarm nor do they check if the original keys were used.' (translation: PJVC) Damage experts would rather carry out these actions themselves. They blame the lack of knowledge and expertise on the police's rotation system. 'Experts and insurers are getting smarter, while policemen change team every few years. When they do, all knowledge is lost and they have to start all over again. And it happens on a regular basis. The available knowledge isn't secured enough.' (translation: PJVC) One respondent made the remark: 'It actually is all about the accumulation of knowledge and the maintenance of that knowledge. Police can manage the accumulation, but fails in holding the knowledge. When a co-worker leaves the organisation, he or she takes the knowledge with him/her. Unfortunately, people are not computers. That would make things a lot easier.' (translation: PJVC) The policemen we spoke with seem to agree with the analysis. Police culture seems to

depend on personal contacts for the accumulation of information. According to a police respondent, police is working on the basis of 'camping contacts': 'The accumulation of information is a process of old boys networks, you know, they are more or less accidental.' (translation: PJVC) 'That is the way it goes. But in the end, it doesn't pay off. The police organisation is trying to install a more official system. But it isn't working properly.' (translation: PJVC) Elsewhere we came to similar conclusions on the basis of our research on police culture and the internal information exchange system (see Calster et al, 2010; Calster et al, 2010; Calster and Vis, 2008).

Thirdly, the sharing of information is not a neutral act. It is interwoven with a wide range of sentiments and emotions, such as fear and panic, and happiness and excitement when it works out. Private companies are anxious others might see how they work. 'It doesn't always pay off to share information' an insurer told us. (translation: PJVC) Damage experts too are reserved with the sharing of information. 'We may exchange information, but only when we have permission for it from our supervisor. In most of the cases, we are very selective in what kind of information we share. We usually know much more about the people we have under investigation than we write down in reports or pass on to our partners.' (translation: PJVC)

Although their motives are somewhat different, police too experience sentiments of uncertainty and reservation. Our findings seem to suggest that the connotation 'privacy' is able to generate some outlandish effects. Police don't really know much about Privacy Law. Frequently they handle challenging questions with a 'Sorry, Privacy Law hinders me to answer that.' This could have several reasons. On the one hand, they have little know-how about the kind of relationships insurers and damage experts have with each other and the agreements they are bound to. On the other hand, police officers know they are constantly being watched and scrutinised by their supervisors. It makes them extremely careful in the type of information they pass on to others, especially when it concerns sensitive or confidential information. Most often, police officers seize

'privacy law' as an excuse out of fear of failure. Some of the respondents mentioned that the police do know what the problems are. 'Of course, there are several opportunities at hand to exchange information without revealing sensitive information.' The problem is that some of the police officers who want to cooperate exaggerate in good intentions. They are eager to cooperate; they take risks and pass on classified information. Damage experts and insurers suggest they have to take these people in protection to prevent that they get exposed and become useless for future assignments.

5.3.2. Provisional Conclusions

The art of effective crime policy seems to be based on one simple rule: to create an end goal that all partners approve of and are willing to fulfil. The same goes for the organisation of crime control in the transport industry. For the period 2006-2009, the Dutch government had the intention to reduce the crime rate in the transport industry with at least twenty-five percent. Our research, however, shows that reality is stubborn. For a part, this obstinacy might have to do with the differences in goals and interests which the police, insurers and damage expert have. On second thought, they rarely share the same interests at all.

The research suggests that insurance companies are merely into the partnership for reasons of image and representation. Insurers told us they consider the covenants mainly as first-class advertisement for the businesses they are into. According to the respondents, partnerships enhance the image they want to establish with the public, which is 'trustworthy' and 'solid'. For them, a covenant is just one of the many ways that they consider to have at their disposal in order to present themselves as responsible and accountable; it represents their 'battle for public attention'.

We also have seen a lot of Far West attitudes that are expressed in, on the one hand, parallel investigations and the maintenance of personal networks, and on the other, distrust, the refusal of sharing knowledge and information and even the 'invention' of mechanisms to encourage the

police to undertake action. These 'inventions' or 'adjustments' clearly deviate from the agreements and the covenants on which the partnerships are based on or from the organisation of crime control in general. In other words, these are passageways or 'lines of flight' –to use a Deleuzian denotation here- that deterritorialise and reterritorialise old structures into new ones. As Gabriel Tarde (1890: 17) wrote in *Les lois de l'imitation*, the result is that new social cultural fields emerge which have a tendency to expand and transform the fixed orders.

As we have seen, these 'inventions' or 'adjustments', have led to the emergence of new series of actions or interactions that ultimately ended up as repetitive patterns and thus developed into new stabilities in the partnership (although not all legal). The process through which these new actions emerged was based on a process of imitation which brought about a new process of distribution. We clearly have shown that the processes at work cannot be reduced to a consistent or mono-causal event. We have illustrated this process with the informal contacts that took place outside the partnership and acted upon the partnership. As a result, the newly emerged structure reformulated commitments and agreements and the re-legitimisation of the responsibilities of all the partners involved (although not yet confirmed in a (new) covenant). We have shown that the adjustments that emerged from the police-insurers partnership took on some rather peculiar forms. As our research illustrates, the partnership never showed any form of stability and was never 'under control' in the Durkheimian sense of the word. Even the newly emerged repetitive patterns always had the potential to transform. Although more research is needed, we can expect that the spread of 'inventions' and 'adjustments' will go on and eventually will form new series of temporary patterns, which will bring forth new inventions and adjustments and so forth.

In this section, we have uncovered the dynamics of the emergence of changes and innovation in the overall network and how the dynamics on a the molecular level are in correspondence with the molar. Although every partner tried to impose his or her will to the partnership, nobody

really succeeded in their attempts. Nonetheless, all kinds of changes emerged that were beyond the power of someone or something wanting to impose those exact changes. It illustrates that small changes on the molecular level can have huge and unpredictable effects on the molar level, and that the mechanics of the partnerships cannot truly be grasped without significant knowledge of the underlying micro-dynamics. It seems to us, we have seen the molecular at work.

5.4. The Partnership of the Police and Citizens

Let us now focus on the research we did on the partnership of citizens, the local government and the police in a local security project called 'burgernet'.

We started with the same intention for this research as we had for the research project on the partnership of the police and insurance companies, that is: to do a detailed empirical analysis of the workings of the molecular, with attention to 'inventions' and 'adjustments', and to how those might start to evoke the emergence of newness and change in the overall network. In addition it was our intention to keep a close eye on the impact which the above might have on the stabilities (repetitive patterns) on the molar level. However, in the course of the collection of the data we began to understand that the 'burgernet' project resembled a loose network, in which neither the police nor the local government took up responsibility for the overall project. The result is a totally neglected project, close to death, which is occasionally reanimated when the police is in need for information. We began to understand that it would be more thought-provoking if we could try to put together recommendations from the molecular perspective in an attempt to breathe hypothetical new life into the project. This understanding significantly shifted the scope of this part of the research. Section 5.4.3., then, will focus on the insights provided by complexity sciences. Consequently, the hypothetical nature of the subsection should be apparent. We have only little in the way of empirical data to support the argument which we will develop in this subsection. It would, however, be fascinating if we could in future

experiment with these recommendations. Let us first expand on the origins and overall goals of the 'burgernet' project.

5.4.1. Origins and Goals

The 'burgernet' project was established to increase the wellbeing in residential areas and to encourage empowerment and responsibilisation of civilians. On the whole, the project was founded to meet two goals: (i) to increase the arrest rate (of criminals caught in the act), and (ii) to introduce the idea that people must take up responsibility for the safeguarding of their own wellbeing (Stuive & Emmen, 2005). The latter involved the idea that the project would give citizens a clear view on matters of local safety and the tasks the police and the local government perform, which in turn would build awareness of the reality that the sentiments people have on crime and insecurity are fairly unsupported. The idea behind all this was that people will begin to understand that they do have control over their own safety and wellbeing once they see and comprehend how the police act on crime and start to participate in these local policing matters. Consequently, a partnership was launched in support of these goals.

'Burgernet' started in May 2004 as a modest experiment with no more than 1645 civilians participating in the project. From June 2008, the project was noted by local governments all over the country and by today almost every local government is engaged in a 'burgernet' project.

The 'burgernet' project makes use of the mobile phone network to connect and inform people about local disorders and insecurities. It immediately comes to the attention, that the project is a one way direction network, i.e. going from the local government and the police to the citizens. As a result, the police are held responsible for the technical aspects and maintenance of the communication network and the operational coaching of co-workers and participants. The municipal authorities, on the other hand, are responsible for the registration and administration of participants (Van Os, 2008: 26). When the police start a search run, everyone who has subscribed to the project will receive a

short message service (sms) on their phones. The message gives a description of the person or persons the police is looking for at that time. People are asked to look out for the wanted person or persons from their homes or working places. A separate phone line is made available for all incoming reactions from participants. The operation room assembles all information in order to guide the police with their search²⁹.

As we mentioned earlier, besides crime solving, the project has the intention to accomplish a process of responsibilisation that wants to install the idea that civilians are fully capable to cope with problems of disorder and petty crime themselves. The project, therefore, tries to stimulate on the side of the civilians the belief they can find peaceful and durable solutions for the conflicts and problems that emerge in their neighbourhoods (Denkers, 1993). By making citizens responsible for their own safety (by means of projects such as 'burgernet'), the government wants people to make less use of the police and to think of solutions (within the rule of law) in matters of petty crime and safety for themselves. Please note that the emphasis here is on the civilians; police ought to support the civilians and not the other way around.

The objectives of 'burgernet' seem to seamlessly connect with David Garland's ideas (2001) about crime control. On the one hand, it tries to establish a process of responsibilisation and, on the other, it reflects Garland's idea of 'a strategy of adaptation in a culture of control'. Responsabilisation is rooted in the idea that the traditional approach to crime, which is by criminal law, is too limited and insufficient and is in need of an integrated program in which all members of society are involved. Local governments, partners in welfare work, civil society, businesses and citizens are now in the picture to take up responsibility in matters of crime and safety. According to Van Swaanningen (2004) these developments are in line with the transformations western governments have gone through during the last decades, going from sovereign and 'dirigist' government towards more or less network oriented forms of

²⁹ www.burgernet.nl (visited on 9 June 2009)

government. Boutellier (2005) has noticed that even if the government had the intention of lumbering others with responsibilities, it does not automatically introduce a reality where these others will take up these responsibilities.

