

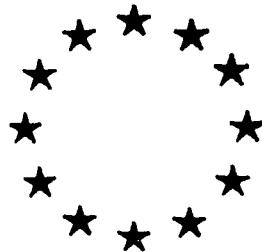
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ISSN 0254-5233

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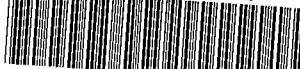


# Prison Information Bulletin



No. 7 - JUNE 1986

THE COUNCIL OF EUROPE



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## PRISON INFORMATION BULLETIN

1/86

Published semesterly in French and English, and edited by the Council of Europe

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## FOREWORD

In 1986 in the Netherlands the centenary is commemorated of the Netherlands Penal Code and the first Prison Code. This year however is not a celebration of achievements. On the contrary. There is growing awareness of the restricted roles of penal and prison laws in social life. Just as in most if not all European countries criminality in the Netherlands has been rising for a long time. More important even is the changing nature of some forms of crime - more serious, more international and professional, new crimes, as by-products of new technologies - and the massive forms of so-called petty crimes.

As it is said in last year's policy plan on "Society and Crime" by the State Secretary of Justice and myself: "The administration of criminal justice is, in a way which is apparent to everyone, no longer able to react adequately to serious violations of the law by proper forms of judicial intervention. In this situation it seems obvious simply to bring about a vigorous expansion in the capacity of the various constituent parts of the criminal justice system. There is pressure from a number of quarters for a drastic increase in the scale of operations of the police and public prosecution service. The government sympathizes with the demands imposed on it to combat crime more effectively. It also takes the view that it is unavoidable and imperative to step up the fight against crime through the criminal justice system. However, the government rejects the idea that this should be done merely by bringing about quantitative increases in the strength of the police and the public prosecution system. The sharp increase in criminal behaviour over the past few decades is partly the result of structural changes in our society. This fact alone prompts reappraisal of the place and task of the criminal justice system in the government's general policy with regard to crime. Furthermore, even a doubling of the number of interventions by the criminal justice system would not by any means close the gap between the number of offences committed and the number of responses by the criminal justice authorities.

A policy geared exclusively to "more of the same" would therefore mean that very considerable financial sacrifices would have to be made for action, the ultimate benefit of which is uncertain. Such an approach would also mean that the government would once again arouse expectations with regard to the performance of the criminal justice system which are probably not realistic and cannot therefore be fulfilled. This would further compromise the credibility of the administration of justice and of the public authorities in general".

Therefore the first emphasis in the years to come should be on crime prevention and on "a further mobilisation of individual citizens and organisations in society, including local government and the business community, in the fight against widespread crime, particularly minor offences".

However, effective answers have to be given to more serious crimes as well. The most severe reaction though, which is imprisonment or deprivation of liberty, was and still is continuously criticized while at the same time it appears to be unavoidable. Although attention should not predominantly be concentrated on this "ultimum remedium", nevertheless ample thought should be given to the use, the character and the aims of deprivation of liberty, by way of imprisonment as well as by alternative ways or sanctions. For that reason a seminar was held last April at Groningen to reflect upon a century of experience; It was organized by the Ministry of Justice and the State University of Groningen and was given an international character by the highly valued and gratefully received collaboration of the Council of Europe. "Review the past in order to understand the present and better to prepare the future". Those were the words of the Council's Director of Legal Affairs, Mr. E. Harremoes, at his address to the seminar. And he added rightly: "This is in many ways a suitable slogan for the Council of Europe's activities".

Indeed, studying and evaluating deprivation of liberty as a sanction is not enough. Measures should be taken and a policy planned in order to make it function as positively as possible.

The Council of Europe's efforts to improve the standards of imprisonment were underlined eloquently by Mr. Harremoes in his address. He pointed to the Standard Minimum Rules for the Treatment of Offenders and their thorough revision, hopefully to be adopted before long. He said that these rules should not only be guidelines, but should be actually also implemented and the Council of Europe should have the task of encouraging and even watching over their implementation. A delicate matter, but worthy of being positively discussed.

For as long as one cannot do without imprisonment, guidance as to its humane and positive level and substance is necessary as well as guarantees as to its proper application. I hope that the Council of Europe will find well-balanced ways to fulfill these tasks and will continue to strive for prevention of crime and innovation of penal and prison sanctions.

Since the Prison Information Bulletin is already a valuable means to that purpose, it is highly appreciated that a report of some crucial matters discussed at the Groningen symposium has found its place in this volume.

Frits Korthals Altes  
Minister of Justice  
of the Netherlands

# STRUCTURAL AND FUNCTIONAL REQUIREMENTS OF A PRESENT-DAY PRISON SYSTEM

REPORT PRESENTED ON THE OCCASION OF THE CENTENARY CELEBRATIONS

OF THE DUTCH PENAL CODE AT A SYMPOSIUM

AT THE UNIVERSITY OF GRONINGEN, 15-18 APRIL 1986

## *Introduction*

In this paper I shall describe how the Swedish prison system, which at one time had a fairly traditional structure, has been radically changed and given a completely different structure. This has had consequences for the functional methods and processes of the system. I believe - and I think many would agree with me - that the present system is better than the one it replaced. This does not mean of course that the present system is devoid of weaknesses. Moreover, it is also a system which is facing new and serious problems. I shall take up some of these matters towards the end of the paper. For the moment I want to make clear that I am presenting a brief case study with some occasional general comments. My hope is that this account of a process of change in my country may contribute to the discussions which are taking place on past, present and future directions for the Dutch prison system.

## *The previous prison system - ideology and structure*

Underlying the structure and the functional arrangements of a prison system is some dominant ideology. This ideology is the source of a political will to shape and use the prison system in a particular way for a particular purpose or purposes. The organisational structure which the system is given and the functional arrangements which it develops are the instruments which translate the political will into a working reality. These instruments at any given moment may be well adapted to the general goals of the system or they may be (or become) less well adapted.

For a considerable time prior to 1974, when the present prison system became a reality, Swedish legislators and prison administrators were strongly influenced by the belief that criminality, like sickness, could be cured if only the right treatment methods were found and applied. This ideology - usually called the treatment ideology - influenced the drafting of the Swedish Penal Code which entered into force in 1965, *inter alia* in the provisions for the indeterminate sentencing of those sentenced to youth imprisonment and internment. Not surprisingly, the prison system's structure also reflected the prevailing ideology by having differentiated prisons which would provide - at least in theory - differentiated treatments. Thus, the country was divided into five geographical regions (which were necessarily large since Sweden has an enormous land area) with three sub-systems for special categories of prisoner (youth prisoners, internees and female prisoners). Central prisons in the regions and a central prison for youth prisoners were used as reception, diagnostic and allocation centres. Rehabilitative work was seen as something to be carried out with the prisons in which inmates were placed. The basic structure of the prison system was

congruent with the dominant ideology of the period.

### Pressures for change

A first factor making for change in the system was a sizeable increase in the prison population which gathered momentum during the period 1946-60. The number of sentenced persons received into prison rose from 3,900 to 9,700 and the average population (those in prison on a given day) went up from 1,880 to 3,850. The Ministry of Justice Permanent Committee on the Prison Building Programme, concerned by the increase, began to make predictions about the size of the future prison population. It was predicted that the average population might well reach 10,000 by the 1980's. Plans to contain this increase were presented. They entailed the construction of a number of new maximum security prisons which, for reasons of economy in running, were, by Swedish standards, to be large ones. These proposals were accepted by the government of the day and work started on the new establishments. Kumla, with some 420 places, was the first to be completed and was ready for use in 1965. A similar prison was started at Österåker, near Stockholm. Thus, the first response to pressure for change was wholly traditional and amounted simply to an expensive expansion of the existing system.

In 1967, a parliamentary committee had been set up to see what changes might be needed in the prison system, *inter alia* to take account of the provisions of the 1965 Penal Code, and to recommend any necessary modifications of the Act on Prison Treatment. The committee's terms of reference specifically precluded it from including the new building programme in its sphere of work. It was bound to the existing basic structure. When however the committee presented its recommendations in 1971 there was no indication that it had seriously wished to question the ideology on which the structure rested. Its report was essentially a document of treatment optimism for which no evidence was provided. Even this recipe for change amounted to saying that what was wanted was more of what existed already.

By the late 1960's and the early 1970's however, the ideological basis of the prison system had been subjected to a series of critical attacks (I shall not describe them - they are well known by now) and an alternative philosophy was emerging. This was based on the idea of trying to limit the often damaging effects of imprisonment and attempting to give better opportunities to prisoners for personal development and improvement of social situation.

These views had found a ready response in the prisoners themselves and by 1970 an organised inmate opposition to the system had come into being. Widespread strikes were a feature of this opposition and led to talks about desirable reforms between inmate representatives and officials of the central prison administration. The talks failed to resolve the deadlock and were broken off by the inmate representatives in October 1971. It was apparent that a new and far more radical approach to the prison system was needed.

No action was taken on the proposals of the committee on the prison system which had reported in 1971. Nor was work continued on the prison building programme. The Österåker prison was never completed according to the original plans but came into use in truncated form. In the autumn of 1971 a new committee on the re-organisation of the prison system was set up and given terms of reference of great breadth. It was to work speedily and prisoners were assured that they would be able to present their views to it.

It should perhaps be added that the predicted average prison population of 10,000 by the 1980's never materialised. A peak was reached in 1970 but of 5,250. Since that time the average population has always been less than that and in 1985 was 3,393.

### *Proposals for a re-organisation*

Within a year of starting work, that is by the autumn of 1972, the committee on the re-organisation of the prison system had put forward its proposals. It asserted that there was little certain knowledge about the need for, and the effects of, treatment in prison as it had been conceived up to then. There was however a clear need to greatly improve the quality of help and support offered to prisoners as well as to counteract the harmful effects of imprisonment. To that end the committee proposed a radical re-structuring of the prison system. A key concept was the principle of proximity. Prisoners should be placed in prisons which were located near to their homes and should then be given plenty of opportunities to make use of local community resources.

What the committee proposed was that the normal run of prisoners should be placed in small locally based institutions (40-60 places), i.e. institutions which were near to their home towns or areas. Prisoners so placed should then be given opportunities for contact with their families, the local social, educational and medical services and with interest groups (sport, cultural, etc.). In order for this to be possible it was proposed that the opportunities for regular leave from the prison be increased as well as different kinds of leave for special purposes such as work, study or participation in some leisure activity.

Because of the proximity principle, these local institutions were well fitted to improve the quality of release preparation. But for this to be achieved a closer and more co-ordinated collaboration between the prison service and the probation service (responsible for arranging supervision after conditional release) would be necessary. Indeed, having regard to the shortness of many sentences it was even desirable to make it possible to begin release preparations in the remand prisons. In order then to secure this improved co-ordination, the committee recommended that entirely new regions be created comprising suitable groupings of remand prisons, local institutions and probation districts with a regional director having administrative responsibility for all the units involved. A main criterion for determining the suitable groupings was the need to be able to collaborate with a range of municipal and county council social, education and medical services. The regional boundaries were therefore to be drawn so as to coincide with county council boundaries giving 13 regions instead of five as previously.

Two categories of prisoner were excluded from these arrangements. In the first place there was less need for them with prisoners serving very short sentences and to attempt to cope with this numerically large group would require a great increase in staff resources perhaps to little practical purpose. This group consisted of those serving sentences so short that they were not eligible for conditional release. The second group to be excluded - or, more correctly, partially excluded - were those serving long sentences, defined as sentences over one year. Such persons would serve their sentences in prisons to be designated as national prisons which would draw their intake from the whole country and be placed

administratively directly under the central prison administration. However, the terminal phase of imprisonment - up to the last four months - could be served at a local institution in order to facilitate release preparation. But even for prisoners in the national prisons there should be some improvement in their opportunities to maintain contact with society and especially with their families. It should be noted that in 1984 this group of prisoners comprised only 9% of the year's intake.

The national prisons would for the most part be made up of the maximum security prisons already in existence with some provision for places at open national prisons. Local institutions were more of a problem. Where small and local institutions already existed, they were often old and not well suited to their purpose. And in many towns or areas there were no local institutions at all. The committee therefore recommended the construction of 25 local institutions over a period of fifteen years during which time unsuitable prisons would progressively be taken out of use. Although a national prison was reserved for female prisoners only, the other special categories of prison for special categories of inmate would be abolished. The new local institutions would have accommodation for both men and women who would share programme activities. In this way women, as well as men, would be able to make use of the new possibilities that were proposed.

I should be noted that a corollary of the proposed form of organisation was that it would be unnecessary for the prison system to build up its own specialised services for education, medical care, social work and leisure to the extent that had previously been necessary.

In 1973, Parliament, with the unanimous consent of all political parties, approved the proposals. The goals of reducing the harmful effects of imprisonment, of treating the prisoner with respect for his worth as a human being and of helping him to adjust in society were written into the Act on Correctional Treatment in Institutions together with the opportunities for leave from the prison. Included in the latter was also the possibility of authorising an inmate to live and reside away from the prison for any period of time where such a sojourn seemed especially desirable to assist adjustment in society. The provision was intended to make it possible for drug misusing inmates, for instance, to enter therapeutic communities or live with specially selected host families. The Act entered into force on 1 July 1974 and, with slight modifications, remains the principal legislative instrument for regulating the operations of the prison system. (See Note 1).

