Dutch prisons keep an eye on the Money

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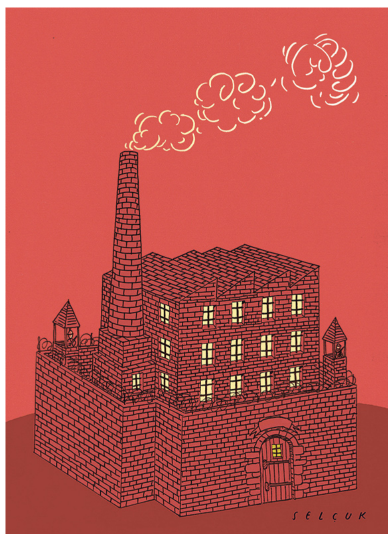
Dutch prisons are so under-occupied that they are housing inmates from other European states. This has more to do with economics than a drop in crime rates.



There's no shortage of space in Norgerhaven prison in the northern Netherlands; mattresses lie folded on bunks, offices are empty. Head warder Frank Hogterp's keys jingle as he leads the way to the recreation room. He communicates in English: "We don't speak Norwegian round here." Since September, vacant cells have accommodated 242 Norwegian prisoners.

The Netherlands had a shortage of prison places until 2004, but the Dutch prison population has fallen by 45% since then. Eight prisons have been converted to other uses and 20 more are scheduled to close in the next three years. Overcrowding continues elsewhere in Europe, but only 10,500 of 12,400 Dutch prison places are in use (1), and that occupancy rate may fall to 60% by 2018 if the authorities do not close more jails. To improve cost-effectiveness and avoid redundancies, the Netherlands has had a contract with Belgium since 2009 to house some of its prisoners, and a similar three-year agreement was recently signed with Norway.

The Dutch example suggests that prison overcrowding is not inevitable, but it is not easy to identify how the trend was reversed. According to Miranda Boone, professor of penal law at the University of Groningen, "No one could have predicted it. It's not simply the outcome of a policy." The authorities are surprised, too. Peter Hennephof, director of the Dutch prison service, says: "The only directives from government are to bring crime rates down and combat repeat offending," and — significantly — "keep costs down as far as possible." He cites a drop in crime rates as the chief factor but cannot explain why. Any explanation is difficult to verify, since the concept of criminality covers many different realities.

“Of course, governments like to claim that the decline is due to their policies,” says Norman Bishop, who advises the Council of Europe. Common sense suggests the size of the prison population is influenced by crime rates, but that is not always the case, as can be seen in Sweden.

Reintegration, not punishment

Could the Netherlands’ long humanist tradition explain its shrinking prison population? Northern European countries are often praised for their non-custodial sentences and ability to reduce reoffending, and the Netherlands had one of the first probation systems, based on social reintegration rather than punishment. “The history of probation in the Netherlands is the oldest in the world,” says Willem van der Brugge, secretary general of the Confederation of European Probation. The service began in 1823 as a private institution, the Dutch Association for the Moral Improvement of Prisoners. This initiative, inspired by the work of English reformer John Howard (2), allowed improvements in prison conditions and developed without state input for almost a century.

After the second world war, the support of intellectuals critical of prisons’ lack of social value, gave it fresh impetus. The probation service was then institutionalised to support criminals’ return to society. In 1995 the Dutch government consolidated many organisations into three agencies that still exist today. The main agency, Reclassering Nederland (“Dutch probation service”), is generalist and looks after 60% of those on probation. Its staff draw up personality profiles to help magistrates choose between custodial and non-custodial sentences. They also supervise those with suspended sentences and ensure compliance with conditions such as course attendance, victim compensation, psychological follow-up and community service.

Stichting Verslavingsreclassering (SVG, “probation agency for dependent persons”) deals with the 30% of probationers who have addictions, mainly those with drug or alcohol dependency who have been convicted of theft. “On average, we stay in contact with them for two years,” says Barbara Kuijs, an SVG probation officer. “When we see them, we try to understand their addiction and find out if they also have other problems, particularly financial ones.” (Those on probation are usually required to seek treatment.)