The 'strategy of adaptation in a culture of control', on the other hand, expresses the idea of a government that has to adapt to changes in social reality. These changes have to do with the increase in crime rates, and governments' limited capacity to stand up to the problems of crime and safety (Garland, 2001). In short, governments need to focus on the control of crime, in stead of the purging of crime. Projects such as 'burgernet' are helpful in the process.

Obviously, the idea to address civilians to take up responsibility for crime and disorder is not entirely new. We have to mention here Neighbourhood Watch in the U.S. and the U.K. (Bennett et al., 2003), or the Neighbourhood Information Networks in Belgium (in Dutch: Buurt Informatie Netwerken)³⁰, or even sms-alert and Meld Misdaad Anoniem in the Netherlands (see on this Scholte, 2008; Sevinga, 2005; Stichting Maatschappij, Veiligheid en Politie, 2002; Van Os, 2008).

Most of these projects have been assessed over the years (see on this Bennett et al, 2003). The first thing that stands out is that the evaluation reports to a large extent seem to be in conflict with each other. Studies conducted by the police often show encouraging outcomes, while studies carried out by independent research centres call these outcomes to some extent all too optimistic. In addition, many of the goals intended could hardly seem to have been achieved. Put differently, the goals are not supported by empirical data. In other words, we have to treat these evaluations and findings with care.

However, as these projects seem to have encouraged solidarity, and developed a sense of community spirit whilst improving relations with the

³⁰ See for example www.buurtinformatienetwerken.be

police (see on this also Husain, 1988), these effects were rather of a marginal nature (see on this also Fleming, 2005). Bennett (1989) did research on the decisive factors why people signed up for Neighbourhood Watch. The research showed that people who had signed up for the project were to a large extent guided by their fear of victimisation. Huck and Kosfeld's research (2007) showed that people were inclined to participate in projects such as Neighbourhood Watch when crime rates were rising. Both researchers connect these findings with the fear of victimisation and thus with sentiments relating to the fear of crime.

Following the 'burgernet' pilot in 2005, research on the effectiveness of the project was conducted by Buro Intomart GfK, a private research centre. The researchers were interested in both 'hard' and 'soft' effects. Soft effects may be clustered around the notions of the amount of trust people have in the police and the government and sentiments of the fear of crime. The research was conducted by the means of three inquiries. The findings show that 59 percent of the people who participated in the 'burgernet' pilot seemed to have developed a sense of responsabilisation and the belief they are now more capable in dealing with matters of crime and disorder themselves. The data also suggest that 25 percent of the respondents shared the belief that the level of trust they have in the police and the government had increased, along with 17 percent of the respondents who told the researchers that they now have more trust in local government. 34 percent declared that the threshold to contact the police was reduced (Intomart GfK, 2005). In addition, the project seemed to have enforced the commitment to norms and values. Participants in the 'burgernet' project seemed to have developed a commitment to the kind of behaviour that is acceptable by societal standards (Burger & Stuive, 2006).

The findings about the "hard" effects, on the other hand, are rather disappointing. Hard effects have to do with solid measurable effects, such as arrests. We have studied internal evaluation assessments on the pilot, which were conducted by the police. Those suggest that the pilot's yield was about 5 percent. In more absolute figures, 50 search runs took

place, of which 3 were successful and led to the arrest of 5 people. In yet another 5 cases, the search runs brought in helpful information. The low percentage in proceeds were blamed on technical issues (the complex computer system wasn't user-friendly and not equipped for more than 1600 participants), and organisational and procedural (vagueness of tasks, responsibilities) defects.

In short, it seems that, on the one hand, participants in the project feel slightly safer, and also the government's reputation has to some extent improved, on the other hand, however, 'burgernet' seems to fail in providing clear-cut measurable results. Let us now take a look at the findings of our research.

5.4.2. Analysis

The research is based on the interviews we had over a period of four months, with police officers –most worked in the operation room-, and office workers for the local government who were involved in the project. The population of research was fairly low due to the limited number of people that at the time were involved in the project. All together we interviewed 19 people. All interviews were conducted at the workplace of the respondents. Each interview took about one to three hours. All interviews were recorded, written out and made anonymous. We combined these interviews with participant observation and a light form of contextual inquiry. In addition, we interviewed citizens of the local community. Because of practical reasons, we interviewed these respondents in groups of seven during local information meetings. We interviewed ten groups of seven people, which make 70 interviews in total. Only civilians aged 18 or older were considered.

The research shows that the interaction between the police -mostly represented by the people controlling the operation room (the 'centralists')-, the local government and citizens, is far from optimal. All partners experienced the collaboration as unilateral, which had –as we will see- a negative impact on the development of trust in the partnership.

In the 'burgernet' project, a structural way of organising search runs is totally absent. First, there do not seem to be any criteria for the start of a search run. Several reasons may apply to commence one. It could have to do with the time of day, or the danger a suspect may create (e.g. he/she is carrying a weapon). These dynamics provoke all kinds of reactions on the side of the 'centralists'. Some centralists refuse, out of fear for the wellbeing of the civilians or distrust, to inject police information into the partnership or to distort the messages sent out to the participants in the project. Others get creative and develop alternative ways for the accumulation and sharing of information with the civilians. Uncertainty and distrust bring all too often a stop to the sharing of information and prevent further initiatives from the side of the police and the local government. What we see here is a lack of communication leading to misunderstanding. It seems that both the police and civilians encounter too many uncertainties they need to fill up, as a result of which they both start to make assumptions, which in the end endangers the survival of the partnership. Deciding factors that might play a role here are: lack of knowledge about the precise situation, fear for the wellbeing of civilians, misunderstandings in the communication between police departments and the distrust towards civilians. The latter is a very interesting one and we will get back to that later. Much seems to depend on the assessment skills of the centralist who is at work at the time. Some centralists take into account the danger a search run may cause for civilians while others don't.

Even during a search run there seems to be a lot of autonomous activity going on. Although centralists have rules to follow in case of a search run, they developed a set of work rules of their own. According to the centralists, each search run is so different, that the designed rules seldom apply. A centralist told us he decided to blow off a search run more than once, while not even all participants had been sent a message, and the call didn't yield any information. In short, misunderstandings, distrust, unknown dangers, or put differently, the capriciousness of the

work made them develop an alternative working culture. As a result, similar circumstances may mean different things to most centralists.

The conversations we had with citizens who were participating in the partnership, seem to suggest that they want to be more involved in the project. Their reason for involvement is not so much about helping the police, as about diminishing or decreasing their chance of victimisation, or about the commitment they seem to keep with the neighbourhood they live in. The citizens we spoke all shared the belief they played a subordinating role in the project. In addition, they told us they are too dependent on the goodwill and willingness of the local government and the police to circulate information. Moreover, citizens get seldom feedback on the information they inject in the partnership. As a result, citizens have started to get organised in small social networks, outside the partnership. These little networks are not necessarily aimed at establishing peaceful and durable solutions. Some of the civilians we spoke already have walked the vigilante way and went searching actively for wanted persons themselves. The project of responsabilisation and empowerment seems to pay off; however, it also seems to reach for the extreme. The research shows that the urge for autonomy is fed by feelings of powerlessness that are evoked by the lack of commitment and communication from the side of the police and the local government. People feel that they are left to the mood swings of the police. A lack of communication strengthens these feelings. Additionally, police are not all too keen on being transparent about what they do and how priorities in police work come about. The research shows that the project focuses too much on the goals and interests of the police, and neglects to a large extent the organisation and the implementation of safety as a process. With the lack of transparency in tasks, responsibilities and communication, there is a risk that some people become overzealous. All these factors may lead to civil insubordination, which in turn may interfere with police investigations and the general coordination and objectives of the project. In other words, also from the citizens' side of the partnership a certain amount of autonomy has started to emerge.

This development towards autonomy on the side of the citizens had a huge impact and to some extent even increased the levels of distrust which the police already had in civilians participating in the project. As several of the police respondents told us: 'we can not exclude the option that a civilian might deliberately provide false information, in order to mislead us or to take a criminal friend in protection.' (translation: PJVC) But also on the side of the citizens there is a certain amount of distrust. Their trust is compromised because police does not live up to their promise. At the beginning of the project the police made promises on the minimum amount of text messages per month that participants would get, which, so it seems, they didn't keep.

The partnership police-citizens aside, cooperation between the police and the local government also has its difficulties. The local government is supposed to manage both the project and the partnership, but neither the local government, nor the police have a particular idea of what to do and how to take up management. This too causes a lot of misunderstanding. And because of the many misunderstandings that wander through the network, a lot of distrust between the partners starts to emerge, which in turn has a negative impact on the cooperation and has, most of the time, the collapse of all communication as a result. People don't know each other or what they do, or are supposed to do. In short, the partnership gets stuck on an all too general level. Partners do not know what they do best, or what others do best, or even what expectations they have of each other. Neither the police, nor the local government take initiative. This puts the project at risk. This is well supported by the data. The vagueness about responsibilities has a clear impact on the type of information which the local government passes on, the way in which the police handle the calls, and the quality of information injected by the citizens into the network. Citizens for example usually don't have a clue about the kind of information that the police is looking for. As a result the incoming information is often too diverse and too vague for the police to work with. As a result, all partners become discouraged. As we have seen alternative networks then start to emerge, both on the side of the civilians and on the side of the police. These

emerging dynamics may lead the project to float adrift into new dynamics, deviating from the original goals and intentions.

5.4.3. Some Modest Recommendations

Projects such as ‘burgernet’ can be characterised as local safety networks, with an intention to control safety risks, such as disorders and petty crime (Terpstra, 2008). The idea is to prevent and to combat ‘safety risks’ (Boutellier, 2003), such as breaking and entering, car theft, and street crime. Civilians are considered as extensions of the police; they work as ‘the eyes and ears’ and function as potential information sources for police work. As a result, ‘burgernet’ seems to resemble a loose network of cooperation that allows its participants a large amount of freedom. In other words, the police might decide to start a search run and civilians might decide to react on it.