It is clear that the 1974 re-organisation has a very different structure from the system which preceded it. It is derived from a more modern and a more modulated ideology. The structure of the prison system as reformed in 1974 gives logical and coherent expression to that ideology. But a structure is still only a structure, a scaffolding. It has to be made to work. At this point functional arrangements and processes come into the picture.

#### *A short digression on structure and functional processes (see note 2)*

I want now to make a general comment on the notions of structure and functional processes. It will perhaps be easier if I begin with a couple of analogies.

A spider's web has a fixed structure. The threads which go from the centre to the circumference *always* intersect the lateral threads at equal angles. The spider is not free to alter this arrangement. When it makes a web it has to follow its inbuilt instinctive code of instructions and these always lead to the structure I have described. This structure gives strength and stability to the web. However, the spider is free to attach the web to some place in the environment using three, four or more points of suspension depending on the nature of the site selected. There are many similar examples of animal behaviour where the product is the result of some fixed canon of rules but the use of the product is governed by flexible strategies.

The same kind of analysis can be applied to quite complicated human activities. In a game - let us choose football - we find a set of fixed rules which define the permissible and the impermissible moves of the game - and thereby distinguish the basic structure of football from that of rugby or chess. What the rules do not do is to say which moves or combinations of moves will enable the team to win the game. The choice of the moves is left to the players. Their choice is guided by such things as the position of the other players on the field, and particular tactics that the team has decided to use, what has been learned from previous games and by quick thinking to see what appears to be most advantageous out of the range of possible moves.

It can also be useful to think about systems of organisation in this way and to ask what should be the content of the fixed codes and what must be left free for strategic choices. Some fixed basic structure over reasonable periods of time is necessary if the system is to have some stability. Without this no purposeful action is possible. But the purposeful action cannot be determined solely by the fixed code if it is to be well adapted to the ends in view. There has to be room for learning. Attempts to steer complex activities from too high up in the organisation's hierarchy usually result in an over-emphasis of fixed rules, an inhibition of learning with consequent rigidity in task performance.

An illustration of this question is provided by one aspect of Swedish civil service administration. The Instruments of Government which are derived from constitutional law of course include the various ministries. But constitutional law dating back to 1809 allows for responsibility for day-to-day operations to be taken by separate administrations which, in these matters, are quite independent. Thus, for a wide range of operational activities in the prison system it is the National Prison & Probation Administration which is the responsible body and not the Ministry of Justice. Since there is no doctrine of ministerial responsibility in these matters it is impossible for questions about, for instance, decisions taken concerning individual prisoners to be raised in Parliament. The person who is finally responsible is the Director General of the National Prison & Probation Administration and not the Minister. Nor has the Minister any power to alter decisions taken in individual cases. Dissatisfaction can lead to the matter being raised - but only in terms of looking into general policy and practice. (This is usually done by referring such matters to existing committees or by setting up a working party.) What all this amounts to is that the prison system is insulated against sudden changes being made in the basic codes of rules because of political reaction (over-reaction?) to a particular case or event.

I have gone into this in some detail since it has an important bearing on the process of planned change. The re-organisation of the prison system that I describe here is a very large-scale operation with many ramifications and extending over a quite long period of time. Since it also involves a break with the past and demands the development of new functional arrangements, it is necessary to ensure that there is room for learning. It may on occasion be necessary to alter the basic codes but this should not be done lightly nor should it be done as a result of what may be an unfounded or exaggerated response to perceived defects in the new system. Two illustrations may be given in connexion with the implementation of the reorganisation which show the value of decentralised responsibility.

The new Act of 1974 made possible an increased number of leaves for inmates. Inmates on leave thereby became more visible. In 1976 there were serious allegations *inter alia* from the police that inmates who were failing to return from leave were responsible for a marked increase in the number of breaking and entering offences which had been observed. Individual cases could not be discussed but of course the question could easily be raised in terms of policy and practice. The Minister of Justice set up a working party to go into the question. Research studies showed the allegations to be exaggerated although it was true that a tiny number of inmates sometimes committed serious offences and some governors were found to be granting leaves inadvisedly. The former hazard could not be corrected by any general alteration in the practice concerning leaves and the latter problem was a matter for instruction and advice. More recently, as a result of mass-media publicity concerning a prisoner sentenced for economic crime it was alleged that there was a category of prisoners who, prior to imprisonment, had been of good social position and were being treated as "luxury prisoners" with advantages denied to the ordinary run of inmates. The working party set up to look into this matter found (as usual?) that the issues were far more complex than might have been supposed from the media publicity. (Prisoners sentenced for economic crime may, for instance, have had a good social and financial position earlier but as a result of their conviction may face serious difficulties in re-establishing themselves on release. Special efforts to help them are justified if this kind of prisoner is to be treated in accordance with the criteria on pre-release preparation that obtain generally). In the event only minor adjustments of practice were necessary.

#### *Functional aspects - some progress and some problems*

It is harder to give an account of functional aspects of the system since they are often varied and in a state of flux by their very nature. What can be said is that today, twelve years after the start of the re-organised system all thirteen regions are working well. It has proved necessary during the period to make adjustments to some of the probation district boundaries in the light of experience. The building of a large number of local institutions has occasioned an enormous volume of work in finding sites, planning the buildings and getting work done in the scheduled time. Systematic efforts have been made to learn about weaknesses in design and construction. Real learning has taken place in this area and there has been successive improvement in the quality of the new local institutions. They are attractive and functional and make it easy for staff and prisoners to mix informally.

In the same way that the quality of the buildings has improved so has the training for the staff that works in them. It may be of interest to

note that when new staff have been recruited for new local institutions, emphasis has been placed on trying to secure women as 50% of the basic grade staff. Surveys made suggest that the new buildings are liked and considered to be well adapted to their purposes.

A few figures can be given which will summarise how the system as a whole is working in relation to the major goal of maintaining, intensifying or creating contact with community resources. During 1984 a total of nearly 14,650 prisoners were received into the prisons. Of these some 6,350 were very short term prisoners, ordinarily not eligible for leave or conditional release. Just over 40,000 leaves were granted to those eligible of which 4% were misused. About 1,400 prisoners worked or studied in the community (17% misused this form of temporary release) and 535 inmates, mostly drug misusers, were authorised to reside in therapeutic communities, host families or specialised hostels.

Accounts of progress achieved however should not lead to the conclusion that all is well. As I said in the Introduction to this paper there are many problems which challenge ingenuity and demand experiments and learning if better solutions are to be found. Some of these problems are as follows.

The drug problem is a problem of long standing. About 40% of the annual intake are assessed as having been active misusers during the two months prior to deprivation of liberty. Whilst special treatment programmes exist for those motivated to use them a large number of inmates see no reason to stop using drugs. The open nature of the prison system makes it necessary to try to achieve a balance between formal control measures (of which urine testing is the most widely used), informal control measures (a full programme of leisure activities with staff participation, for instance) and measures intended to motivate inmates to take steps to give up drug use.

Closely linked with the drug problem are general discipline problems. The only disciplinary punishments available are a warning and ordering that a certain number of days served shall not be reckoned as time served. (Confinement to a room was abolished in 1976). A study made of the 1977 population showed high rates however of transfer to another establishment for disciplinary reasons. Transfer rates remain high. Moreover, staff at the end-of-the-line prisons often feel that they lack both adequate reward and punishment possibilities to deal with the most difficult sections of the inmate population.

Since 1974, the limiting period for eligibility for conditional release has been reduced and today all prisoners serving more than two months are conditionally released. This places much work on the shoulders of the staff especially in the local institutions where the rate of prisoner turnover is very high. (In a study of four local institutions, 67-83% of the inmates stayed 2 months or less).

HTLV-III/AIDS is a new and dramatic problem. Since injecting drug misusers are a high risk group it seems certain that a large number of AIDS bearers will occur in the prisoner population. Both staff and prisoners are anxious about AIDS. The full implications of this syndrome for the prison system are not yet clear but rapid adaptation to the new dangers and difficulties has to be made.

Finally, in common with many other administrations, budgetary limitation is demanded by the government in view of the national economic situation.

These and other difficulties too numerous to mention are a challenge to find these more adaptive and flexible strategies. It is platitudinous to say that this in its turn requires the mobilisation of the staff's creative capacities by imaginative leadership and competent planning - but not less true for that. And already, at various levels and in various ways new plans and efforts are being made. I cannot in the space available report on all this. Instead I want briefly to give an account of two research projects which bear on these management questions.

#### *Research on the prison as a work environment (see Note 3)*

This project was started in 1982 by a joint initiative of the staff trade unions, the National Prison & Probation Administration and the Swedish Foundation for Occupational Health and Safety among State Employees. Professor Töres Theorell of the National Institute of Psycho-social Factors and Health - an internationally recognized expert on stress - is acting as scientific consultant. The main purpose of the study is to investigate the prevalence of stress among prison staff and the factors which promote or hinder its occurrence. The study has three phases.

In the first phase very intensive measurement was conducted of a range of physiological functions, including the production of a stress hormone - cortisol, among a selection of staff from four prisons of different types. The measurement was conducted during work and off-duty periods. The different categories of staff who took part were then interviewed twice - once on work life and once on the individual's general life situation. The interviews on work life covered many aspects of work in a prison. Based on a theoretical model they were focussed on revealing work situations which made for experienced stress and mitigating factors such as the degree of personal control exercised over work, the nature of the expectations concerning work, support by a group, etc. The findings from the phase 1 study are treated as hypotheses to be tested in a large scale investigation, the phase 2 study. Findings from the phase 1 study showed irregular heart beats - which are associated with heart disease - to be significantly related to decision latitude. High blood pressure showed a very marked association with low levels of work satisfaction even when age, height and weight were held constant. Of special interest were the findings on the stress hormone, cortisol. This hormone is produced in connexion with anticipated or experienced unpleasantness - pain or anxiety, for instance. The average level of cortisol which was found was higher than is customary among healthy persons. The values were particularly high after a leisure period prior to starting a long working period.

The second phase of the study (now completed) was carried out on some 2,000 staff drawn from 70 prisons and remand prisons. Instead of the very intensive physiological measurements, a medical examination was carried out. The interviews were replaced by a detailed questionnaire which was handed in when attending for the medical examination. A large volume of data about individuals, professional categories of staff, types of prison, individual prisons, work loads, group support and management practice is currently being analysed. The third phase of the study (also completed) consisted of depth interviews with prison staff who because of physical or

psychological breakdown have been the subject of special measures of assistance (e.g. transfer to another, easier job or given early pension). The object of these interviews was to secure information about the onset of the breakdown and the response of colleagues, management, etc. This qualitative data will supplement the more statistical data from the phase 2 study. It is expected that main findings will be known by the summer and that a report in English will be ready during the autumn.

The strength of the study lies in its combination of objective and subjective assessments of stress and in a theoretical model which enables stress to be seen in relation to exacerbating or mitigating factors. These factors in their turn can be directly and concretely related to specific prison situations, problems and styles of leadership and management. This research has aroused great interest among the staff and the degree of co-operation given to the research workers has been unusually high. Once the results are known, it will be of the highest importance that senior management is seen to take them seriously and to use them as a basis for making improvements in the functional environment.

#### *The linchpin project (see Note 4)*

This is a study of management processes which is being conducted by the Swedish Council for Management and Work Life Issues. The background to the research is the need to help staff to accept the challenges of change - the process that I have called in this paper the search for better functional strategies. Two general aims are to clarify for the actors in given work situations the apparently irrational factors that affect an organisation involved in flexible change and to increase awareness about what is required of a leadership philosophy for the development of individuals and the organisation. Among the specific effects aimed at are greater acceptance of differences between individuals and their approaches and contributions to the job, the encouragement of productive differences, a better understanding of the aims and the constraints of the administration and its constituent parts, a greater commitment to those aims and more initiatives taken at lower levels of the organisation i.e. less referring of decisions upwards.

This is an action research project and therefore the research workers have set up a group which shall be representative of the prison system as a whole to assist them. This MINI-PS (miniature prison system) is itself an object of study at the same time as it helps the research workers to gather data, to test hunches and hypotheses, and ensure that generated knowledge is used for the good of the whole system. As yet it is too early to say much about results. Some preliminary findings about the "social character" of the MINI-PS have been reported but until these findings have been tested with other groups their validity is uncertain. Those who are part of the MINI-PS say that they have been helped to understand what is happening in the organisation but are still uncertain how this understanding is to be used in practice. In order to tackle this uncertainty the MINI-PS is currently engaged in trying to understand attitudes to the AIDS problem and to relate these to the plans being made to deal with it.

