

EDITORIAL

Louk Hulsman

***Founding father of Penal Abolitionism and Gardener of
the World
(1923 – 2009)***

Should one wish to know more about Louk – who he was and what he stood for – one would have to follow in his footsteps.

Generally speaking, Louk worked in and was interested in many facets of the field that dealt with conflict and problematic situations. This was a logical consequence of his continuous analysis of the criminal justice system and of penal law enforcement in particular. Clearly, if one requires an overview of all the “actors” involved in these incidents, every person involved – the victim as well as the perpetrator, and the surrounding social circle would have to be taken cognisance of (even though the relevant institutions forgot to involve them). Against this background it is my intention to refrain from using too many so-called “institutional” terms, since it is well-known that Louk was of the opinion that it is impossible to describe self-experienced events factually by means of professional judicial or legal language. In fact, one of the most important lessons he sought to convey was related to the precise use of language and an awareness of its significance or meaning.

Let us then speak about *problematic situations* that form part of the interaction between people. Louk experienced several life events that changed his outlook on systems, institutions and the way they function, or rather the way they *do not* function.

To truly understand what he stood for, we will have to go back to Louk’s childhood. He was forced to attend boarding school and that taught him valuable lessons not only regarding social behaviour but also about the pain that isolation and deprivation of liberty could cause. It made him a tough loner who did not give in to group pressure. His teachers, all catholic priests, wanted him to accept and acknowledge the dogmas of the Bible without allowing him access to the Latin source for the Dutch translation. But young Louk didn’t waver; he obtained the Bible texts in Latin and started a debate based on solid arguments with the priests. The lesson of this is to never accept what you are being taught without thoroughly investigating the source or basis of that knowledge.

The next life event was related to the Second World War and consisted of the period preceding the war, the build up to and the actual war. However, the context of his life also included the aftermath of the First World War, which still existed vividly in the thoughts of the people in the south of Holland, who were close to the border and had felt the influence of that war. His mother, who was very much aware of the dangers

that could be associated with alcohol and passing soldiers, had for example, buried all the family wine in the garden! The neighbours who lived across the street had always been considered to be nice and friendly people. However, they turned out to be the enemy across the street!

Louk instinctively understood and recognised the luring power that a man like Hitler could exercise over huge crowds and as a consequence he would fear and evade crowds for the rest of his life. He knew that a seemingly peaceful crowd could turn violent in an instant with devastating results. He experienced how the Dutch government and penal system continued to function under Nazi occupation, this time attempting to achieve the new goals set for them. In fact, he was even arrested by the Dutch police, imprisoned and later sent to a concentration camp. He worked for the resistance and experienced first-hand how the official systems portray political defiance. In the end he miraculously survived, escaped transport to Germany and returned to his hometown to find that the German neighbours across the street had returned to be the ordinary, nice people he knew before...

Louk studied law in Leiden because the University of Leiden was one of the few universities that had not given in to the occupiers' wish to denounce Jewish students, professors and co-workers. As a result it had been closed down during the war. After completion of his studies he worked at the ministry of defence and later at the ministry of justice and learnt valuable lessons about the limited use of legislation in relation to the trust politicians put into those means in order to achieve the goals of governance.

Louk was sent to France by the Dutch ministry with the aim of establishing the European defence community together with other European countries. He worked in the Conseil de l'Europe for a significant period of time, where his way of thinking formed the foundation of many decriminalising measures and attempted to influence a basically inhuman penal system to change for the better.

When he was asked to take up a professorship in penal law at the University of Rotterdam, Louk agreed on the premise that he could shape the new law faculty at a time that this university was mainly focusing on the economic sciences. He accepted the position of professor in criminology and penal law in 1970 and commenced with the introduction of more social science subjects into law studies. He was co-founder of one of the first international study programmes, namely that in critical criminology, which still exists today.

His acceptance speech at the University did not contain the notion that the penal law system should be abolished. That profound thought was expressed in his first book, which he co-authored with Jacqueline Bernat de Celis, in French, entitled *Peines Perdues*. This is a dualistic title that signifies the wastage associated with punishment and states that "the effort made is useless". For many involved in the professional judicial world, however, this abolitionist view was a bridge too far. Louk's arguments were not often countered; he was merely ignored, and called a radical, or anarchistic, or even idealistic and living in a utopia. Louk also did not linger to mourn the loss of an opportunity for serious debate when Holland changed from a tolerant country into one with one of the highest rising prison populations and one which is mainly

governed through the media by a one-dimensional, repressive view on popular crime issues.

Instead Louk travelled the world. He went to South America where the unreliability of authoritarian governments was still vividly remembered and the penal law institutions very much distrusted. He also travelled to Lithuania, Canada, Australia and New Zealand. In fact, he travelled to wherever people invited him because they wished to hear his ideas. Of course, people often disagreed and were wary of his seemingly revolutionary ideas, but Louk loved a discussion and actually favoured disagreements, as it gave him the chance to interact. He would take time to listen and take great pains to be sure that he understood what people were saying by rephrasing, looking into the other person's eyes and asking questions. He would take the time to exchange ideas and would always seriously consider what someone else had to say. Those who knew him well knew that the use of language was important to him. Everyone remembers how his eyebrows would be raised while he asked whether you seriously meant what you had said as a prelude to an incisive question that, in turn, would trigger a discussion you would probably lose.

Louk was neither a utopian nor an unrealistic idealist. He simply had the courage to look at the penal law system by first distancing himself from it. In explaining this viewpoint he said, "It took courage for people to imagine a space outside of the world, to escape from gravity to be able to look at the world from outer space and appreciate it in a different way. It will take great courage to visualise a world without a penal law system and then find new ways of dealing with problematic situations."

He attempted to make as little as possible use of the "professional language" used by institutions. He also warned against the use of synonyms (other words) to describe the same content. In problematic situations it was necessary to truly think and act differently. Louk and Nils Christie shared the ability to bring issues back to where they belong: The human experience of reality and the endless possibilities that exist to resolve conflicts or other problematic situations at the level of the actual people involved.

The real miracle of Louk is that after all his experiences in his young life, such as World War II and witnessing all the repressive changes made to Dutch penal law towards the end of his life, he never became gloomy or depressed, never gave up, never compromised himself or refrained from speaking his mind. He never lost hope in the human capacity to change and understand. He retained the faith that change would eventually create a more humane world. He lived a full life and stayed active until his last days. He left us a legacy that is ours to use wisely.

The loukhulsman.org website will provide an indication of what Louk meant to the world at large. The site contains a variety of documents as well as his curriculum vitae. Currently preparations are underway to start the international Hulsman Foundation, which is aimed at gathering his legacy and, where possible, put it to work. All applicable contributions would be much appreciated.

Those who knew him personally will remember his love of life, his warm laughter and will miss the counterbalance he so easily provided in the development new ideas. Those who weren't that fortunate will be able to get to know Louk through his work

even though he has passed on. We should all count ourselves richer for having the opportunity to share his thoughts. Since Louk as “a gardener of the world” has taken his final leave to enjoy a well-earned rest, we will have to take care of this garden. Where we are capable of doing that, we should imagine ourselves pulling away from the gravitational force of the criminal justice system, and in the end creating a world that can do without that system.

Jehanne Hulsman

May 2009