Our research shows, that these informalities do not work according to plan. On the one hand, the project tries to accumulate a process of responsabilisation with the idea to empower the civilians to take up responsibilities with regards to crime and disorder. The data shows that people have developed high hopes and have actually started to take up responsibilities, but in a rather unendorsed and ‘vigilante’ way. On the other hand, local government and the police still act as if they have the monopoly on crime governance and frequently refuse to inject significant information into the network. In addition, the police are not too keen on being too transparent about their MO. This often leads to miscommunication and misunderstanding across the entire network. Civilians have the impression that they are not taken seriously. As a result, people start to search for alternative ways in order to combat the fear of crime, and networks outside the partnership start to emerge.

The police as well as the citizens seem to develop new ways to fulfill the goals they have set for themselves. The result is a project close to dying. It is possible that out of the ashes of the project eventually new networks of control will emerge. Those may –as the data seem to suggest- have vigilante characteristics. Then again, it might be of some

interest to try to breathe hypothetical new life into the initial project. In the remainder of this section, we will try to provide recommendations on the basis of an alternative perspective, inspired by the work of Gabriel Tarde and complexity thinkers (see for this e.g. Calster, 2006b; Calster, 2010a; 2010b; Calster and Schuilenburg, 2010).

5.4.3.1. On the survival and extinction of networks

Stuart Kauffman (1995: 170-173; 247-248; 224; 262-264) argued that the dynamics of a network (e.g. a partnership) may best be defined by the quantity and the strength of the connections between the entities or agents that form the network. In other words, the quantity and strength of the connections define the chances of survival of a network.

A large number of connections between the agents produce a lot of constraints. After all, all agents have to consider the needs of whom they are connected with. The more connections, the more conflicts that will take place between agents and the less chance a network will survive. According to Stuart Kauffman (1995: 283) such networks produce too much diversity. As a consequence, the network becomes very instable and will eventually crash.

On the other hand, when there is too little diversity, and thus few constraints, the network starts to petrify which will ultimately prevent it from moving. In other words, a small amount of connections or little diversity will generate the same results. Consequently, the network most probably will become extinct.

However, the in-between stage, i.e. not too many and not too few connections, will take the network to the edge of chaos. That is the place where survival is at its best (Kauffman, 1995: 258). Order (and by extension control) is caused by the 'just right' amount of diversity, i.e. the constraints the agents impose on each other (Johnson, 2001; Stacey et al, 2000). This is also known as the goldilocks principle (Muir, 2007). In other words, the stability of a network depends on the right amount of connections. Consequently, one could try to achieve control over a

network by augmenting or diminishing the constraints and thus by increasing or decreasing the interactions –and therefore by reducing or creating diversity- between the agents of a network. Please note that the emphasis here is on ‘try’. Kauffman argues that the overall pattern of a network emerges out of the interactions between the agents. The structure or order displayed by the network is not caused by chance, or by choice, but is self-organised by interaction (McMillan, 2008; Shaw, 2002). In other words, no single agent or system has control over the network, nor has he/she or it the power to impose his/her or its will on the network, and yet the network evolves in an orderly way. Since nobody or no-thing has control over the overall network, one could only try to alter the interactions and even then the emerging overall pattern cannot be imposed nor controlled. Let us now try to apply these insights from complexity sciences to the ‘burgernet’ project.

5.4.3.2. The improvement of diversity and redundancy

Kauffman’s computer simulations seem to suggest that the chances of survival and success depend on the diversity and redundancy in the interactions that make up a network. The computer simulations show that diversity (and thus the viability and success of networks) originates in random mutation and cross-over reproduction (Kauffman, 1995: 173).

On the basis of the work of Gabriel Tarde and our research observations, we would like to argue that diversity in human made networks originates in the misunderstandings between people (see also on this Shaw, 2002; Fonseca, 2002; Stacey, 2001). Like complexity scientist Stuart Kauffman, Gabriel Tarde took series of interactions as the point of departure for the inquiry of social life. These interactions may include both linguistic and non-linguistic dimensions, not only between people, but also between objects – including abstract items such as rules and regulations (see also Latour, 1996; 2002). Since people will never truly be able to fully understand what others do or say, there will always be room for misunderstanding. It is, in our opinion, precisely the potential for misunderstanding in all communications that generates diversity (Shaw, 2002; Fonseca, 2002; Stacey, 2001).

When there is little misunderstanding, and thus little diversity, people will have established solid concepts and work ethics (Shaw, 2002; Stacey, 2001). These concepts ensure to a large extent the repetition of well established patterns. As Kauffman's research shows, networks with well established concepts and patterns may become stuck, which makes them unfit and uncompetitive. On the other hand, when there is too much misunderstanding, and thus a lot of diversity, networks are thereby set adrift and all communication will most likely resemble a cacophony, with the same unfitness as a result.

This is clearly supported by the data. The data show that all partners are making assumptions about each other in order to make sense of what is going on. In this process, many misunderstandings seem to emerge. On the side of the police, there is distrust about the intentions of some of the civilians. Out of fear for the wellbeing of the civilians, some centralists refuse to inject police information into the partnership. In other words, there is a lot of fear to co-operate with civilians. Most importantly, it is fear caused by assumption.

The lack of communication causes a lot of misunderstanding since people start to make assumptions, which clearly brings in instability. The network no longer operates satisfactorily and people start to search for new ways to fulfil their ambitions. Frustration, anger, fear and distrust are merely symptoms of the misunderstandings and lack of communication. These symptoms can get removed by limiting the amount of misunderstandings, in favour of the construction of trust. Trust will probably enable networks to evolve and generate successful solutions for problems they might come across. After all, in trustworthy situations, people dare to deviate from the normal, the orthodox and common and dare to be eccentric, non-conformist and radical (Fonseca, 2002; Stacey, 2001). In other words, trust will probably generate innovation and thus have a constructive impact on the dynamics of the interactions that take place.

There is only one important condition, which is the goldilocks principle or the edge of chaos. Kauffman (1995: 153-154) claims that networks on the edge of chaos are optimal because of redundancy. Redundancy means that the same result can be produced in several ways. Redundancy leads to stability because different pathways have the same result. After all, some parts in the network may get damaged (or fail). In short, the conditions that lead to the survival and success of the 'burgernet' project are in between these extremes. If one is able to activate the realisation of interaction, it will most probable initiate a process of redundancy. After all, when people interact with each other on a regular basis about the same topics, it is most probable that situations, occurrences and problems are discussed in multiple ways. These repetitions could then boost the chance that stabilities in meaning will emerge, which in turn should diminish the chance of misunderstandings (Shaw, 2002; Stacey, 2001; Fonseca, 2002).

We have to be careful so that we don't eliminate all misunderstanding though. After all, diversity is caused by the misunderstanding between people. When people interact with each other, many small misunderstandings and a small amount of considerable misunderstandings will take place (Stacey, 2001). It is very unlikely that everyone who takes part in the interactions will understand all that is communicated. In fact, total understanding isn't really necessary to comprehend what the interaction or conversation is about. Just because of these small -often innocent- misunderstandings there is the possibility that small variations in the repetition of stable meanings (what complexity scientists call strange attractors) start to evoke new ways of seeing and doing, indeed start to generate change.

The absence of an agreement of some sort that makes clarifications about the working of the project may have caused some of the problems between the partners. From a complexity perspective, it becomes clear that the police and the local government will have to take charge. However, they have to act as a relatively autonomous organisation (to use a structuralist term), in the course of which they will have to accept

that their tasks and responsibilities may change and that they will need to adapt to always changing conditions. Once they have established agreements on tasks and responsibilities, they will have to take a step back and allow others to develop and expand in the network. This could be established by installing a virtual chat room that could raise the level of trust in the partnership. It might also enable discussions about those tasks and responsibilities. The instalment of such a virtual place is not in conflict with the arbitrariness of the project. After all, chat rooms do not oblige anyone to react to the messages from the police control room. What such a virtual place could do, is set standards for people (which may alter by the interactions in the chatroom) what to do when they choose to react to police messages and how in those cases to behave. It might transform the level of trust for the better. A monthly newsletter presented as a forum on which people, both police officers and civilians, elaborate on the results of the actions undertaken could keep people enthusiastic about the project. People who didn't receive messages would still know that the project is alive and might even come to the understanding that the project is working well.

Crime governance as it is now organised seems to focus exclusively on functionalities, on the development of common interests, such as technology, and on adopting a crime fighting mentality. As the research clearly shows, familiarity, sincerity, trust and honest communication also have a hand in the success of crime governance. According to Coleman (1988: 99) cooperation can only be successful when partners in a network take account of each other, conform to the rules of conduct of the network and therefore come to meet the expectations they have of each other. Putnam and Nanetti (1993) argue that tight networks have the ability to enforce trust and efficiency. Consequently, projects that lack these tools are more vulnerable for opportunistic behaviour and are less able to set up effective cooperation.

But there is more. The role of relatively autonomous organisation might also be essential in attempts to bring about a proportional distribution of safety governance. A relatively autonomous organisation

may prevent that some communities that have little or no access to security partnerships or that are refusing to take part in such networks are excluded from social life. The government as relatively autonomous organisation in crime governance may be essential in striking a balance between on the one hand the monopoly of crime and safety governance and, on the other, the democratic distribution of it. Complexity theory could offer insights and possibilities towards altering and directing crime governance in order to accomplish, under the right circumstances (goldilocks principle), the democratic distribution of it. Partners who are supposedly weak and who don't seem to have anything to offer to the partnership, may yet have the potential to become valuable contributors and thus to gain power and esteem in the overall network. In other words, not only tangible resources make a partner strong or allow them to gain esteem, also symbolic, local, cultural and political resources could be of value (Wood and Shearing, 2007). Their position could be enhanced by mobilizing and joining these resources.

The complexity perspective may also inspire the 'burgernet' initiative to be cautious when introducing the project on a national level. After all, complexity sciences emphasise locality. In other words, the level of success depends on local characteristics. In small towns where hardly anything happens, the 'burgernet' system may be less effective. Usually, these localities have high levels of informal social control and low crime rates, which could lead to the prospect that the introduction of 'burgernet' initiatives there would be detrimental to the social fabric. People might feel less safe just because of the level of crime awareness the project could initiate. One has to be aware and think these effects through before projects like these can be launched.