#### *Concluding remarks*

I have presented some reflections about changing over from one kind of prison system to another kind. I believe the system that exists now is

more realistic and humane. This does not mean that the problems and difficulties have become less. On the contrary, I suspect that they have become more, and more complex. I have said a little about some of the ways that are being used to try to meet this challenge. But there is one approach I think where there is much to be learned from the Dutch prison system. That approach is the pragmatic one. The Swedish system now in operation has become more pragmatic in its ideology and in the structure created to give expression to that ideology. Some of the functional operations which have been carried out over the last 12 years also bear the stamp of pragmatism - in particular, the approach to building the new local institutions has been essentially pragmatic. But, as I see it, there is a great deal to be done in developing this pragmatic approach in relation to many day-to-day activities. To put it another way, if the system in general is more pragmatically organised than it was formerly then we should be able to specify in simple, clear and very concrete terms what are to be the results of the various activities carried out. Our weakness, I believe, is that we talk too much and too often in terms of vaguely formulated expected results. "We have elevated pragmatism to the status of a national sport" said a senior Dutch civil servant to me last year. There are worse ambitions.

Norman Bishop  
Former Head of the Research and Development Group  
National Swedish Prison and Probation Administration

#### NOTES

1. The Act on Correctional Treatment in Institutions (1974) has been translated into English and can be obtained from the National Prison & Probation Administration, S-601 80 Norrköping, Sweden.
2. A writer who has written fascinatingly about wholes and parts in hierarchically structured systems is Arthur Koestler. My analogies are adapted from descriptions given by him in "Bricks to Babel" (1980) published by Picador, London.
3. So far one article exists in English:  
"Decision latitude and ventricular ectopic activity - a study of 24-hour electrocardiograms in prison personnel" by Härenstam A, Theorell T, Orth-Gomér K, Palm U-B and Undén A-L of the National Institute of Psychosocial Factors and Health and the Swedish Foundation for Occupational Health and Safety among State Employees.
4. A situation report entitled "The linchpin" is available from the authors, Bergquist L and Rendahl J E of the Swedish Council for Management and Work Life Issues, Box 5042, S-102 41 Stockholm, Sweden.

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Some of the text of Mr. Bishop's article on drug misusing prisoners in Sweden published in the last Prison Information Bulletin was incorrectly printed, notably the passages on pages 9-10, following the heading Recidivism, which concern the Österåker project. However, readers will be interested to know that an English version of the follow-up study of this project is available. Results of the drug misuser treatment programme at Österåker, Report L986:2. It can be obtained free of charge from the Research and Development Group, National Prison and Probation Administration, S-60180 Norrköping, Sweden.

# NEWS OF THE COUNCIL EUROPE

## COUNCIL OF EUROPE SEMINAR

(Nicosia, 18 - 20 November 1985)

A seminar for the prison staff was organised by the Prison Administration in co-operation with the Council of Europe on the theme "Prison Regimes and treatment of offenders in the Prison Setting" from 18th to 20th of November, 1985, in Nicosia.

Mr. J.J.J. Tulkens, Penological Consultant of the Dutch Ministry of Justice, and Mr. W. Rentzmann, Deputy Director-General of the Danish Prison Administration, acted as Rapporteurs. Mr. Iacovides, Director of the Department of Prisons, chaired the seminar.

Mr. H.J.J. Tulkens extended his visit to Cyprus to help in the preparation of a Masterplan for the Department of Prisons. Mr. Tulkens has already submitted his report "Prison Development in Cyprus". It is now under study by the appropriate Services of the Ministry of Justice.

## CRIMINAL RESPONSIBILITY AND PSYCHIATRIC TREATMENT OF MENTALLY ILL OFFENDERS

Seventh Criminological Colloquium  
held in Strasbourg from 25 to 27 November 1985

### Summary of the reports and discussion

#### I. *Criminal responsibility*

The concept of responsibility is based on a kind of anthropological view and an assumption that man has free will and control over his actions. In the legal context the consequences of this assumption affect the regulation of dealings between people, both in their private commitments and in public and criminal matters.

In the criminal courts, only a child or a person whose reason is impaired is considered "doli incapax". During enforcement of sentences, educational or therapeutic programmes are intended in one way or another to develop a sense of personal responsibility: in the absence of such programmes social constraint loses its moral justification.

In many systems of national legislation criminal justice employs the concept of responsibility to identify and subsequently take account of mental disorders. The classic definition of responsibility includes two elements: (a) the capacity to understand, i.e. to interpret one's actions in reality and (b) the capacity to intend, i.e. to exercise self-control.

## II. *Psychiatric reports*

When a judge and a psychiatrist come together to work out an appropriate decision they encounter difficulties, because their observations are not expressed in the same conceptual framework and because their objectives relate to a different set of ethical priorities.

### 1. *Mental disorders*

The description of mental illnesses and psychological disturbances depends on various scientific approaches.

Whatever place is given to experts in the procedure, their contribution is more useful if they can agree on a minimum number of common criteria when presenting their observations and opinions. In this connection mention should be made of the important work of classification done, and still being continued, by the WHO (ICD - 9) and the American Psychiatry Association (DSM III). Through its emphasis on routine, verifiable observation, this work is clearly a suitable basis for encouraging communication between psychiatrists and the courts.

Experience shows that there is normally good understanding when the mental disorder belongs to the category of psychoses, i.e. at some time or other seriously impairs contact with reality. Whatever legal system is in force, the offender is essentially a case for medical treatment.

However, when relatively minor mental disorders are involved or in cases of more or less strange and short-lived reactions, medical diagnosis and legal interpretation cannot avoid a margin of uncertainty.

Expert opinions often concern people who are not really ill but who present serious character and personality disorders, with forms of maladjustment and instability often referred to as psychopathic. This is a type of weakness or infirmity which does not affect intellectual faculties, but rather control over desires and emotions and perception of one's own identity. Assessment of these people frequently leads to unsatisfactory conclusions and to a situation which could be described as the converse of a conflict of competence: neither the penal system nor medical and social agencies can offer really suitable programmes to deal with them.

### 2. *Capacity of understanding and intent*

A person's intellectual faculties can be analysed fairly precisely in relation to a given act.

It is more difficult to evaluate the capacity of intent, i.e. of exercising self-control and making up one's own mind. The expert will try to reconstitute the way the offender's personal dynamism probably operated at the critical point of the act. He will assess the way in which the energy of desires and the forces of self-control may have adjusted to each other and to what extent thought may have turned into decision. If one accepts that intention is the product of complex psychological factors, it follows that it is often risky to interpret giving effect to that intent as normal or pathological or to use intent as a criterion of responsibility.

The rather moral and philosophical nature of the concept of responsibility is particularly in evidence when the law recognises different levels and contains the intermediate notion of diminished responsibility. In some cases diminished responsibility may be tantamount to a particular kind of mitigating circumstance.

There are several European and American systems of law which contain no reference to the concept of responsibility. They make mental disorder or psychological disturbance a direct factor in the analysis of criminal intent and in the choice of sentences and other measures.

### 3. Dangerousness

The social control of high risk individuals is a field where criminal proceedings and medical-social treatment meet. The concept of dangerousness is regularly used by doctors in certain clinical situations and in the consequent therapeutic decisions. Dangerousness can be defined as the excessively high probability that an act regarded as excessively serious will be committed.

A clinical prediction of dangerousness is possible only according to methods and within limits which have been the subject of numerous studies, for example those of Gunn, Harding, Monahan, Scott, Shah and Steadman. Usually the prediction can be precise only in the short term, where there is clear-cut evidence as to antecedents, personal situation, mental state and environment, and on the basis of multidisciplinary information.

The situational aspect of dangerousness means that the benefits produced by treatment is often cancelled out when the treated person is moved back into a social environment at risk.

## III. Psychiatric treatment

1. In one way or another, at every stage of criminal procedure, just as a medical expert may be called on to give an opinion, so a medical practitioner may be called on to treat a person who has been arrested, remanded or sentenced.

It is mainly in closed institutions that systematic programmes have been developed, either in prison medical and psychiatric services or in hospitals or secure hospital units. Usually both systems coexist, in order to cater for a population with a classic pattern of movement between the criminal system and medical-social agencies.

For the treatment of dangerous criminals we must draw attention to the value of models inspired in one way or another by the therapeutic community. When these schemes are carried out in prisons they are good examples of co-operation between medical and prison staff, supported by the prisoners themselves. These programmes make it possible to add a kind of social dimension to the warden's job.

2. In the diversity of national legislation and the variety of regulations governing the practice of prison doctors the latter must be allowed the same clinical independence which applies to an ordinary treatment relationship. As for the criminal patient, he must have the same personal rights as are secured to everyone in the context of a medical relationship, consent and confidentiality being the principal aspects.

Professor Jacques Bernheim  
General Rapporteur of the Colloquium

SYMPORIUM AT GRONINGEN

15 to 18 April 1986

The present Dutch Penal Code was introduced in 1886. In 1886 too the first Prison Code came into operation. Deprivation of liberty by way of imprisonment, already in use for years, even centuries, was institutionalised as a main sanction. Its form, laid down in the Prison Code, was based upon the cellular system; accordingly prisons were built.

Despite high expectations, such as the "conversion" of the prisoner being alone in his or her cell and prevention of criminal contagion by the same cellular system, imprisonment was criticised right from the start; it still is and always will be criticised. Not only because it is an imperfect and even inefficient reaction to crime, but mainly because its unwanted but unavoidable side-effects, such as its encroachment upon personal life and personality, the long lasting social damage after release, the negative social consequences to relatives or others dependent on or closely connected with the prisoner.

Has awareness of these bad effects, which in fact are so dominant as to impede the positive results sought, led to abolition of the prison sentence? No it has not, since apparently, after having introduced that sanction as an alternative to banishment, corporal punishment and even the death penalty, our imagination seems to have dried up, and we have not found any new real alternatives. Even more, for some years the increase of prison sentences seems to be the only serious answer - notwithstanding marginal novelties like community service - to rising criminality.

Under these circumstances the commemoration of a centenary of imprisonment may not come at the most opportune and favourable moment. It certainly comes at a very urgent moment. On this occasion a symposium was held at Groningen from 15th to 18th April 1986, organised by its State University and the Ministry of Justice in collaboration with the Council of Europe. The symposium was in two parts: a first more or less ceremonial day, attended by some 300 persons, and two further days for a small audience (about 50). Representatives from 14 other member States of the Council of Europe participated in it.

The symposium was meant to reflect upon "Deprivation of Liberty": What has gone wrong and what can be done? The report of the symposium will be distributed. Hereafter follow only some impressions about the main issues and viewpoints presented. The importance of the symposium may be stressed by the address of the Dutch Minister of Justice pointing at the social need for combatting crime and increasing prison capacity and by the address of the Council of Europe's Director of Legal Affairs underlining the necessity of the international implementation of the Standard Minimum Rules for the Treatment of Prisoners.

## *Prison history*

An interesting historic analysis presented on the first day going further back in time than one century only, mentioned a cultural change about the year 1200. Before that time an arrangement between conflicting parties seemed to have been the normal procedure. From then on, and more particularly after the separate 17 regions of the Netherlands evolved into a national state in the sixteenth century, fundamentally, though in a hardly noticeable way, this old custom was replaced by the penal model of prosecution by the state. Looking back at the old tradition some people are in favour of restricting the function of state justice and replacing it again by mutual settlements. This is supposed to be made possible by introducing conciliators, active and trained persons, acting not only in civil but also in penal cases under the supervision of the Public Prosecutor.

Although this idea has not been realised, the will to decrease punitive sanctions was already part of the movement in the 19th century, when one wanted to abolish corporal punishments because of their barbaric character. It is however interesting that in the old days corporal punishments mostly were applied to serfs, not so much to free people, who settled their conflicts. There is the connection with later imprisonment. It too was and still is predominantly a sanction applied to the lower social classes in society, to the people who have little or nothing to lose and thus can be deprived of their liberty only, since corporal punishment is considered uncivilized (1).

Although perhaps penal law does protect better the social "winners" than the "losers", and thereby confirms existing prejudices distinguishing between the group of law-abiding citizens and others, and thus giving the first group no fully convincing reasons to do the utmost - and pay for it - to make imprisonment effective for prisoners, nevertheless it is only fair to say, that from the last century those who pleaded in the Dutch parliament for humane and positive prison conditions were more influential and successful than those who asked for deterrent punishments.

The question is: Was it owing to doubt about imprisonment's usefulness that the number of prisoners in the Netherlands was always stable regardless of the increase of population and of crime? Or was it due to the fact that prison capacity, maybe even the manpower of courts and public prosecution remained at the same quantitative level throughout the years?

In one of the articles in "De Vrijheidsstraf" (the sanction of deprivation of liberty), which was published at the occasion of the Groningen symposium (2) S. van Ruller sketches the statistical process of the application of imprisonment. Remarkably, from 1886 till now, or at least until the middle of the seventies, the prison cell capacity always was around 5000 and the daily average number of prisoners about 4000, with two brief exceptions immediately after the two world wars. It is only from about 1975 that shortage of cell capacity was signalled and answered by long-term expansion, which is still going on and is planned to result in a total number of 7000 cells, i.e. if fully occupied 50 : 100,000 population.

Apart from this latest development the stable number of prisoners meant a decrease of prisoners as compared to the population, which in the period between 1886 and 1965 more than trebled.

Figure 1 clearly demonstrates the lowering of the prison population, caused by less prison sentences and shorter terms of imprisonment. Figure 2 indicates the relatively more restricted use of prison sentences.