The third agency, the Salvation Army, looks after the homeless and the most marginalised, who have housing and employment as well as family problems. Probation officers also work in prisons to minimise the number released without support, a risk factor for reoffending.

‘Crime’s an addiction’

Ex-prisoner “Peter”, who is in his 50s but requested anonymity, has experienced the full range of punishments under the Dutch penal system. “Crime’s an addiction,” he says, talking about his multiple offences with unusual sincerity. “It’s an adventure. You make a lot of money. You do what you like. Yes, it’s a good life. At first, anyway.” He has spent a total of ten years behind bars. He was a crack addict for two decades, but now works as a sports coach. He completed an SVG programme four years ago and says he has put his past life behind him. Before that, he had been on many programmes for repeat offenders without

success. “I just wanted to get out of prison. And get back to crime.” Then one day he decided he had had enough; the support of a probation counsellor proved invaluable.

The minister of justice sees the current situation as a return to the state of grace between 1947 and 1975, when the Netherlands adopted a penal policy that prioritised the social reintegration of prisoners (3). But there may be a different explanation for the decline in prison numbers. Community service sentences have not been more widely used recently, but have followed the same trend as prison sentences; there were 40,000 orders in 2006, 30% of all sentences. Today they have stabilised at around 30,000 (4). Yet employees of the probation service feel their workload is increasing because several years of austerity policies have drastically reduced their numbers. Their 2012 budget of €260m has been cut by €40m.

And the Dutch prisons are not emptying because the country has stopped locking people up: 23% of all sentences are custodial, against a European average of 15%. But there has been a general reduction in the length of sentences. Prison remains the standard punishment for serious crimes and repeat offences, including minor ones. But for other crimes, courts are handing down more sentences of less than a month — 52% of sentences in 2013, compared to 38% in 2005. They also now favour financial penalties.

There has been greater recourse to “negotiated” justice, which since the 1980s has allowed defendants to avoid a trial and prison. The prosecutor offers a deal: if the accused admits guilt, criminal proceedings can be dropped in exchange for a fine. Many road traffic offences have been reclassified as administrative offences, so the public prosecutor and police can focus on penal offences, including road traffic offences that carry a custodial sentence of up to six years.

Since 2008 the Netherlands has started to abandon even these negotiated deals in favour of “imposed penal orders”, where the public prosecutor can impose a penalty — it is up to the accused to challenge it and ask to appear in court. In 2013 there were 42,000 such orders. Most of the penalties were financial. “This procedure has the advantage of accelerating the process and unclogging the courts,” says Boone. “The aim is to be as quick as possible, both for the victim and the offender, and less costly for the whole of society.” Although the independence of the judiciary is often mentioned, the compatibility of the financial penalty system with the current austerity policy is clear. A day in prison costs the state €262, a day on probation €11-50, depending on the risk. But financial penalties bring in money — €673m in 2005 and €1.05bn in 2013 (5).

Border gets fuzzier

All public services are suffering swingeing cuts, but the fight against crime is a priority, which means increased checks and surveillance on the streets, in stations and on public transport. CCTV cameras have become ubiquitous. There are many initiatives intended to cut petty crime, such as monitoring truancy and antisocial or deviant behaviour among the young, intervening before they get involved in crime. These initiatives impinge on social measures: “The line between help and punishment is getting ever fuzzier,” says René van Swaaningen, professor of criminology at Rotterdam’s Erasmus University. “The

penal system remains ever ready to intervene if a person is not sufficiently cooperative."

So the national spirit of toleration is undermined. Boone confirmed the ambiguity of former prisoners' reception in society: "On one hand, there's rehabilitation for those who still have the potential to become decent citizens, and on the other, increasing harshness towards certain sections of the population." Bas Vogelvang, professor of penal policy at the Avans University of Applied Sciences, attributes this to the profoundly Calvinist national culture: "We're very severe towards those who commit crimes. Two-thirds of this country is below sea level, so to combat the tide, everyone needs to work together. If a member of the group marginalises himself, he will have problems."