It may also happen that a project like 'burgernet' is less successful in districts with many problems than in more prosperous districts. It is not unthinkable that in districts with a crime mentality and an aversion towards the police, people do not want to cooperate with the police. Sufficient and profound research would be necessary in such localities before a 'burgernet' was set up. Such research might point to the

presence of people who are fed up with that mentality and who want change. This could then lead to alternative ways to introduce the project in these districts. In short, although the success of 'burgernet' is uncertain and always depending on many factors, the role of the police and local authorities is nevertheless crucial.

Finally, a paradox seems to exist between the idea on which 'burgernet' is built, i.e. cooperation with citizens, and the democratisation of safety governance. It may not surprise us that certain districts are not that cooperative. This may mean that only a certain type of districts are prepared (e.g. middle class residential neighbourhoods) to be involved in 'burgernet' initiatives. This could lead to a split between, on the one hand, cooperative neighbourhoods and on the other hand, non-cooperative ones. It could mean that partnership projects such as 'burgernet' are creating just what they try to prevent: a 'Matthew effect' in safety care. It may not always be wise to introduce a 'burgernet' project in every neighbourhood no matter what.

5.5. Conclusions

Crime governance is no longer governed from the center, but is, rather, embedded in a patchwork of separate programs in which public and private partners come together. In other words, safety governance nowadays resembles an 'open environment' with an infinitive number of openings where few seem to know the rules of play, who is in charge and what the corresponding responsibilities are. Consequently, partnerships have the tendency to change continuously; they change in structure and formation, which in turn leads to changes in the responsibilities, objectives and ambitions of these partnerships (Schuilenburg et al, 2009).

These developments do not reflect a devaluation of the State's authority in matters of crime and insecurity. On the contrary, as Johnston and Shearing (2003: 145-146) have suggested, crime governance is changing rapidly and the State has become just one of the many partners that are involved in the process. These new partnerships in crime

governance have a hybrid construction –to use Bruno Latour’s (1991) terminology here- in which the commitments and responsibilities of all who are involved are constantly re-invented, re-formulated and re-legitimised. These hybrids can not be understood by just adding up the merits of public and private partners. As we have argued in the case of the partnership between the police and insurance companies, these hybrids present a dynamic of their own. A more fundamental issue here comes to light. On many levels there is a certain overlap between public and private practices. As our research has shown, these overlaps are always on the move, reshaping themselves continually. As a result, cooperation and partnerships are not easy to attain and maintain. The creation of new covenants or the improvement of old ones in an attempt to facilitate cooperation may not be the golden solution, as our research has demonstrated. In other words the idea that people will engage in self-created vehicles (e.g. covenants) and structures (e.g. teams, projects) may not be a sufficient way to describe social reality when it comes to crime and safety risks. As our research has shown, the interactions which people engage in may and often do lead to new practices and new ‘languages’ (‘camping contacts’, ‘invitation to birthday parties’). It seems that cooperation and partnerships are complex and dynamic processes of interaction and that the study of crime, crime control and security governance requires us to make attempts to analyse ‘what happens’ without reducing the findings to structure or to fixed order (Calster and Schuilenburg, 2009). Or as Gabriel Tarde (1898: 27-28) told the Durkheim devotees more than a century ago: ‘the collective is the product and not the producer of countless individual characters.’

CHAPTER 6

Privatising Criminal Justice? Shopping in the Netherlands³¹

6.1. Introduction

Problems in public space are a matter of widespread debate. Just take a look at any newspaper; public space is synonymous to crime, filth, noise, traffic jams and juvenile delinquents hanging around street corners. One of the sharpest analyses of the problem at hand was written by the German essayist Hans Magnus Enzensberger. In his essay *Eye to Eye with Civil War* (1994), he notes that a special form of war is raging in our inner cities on the part of young men mainly motivated by sheer boredom. This small-scale or molecular civil war, Enzensberger feels, is the primary form of all interpersonal conflicts. It does not need any outside forces to escalate, it feeds itself. According to Enzensberger (1994: 40), "There is gradually more and more garbage on the streets. Needles and broken beer bottles accumulate in the park. The same graffiti appear on walls all over, and the only message is autism (...) It stinks of piss and shit in the front yards. These are stupid little declarations of war that the experienced city dweller knows how to interpret." There is no denying that governments do all they can to put an end to this war, but it is startling to see how little we really know about what is being accomplished and what isn't.

One way Western governments try to intervene is based on the belief that people are responsible for their own lives and should be held accountable for it. In other words, they should be responsibilised (Garland, 1996; 2001). Responsibilisation is rooted in the idea that the

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traditional criminal law approach is too limited to effectively combat crime in public space. Crime is considered a societal problem that needs to be addressed with the help of societal forces. From this perspective, western governments want to make the institutions that are the closest to the population co-responsible for addressing and combating crime. In other words, combating crime is no longer a job for the criminal law apparatus alone, but also for schools, private citizens, volunteers, insurance companies, local administrations, hospitals and so forth.

At the executive level, this has led to a wide range of new actors becoming part of the detection of security risks and the maintenance of security in public space. In the ideal situation, successful responsibilisation should lead to a certain extent of self-reliance on the part of the parties who have been made responsible. However, although a great deal of research has been conducted on the efficiency and effectiveness of the criminal law system and its actors, very little attention has been devoted to the unique role the new private actors have come to play in our immediate vicinity, the supervision they exercise there, the techniques they use, the sentences they pronounce and the truths they adhere to. The question is whether the instrument of responsibilisation is indeed as legitimate and successful as western governments seem to think.

We would like to make a contribution in this field of research and study the Collective Shop Ban, which could be considered as an effort to make shopkeepers co-responsible for maintaining security (see also Wesselink et al, 2009; Schuilenburg and Calster, 2010). The new measure was introduced in downtown The Hague to prevent anti-social behaviour. Shopkeepers developed their own measure to keep individuals who exhibit anti-social behaviour from entering their shops throughout the downtown area. In this way, private parties, i.e. shopkeepers and security personnel, are co-responsible for detecting and punishing classic punishable acts such as shoplifting and fraud. From the angle of responsibilisation, the Collective Shop Ban is an interesting measure to study, all the more because it is no longer based primarily

on criminal law, but on civil law. It is interesting to see to what extent the Collective Shop Ban differs from the Dutch criminal law approach, what this civil law approach means for the perpetrator, and what the legal and societal consequences are.

We do not solely focus on the Collective Shop Ban policy with its emphasis on agreements, aims, shared convictions and so forth. We are also interested in the daily practice generated by the policy. After all, in principle it is not mandatory for shopkeepers to enforce the Collective Shop Ban. They can do so as they see fit and undertake steps of their own, which in turn can potentially influence the official policy. It is interesting to see whether they take advantage of this opportunity and how they do so. Ultimately, the measure is one with significant ramifications for whoever it is enforced upon. This is why we have studied the attitudes and practices of the shopkeepers who impose the measure. We have conducted more than sixty interviews with shopkeepers who carry out the Collective Shop Ban in The Hague. The shops are on Gedempte Gracht, Gravenstraat, Grote Markt, Grote Marktstraat, Haagsche Bluf, Hoogstraat, Spui, Turfmarkt, Venestraat, Vlamingstraat and Wagenstraat. In addition, interviews were conducted with policy and city officials and private security guards. We also spoke to people who work at the Downtown Federation of Shopkeepers, the actual policy-makers. All interviews were done in the period from March to May 2009. All the interviews were recorded and anonymous written versions were made.

6.2. The British Example

Let us start by noting that measures like the Collective Shop Ban have not only been taken in the Netherlands. Comparable measures focused on combating anti-social behaviour in public space have also been taken in various other countries. Perhaps the most well-known measure is the British Anti-Social Behaviour Order, passed to put an end to vandalism, littering, public drunkenness, noise and disturbing the peace. In addition, the Crime and Disorder Act enables the judge to enforce civil orders for the period of two years on minors above the age of ten. They are orders

that forbid an individual to enter a certain area or associate with certain individuals during that period of time and thus keep the neighbourhood from being exposed again to anti-social behaviour. Failure to obey an Anti-Social Behaviour Order is a punishable act. If the Crown Prosecution Service views this act as a summary offence, the case is brought before the Magistrates' Court. In a relatively simple procedure, the perpetrator can be given a fine and/or a prison sentence of six months. If the Prosecution Service views the act as an indictable offence, the Crown Court is authorized to look into it. In this much more formal procedure, a person who disobeys an Anti-Social Behaviour Order can be given a fine and/or a prison sentence of five years (Collins and Cattermole, 2006: 515-517).

The study by Burney (2002: 474) shows that Anti-Social Behaviour Orders are often requested and enforced to punish youngsters ostensibly headed in the wrong direction. In addition, the study reveals that the measure is used if there is no evidence to warrant a real criminal law procedure or an interim measure in anticipation of a real criminal law procedure (Burney, 2002: 477-478). Brown (2004: 2010) suggests that the authorities requesting the measure prefer exclusion to a short and thus not very effective prison sentence. A number of critical comments have since been made. In particular, the absence of due process guarantees has been denounced by the Commissioner of Human Rights of the Council of Europe (Gil-Robles, 2005). Burney (2002) also notes that an Anti-Social Behaviour Order criminalizes behaviour otherwise viewed as normal such as hanging around at certain spots, so that the measure mainly targets certain individuals, especially youngsters. It seems as if Anti-Social Behaviour Orders are used more to combat crime and less to combat the anti-social behaviour that precedes it (Crawford, 2009). One reason why is that it is easier to gather evidence of a violation of an Anti-Social Behaviour Order than to gather evidence in a criminal case. According to the Youth Justice Board (2006), this is why judges prefer to find someone guilty of violating an Anti-Social Behaviour Order. This is confirmed by the day-to-day practice. Although Anti-Social Behaviour Orders are primarily formulated for anti-social behaviour on

the part of individuals who have not committed any severe offences, the large majority of these orders are enforced against individuals who have been condemned for punishable acts in the past (Campbell, 2002).