Figure 1 - Prison sentences and fines imposed because of crimes in %;  
all sentences together = 100% (Source CBS, 1979)

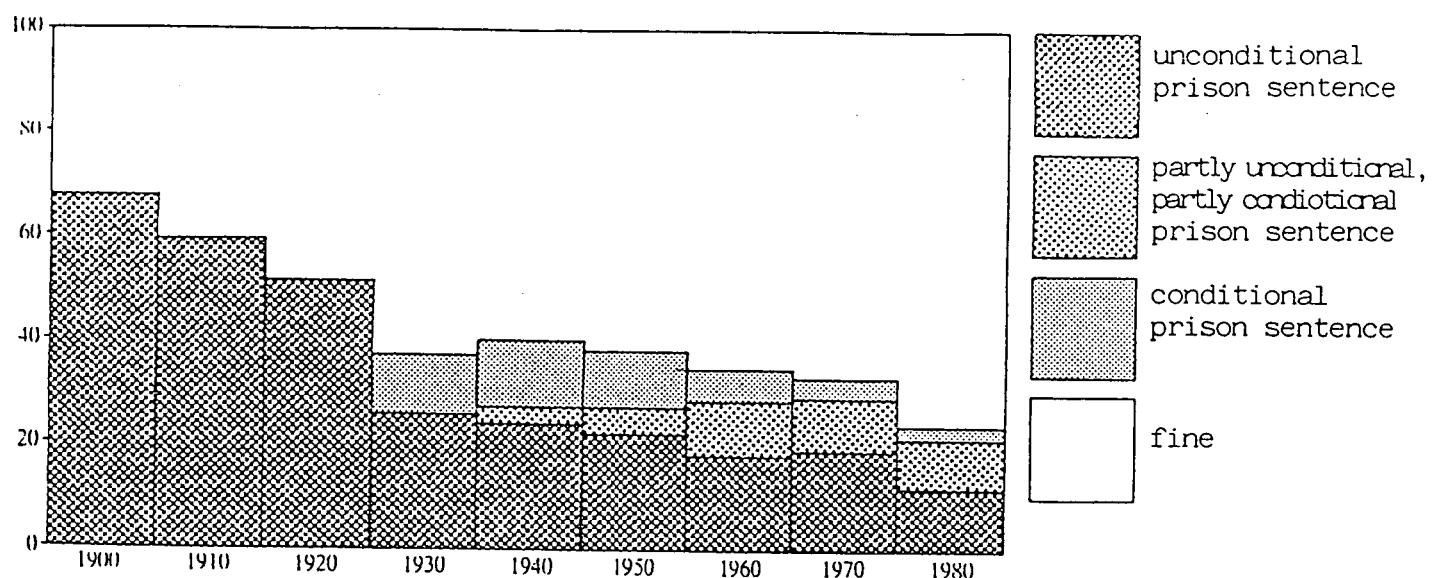
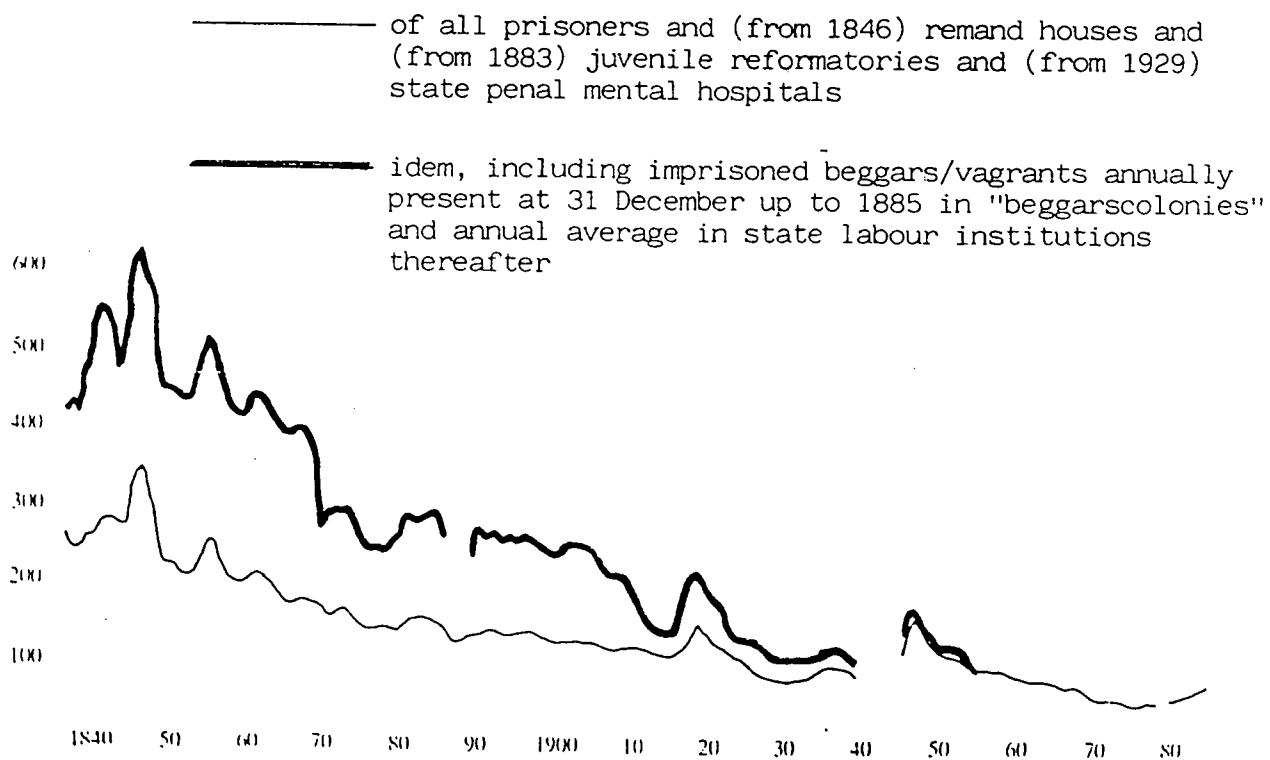


Figure 2 - Average prison population per year per 100.000 national population  
of 15-64 years of age; 1837-1983



*.....with an eye to the future*

Now for about 10 years already a change has taken place as to sentencing practice: more and longer prison sentences are imposed - and a historical - unprecedented expansion of prison capacity is taking place. An era of decrease of prison sentences has been closed, says van Ruler (3). The reason for it may be the rising rate of more serious crime. Nevertheless, if answering it by imposing more and longer prison sentences seems unavoidable at this moment, two obligations have to be born in mind: First that the conditions and the substance of imprisonment should be as positive as possible; second that everything should be done to find alternatives to imprisonment.

Both obligations are supported by Prof. Jongman's article (4) in the commemoration volume in which he stresses that penalties may only have an effect on the delinquent if he or she is part of a community and therefore subject to social control. These conditions too constitute the effectiveness of preventive measures. Those who socially and actively participate in community life are too sensitive and liable to its social control and thus have reasons not to risk committing crimes. Those however who do not play a part in the community, are not restrained by the threat of prison sentences. So imprisonment seems to be most effective for those who are not likely to go to prison and least effective to the losers, mentioned earlier, who make up the largest part of the prison population. Therefore generally speaking, to the former, if sentenced, an alternative sanction is less damaging to their social situation and is satisfactory from the point of deterrence from further delinquent behaviour. To the latter everything has to be tried to establish or improve their social links to the community, which can be done better by alternative sanctions than by imprisonment and if in prison, it can be done only in a very liberal and community-directed prison system and prison régime.

In fact the lectures of the symposium highlighted one or both of these aspects from different angles.

A really fundamental approach was explained by Prof. van Veen, who redefined the notion of deprivation of liberty. In his view it should no longer be a sort of banishment from society, but placing a person under official authority (5).

In this sense the sanction of deprivation of liberty need not be imprisonment, but may take the form of part-time imprisonment, even day-detention and community service. It creates possibilities for real individualization, the only way to expect more positive effects.

This viewpoint, if accepted, is as I see it a historic innovation. After corporal punishment and social isolation by imprisonment, now the deprivation of restriction of one's freedom under official authority is a new step towards individually diversified positively aimed sanctions without unnecessarily cutting off social relations.

Prof. Kelk's lecture in fact linked up with this vision, since he stressed the importance of recognizing prisoners' individuality by avoiding a big bureaucratic and centralised organisation. It reduces essentially the level of humanity, creativity and personal concern, just as do the new movements of "new realism" and "just dessert", which take away incentives to improvement and resocialisation (6).

#### *Four focal points*

The necessity of an individual approach is heightened by the big number of prisoners who have mental or psychiatric problems, suffer from depressions etc.

Not all of them can be placed in special institutions or want to go there. Therefore the question is of increasing importance, whether therapeutic treatment can be provided for in normal prisons. In his lecture about this subject matter Dr. Blankstein held the view, that in a custodial situation the provision of treatment is "an ethical necessity which, however, should be on a voluntary basis only".

And this asks for an organisational structure of the prison which favours - again - individualisation (7).

Mr. Bishop, former Head of Research of the Swedish Prison and Probation Administration, dealt exactly with that issue. Taking the reorganisation of the Swedish prison system 1972 as an example, he stressed the necessity of a coherent structure of prisons, prison régimes, staff organisation and functioning, and of a national administrative system on top of it. Prisons in Sweden are based partly on the proximity principle, partly on differentiation along criteria of security and general treatment. Prison régimes are essentially community-directed (leave regulations, co-operation with external social, educational, medical, sport, cultural services etc.) and a close collaboration between prison and probation service exists. Staff organisation and the national administration are built on principles of decentralisation and delegation, taking care on the central level of stability of the system and its functioning by fixed codes (but as few as possible) and on the level of the prisons of freedom for strategic choices<sup>8)</sup>.

Experience so far seems to prove that this well-planned and consequently realized system was the right choice.

It was only logical to make the step from the internal prison community to the external community and its indispensable role concerning the care and treatment of prisoners. Also, it was only consistent with the foregoing to invite a representative of a non-governmental, private organisation to speak and give ideas about possible contributions and its experience, namely the director of NACRO, the National Association for the Care and Resettlement of Offenders for England and Wales, Mrs Stern (9). Hearing about NACRO's work (housing ex-prisoners, for "without a roof over one's head the chances of settling down are very low indeed"; providing work for them by special schemes, "for work gives an identity, a place to go every day"; having this work done by interested people, not professions) everything seemed so self-evident, so uncomplicated, so merely humane and without the burden of organised formalities and institutions, that one wonders why this work and this approach is not adopted everywhere and for every prisoner who needs it.

Its simplicity may be deceptive, it is appealing and convincing too. Maybe NACRO teaches us that we never will find new solutions to old and much debated questions, when our primary concern is competence, authority, precedents, the maintenance of established positions and the adjustment to existing structures and procedures. Maybe NACRO's message is: If you want to start anew, well start anew.

This approach fits in with de-institutionalising the notion of deprivation of liberty, with individualisation, with community-directedness, with decentralised "freedom for strategic choices" in the sense that these principles, all of them, point at the basis, the place where the people and their problems are and where answers have to be given. Here we turn to alternatives to imprisonment, about which I had the honour to speak (10). It is a movement as it were, born out of concern for the harmful effects of imprisonment, but still no match for serious criminality. Community service, for example, is applied only for minor even petty offences. Alternatives will get a really important and innovative meaning only if they can be used as an answer even to more serious crimes. As long as it is said that community service is normal work, not much of a burden, certainly not "hard labour" and therefore not a real punishment, no alternatives will be found which can replace (part of) longer terms of imprisonment and prevent its negative effects. It has to be accepted as a matter of principle, that deprivation or restriction of liberty as such is the punishment even with alternative sanctions and that within the limits set by it the substance of that sanction may be positive, educational or simply normal human work or activity. Unless imprisonment may be combined with an alternative sanction, alternatives will remain marginal sanctions and those (long-term) prisoners who are most in need of alternatives, will never get them. And unless alternatives may comprise a variety of common sense activities in NACRO-style which are immediately seen as worthwhile by those on whom they are imposed, they will lose the interest of offenders as well as judges.

Finally: Prisoners, what do they think about it? To find out the opinions of the prisoners about all these subject matters, a simple survey was made and the results were presented at the symposium, about questions related to the lectures presented (11). Generally speaking their biggest problem is being outside society, feeling that one is excluded despite visits and even regular leaves. Helplessness, loss of relationships, of real tasks, responsibilities, independence, these are their complaints. On the other hand there is a realistic acceptance of punishment even in that they think alternative sanctions should be a punishment. These alternatives, just as prison leaves, are preferred mainly because of the absence of negative effects. They are considered a punishment because the implied obligations are not easy to observe (that is easier in prison); therefore alternative sanctions should not be too long.

Was the symposium a success? Did it transmit incentives and stimulate refreshed thinking? Hopefully it did. At least, I think it did what seminars always do: encourage and make you feel that working in this field and trying to make progress is not like pouring water in a basket.

Hans Tulkens

Note:

The report of the symposium will be sent upon request at the following address: WODC, Ministry of Justice, P.O. Box 20301, 2500 EH The Hague, Netherlands.