Tough language coexists uneasily with the reduction in the prison population, widely praised abroad. The director of the prison service admits it is "better for a country to have as few people as possible in prison, but there is also a need to respond to the demand for justice."

In reality, the current government, a coalition between prime minister Mark Rutte's liberal People's Party for Freedom and Democracy (VVD) and the Labour Party, can't pride itself on Dutch exceptionalism. "Their aim is not to reduce the prison population, but the cost of the system," says Boone. The government intends to cut the prison budget by €340m and achieve a 27% reduction by 2018.

In 2014 parliament considered two draft laws that combined budget cuts and repression. One wanted to make detainees pay €16 a night towards the cost of their imprisonment, and the other to make them contribute to the legal system and the needs of their victims. As France postpones for the fourth time the implementation of one prisoner per cell, the Dutch government seems proud of announcing its new cost reduction measure — two prisoners to a cell. The country is deliberately abandoning the objective of most European countries since the creation of the modern prison.

Drift to the right

Despite appearances, Dutch society is sticking to the repressive path of Europe since the early 1980s, when, according to sociologist David Garland, repeated criticism of handouts led to questioning of the use of prisons as a means of reintegration (6) and a new punitive doctrine. This can be seen in the drift to the right of political discourse in the last decade. The advances of far-right groups encourage security initiatives. The murder of Pim Fortuyn, a politician who fiercely criticised immigration, and of filmmaker Theo van Gogh, have contributed to the rise of the language of intolerance. The fight against crime has become a major issue in election campaigns since the rapid rise of the Party for Freedom (PVV). Winning 15.4% of the vote and 24 seats in the lower chamber in 2010, it became a key player in political life, leveraging its support for liberal prime minister Mark Rutte and then dumping him.

Over the same period, the last critical voices on the prison question have gone quiet. "The opposition that came from the ecologist party is now silent," says van Swaaningen. "The liberals and Christian Democrats are afraid that electors will desert them for the PVV. So everyone has adopted a tougher stance." Since 2012

the VVD has been in coalition with the Labour Party, but still makes a show of intransigence — the Ministry of Justice has been renamed the Ministry of Security and Justice. The country's uniqueness lies in the fact that, in spite of the repressive language, the main parties have not questioned the foundations of penal policy. They limit themselves to stressing the financial restrictions.

Over the past 30 years, the Netherlands has adopted the values of "new public management". In health, education and justice, quantifiable objectives have been introduced and cost-effectiveness established as a norm. Having constructed a powerful social-democratic welfare state in the 1960s and 70s, the country is sliding towards the Anglo-Saxon neoliberal model.

This goes to the heart of the prison service and is transforming the mission of social workers. "Even the reports we write about people have become a product. Community sanctions are products. Checks are a product," says van der Brugge. The main revolution has been the institution of the principle of efficiency, the what-works managerial approach imported from the UK. Agencies no longer talk about criminals, but clients, classified according to their presumed level of dangerousness. Probation officers have to concentrate on cost-effective individuals who stand a chance of swift reintegration into society.

Judicial professionals hope for a replenishment of their coffers. By sacrificing reintegration programmes and the human involvement that makes them possible, they believe governments risk prisons filling up again.

(1) Marcelo Aebi and Natalia Delgrande, "SPACE I —Council of Europe Annual Penal Statistics: Prison Populations", Council of Europe, Strasbourg, 2015.

(2) Philanthropist John Howard (1726-90) wrote *The State of the Prisons* (1777), which argued for prison reform.

(3) Miranda Boone and René van Swaaningen, "Regression to the Mean: Punishment in the Netherlands", in Vincenzo Ruggiero and Mick Ryan (eds), *Punishment in Europe: a Critical Anatomy of Penal Systems,* Palgrave Macmillan, London, 2013.

(4) Study by the Dutch Ministry of Security and Justice's research and information centre, 2013.

(5) Ibid.

(6) David Garland, *Punishment and Welfare: History of Penal Strategies,* Ashgate, Farnham, 1985.