It is clear from various product and case evaluations (Campbell, 2002; Bullock and Jones, 2004; Home Office, 2004a; Home Office, 2004b; National Audit Office, 2006; Youth Justice Board, 2006) that though an Anti-Social Behaviour Order does reduce the repetition of anti-social behaviour, it does not influence the conduct of a hard core of youngsters. These evaluations do not however examine whether the approach makes youngsters simply go to a different neighbourhood, so that the reduction in repeated anti-social behaviour might be attributable to this kind of move. Theresa May, the new British Minister of Home Affairs, has since announced the end of the Anti-Social Behaviour Order. In particular, its transformation into an unintended badge of honour played an important role in this connection. Some youngsters were not scared off by an Anti-Social Behaviour Order. On the contrary, it increased their status.

One might expect countries interested in passing measures of this kind to look to the British experience and learn from it. But this has not been the case, at least not as far as the Netherlands is concerned. There is an overwhelming political consensus on civil measures to combat crime and anti-social behaviour. So let us more closely examine the legal background of the new Collective Shop Ban and how shopkeepers are using it in The Hague.

6.3. Background of Collective Shop Ban

The Collective Shop Ban is an excellent example of a local agreement that serves as an instrument of social control, which Crawford (2003) refers to as contractual manageability. It emerged in response to growing general concern about security in public space. As a reaction to rising crime figures and a growing fear of violence, ever since the 1980s the design of the downtown area has been geared towards greater manageability (Hajer and Reijndorp, 2001: 9). This manifests itself in a

wide range of new tools and instruments such as video monitoring, preventive frisking, loitering prohibitions, and the use of new legislation against suspicious businessmen and businesses (Vedder et al., 2007). Efforts are also made to enhance the quality of the urban environment by making parties other than the government co-responsible for solving security problems (Garland, 2001: 124; Police, 2003). The police in the Netherlands have come to see shoplifting as one of the areas where active cooperation between public and private actors can be useful. These changes have generated new forms of cooperation to combat multifarious forms of anti-social behaviour (cf. Jones and Newborn, 2006, Bayley and Shearing, 2001). These forms of cooperation can no longer be defined on the basis of distinctions between the state and the citizen, or public and private. They are hybrids (Latour, 1991) that rediscover, reformulate and re-legitimise the commitment and responsibility of the participating parties.

More concretely, a Collective Shop Ban is enforced if a shopkeeper observes an individual exhibiting undesirable conduct. Undesirable conduct is a rather flexible notion. It can refer to punishable acts as well as acts that are merely a nuisance, notes the Haaglanden Police Department prevention advisor. In the latter case, an individual can for example be extremely ill-mannered to salespeople. Depending on the severity of the conduct, a warning is first issued or a denial of entrance is immediately imposed. The shopkeeper himself can decide whether to issue a warning or deny entrance. A warning can only be turned into a denial of entrance if the anti-social behaviour is repeated. The severity of the conduct determines how long entrance is to be denied. Denials of entrance can be imposed for six months or a year. During this period, the individual is not allowed to enter the particular shop or any of the other 454 shops that belong to the Downtown Federation of Shopkeepers. So shoplifting at a supermarket can mean an individual can no longer go to the local pharmacy. If the order is violated, the individual is guilty of entering the premises illegally, which is punishable under Section 138 of the Penal Code. In a case of entering the premises illegally, usually a new Collective Shop Ban is imposed and the period of

time is extended. There is no maximum number of times a ban can be imposed³².

This is why the policy on denial of entrance strongly resembles a late modern exclusion mechanism. Young (1999) notes that immunity and protection play more and more of a role in Western society. An important related change is the restriction of access to places like shopping centres, department stores, airports, train stations and residential neighbourhoods. Techniques are used to identify the bad guys (homeless people, loitering teenagers and other dangerous people) as potential threats or security risks. In addition to techniques such as safety patrols and video cameras (Young, 1999: 18), we can now add instruments like the Collective Shop Ban. After all, its underlying aim is to keep people guilty of undesirable conduct from entering these places. According to the head of the private security service at a large chain of stores in downtown The Hague, the effect of the Collective Shop Ban has been to keep repeat offenders out of the downtown area. The director of the Collective Shop Ban Enforcement Division at the Downtown Federation of Shopkeepers has observed the same development. Although there are no concrete figures available, he notes that at the moment, there is a shift and anti-social behaviour has increased outside the centre of The Hague. In fact shopping centres in other cities are witnessing an increase in the number of repeat offenders from The Hague.

6.4. The Collective Shop Ban in Concrete Terms

In The Hague three categories of conduct are viewed as warranting a Collective Shop Ban. The first pertains to petty offences.³³ In the trial period applying to the measure, only a written warning about a Collective Shop Ban was issued for this conduct. This has since changed. According to the director of the Collective Shop Ban Enforcement

³² www.bof-denhaag.nl (4)

³³ Petty offences include anti-social behaviour, attempted fraud or forgery, attempted shoplifting, stealing an amount up to €50.00, insulting or threatening salespeople and/or shoppers without violence, destruction of property with damages under €100.00 and vandalism with damages under €100.00 (www.bof-denhaag.nl (4)).

Division, also speaking for the Downtown Federation of Shopkeepers closely involved in the introduction of the measure, most shops have also started imposing a Collective Shop Ban for petty offences. Warnings are sometimes given to minors. In 2007, 39 youngsters under the age of eighteen, one of whom was only ten, were given a warning. Once a warning has been given and the individual commits a new offence or exhibits anti-social behaviour at one of the shops it applies to, a Collective Shop Ban is imposed for a period of six months. The second category of conduct entails greater damages and can lead to a denial of entrance for six months.³⁴ The most serious category of conduct, which can also include violence,³⁵ usually leads immediately to a denial of entrance for a period of twelve months³⁶.

If a punishable act is witnessed by a security guard, salesperson or shopper, it is possible to search in an online database and see whether a warning or a Collective Shop Ban has been issued in the past to the individual in question. The security guard or shop manager can decide whether to issue a denial of entrance. In addition, if a punishable act is committed, charges can be filed with the police. This is done in the event of a first offence or entering the premises illegally. In the framework of the project, the Public Prosecutor has expressed the intention to prosecute every single charge of shoplifting or disturbing the peace. However, this is not done in all cases, says the Haaglanden Police Department prevention advisor. Certainly as regards petty offences, it is not always advisable to file charges with the police, though not everyone shares this point of view. The director of the Collective Shop Ban Enforcement Division at the Downtown Federation of Shopkeepers does not concur with the Haaglanden Police Department prevention advisor and states that "Even if they steal a peanut, charges will be filed."

³⁴ This category includes fraud or forgery involving an amount up to €250.00, theft of an amount up to €250.00, destruction of property with damages up to €200.00 and vandalism with damages up to €200.00 www.bof-denhaag.nl (4)).

³⁵ The third category includes fraud and forgery involving an amount above €250.00, theft of an amount above €250.00, insulting or threatening salespeople or shoppers using violence, manhandling personnel and/or shoppers and destruction of property with damages above €200.00 (www.bof-denhaag.nl (4)).

³⁶ www.bof-denhaag.nl (4)

Membership in a shopkeepers' association is a prerequisite for applying the Collective Shop Ban. The shopkeepers' association makes it possible to not only impose the denial of entrance at one shop, but to do so simultaneously at all the shops on the membership list. Membership in a shopkeepers' association is not only a prerequisite for putting the measure into effect, it means the shopkeeper actively supports it. Collaboration implies certain very specific obligations. A protocol has been introduced in The Hague that participants need to conform to. The aims participants set for themselves in the protocol are to improve security in the downtown area, combat shoplifting and anti-social behaviour, emanate an overall preventive effect and discourage troublemakers³⁷. Not everyone voluntarily enters into this agreement. The director of the Enforcement Division at the Downtown Federation of Shopkeepers notes that certain shops in shopping centres are mandatory members of a shopkeepers' association and thus automatically obliged to observe the Collective Shop Ban that applies to it.

The most important advantage to a shopkeeper is the reduction in the income lost due to shoplifting. According to all the parties involved, this is one of the main effects of the policy. However, collaboration also has other advantages. Firstly, private security can be hired more effectively and often at a discount if a complete shopping street takes part in the Safe Business Hallmark. Secondly, the Centre for Crime Prevention and Security advertises an insurance discount at its site if the measure is put into effect. However, this discount has never actually been given, the Vice Chairman of the Downtown Federation notes at the consultations of the Downtown The Hague Board. The Association of Insurers has however promised to remit a one-time amount if the Safe Business Hallmark certificate is prolonged under the condition that this amount is spent on security facilities. Thirdly, the government offers subsidy options and participation can lead to fiscal advantages. Fourthly, in the event of anti-social behaviour the efforts of the city and the police are

³⁷ www.bof-denhaag.nl (4)

guaranteed. By not joining a shopkeepers' association, some shopkeepers are excluding themselves and this is a pity, the head of the City Centre Shopkeepers' Association emphasizes. "I don't understand why anyone would not want to join in."

One striking thing about the Collective Shop Ban is that it is a measure taken by shopkeepers. In other words, it is possible to deny someone entrance to a shop on the grounds of local rules and regulations. A criminal law suspicion in the sense of a reasonable assumption of guilt as is stipulated in Section 27 of the Penal Code is not required. To officially impose a denial of entrance, a form needs to be signed by at least one witness and the offender. If the offender refuses to sign the form, a second witness can sign for him, thus making the document valid. This approach to problems in public space has various effects. Signing a Collective Shop Ban can serve as a kind of admission of guilt. It keeps certain individuals outside the area of the member shops.

6.5. Before and Beyond Criminal Law

Theft and serious forms of anti-social behaviour have been traditionally dealt with via classic criminal law founded on notions of repression. The roots of classic criminal law go back to the French Revolution. Two important features of this classic system of criminal law can be distinguished. On the one hand, criminal law enables western governments to exercise control and guarantees the legal position of the citizens vis à vis the government. It is precisely this conflict of interest between the government and the citizen, Peters (1972) emphasizes, that is the structural principle of the criminal trial. In the distance between the government and the citizen, i.e. the space of this conflict, the legitimacy of the actions of the state can be tested on the basis of procedural norms and legal principles such as the legality principle (no act is punishable except according to the law) and the reasonable assumption of guilt. On the other hand, criminal law is focused on the protection of individual legal goods such as life and property. Protection as an aim of criminal law fits into a punishment mentality (Johnston and

Shearing, 2003: 38-55), in which the government guarantees the safety of the citizen by enforcing a legally stipulated punishment for each offence. This occurs afterwards and on the basis of the exclusive responsibility of the state. On a number of points, however, a Collective Shop Ban diverges from the classic instruments of criminal law.