## REFERENCES

- 1) Huussen A.H.: Deprivation of Liberty: Civil alternative to corporal punishment?; lecture presented at the symposium (Provisional title).
- 2) De Vrijheidsstraf, de Jong D.H., van der Neut J.L., Tulkens J.J.J., editors; published by Gouda Quint B.V., Arnhem, 1986.  
Volume of 24 articles on the sanction of deprivation of liberty and imprisonment. Summaries of the articles in English, separately distributed at the symposium, are to be had on request at the Ministry of Justice Research and Documentation Centre (W.O.D.C.) P.O. Box 20301, 2500 EH The Hague.
- 3) Van Ruller S.: Honderd jaar vrijheidsbeneming in cijfers; published in "De Vrijheidsstraf".
- 4) Jongman R.W.: Over macht en onmacht van de vrijheidsstraf; published in "De Vrijheidsstraf".
- 5) Van Veen Th.W: Deprivation of liberty; what does it deprive of?; lecture presented at the symposium. (Provisional title).
- 6) Kelk C.: The ups and downs of the prison sanction; lecture presented at the symposium (Provisional title).
- 7) Blankstein J.H.: Punishment and treatment: incompatible or not?; lecture presented at the symposium.
- 8) Bishop N.: Structural and functional requirements of a present-day prison system; lecture presented at the symposium.
- 9) Stern V.: "Getting used to people again"; the Community and the Prison, some thoughts and suggestions; lecture presented at the symposium.
- 10) Tulkens J.J.J.: Alternatives to prison: real hope or a passing phenomenon?; lecture presented at the symposium.
- 11) Brand-Koolen M.J.M., Verhagen J.J.L.M., Overwater J.: Prisoners, what do they think about it? Report of a small opinion survey, presented at the symposium.

# NEWS FROM THE MEMBER STATES

## STATISTICS CONCERNING PRISON POPULATIONS IN COUNCIL OF EUROPE MEMBER STATES

The following data, obtained through the data collection system set up by the Committee for Co-operation in Prison Affairs, reflect the position regarding member states' prison populations at 1 February 1986.

The data accumulated since 1 February 1983 make it possible to monitor changes in those populations over a three-year period. To that end, four sets of indicators have been calculated: total prison population, number of unconvicted prisoners, number of women prisoners and number of foreign prisoners (base 100: 1.2.83).

In addition, the 1984 committal flow statistics published in the previous Bulletin have been supplemented (1).

From the raw statistics supplied by national administrations, the following indicators have been calculated:

TABLE 1. Position at 1 February 1986

- a. Total prison population
- b. Rate of detention per 100,000: total prison population at 1 February 1986 as a proportion of all inhabitants (Figure 1)
- c. Percentage of unconvicted prisoners: number of prisoners who have not been convicted as a percentage of the total prison population
- d. Rate of unconvicted prisoners per 100,000: number of unconvicted prisoners as a proportion of inhabitants at 1 February 1986 (Figure 2)
- e. Percentage of women prisoners
- f. Percentage of young prisoners
- g. Percentage of foreign prisoners

Comparison of the data in Table 1 with those previously published (2) shows a steady rise in the mean distribution rate (58 per 100,000 at 1.2.83; 61 at 1.2.84; 63 at 1.2.85; 65 at 1.2.86) (1) the variation in distribution remains comparable (3).

It should, however, be emphasised that beneath the upward trend lies a wide variety of situations.

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- (1) See Appendix 1. In order to avoid including too much information under this heading, we have not reproduced any of the 1984 data already published in Bulletin No 6. In future, committal figures for the year n will be given only in the December bulletin of the following year (n-1).
  - (2) These calculations do not take account of the position in Turkey, for which we have no data for 1.2.83.
  - (3) Standard deviation at 1.2.83: 23.5; at 1.2.84: 23.7; at 1.2.85: 23.5; at 1.2.86: 24.2.

Figure 1. Breakdown of Council of Europe member states by detention rate per 100,000 inhabitants

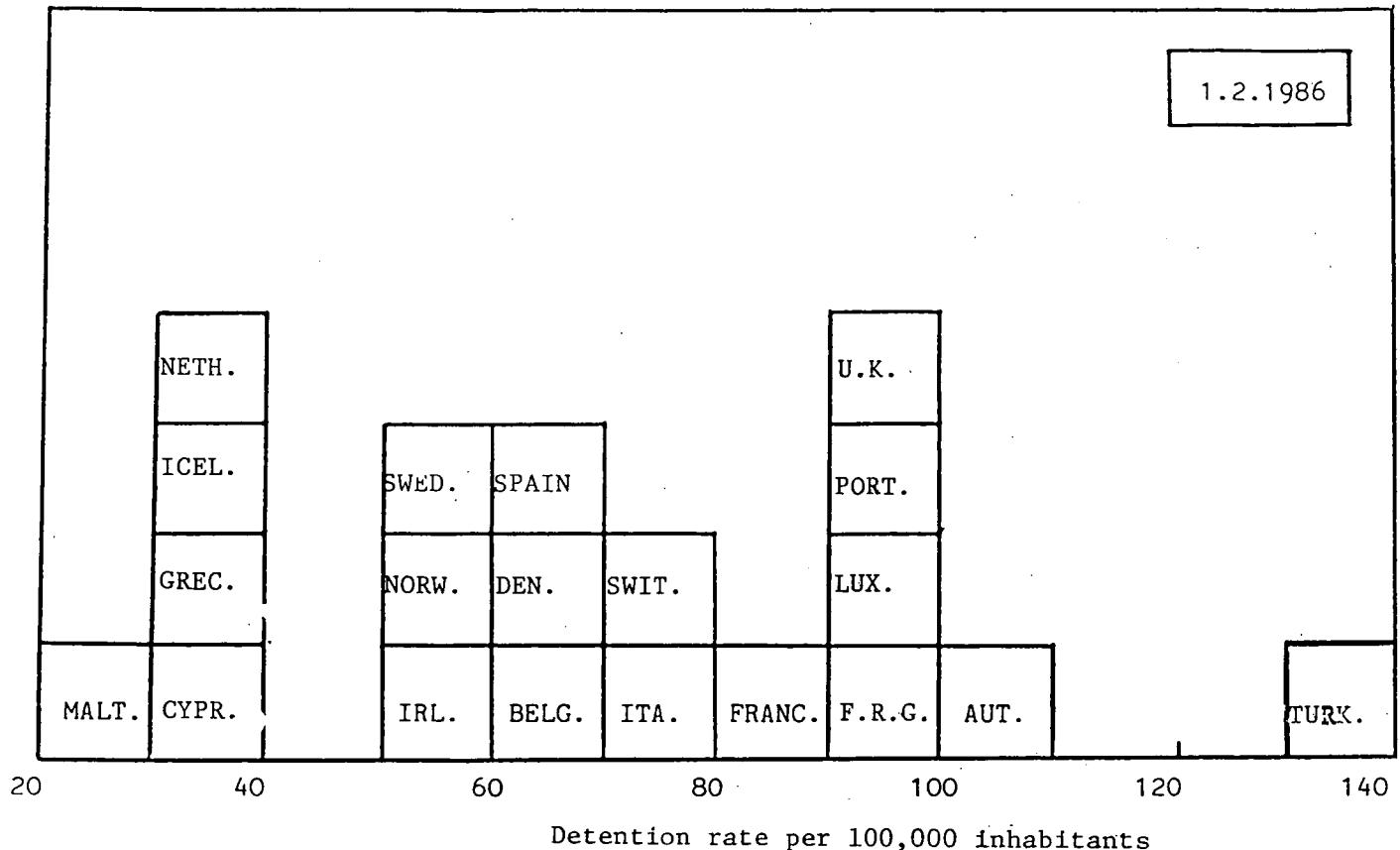


Figure 2. Breakdown of Council of Europe member states by rate of unconvicted prisoners per 100,000 inhabitants

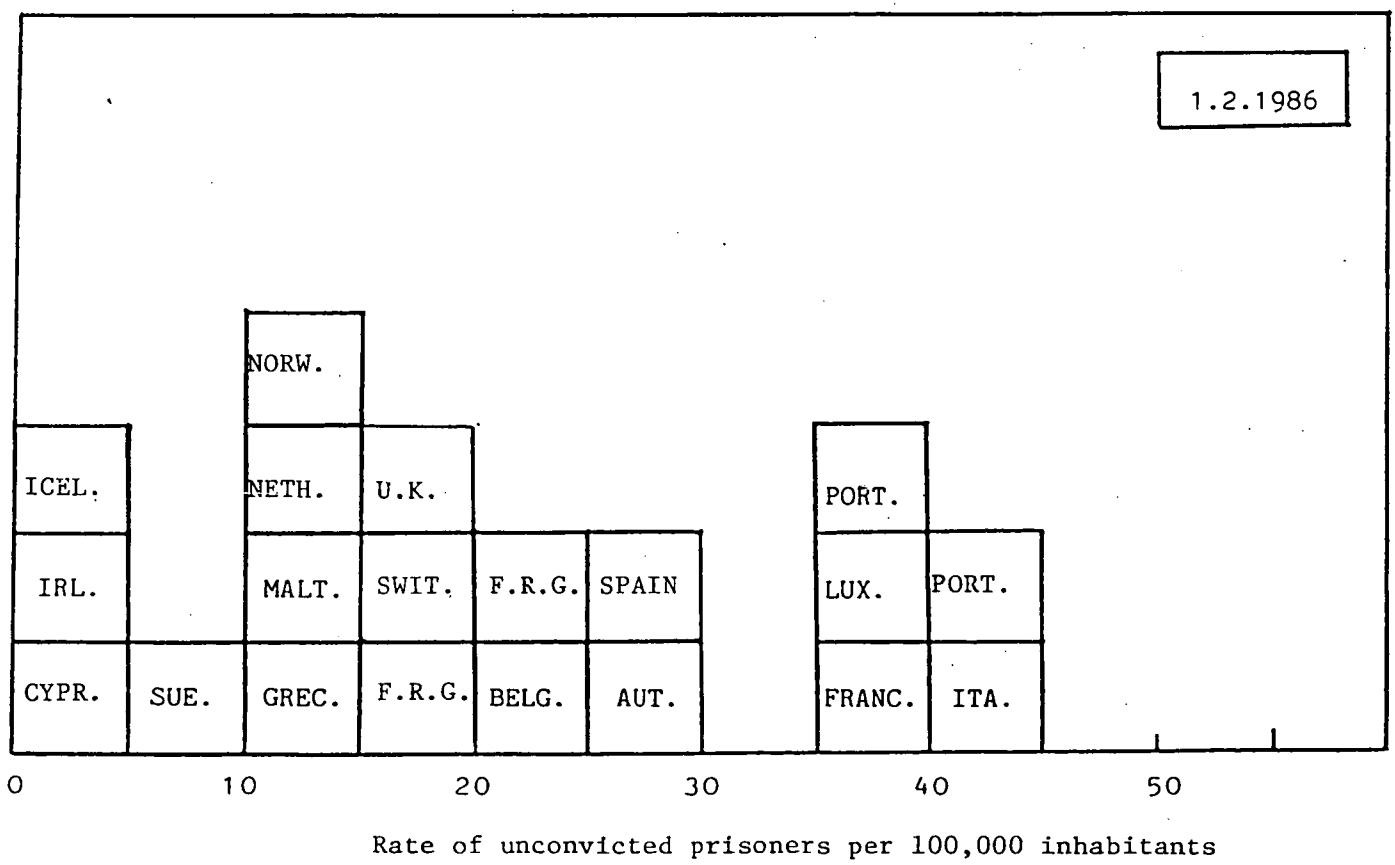


TABLE 2. Changes over a three-year period

Changes in total prison populations over the last three years can be monitored by means of the indicators shown in Table 2.1 (Figure 3):

$$(1.2.n) = \frac{\text{number of prisoners at 1.2.n}}{\text{number of prisoners at 1.2.83}} \times 100$$

Of the 18 countries for which this calculation was possible, 14 had larger populations at 1.2.86 than at 1.2.83. The following countries had experienced a drop in their prison populations: Austria (5%), Federal Republic of Germany (9%), Malta (11%) and Sweden 15% (1).

While the majority of states have thus seen an increase in the number of prisoners since February 1983, the extent of the rise has varied widely, with relatively moderate growth in Norway (3%) and the United Kingdom (5%, not including Northern Ireland), but with particularly high increases in Portugal (83%), Ireland (45%), the Netherlands (24%), France (22%), Italy (20%) and Belgium (19%).

The same sort of indicators have been found for the following sections of the prison population: unconvicted prisoners (Table 2.2 and Figure 3), women (Table 2.3) and foreigners (Table 2.4).

Changes in the number of unconvicted prisoners in 15 states have been analysed. In most of these countries, the number of such prisoners declined to a greater or lesser extent in the last three years. The decrease was most marked in Northern Europe: Denmark (9%), Ireland (21%), Norway (23%) and Sweden (29%). On the other side of the coin, a large increase in the population of unconvicted prisoners occurred in France (16%), the United Kingdom (23%) and especially Portugal (211%).

There were 10 states where changes in the population were able to be monitored separately for each sex: the majority underwent a significant rise in the number of women prisoners, examples being the United Kingdom (25%), Belgium (34%), France (34%), Italy (60%), Spain (69%) and Portugal (94%).

Apart from Portugal, where the rise in the number of foreign prisoners was smaller than that in the number of nationals in prison, all the states where changes in the population had been recorded according to nationality saw a rise in the proportion of foreigners. Generally speaking, this was due to an (in some cases, considerable) increase in the total number of foreign prisoners, eg in France (30%), Italy (31%), Belgium (45%), Norway (51%) and Luxembourg (71%).

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(1) Rate of increase over the period (as %) =  $I(1.2.86) - 100$ .

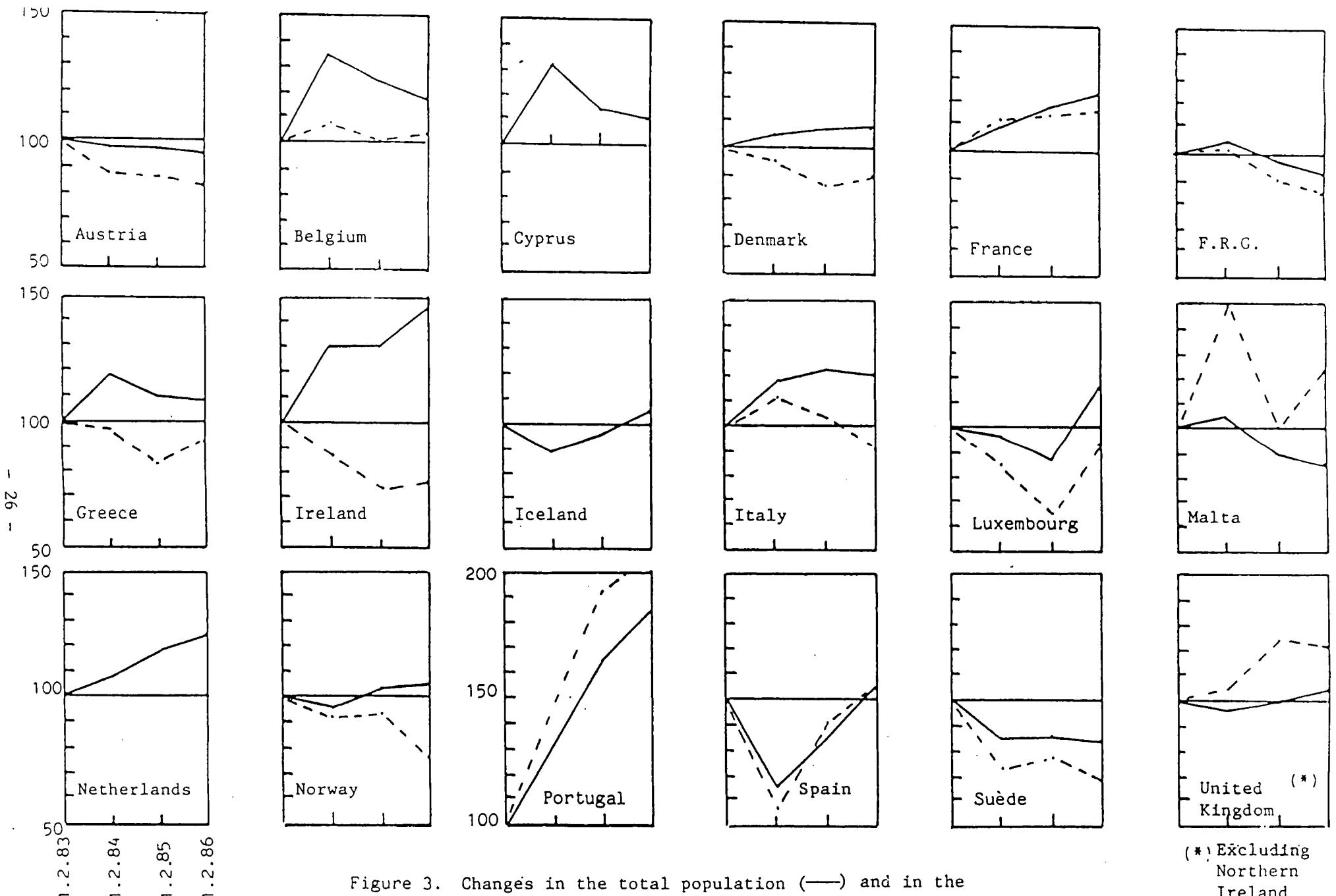


Figure 3. Changes in the total population (—) and in the population of unconvicted prisoners (---): base 100 at 1.2.83

(\*) Excluding  
Northern  
Ireland

Table 1. Prison populations of Council of Europe member states at 1.2.86

	(a)	(b)	(c)	(d)	(e)	(f)	(g)
	Total prison population	Detention rate per 100,000	Percentage of untried prisoners	Rate of untried prisoners per 100,000	Percentage of women prisoners	Percentage of young prisoners	Percentage of foreign prisoners
Austria	8 286	109.0	22.9	25.0	3.6	18 : 1.5	7.8
Belgium	6 373	64.0	32.0	20.5	4.8	18 : 0.5	26.6
Cyprus	171	31.6	2.9	0.9	1.8	21 : 11.7	38.6
Denmark	3 513	69.0	24.0	16.5	3.6	... .	...
France (*)	45 754	80.7	49.4	39.8	3.8	21 : 15.0	27.5
Federal Republic of Germany	56 285	92.2	23.8	22.0	3.7	- : 12.9	14.5
Greece	3 584	36.8	27.1	10.0	3.7	21 : 6.3	14.1
Ireland (*)	1 852	52.1	6.3	3.3	2.3	21 : 27.7	3.0
Iceland	88	36.4	4.6	1.7	4.6	22 : 28.4	1.1
Italy	43 855	76.7	57.6	44.2	5.1	18 : 1.4	9.5
Liechtenstein	...	...	...	...	...	...	...
Luxembourg	334	91.5	39.5	36.2	5.7	21 : 6.6	39.5
Malta	90	27.2	42.2	11.5	6.7	18 : 2.2	25.6
Netherlands (*)	5 133	35.0	38.3	13.4	2.6	23 : 18.0	16.3
Norway	2 121	51.0	20.1	10.3	...	21 : 9.2	7.1
Portugal (*)	9 493	96.0	36.9	35.4	3.9	21 : 13.3	5.3
Spain	23 550	61.2	47.6	29.1	4.7	21 : 16.0	11.2
Sweden (*)	4 649	56.0	16.3	9.1	4.3	21 : 4.6	21.6
Switzerland (*)	4 600	71.3	23.9	17.1	4.5	18 : 0.2	32.0
Turkey	67 416	130.0	32.7	42.6	2.7	18 : 1.0	0.3
U.K. (*)	53 127	94.2	20.3	19.1	3.4	21 : 26.2	1.3
England and Wales (*)	45 622	91.7	20.5	18.7	3.5	21 : 26.7	1.5
Scotland	5 568	108.7	21.2	23.1	3.0	21 : 28.0	0.0
Northern Ireland	1 937	124.9	14.7	18.4	1.8	21 : 9.9	0.1

(\*) See comments p. 30

Table 2.1. Prison populations of Council of Europe member states: changes in total (base 100 at 1.2.83)

	1.2.1983	1.2.1984	1.2.1985	1.2.1986
Austria	100	97	97	95
Belgium (*)	100	135	123	119
Cyprus	100	131	114	110
Denmark	100	106	107	109
France	100	110	119	122
Federal Republic of Germany	100	104	99	91
Greece	100	119	110	109
Ireland	100	130	130	145
Iceland	100	( 90)	( 98)	(106)
Italy	100	119	121	120
Liechtenstein	...	...	...	...
Luxembourg	100	99	88	116
Malta	100	102	90	89
Netherlands (*)	100	109	119	124
Norway	100	97	102	103
Portugal (*)	100	...	165	183
Spain	100	65	86	104
Sweden	100	87	88	85
Switzerland	100	...	...	...
Turkey	100	...	...	...
U.K. (*)	100	98	100	105
England and Wales	100	99	101	105
Scotland	100	90	96	108
Northern Ireland	100	...	...	...

(\*) See comments p. 30

Table 2.2. Prison populations of Council of Europe member states:  
changes in number of unconvicted prisoners (base 100 at 1.2.83)

	1.2.1983	1.2.1984	1.2.1985	1.2.1986
Austria	100	89	87	84
Belgium (*)	100	109	100	101
Cyprus	100	( )	( )	( )
Denmark	100	95	88	91
France	100	111	118	116
Federal Republic of Germany (*)	100	101	90	83
Greece	100	99	84	92
Ireland	100	88	72	79
Iceland	100	( )	( )	( )
Italy	100	115	102	91
Liechtenstein	...	...	...	...
Luxembourg	100	88	66	99
Malta (*)	100	(150)	(100)	(127)
Netherlands	100	...	...	...
Norway	100	92	93	77
Portugal (*)	100	...	193	211
Spain	100	56	91	104
Sweden	100	76	80	71
Switzerland	100	...	...	...
Turkey	100	...	...	...
U.K. (*)	100	105	125	123
England and Wales	100	108	126	123
Scotland	100	86	112	122
Northern Ireland	100	...	...	...

(\*) See comments P. 30

Table 2.3. Prison populations of Council of Europe member states:  
changes in number of women (base 100 at 1.2.83)

	1.2.1983	1.2.1984	1.2.1985	1.2.1986
Austria	100	98	95	90
Belgium (*)	100	139	123	134
Cyprus	100	( )	( )	( )
Denmark	100	61	92	98
France	100	111	116	134
Federal Republic of Germany	100	...	97	94
Greece	100	...	...	...
Ireland	100	( 96)	( 80)	( 93)
Iceland	100	( )	( )	( )
Italy	100	156	152	160
Liechtenstein	...	...	...	...
Luxembourg (*)	100	( )	( )	( )
Malta (*)	100	( )	( )	( )
Netherlands	100	...	...	...
Norway	100	...	...	...
Portugal (*)	100	...	155	194
Spain (*)	100	74	125	169
Sweden	100	...	...	...
Switzerland	100	...	...	...
Turkey	100	...	...	...
U.K.	100	107	109	125
England and Wales	100	110	109	124
Scotland	100	78	109	140
Northern Ireland	100	...	...	...

(\*) See comments P. 30

Table 2.4. Prison populations of Council of Europe member states:  
changes in number of foreigners (base 100 at 1.2.83)

	1.2.1983	1.2.1984	1.2.1985	1.2.1986
Austria	100	93	96	105
Belgium (*)	100	144	143	145
Cyprus	100	( )	( )	( )
Denmark	100	...	...	...
France	100	110	123	130
Federal Republic of Germany	100	...	100	92
Greece	100	118	136	126
Ireland (*)	100	( )	( )	( )
Iceland	100	( )	( )	( )
Italy	100	110	128	131
Liechtenstein	...	...	...	...
Luxembourg	100	(101)	(134)	(171)
Malta (*)	100	( )	( )	( )
Netherlands	100	...	...	...
Norway	100	112	153	151
Portugal (*)	100	...	146	164
Spain	100	52	80	117
Sweden	100	...	...	...
Switzerland	100	...	...	...
Turkey	100	...	...	...
U.K. (*)	100	...	...	...
England and Wales	100	...	...	...
Scotland	100	( )	( )	( )
Northern Ireland	100	...	...	...

(\*) See comments p. 30

COMMENTS - TABLE 1

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FRANCE: - The statistics relate to all persons in prison in Metropolitan France and the Overseas Departments (totalling 44,347 in the former and 1,407 in the latter).

- For Metropolitan France, indicator (b) is 80.2 per 100,000.
- Indicators (e), (f) and (g) were calculated by reference to the position at 1.1.86.

IRELAND: - 55 foreigners, not including 76 prisoners from Northern Ireland.

NETHERLANDS: - The figure of 5,133 prisoners includes 305 persons held in police custody because of a lack of space in prisons.

PORUGAL: - Indicator (g) is an estimate.

SWEDEN: - Indicators (e), (f) and (g) were calculated on the basis of the population of convicted prisoners.

SWITZERLAND: - The data relate to 31.12.85.

- Indicators (a), (b), (c) and (d) are estimates; statistics are not kept for detention on remand.
- Indicators (e), (f) and (g) were calculated on the basis of the population of convicted prisoners.

UNITED KINGDOM: England and Wales: - Indicators (e) and (f) relate to the entire prison population with the exception of "civil prisoners" ( $n = 231$ ).

- Indicator (g) is an estimate; prisoners classified as foreign are those born outside the Commonwealth and associated countries (eg Pakistan).

COMMENTS - TABLE 2

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The indicators in parentheses should be regarded as having little significance because of the smallness of the totals (fewer than 100 at 1.2.1983). No indicators were calculated when the total was fewer than 30 at 1.2.83, in which case the parentheses have been left empty.

BELGIUM: - The base is 100 at 31.12.82.

- The number of foreigners at that date was estimated on the basis of the proportion recorded at 1.9.83.

DENMARK: - The number of women at 1.2.83 was estimated on the basis of the mean proportion recorded in 1981.