In the first place, the Collective Shop Ban is a civil law measure and is separate from the criminal law system. It is possible to deny a person entrance to a shop on the grounds of local rules and regulations. According to the policy secretary of the District Court of The Hague, this means shopkeepers are responsible for imposing a denial of entrance to their shops. The decision to deny someone entrance is made by the shopkeeper or a private security guard employed by him³⁸. A criminal law suspicion in the sense of a reasonable assumption of guilt is not required. It is true though that criminal law remains the ultimum remedium in the sense that it can always be determined in a court of law whether a person has actually committed a punishable act. By enforcing a Collective Shop Ban, the court of law is skipped. In incidental cases, the police are involved or there are consultations between witnesses and the person issuing the Collective Shop Ban.

In the second place, a Collective Shop Ban is not accompanied by an indictment. The individual is not charged with any punishable acts. It says on the Collective Shop Ban form what he has done. The form specifies a number of categories of conduct that can be ticked. There is no need to say what acts on the part of the individual led to this categorisation. In criminal law however, it is always necessary to precisely describe the act that has been committed before it can be classified as a punishable act. In imposing a Collective Shop Ban, it is sufficient to state the category of conduct without exactly describing the act itself³⁹.

³⁸ www.hetccv.nl

³⁹ www.bof-denhaag.nl (2)

In the third place, less evidence is required for imposing a Collective Shop Ban than for a criminal law settlement modality. In criminal law, the minimum evidence rule states that there always have to be two pieces of evidence for a conviction. One piece of evidence is enough if a criminal investigator has caught the offender in the act (Section 344 Part 2 of the Penal Code). For a Collective Shop Ban, it is enough if a salesperson or a private security guard (neither of whom is an official criminal investigator) catches a person in the act. Supplementary evidence is not needed for the enforcement of the Collective Shop Ban. A second witness is only needed if the offender refuses to sign the Collective Shop Ban form. So the offender signs the form voluntarily. As soon as the Collective Shop Ban is signed, the individual acquires the status of perpetrator. After the signing, the denial of entrance goes into effect immediately.

In short, private law instruments and technologies (Johnston and Shoring, 2003: 28-29; Wood and Shearing, 2007: 7) are used to make the downtown area of The Hague more attractive and achieve the goal of greater security, with criminal law only coming into the picture via a detour. This provides a more differentiated perspective on the notion of criminal law viewed as "the steering instrument for establishing a form of social order" (Boutellier, 2002: 119). In the past twenty years, the sphere of influence of criminal law (length of sentences, number of crimes) has undeniably expanded enormously. At the same time, a whole new arsenal of technologies has emerged to confirm norms and exclude people from certain facilities. This is why the Collective Shop Ban cannot be viewed altogether separately from the traditional mode of prosecution as is carried out by the police and courts. In this sense, the Collective Shop Ban is more of an addition to than a replacement of the classic criminal law approach to anti-social behaviour.

6.6. Quasi Criminal Law. How Does it Work in Practice?

The difference and similarities to criminal law are crucial to a proper understanding of the Collective Shop Ban. Classic instruments of power are used to impose this measure such as apprehending an offender and

excluding him by way of a denial of entrance. The acts entailed are traditional offences such as theft, fraud, defamation, intimidation and vandalism. These offences are traditionally included in the Penal Code. The powers of the Collective Shop Ban are however not stipulated in the Penal Code but in agreements or protocols locally accepted by the participating parities, in this case the Downtown Federation of Shopkeepers, the city, the police and the Public Prosecutor. The primary efforts to discover the truth are made outside the Police Department and courts, namely by private parties, large-scale chains of shops and private security agencies. This is why legal rights are protected via a complaint procedure that not only offers the offender fewer guarantees than the usual criminal law system, it asks the offender to take steps himself to defend his case. Since these differences seem to go further than the similarities to classic criminal law, if only because the rules are not fixed in a universal code of laws that regulate all cases and all situations no matter what, and the police and courts are not in charge of the investigation of the offences, the Collective Shop Ban would seem to be an excellent example of what we would like to refer to as semi or quasi criminal law.

Quasi criminal law does not work entirely outside ordinary or classic criminal law. In a sense, in fact it works within the criminal law regime because its practice assumes a system the police and the Public Prosecutor take part in. In the case of the Collective Shop Ban, the Downtown Federation of Shopkeepers has not only been given the support of the city authorities of The Hague, but also of two Public Prosecutors as observers. They concluded that legally speaking, everything was fine. What is more, in the framework of the project, the Public Prosecutor has formulated the intention to prosecute every charge of entering premises illegally as well as shoplifting. In addition, the Personal Information Protection Board and the Police Department have both approved the shopkeepers' policy. The police have a joint briefing three times a week where security staff members are informed about individuals with Collective Shop Bans. Photographs are shown at the meetings of individuals who are denied entrance to shops to make it

easier to recognise them. Although the Downtown Federation of Shopkeepers would like to have been able to work with photographs, the Personal Information Protection Board has indicated that it is not allowed. This is why only certified security guards can see the photographs. The coordinator of the Collective Shop Ban project says the briefings are only useful for shops with security guards. Shops that have not hired a security company cannot attend the briefings. It is nonetheless clear that in exchange for safety and security in the downtown area, the authorities have transferred their power to other actors. And thus to a different form of regulation.

So we see at least two levels of regulation in public space that are not only auxiliary to each other, they intervene with each other. To the extent that the Collective Shop Ban expands and fixates the meaning of criminal law, quasi criminal law would seem to supplement it, to use a term coined by the French philosopher Derrida. Supplement comes from the French verb suppléer, which means to replace as well as to supplement. In the opinion of Derrida (1994: 44), a supplement is not just any arbitrary addition, but a necessary one, like the space between the lines of this article, to an already existing reality or legal field. Since quasi criminal law is relatively new and its gradual expansion is supported by the authorities, we have examined exactly how shopkeepers use the Collective Shop Ban. We have focused on (a) how familiar the public is with the measure, (b) how arbitrary the enforcement is, and (c) whether there have been mutations of the measure, in other words whether individual modes of settlement have developed besides the ones described in the completed protocol.

6.6.1. Public Familiarity with the Measure

The quasi criminal law Collective Shop Ban undeniably serves a public interest. This means public interests are similarly managed by private parties. In view of the responsibilisation process described above, this is not out of the ordinary. For a proper promotion of public interests, however, the powers of private actors need to be stipulated in writing and there needs to be public accountability. The formulation of the

powers of the participating parties in agreements or protocols are part and parcel of the Collective Shop Ban in The Hague. To retain the quasi criminal law nature of the measure and properly put it into effect, this is why it is important for shopkeepers to be well informed about the procedures so they can be properly applied. Our research shows that the Collective Shop Ban coordinator, responsible for providing information about the procedure to be followed by the shopkeepers, has a hard time keeping them well informed. Shops close down all the time, and new ones open up. It is relatively easy for shopkeepers to join the Downtown Federation of Shopkeepers,⁴⁰ but just as easy for them to terminate their membership. As a result, the coordinator has only a very fragmented impression of what is going on in the work field. The incomplete list of members is not the only reason though why it is so difficult to keep the shopkeepers informed. The shops themselves also play an important role. The Collective Shop Ban is often regulated via the main office of a chain of stores, but the feedback to each separate shop is not always optimal. Many shops do have a participation sticker on their door, but the salespeople barely know what the sticker stands for. To be sure, the way shop managers are moved around can have an effect. They often don't stay long at one shop before they are transferred to another one. And they often fail to pass on information about denials of entrance to the managers who come and take their place. There are also shops that refuse to put the participation sticker on their door because, as a police official says, "it can detract from the image of a chain of stores." This suggests an inadequate sense of responsibility on the part of these shopkeepers.

It also appears that various shopkeepers do not know enough about how to use the Collective Shop Ban forms. They often do not know where they can request the forms, which is why they have not got any. And if they do have them, it is often unclear how the forms should be filled out. A police official states that many of the forms are not filled out correctly. This means these denials of entrance do not immediately go

⁴⁰ In order to take part in the policy, it is necessary to join the Downtown Federation

into effect and the forms first need to be corrected before they can be legally valid. At the same time, it is striking that shops that do fill out the forms properly often comment on how undifferentiated they are. The security guards at a large chain store on Grote Marktstraat note for example that they always amend the forms because in all the cases of anti-social behaviour, a denial of entrance of twelve months is otherwise enforced. The staff at another chain store on the same street notes that the forms do not have enough space to add anything. This is why they always supplement the forms with their own reports. Another point made in the interviews is that many shopkeepers are unaware of the existence of a list of people denied entrance to the shops. This database of denials of entrance is managed by the Downtown Federation of Shopkeepers and can be consulted via the Internet. If they don't know about it, shopkeepers cannot check and see whether individuals who exhibit anti-social behaviour have already been denied entrance to the shops in the area, and cannot charge them with entering the premises illegally. According to the Downtown Federation of Shopkeepers, it is very easy to update the list every day on the Internet, but the shops do need to have an Internet connection on site. And that is not always the case. It is striking that the Downtown Federation of Shopkeepers says shopkeepers need to take responsibility for finding other ways of consulting the list, for example by using their own computer at home or at a shop in the neighbourhood that does have an Internet connection. As is noted above, the Downtown Federation of Shopkeepers gives shopkeepers ample freedom to decide when and where they want to impose a Collective Shop Ban.⁴¹ The Downtown Federation of Shopkeepers has no objection to shopkeepers drawing up and adhering to their own criteria. This means one shop can be much stricter than another about imposing a Collective Shop Ban. We get back to this below. In short, we see a relative unfamiliarity with the measure, with shops being given a great deal of freedom as regards the application of

of Shopkeepers.

⁴¹ The Downtown Federation of Shopkeepers does give shopkeepers advice in this connection.

the measure. This takes us to the issue of arbitrariness in the enforcement of the measure.