FEDERAL REPUBLIC OF GERMANY: - The base is 100 at 31.7.83; for foreigners it is 100 at 31.3.83.

NETHERLANDS: - The indicators were calculated with the exclusion of persons held in police custody because of a lack of space in prisons; no statistics were kept for this category in 1983.

PORUGAL: - The base is 100 at 31.12.82.

SPAIN: - The number of women at 1.2.83 was estimated on the basis of the proportion at 1.9.83.

UNITED KINGDOM: - Not including Northern Ireland (which has been taking part in the survey only since 1.9.84).

## APPENDIX 1

### ADDITIONAL INFORMATION ON COMMITTALS IN 1984

(See Bulletin No 6 of December 1985, Table 4)

	<u>GREECE</u>	<u>NORWAY</u>	<u>SWITZERLAND</u>
Number of committals	10,108	10,039	27,487
Rate of committals per 100,000	103.5	243.0	387.3
Percentage on unconvicted prisoners committed	28.6	33.5	62.9
Average detention period indicator (months)	4.3	2.4	1.9
Rate of increase in number of committals (1984/1983) (%)	43.0	2.4	1.2

## APPENDIX 2

### ENGLAND AND WALES

Amendments and additions to the data previously supplied by the English administration:

- Detention rate: 87.3 at 1.2.83; 87.4 at 1.9.83; 86.2 at 1.2.84; 84.6 at 1.9.84; 87.6 at 1.2.85.

- Date at 1.2.84:

Total prison population	42,891
Proportion of unconvicted prisoners	19.0%
Rate of unconvicted prisoners	16.4 per 100,000
Proportion of women	3.3
Young persons (under 21)	28.4%
Foreigners	1.6%

- Number of committals:

	<u>1982</u>	<u>1983</u>	<u>1984</u>
. Convicted persons	94,377	93,414	92,810
. Unconvicted persons	62,684	59,088	61,983 (x)
. Total (allowing for some "double entries")	123,920	120,160	121,511 (x)

## APPENDIX 3

### TURKEY

The Turkish administration has corrected as follows its committal flow figures for 1984 as published in Bulletin No 6:

Number of committals	117,163
Rate of committals per 100,000	311.1
Percentage of unconvicted persons committed	70.1

(x) Provisional figures

# EXCHANGE OF INFORMATION ON PRISON MATTERS

## "CULTURE BEHIND THE WALLS"

### 1. Cultural activities in French prisons in 1984

"Culture behind the walls", "The art of cracking imprisonment", "Inner escape", "Notes from behind bars" - for the last two years and more these and similar press headlines have reflected the various cultural events which are gradually being introduced into prisons. And for the last two years the prison service has been operating a policy of stimulation and financial support to encourage the implementation of cultural projects.

In 1984 the first stock-taking took place and the first projects became a practical reality: libraries have been developed, workshops for the plastic arts, theatre and music have been set up, etc.

Thus 1984 was chosen as the reference year by the Service des Etudes et de l'Organisation in order to carry out a survey of cultural activities in prison. It carried out a parallel survey among the members states of the Council of Europe.

#### *What do prisoners read?*

Detective novels are the dominant literary genre: 53.2% of prisoners prefer them (54.3% in maisons d'arrêt - for short-term sentences - and 48.3% in other establishments).

In second place come strip cartoon books (27.8%), and lastly novels (15.8%).

It should not be deduced from these figures that prisoners are particularly fond of detective novels, as their choice may be influenced by what is on the library shelves. Were certain types of books (political, erotic) not barred from prison libraries during the years preceding this survey?

#### Arrangements for reading

##### Size of libraries.

158 prisons possess a library: (\*)

- 28.5% of these have between 1,000 and 2,000 books
- 20.2% have between 2,000 and 3,000
- 17.7% have between 3,000 and 5,000
- 15.2% have more than 5,000
- 5.5% have more than 10,000
- 7.6% have fewer than 1,000.

#### Management of the library

This is sometimes entrusted to a prisoner (30.4%), sometimes to a member of the socio-cultural staff assisted by a prisoner (13.9%)

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(\*) Out of 159 replying to the questionnaire).

## Source of the books

The libraries are mainly stocked through private gifts (22.8%). The library service of the Ministry of Justice provides 21.5% of the operating funds.

Reading in prison also means newspapers and magazines. It has too often been said and written that the prison population is only interested in a certain section of the press. Analysis of the survey's results reveals the variety of the newspapers read in prison.

## *Films*

It was equally interesting to find out what kinds of films were shown (predominantly light comedy, crime and fiction) as the type of room used for projection (multi-purpose room or chapel).

Although most prisons show films (69.8%), very few organise cine-club sessions (13.2%).

## *Other entertainment*

Concerts are the main cultural activity (in 69 out of 159 establishments) and cover a wide variety of musical styles (classical, pop, rock).

It is not necessarily the largest prisons which organise most cultural activities, and lack of money is often given as a reason for the infrequency of performances. While less common than concerts in prison, drama has a long tradition and is very often the monopoly of regional companies.

Culture also means self-expression for prisoners in such varied fields as:

- newspaper production
- painting and sculpture
- workshops

## *Newspapers published by prisoners*

Newspapers are produced in 18 prisons: the oldest is "Mic-Mac" (maison d'arrêt de Reims).

Apart from "Drôle d'Immeuble" published by the Caen detention centre, which is an excellent quality product, the newspapers are produced with minimal resources (stencils, typewriter, roneo, spirit duplicator).

## *Art exhibitions*

This type of activity, which is, incidentally, tending to become more widespread, gives the prisoner a means of self-expression. Some prisons organise exhibitions including work by artists from outside. One interesting project to note is at the Ecrouves detention centre, where the prisoners have produced a mural fresco inside the prison.

## *Workshops*

The other main branch of cultural activity, workshops, which were still not very common at the time of the survey, are expected to multiply over the next few years.

All these activities rely heavily on outside contributors. They are set up in liaison with the Regional Cultural Affairs Directorates, the

departmental associations for the promotion of music, the local authorities, youth and culture centres, associations and private individuals.

## II. Short survey of cultural activities in other Council of Europe member states

While libraries are organised on more or less the same lines as in France, it is noticeable that in certain countries relations with outside libraries are more highly developed. For example, some Swedish prisons are visited by mobile libraries, while in open prisons in the Netherlands the prisoners are able to borrow books from a nearby library or go to fetch them themselves.

There are two original ideas for prisoners' newspapers. In Spain wall newspapers are produced in many prisons, while in Sweden the newspaper "Hallbladet", which was originally for internal distribution, is now circulated outside the prison and is managed on a commercial basis by the prisoners together with the Swedish association for criminal reform (KRUM). The newspaper now concentrates on criminal policy issues and vigorously criticises the prison administration.

As for "creative" activities, there are three interesting experiments to note. In England and Wales an annual national exhibition of works of art and craft products is organised in association with the Arthur Koestler Award Turstees. This attracts many participants and prizes worth a total of £2,500 are awarded. A selection of these works is exhibited for three weeks in the centre of London.

In Belgium, Ghent prison hires out permanent exhibitions through a lending service (there is a similar experiment in Norway run with the help of an organisation). Lastly, in Sweden, while there are no organised exhibitions inside prisons, prisoners interested in art may be given permission to visit such events outside.

The survey of cultural activities in the other member states shows that these are not very different, either in their inspiration or in their organisation, from the French projects.

D. Bibal and M. Ménard

The two studies are now available from the Service des Etudes et de l'Organisation:

Volume I : Cultural activities in 1984, (French only),  
Collection le point sur No 4 - 1985

Volume II : Cultural activities in prison in Council of Europe member states, (French only),  
Collection le point sur No 5 - 1985.

## LAWS, BILLS, REGULATIONS

The titles of laws which have come into force in the past year, bills and regulations relating to prison affairs which are likely to be of particular interest to the prison administrations of other member States will be given in this section. In certain cases, the titles are followed by a brief summary.

### BELGIUM

#### Circular of 16 October 1985 on the free choice of a doctor

The possibility offered to prisoners on remand and awaiting trial, under Section 96 (ii) of the General Regulations, of seeking treatment at their own expense from a doctor of their choice has now been extended to all categories of prisoners.

A prisoner who wishes to consult a doctor of his own choice must make a request to the governor. In principle, authorisation for the doctor's visit will always be given. It may be refused only on grounds of order and security.

#### Circular of 27 March 1986 on solitary confinement

Solitary confinement, which used to be a form of punishment, will in future be used only as an interim measure for the purpose of maintaining order and security. Its sole purpose is the prisoner's social isolation. The decision to inflict this punishment means that the prisoner is deprived of all direct contact with other prisoners and the outside world (no communal activities, no visits), with the proviso, however, that at all times he has the right to be visited by his lawyer.

The prisoner in solitary confinement is not, however, automatically excluded from individual activities or those which involve no contact with the outside world (canteen, correspondence, reading etc). In appropriate cases, exclusion from these activities may be imposed in conjunction with solitary confinement.

Because of the rules of medical ethics, a doctor may not be party to a disciplinary measure. For this reason doctors will no longer be called on to justify a solitary confinement order but only to give the prisoner medical treatment.

### DENMARK

Bekendtgørelse: Erstatning fra staten til ofre for forbrydelser.  
Government order: Compensation from the state to victims of crime.  
G. order No 470. Ministry of Justice - November 1985.

Lov: Tavshedspligt. Ikrafttraedelsesdato: 1. Januar 1987.  
Act: On official secrets. Coming into force 1st January 1987.

Lov: Forvaltning.  
Act: On administrative procedures. Coming into force 1st January 1987.

Lov: Offentlighed i forvaltningen.  
Act: On access of the public to documents in administration. Coming into force 1st January 1987.

Betaenkning: Retsplejerådets betaenkning om anonyme vidner.

Recommendation No 1056/85: The report on anonymous witnesses from the Danish permanent committee for procedural law reform.

Betaenkning: Bekaempelse af økonomisk kriminalitet. Betaenkning fra et udvalg nedsat af justitsministeren.

Recommendation No 1066/86: The prevention of economical criminality. A report from an ad hoc committee set up by the Minister of Justice.

Bekendtgørelse: Bekendtgørelse om regulering af erstatnings- og godtgørelsebeløb i henhold til lov om erstatning fra staten til ofre for forbrydelser.

Government order No 120. Ministry of Justice - March 1986, about adjustment of the compensation given to victims according to the act of compensation from the state to victims of crime.

Cirkulaerskrivelse: Cirkulaerskrivelse om retningslinier vedrørende forholdsregler mod AIDS for så vidt angår indsatte i kriminalforsorgens institutioner.

Government order: 13 December 1985. Guidelines concerning precautions against AIDS as regards the inmates in prison.

Cirkulaere: Cirkulaere om udgang til indsatte.

Government order: 18 March 1986. Circular on leave.

## FRANCE

Act No 85-1303 of 10 December 1985 on the reform of criminal investigation procedure

Attached to each regional court, one or more investigating divisions will be set up, each composed of 3 judges, including at least two investigating judges.

These provisions will come into force with effect from 1 March 1986.

Act No 85-1407 of 30 December 1985 containing various criminal procedure and criminal law provisions

Before this law came into force remission could be granted only to prisoners sentenced to 3 months' imprisonment or more. From now on remission may be granted irrespective of the length of sentence.

Decree No 86-461 of 14 March 1986 amending the Code of Criminal Procedure and extending the Administration of Justice Code with regard to the enforcement of sentences

Decree No 86-462 of 14 March 1986 amending certain provisions of the Code of Criminal Procedure

Among other things, these two texts redefine the purpose, organisation and modus operandi of the Probation Service and Paroled Prisoners' Welfare Committees. The second decree makes provision for a chief probation officer appointed by the Minister of Justice to be attached to each committee. The officers appointed must have a background in special education or social work and will have overall charge of probation staff.

Circular AP 86-03 of 14 January 1986 reformed the concessionary contract authorising the employment of prisoners inside prisons

The clauses of this contract, which lay down the general conditions for the employment of prison labour, have been modified in order to re-establish equal responsibility for insurance contributions between the prison service and the concessionary company.

## FEDERAL REPUBLIC OF GERMANY

By virtue of the twenty-third Criminal Law Amendment Act - Suspension of Imprisonment on Probation - of 13 April 1986 (Bundesgesetzblatt /Federal Law Gazette/ I, p. 393), which comes into force on 1 May 1986, the possibility of early release from prison has been extended.

The main points of the new provisions are as follows:

- Convicted offenders who are serving a first term of imprisonment not exceeding 2 years should be able to be conditionally released for the purpose of probation after they have served half of their sentence. The precondition for a half term release is, however, that the convicted offender must have served 6 months of the term of imprisonment and, moreover, that a good social prognosis is ensured.

As regards convicted offenders with sentences of more than 2 years to serve and recidivists who have already been in prison, a conditional half-term release in cases where there is also a good social prognosis can only be considered under special circumstances and after a minimum prison term of 6 months has been served.

- The courts are to be enabled to take a decision on suspension of execution well before release from prison so that the social integration of the offender in the community can be prepared properly.

- The governments of the Laender are authorised to issue ordinances having the force of law containing provisions according to which convicted offenders can be permitted to avert execution of imprisonment in default of payment of a fine through performance of unpaid labour. The unpaid labour performed extinguishes the term of default imprisonment.

- In respect of suspended execution of imprisonment there has hitherto been statutory provision for early release from prison, in cases where the social prognosis is good, usually only after at least two-thirds of the term imposed has been served. Under the law that has been in force up to now half-term release has only been possible in exceptional cases with a good social prognosis and under special circumstances.

## ITALY

Act No 8 of 27 January 1986 on the new norms for control measures in respect of accused persons released on expiry of the maximum period for detention on remand

This act was promulgated as a consequence of Act No 7 of 25 January 1985 which reduced the maximum period for detention on remand, in view of the imperative and urgent need to establish new provisions modifying the existing regulations in order to protect society more effectively.

Presidential Decree No 421 of 8 July 1985, published in the Gazzetta Ufficiale No 195 of 20 August 1985

This amends Presidential Decree No 431 of 29 April 1976 on the implementing regulations for Act No 354 of 26 July 1975, which established norms for prison regulations and the enforcement of prison sentences.

The effects of these legislative changes are as follows:

1. prisoners may receive four visits in any one month, even on consecutive days, and
2. prisoners who have demonstrated an active commitment to their own rehabilitation may have two further visits and make two extra telephone calls for each month.

3472/C - Private member's bill (BIONDI, BIOZZI and others), presented on 5 February 1986, for an addition to Act No 354 of 26 July 1975 on prison regulations and the enforcement of prison sentences.

This bill seeks to empower the judge supervising the enforcement to decide what arrangements should be made for the enforcement of continuous solitary confinement orders imposed on accused persons during the investigation procedure and arrested persons remanded in custody.

3417/C - Private member's bill (NICOTRA), presented on 22 January 1986, to amend the regulations on ordinary arrest and arrest in flagrante delicto, and alternative measures to detention on remand for minors.

This bill seeks to limit arrests of minors and encourage the maintenance of links with their social environment for minors subject to detention in the home.

#### NETHERLANDS

New regulations that came into force in December 1985:

- Rules dealing with hunger-striking inmates,
- Rules for the use of teargas in penal institutions,
- Rules for contracts between individual inmates and press
- A change in the Election Act enabling those inmates who are entitled to vote to take part in local and national elections in general by proxy.

#### NORWAY

The Code of Criminal Procedure of 22 May 1981 came into force on 1 January 1986. The Code replaces the Code of Criminal Procedure of 1 July 1887.

#### PORTUGAL

Act No 41/85 which defines the criteria for equating the sentences referred to in the old Code as 'prisao maior' with the prison sentences of the new Code (Legislative decree No 400/82 of 23 September).

Legislative decree No 414/85 of 18 October amending Section 210 of Legislative decree No 265/79 of 1 August relating to detention on remand.

Act No 116/86 of 31 March governing the conditions of recruitment, functions, qualifications and career structure of vocational training instructors in prisons for cabinet-making, carpentry, mechanical engineering (motor vehicles), electrics and electronics, metal work, printing, civil engineering, engineering drawing and cartography.

## SWITZERLAND

Order No 3 relating to the Swiss Criminal Code (OCP 3), of 16 December 1985, which came into force on 1 January 1986, permits the cantons to adopt the following measures not provided for in the Criminal Code:

- semi-detention for sentences of between three and six months,
- sentences may be served in establishments for the enforcement of measures other than imprisonment,
- accommodation and work outside prison in the case of the measures prescribed in Sections 42, 43, 44 and 100 (a) of the Criminal Code (vocational training).

Federal law on contributions by the Confederation to the enforcement of sentences and ancillary measures, together with its implementing order, expected to come into force on 1 January 1987. This law replaced the present 1966 act on federal subsidies to establishments for the enforcement of sentences or ancillary measures and detention centres. It also introduces a new feature - subsidies to pilot projects in sentence enforcement.

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*Titles of recently published books on specific aspects of penology which might be of use to all those concerned with prison affairs will be given in this section. In certain cases the titles are followed by a brief summary.*

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#### SWEDEN

On April 16 the Committee on Imprisonment presented its final report to the Minister of Justice. In brief, the Committee, inter alia, proposes:

- a) to re-introduce conditional release for all prisoners after two-thirds of the sentence. (Since July 1, 1983, all prisoners serving more than two months but less than two years imprisonment are automatically released after having served half of the sentence.)
- b) to reduce certain ranges of punishment, et property crimes, to introduce day fines into the ranges of punishment for theft, assault and drunken driving. The report is so far only available in Swedish.

"Results of the drug misuser treatment programme at the Österåker Prison" (KVS Report No 1986: 2).

A summary in English will be available in May 1986 and can be ordered from the Research and Development Group, Kriminalvardsstyrelsen, S-601 80 Norrköping.

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## NEWS IN BRIEF

### DENMARK

In order to make an in-depth study of the employment of inmates within the context of prison work and related questions, the Minister of Justice set up, in 1982, an ad hoc Committee consisting of members from his Ministry, the Ministries of Education, Culture, and Labour, trade unions, employers' associations, etc. The Committee's final report contains proposals to reform the daily life of inmates in Danish prisons in some significant respects. It is proposed that inmates cook their own meals and receive payment for the work they perform, thereby enabling them to buy food and other things for their personal use. Furthermore, it is proposed that production schools be established in prisons in order to give inmates with no education or skills an insight and training that would enable them to carry out a proper job upon release.

### FRANCE

#### Fresnes prison hospital becomes a national public hospital

As of 1 January 1986 the Fresnes hospital Unit was incorporated into the general hospital system governed by the Act of 31 December 1970. The Act of 3 January 1985 setting up public hospital establishments specifically intended for persons serving prison sentences, together with its two implementing orders of 27 December 1985, effectively turned the prison hospital into a national public establishment.

Now Fresnes hospital has legal personality and an autonomous budget funded by the Ministry of Justice.

The hospital is administered by a director chosen from the prison service managerial staff and an administrative board composed of members of Parliament, the mayor of Fresnes, a judge responsible for the execution of sentences, a representative of the health insurance organisations, members of the medical advisory committee, representatives of the staff and eminent qualified people. It is chaired by a senior Court of Cassation judge.

A third implementing order will make it possible, during 1986, to give the establishment's paramedical staff permanent category IV status under the civil service code. The incorporation of this hospital in the public hospital system will make it possible to provide the prison population with diagnostic and therapeutic services equivalent to those of a general hospital.

The ARAPEJ Association is an ecumenical mutual aid service set up in 1976 by four chaplains (two Catholic and two Protestant) at Fleury-Mérogis prison. For the last 10 years, ARAPEJ has been running social rehabilitation hostels and drop-in advice centres for discharged prisoners and their families.

Since its inception, ARAPEJ has tried to give equal importance to informing the public at large (primarily Christians) and making them aware of the issues. Hence the travelling exhibition "Prisons in the city", a small documentation service, an "information shop" at the Forum des Halles, dinner and discussion evenings, training sessions, lectures, study visits abroad and radio broadcasts.

All this militant activity is carried out by volunteers - Catholic and Protestant clergy, others in holy orders and lay churchpeople. Prison chaplains and visitors play a decisive role in ARAPEJ through the information they give the association about their witness and activity in prison.

ARAPEJ publishes a bulletin, "Justice and Prison Information", which appears four times a year. Subscriptions should be sent to ARAPEJ, 32 rue Olivier-Noyer, 75014 PARIS, telephone: 45.39.13.15, post office account no., PARIS (free copy on request).

#### GREECE

Since 1 October 1985, "popular training" courses have been operating in prisons and juvenile detention centres. These courses are organised by the Departmental Popular Training Committees set up in each prefecture.

Courses are given in crafts, joinery, pottery, engraving on metal and wood, painting, weaving and tapestry (in women's prisons), theatre, dance, gymnastics, gardening and cookery.

The popular training programmes are intended to give prisoners vocational training and encourage social integration after their release, as well as enabling them to make creative use of their free time and to examine social questions and problems, particularly through group discussions.

#### NORWAY

The Prison Service Administration has set into force (from 15 February 1986) a co-ordinating action against drug problems in Norwegian prisons. The aim of the action is to minimise illegal smuggling, spreading and use of drugs in prisons. The action consists of both a central plan and local plans for each prison. The central plan is meant to last for one and a half years. The action declares that both positive and restrictive measures have to be used. However, restrictive measures shall not be used until positive measures have been tried without success. One of the measures on the positive side is to increase the number of sport-culture and other spare-time activities. As for measures on the restrictive side, it can be mentioned, as an example, that the Prison Service Administration has decided to use one of the existing prisons as a special prison for inmates who have been spreading drugs inside the prisons.

#### PORUGAL

On 15 February 1986 the Director General of Prisons, Dr. Gaspar Queiroz de Abreu Castelo Branco, was murdered.

Responsibility was claimed by the "Forças Populares 25 de Abril", an extreme left terrorist organisation. Roughly 60 of its members have been in detention on remand for several months, their trial having been in progress in Monsanto since July last.

The new Director General, Dr. Fernando Duarte, took office on 21 February 1986.

#### SWEDEN

On April 16, the fifteenth prison in a series of originally planned 30 new so-called closed prisons was opened in Fosie outside Malmö. The prison can receive 42 inmates (two places for women) and is built in accordance with the principle of small units with five inmates in each. The standard and the treatment programme will be equivalent to those 14 new prisons which have been opened since 1979.

## UNITED KINGDOM

Every prison administration will readily acknowledge the unique importance of the prison staff to the proper management of the prisons and the fulfilment of their social and penological objectives. That recognition is rarely adequately reflected in the awareness and attitudes of the general public to the work of the prison services.

The establishment in the United Kingdom of The Butler Trust is an imaginative and constructive effort to improve public understanding of the roles and achievements of prison staff and to offer some tangible rewards to those who have made a distinctive contribution. The Butler Trust has been named after one of the United Kingdom's most distinguished Home Secretaries, Lord Butler, who had a special interest in prison affairs. The Awards to be made to prison staff by the Trust will recognise achievements that are exceptional, creative or outstanding and carried out in the course of the every day demands of work in the prison field. They will take the form of certificates, bursaries and travel scholarships.

The Award Scheme promoted by The Butler Trust will thus represent recognition by the community of the work done on its behalf by the staff of the Prison Service and help to encourage even higher standards by the public acknowledgement of 'ordinary work extraordinarily well done'.

Further information on this unique scheme may be obtained from  
The Butler Trust, 243 Upper Street, London N1 1RU UK.

LIST OF DIRECTORS OF PRISON ADMINISTRATIONS  
OF THE MEMBER STATES OF THE COUNCIL OF EUROPE

AUSTRIA: Dr. Helmut GONSA, Director of the Prison Administration (responsible at international level), Ministry of Justice, Museumstrasse, 7, 1016 VIENNA

BELGIUM: M. Julien de RIDDER, Directeur Général de l'Administration Pénitentiaire, Ministère de la Justice, Avenue de la Toison d'Or, 55, 1060 BRUXELLES

CYPRUS: Mr. I. IACOVIDES, Director of the Prison Department, NICOSIA

DENMARK: Mr. A. TROLDBORG, Direktor for Kriminalforsorgen, Justitsministeriet, Klareboderne, 1, 1115 COPENHAGEN K

FRANCE: Mme Myriam EZRATTY, Directeur de l'Administration Pénitentiaire, Ministère de la Justice, 13, Place Vendôme, 75042 PARIS CEDEX 01

FEDERAL REPUBLIC OF GERMANY: Dr. Klaus MEYER, Ministerialrat, Bundesministerium der Justiz, Heinemannstrasse, 6, Postfach 200650, 5300 BONN 2

GREECE: Mme Fotini TZERBI, Directeur de l'Exécution des Peines, Ministère de la Justice, Section des Relations Internationales, 2 rue Zinonos, ATHENES

ICELAND: Mr. Thorsteinn A. JONSSON, Head of the Division of Corrections, Ministry of Justice, 101 REYKJAVIK

IRELAND: Mr M.J. MELLET, Head of Prisons, Department of Justice, 72-76, St Stephen's Green, DUBLIN 2

ITALY: M. Nicolo AMATO, Direttore Generale per gli Istituti di Prevenzione e Pena, Ministero di Grazia e Giustizia, Via Silvestri, 252, 00164 ROME

LUXEMBOURG: M. Pierre SCHMIT, Avocat Général, Délégué du Procureur Général d'Etat pour la Direction Générale des Etablissements Pénitentiaire et Maisons d'Education, Parquet Général, Côte d'Eich, 12, LUXEMBOURG

MALTA: Mr. Ronald C. THEUMA, Director of Prisons, Prisons Department, Valletta Road, PAOLA

NETHERLANDS: Mr H.B. GREVEN, Director of the Prison Administration, Ministry of Justice, Schedeldoekshaven, 100, 25-0 EH THE HAGUE

NORWAY: Mr. Rolf B. WEGNER, Director General, Department of Prisons, Probation and After-Care, Ministry of Justice P.O. Box 8005 Dep., 0030 OSLO 1

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