6.6.2. Arbitrariness in the Enforcement

For an adequate implementation of the measure, agreements were made with the city, the police and the Public Prosecutor at the start of the Collective Shop Ban project in 2005 about what the shopkeepers can and should do. Not only does the protocol specify what shopkeepers should do if they observe a first offence or repetition, it states what the duties are of the police and the Public Prosecutor in the cooperation framework. However, although the project specifies a uniform plan of action for dealing with anti-social behaviour and shoplifting, in practice we see that this is difficult for shopkeepers to adhere to. Shopkeepers make any number of exceptions to the written agreement, which is one reason why in practice, enforcement has come to be so arbitrary. Although there are often strongly individual reasons for these exceptions, in general a number of practical reasons can be cited.

(1) Various shopkeepers say they simply do not have the time to impose a Collective Shop Ban, as is especially the case on the evenings when shops are open and it is very busy. Since there are so many customers on those evenings, it is virtually impossible for the salespeople to take a shoplifter to the office and have him fill out the form there. "I cannot afford to do without one of my salespeople," says a manager at a shoe shop. Instead of going through the formal procedure with the offender, on these evenings he prefers to simply escort offenders out of the store. Various shopkeepers view this way of dealing with anti-social behaviour as easier and faster. Calling the police and filing charges take a lot of time. The manager at a drug store says "it takes too much time, I really would not even consider doing that."

(2) Certain financial considerations play a role in the shopkeepers' decision whether to impose a Collective Shop Ban. Some of them note that the severity of the offence and the value of the stolen merchandise influence whether they impose a Collective Shop Ban. At our interviews

with security guards, one guard mentions the concrete example of catching someone stealing a magazine. In this case, charges are filed with the police for theft but no Collective Shop Ban is imposed because the security guard feels it is out of proportion. Not only can the relative lack of severity of the offence lead to exceptions, in concrete cases shopkeepers weigh the time loss against the value of the stolen merchandise. Especially as regards petty offences, a Collective Shop Ban is not viewed as worth the trouble. As one shopkeeper says, "I am not going to go through the whole rigmarole with the police for someone who steals a five euro earplug." The manager at a drug store on Turfmarkt says, "What I earn in an hour is more than a twelve euro package of diapers." This is why she does not always impose a Collective Shop Ban.

(3) Many shops do not have enough staff to effectively enforce the Collective Shop Ban. They are mainly one-man shops or at any rate very small ones.⁴² Not only do there have to be enough salespeople on hand to deal with an offender separately, shopkeepers also often do not think it is safe to go fill out the Collective Shop Ban form with the offender. The manager at a clothing shop on Haagsche Bluf says, "You don't just go sit down somewhere with a shoplifter, give him a form and ask him to please fill it out. And it really sounds weird if you ask him afterwards to please sit there and wait till the police come." So small shopkeepers are more apt to just escort the offender out of the shop without making a case of it. Sometimes salespeople ask staff at other shops to come and help them. So what emerges is something like those painted Russian matryoshka dolls, cooperation frameworks within cooperation frameworks that keep getting smaller and smaller. Although the Collective Shop Ban is intended for the entire downtown area in The Hague, these microsystems come to the surface in random shopping

⁴² This does not hold true for large chain stores like Bijenkorf, Vroom & Dreesman, Mediemarkt and Kruidvat. They hire their own private security companies. Since these private security guards are there, there is no need for the personnel to concern itself with filling out forms or filing charges. But it is not worth the money for every shopkeeper to hire private security personnel. The consideration here is once again a matter of costs and benefits. As a drug store manager notes, "We had a security guard here but I had to let him go because it simply cost too much." Without a security guard, it is hard to enforce a Collective Shop Ban.

streets or parts of the city. There is a framework of close cooperation like this at the shopping centre De Passage. As one shopkeeper recounts, "Whenever there is a problem with someone who is aggressive, we call the neighbours. They come right over. Outside our neighbourhood, we don't have any contact with other shopkeepers about security."

(4) Some shopkeepers appear to have a double loyalty to certain individuals. In fact one chain of stores has a staff member with a Collective Shop Ban himself. A security guard at an electronics shop made this surprising discovery. How did the shop in question respond to this discovery? "Yes, but he stole from you. That does not mean he is also going to steal from us." So here there is a unique situation of a shoplifter checking on shoplifters. This adds a new perspective to the assumption that a Collective Shop Ban always leads to the offender being denied entrance to shops in the city centre. "As long as you do your job well," is how the respondents react to the fact that people are employed who have a Collective Shop Ban themselves. However, shopkeepers also note that there are certain customers they would not want to have to do without. This is why steady customers who might have been issued a Collective Shop Ban at some other shop are still not denied entrance. As long as they obey the rules at the shop in question, they can come in. Here again, there are underlying financial considerations on the part of the shopkeepers motivating their conduct.

So the specific circumstances of each case and personal considerations play a role in whether a Collective Shop Ban is actually enforced. Shopkeepers who are rarely confronted with anti-social behaviour don't join shopkeepers' associations to take part in the Collective Shop Ban project. A sense of responsibility for what goes on in society would seem to be linked in this connection to the shopkeepers' own business interests. From the inside, the system thus appears to be linked to the spot where it is in effect. This takes us to the question of whether or not there are mutations or deviations in the measure to be imposed.

6.6.3. Individual Modes of Settlement

In classic criminal law, the punishment generally has to adhere to all kinds of rules of material and formal penal law. This is necessary because penalties are entailed that are imposed by the state for the violation of a specified norm. In an effort to reinforce legal security and judicial equality, the Public Prosecutor has formulated guidelines and judges use lists of amounts to be charged so there is a certain uniformity in the nature and severity of punishments. As regards sentencing, the fixed law motivates the judge to make certain decisions. This motivation requirement, as is stipulated in Section 359 of the Penal Code, is there to protect the suspect from arbitrariness and inequality, especially if prison sentences are involved. The whole quasi criminal law nature of the Collective Shop Ban indicates however that due to the number of participating parties varying from one-man shops to international chain stores with their own security services, individual considerations play a role in how the measure is enforced in practice. We have already noted the problems regarding the distribution of information about individuals who are denied entrance. In addition, we have touched upon the practical problems shopkeepers are confronted with in imposing the Collective Shop Ban. However, other issues also play a role, for example in the field of individual settlements.

Sanctions in quasi criminal law are assessed within margins that are extremely wide. In the case of the Collective Shop Ban, the formal framework includes various categories of conduct, one of which can be ticked. Yet some further modification should be added to the simple distinction between what is allowed and what is prohibited. Based on any number of individual initiatives regarding the settlement of violations, specific interventions have developed that no longer bear any relation to the fixed arsenal of general punishments (community service, fines, prison sentences and so forth) that belong to the classic criminal law system. It is clear from the interviews with shopkeepers that almost half of them have their own individual mode of settlement side by side as it were with the criminal law and quasi criminal law approaches, varying

from escorting offenders out of the shop to intimidating them. Although these settlements vary in how they are expressed, they are all based on shared sentiments and motivations and are generated in part by the ostensible ineffectiveness of the Collective Shop Ban. "The very next day, there they are again," one of the interviewed shopkeepers comments on the offenders. In the wake of the quasi criminal law denial of entrance measure, four alternative modes of settlement regularly recur.

(1) Shopkeepers personally call the parents of the offenders, minors who shoplift or engage in anti-social behaviour. A number of shopkeepers feel this is extremely effective. With these youngsters, it is often only an isolated incident, they explain. Calling their parents makes enough of an impression on the youngsters that the police do not have to be called in. It has a corrective and normative effect, the respondents say. As reaction to the norm deviation, this mode of settlement contributes towards the power of the norm (Foucault, 1989: 255). One might even say the shopkeepers are trying to protect the norm this way. In part, this explains why the shopkeepers deviate from the official sanction and take a measure that is apt to have more of a payback in the future.

(2) Some shopkeepers use the method of putting someone in the pillory, or more appropriately in relation to quasi criminal law, naming and shaming. Braithwaite (1989) notes that shaming is an important way of coping with deviant behaviour. It is thought to have a deterrent effect. Braithwaite draws a distinction however between two types of shaming, i.e. stigmatising and reintegrative shaming. Stigmatising shaming emphasizes the offender's criminal activities and rejects the person as well as the conduct. Braithwaite feels this form of shaming is dangerous because it destroys the link between the offender and society, probably for the rest of his life. As a result, the offender identifies with the label of criminal that is attached to him and may end up playing the role without ever stopping. Reintegrative shaming is much more positive and does not focus on the person but tries instead to rehabilitate the

offender. The aim is to restore the link between the offender and society. Our research seems to suggest that in the enforcement of the Collective Shop Ban, it is mainly stigmatising shaming that comes to the fore. One shopkeeper on Haagsche Bluf notes that she deliberately gave an offender negative attention. "We worked with the police and printed his photograph on a large poster with the word Wanted and hung it up on the window." Another way of afflicting shame is by publicly apprehending the offender and then having the police come and take him out of the shop through the front door.

(3) Shopkeepers use their own fines as alternative for the punishment stipulated in the protocol. It is generally assumed that in addition to the punishment, the deterrent effect of a sanction depends on the chance of getting caught, the speed of sentencing, and the certainty that a sanction will actually be carried out. The owner of a discount store recalls the choice a thief was given. "Either you pay twice the price or I'll call the police." It is mainly petty offences that are involved like stealing candy. In other cases, an offender is only reprimanded for his behaviour. Someone caught stealing is told to give back the stolen merchandise and leave the store.

Lastly, we would like to say something about the Rogues Gallery drawn up to solve the problem of recognising individuals with a Collective Shop Ban. The list the shops are given only contains names and no photographs of the individuals so there is a problem recognising them. "We take pictures of people who steal," says the head of security at a shop on Grote Marktstraat. "Our communications room is full of photographs." All the pictures are kept in a Rogues Gallery, a book for salespeople so they can recognize shoplifters. Various large chains of stores with their own security work with a similar system. Photographs of individuals who are denied entrance are internally available to security guards, but not to salespeople. Although the authorities say the infrequent charges of entering the premises illegally prove that the Collective Shop Ban is working, the shopkeepers believe the infrequent charges mainly show that the policy does not effectively stop repeat

offenders. This option does not seem to be operating completely effectively yet either.

6.7. Legal Issues

What does a Collective Shop Ban mean as regards the rights of an offender? To what extent does it affect his legal position? We all know that criminal law provides legal protection by offering options for contesting a decision. There are any number of ways to defend yourself against an accusation. But legal protection for someone with a Collective Shop Ban remains limited. To start with, getting around a Collective Shop Ban once it has been imposed is a complicated matter. The measure can no longer simply be contested via criminal law. A special complaint procedure has been drawn up. If there are objections to a Collective Shop Ban, a complaint can be submitted to the Board of the Downtown Federation of Shopkeepers. However, the Federation actively supports the implementation of the denial of entrance measure and can hardly be referred to as an independent agency. In the event of a complaint, the Board examines the contents of the case and if they want, the parties involved can be heard. If the individual cannot accept the decision of the Board, then he can also submit an objection to the Personal Information Protection Board. This Board cannot however make a binding decision in the case, says a member of its judicial staff at the Communications Division. The Personal Information Protection Board can only start a mediation procedure between the parties involved.

In order to rescind a Collective Shop Ban without involving the shopkeeper, the interested party would need to go to a civil judge, which is something that is not happening yet, says this judicial staff member. Although there is no explicit criminal law procedure for contesting the denial of entrance, the Haaglanden Police Department prevention advisor says it should be possible to get an rescinding decision from a judge in a court procedure in which the punishable act the Collective Shop Ban is imposed for is further prosecuted. This is another thing that has not ever occurred, and it should be noted that for the time being, the criminal judge is not able to rescind civil agreements. In only two cases has the

complaint procedure been carried out that was introduced at the start of the Collective Shop Ban. According to the director of the Collective Shop Ban Enforcement Division, this is not an unusually low number. "The people in question do know what they have done."

One possible explanation for the fact that only two individuals have launched a complaint procedure might be that the procedure is no longer referred to in various languages on the Collective Shop Ban form. When the Collective Shop Ban was first introduced, it was stipulated that the individual in question would be informed about the complaint procedure. This does happen, but in a much more limited way than right after the measure was put into effect. Although there are more and more Eastern European names on the list of people who are denied entrance, the director of the Collective Shop Ban Enforcement Division notes, the decision was nonetheless made to only explain the complaint procedure in Dutch. The form is already so time-consuming for shopkeepers to fill in, he says, that they sometimes just don't bother. It does not say in the explanation on the form that objections have to be submitted within two weeks after the measure is imposed. If it doesn't happen within two weeks, the complaint is not admissible. It is also not immediately clear what agency complaints are supposed to be submitted to. The Downtown Federation of Shopkeepers and the Personal Information Protection Board are both mentioned without any explanation on the difference between these two agencies⁴³.

A Collective Shop Ban is often accompanied by charges being filed with the police, after which the Public Prosecutor can decide to prosecute the case. The Downtown Federation of Shopkeepers does not receive any feedback about the prosecution. If the charges do not lead to a conviction because for example the evidence is insufficient, the witnesses are unreliable, the offence is too insignificant or there was no punishable act committed, the denial of entrance still remains valid until the shopkeeper himself decides otherwise. The Haaglanden Police

⁴³ www.bof-denhaag.nl (2)

Department prevention advisor admits there have been situations where "there were definitely differences of opinion." In one case, it was even unclear whether anything had been stolen at all. The individual looked like he put something in his bag without paying for it, but he had not walked past the cash register yet. The director recounts the dispute that ensued between the customer and the security guard. The denial of entrance procedure had not been "properly" put into effect. The security guard was impolite to the customer and grabbed him roughly. What is more, the images on the shop camera did not confirm his version of the incident. Although the police got involved, the denial of entrance remained in effect in this case, since the shopkeeper was not about to revoke it.

What is more, the legal protection restriction implies a certain disadvantage for the defence. This happens in a number of ways. In a criminal law prosecution, if necessary a defence attorney is appointed for the suspect. However, the Collective Shop Ban means an automatic sanction that goes into effect immediately. The individual who is denied entrance needs to take action himself against the measure. As is noted above, a language barrier can make it unclear what the options are for contesting a Collective Shop Ban decision. What can also serve as a obstacle is that quite a few of the individuals who are denied entrance do not have a fixed address. This has been a reason for the Downtown Federation of Shopkeepers to no longer send a copy of the denial of entrance to the individual's home address. This has not only made the procedure less transparent, it has also made it more difficult to correspond about the course of the complaint procedure.

In addition, the Collective Shop Ban does not take the perpetrator as an individual into account. In criminal law, it is possible to claim guilt exclusion grounds if it is plausible that the perpetrator cannot be held responsible for his act. General guilt exclusion grounds include circumstances beyond one's control, self-defence and non-accountability. The grounds are applicable to various offences such as theft, maltreatment and fraud. A collective Shop Ban does not take the

accountability of the perpetrator into account. An undesirable act is always punished the same way. In this framework, the director of the Collective Shop Ban Enforcement Division cites the example of a young man with a shop ban whose memory was not that good and who was under supervision for that reason. The request of one of his caregivers to allow him to shop under guidance was denied by the Downtown Federation of Shopkeepers with the argument that they could not take special circumstances into consideration.

Once a complaint procedure has been launched, it is difficult for the Federation of Shopkeepers to find out exactly what happened. The Collective Shop Ban form only says what general category of conduct was involved. No further information is given about the specific acts on the part of the individual. According to the head of the private security service at a chain of department stores in downtown The Hague, the police report is often an exact copy of the Collective Shop Ban form. "The police simply copy what the shopkeeper has written down." This is why it is so hard for the defence to counter the accusation. The denial of entrance does not have to be based on any evidence other than the statement of one witness. To refute a shop ban, the defence needs to present evidence that there is no basis for the accusation. Thus the burden of proof is on the defence. It often ends with the word of the defence against the word of the witness.

6.8. Conclusion

The quasi criminal law Collective Shop Ban is a Dutch example of how private parties develop their own security programmes with the support of the government and set the rules for visitors in public space. In keeping with an anti-social behaviour agenda (Crawford, 2009), the measure is an instrument to combat anti-social behaviour in public space. One striking aspect of how the measure is applied is that it is often hard to distinguish between the fact and the law, but a decision does nonetheless have to be made every time. It is precisely the diffuse nature of quasi criminal law that leads shopkeepers in The Hague to refer to all kinds of internal rules that are supposed to justify their own

actions. The difference between quasi and classic criminal law would however be speculative (in both cases it is all about the protection of interests like security, and against public offences) if the practice of punishing by shopkeepers did not exhibit a number of striking differences from criminal law.

The actors in and of the criminal law system need to be publicly accountable and are subject without exception to material and procedural criminal law, which eliminate arbitrariness and imply legal guarantees. Whether or not a suspect is given a sentence is determined moreover by an independent judge, who hears all the arguments for and against it. Our research shows that these objectivity criteria do not apply to the quasi criminal law system. Not only does criminal law take the individual perpetrator into consideration, the act that has been committed has to be described in detail in the police report before it can be classified as a punishable act. In imposing a Collective Shop Ban, it is enough to state the category of the conduct and leave out the actual act itself. What is more, the perpetrator has to submit a complaint in writing to the Board of the Downtown Federation of Shopkeepers against the fact that a Collective Shop Ban or a warning has been issued to him. In this sense, one might speak of decreasing legal protection.

But it is more important that the Collective Shop Ban is applied in numerous gradations and with an ample dosage of arbitrariness. Personal convictions play a major role here. One shopkeeper might impose the strictest version of the Collective Shop Ban without any hesitation, whereas another might be much more lenient. As a result, there are all kinds of mutations of the measure. We discovered for example the existence of a process of stigmatising shaming. Criminologists like Braithwaite cautioned us twenty years ago about this kind of process because it can significantly disturb the relation between the perpetrator and society, causing the perpetrator to identify even more deeply with the role of criminal and develop a criminal career. In addition, we have the impression that the architecture of the downtown area is accompanied by a commercial monitoring system and that

individual interests are strongly economically and emotionally driven. Certain acts are punished that can harm the desired result for the private interests of shopkeepers, such as anti-social behaviour and shoplifting. The punishment is largely determined by the values and convictions of the shopkeeper in question. Contrary to what is often assumed, these quasi criminal law practices are not value free.

Our findings do not lead us to categorically reject this development of and towards quasi criminal law measures. Personal considerations for instance play a role in every form of regulation and can lead to a far more satisfactory final result in individual cases than strict adherence to guidelines. Instead the results of the interviews lead us to conclude that there is something of a double order in this system of quasi criminal law. On the one hand, there is the Collective Shop Ban officially formulated in a protocol that has been agreed upon with the local city authorities, Police Department and Public Prosecutor. At an organisational level, this results in policy-makers claiming the success of the Collective Shop Ban on the basis of evaluations and the number of denials of entrance imposed. This spring for example the Main Retail Trade Association announced that shoplifting can be reduced to 60% as a result of the measure. More than 1,500 denials of entrance have been imposed by the shopkeepers of The Hague. As a result of the reputed success, more and more cities are introducing the measure and original expansions on it such as cinema or tram bans. Nowadays Amsterdam, Apeldoorn, Arnhem, Beverwijk, Den Helder, Deventer, Eindhoven, Gouda, Heerlen, Helmond, Leeuwarden, Leiden, Leidschendam, Rotterdam and Utrecht have either introduced this policy or have advanced-stage plans to do so.⁴⁴

On the other hand, there is the level of interaction between the participants that adds new openings and creates different links than the structural level. Here we see that within the given space, the official

⁴⁴ From October 2007 to April 2008, 116 Collective Shop Bans were imposed, 56 in the city centre and 60 at Zuidplein shopping centre; 45 of them were a first warning,

points of departure are disturbed, for example as regards the distribution of information, arbitrariness in the enforcement, and mutations in the measure that have developed. At this level it is much more difficult to draw borders. This presents questions as to the wisdom of the state uncritically setting a responsibilisation process in motion. It makes the question relevant as to whether dealing with offences like theft, fraud, defamation, intimidation and vandalism can so easily be left to private actors such as shopkeepers. After all, not only has the quasi criminal law Collective Shop Ban been invented by shopkeepers, it is these very same people who also enforce it. This makes the borderline between the individual private realm and the public realm a very diffuse one. After all, whose interest is served by forgoing certain constitutional rights, such as adequate legal protection, the citizen or the shopkeeper?

66 a denial of entrance for six months, and 5 a denial of entrance for 12 months (www.bds.rotterdam.nl).

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