

**From young adult offenders to repeat offenders:  
looking at the Dutch prison system and the  
impact of detention on prisoners from an  
academic and judicial point of view**

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# Overview

- Dutch prison system in a nutshell
- Repeat Offenders
- Young adult offenders
- Personal remarks and experiences

# Dutch prison system in a nutshell

- 17 million Dutch inhabitants (2016)
- total prison capacity suited for adults: 11,500 (2015)
- average inflow of adults: 38,400 (2015)
- 57 prisoners per 100,000 inhabitants (2015)
- half of the prisoners released had a stay of  $\leq 3$  weeks (2015)
- yet, an increase of whole life sentences:  $\pm 40$  people (2016)  
( $\rightarrow$  a major theme since ECtHR Vinter / Hutchinson / Murray!)

# Dutch prison system in a nutshell

- (Just) 2 selection criteria:
  - Gender
  - Level of security:
    - Very limited secured
    - Limited secured
    - Standard secured
    - Full secured
    - Extremely secured (“[supermax prison](#)” → violations of art. 3 ECHR due to “the combination of routine strip-searching with the other stringent security measures”)

# Dutch prison system in a nutshell

- Other detention facilities:
  - Forensic care (e.g. TBS measure): capacity of 1,630 (2015)
  - **Juvenile Detention Centres**: capacity of 647 (2015)
  - Administrative detention for irregular migrants ('illegals'): capacity of 1,179 (2015)

# Dutch prison system in a nutshell

- Some characteristics of the prison system:
  - Human regime (at least, originally and relatively...)
  - Strong belief in prisoner's rights: a Penitentiary Principles Act for respectively adults, juveniles, and TBS-detainees
  - E.g. the right to complain and to appeal
  - Increasing emphasis on prisoner's individual responsibility:
    - system of promoting and demoting
    - taking responsibility (good behaviour) is rewarded

# Dutch prison system in a nutshell

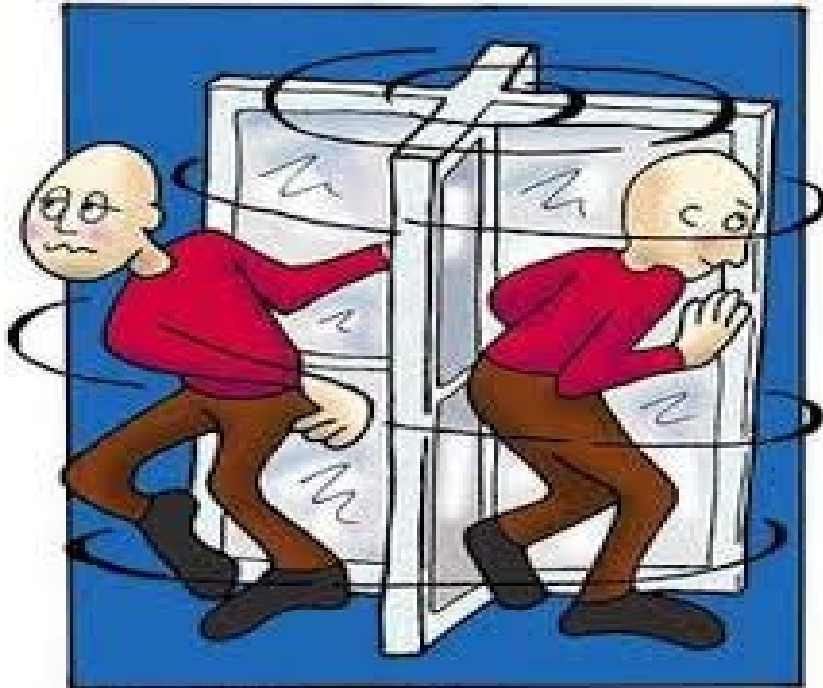
- Some characteristics of the prison system:
  - Reintegration 'support' concerning 5 basic needs:
    - Work and income
    - Housing
    - ID
    - Debts
    - Care
  - Why? (Relatively) high recidivism rates...

# Dutch prison system in a nutshell

- Some recidivism rates:
  - Adult 2 year **detention** recidivism rate: 30.8% (outflow 2013)
  - Adult 2 year general recidivism rate: 47.3% (outflow 2013)
  - Youth 2 year **detention** recidivism rate: 26% (outflow 2012)
  - Youth 2 year general recidivism rate: 54.5% (outflow 2012)
  - The 6 or 8 year rates are much higher
  - Higher rates for specific crimes and offender categories



# Repeat Offenders



*Erasmus*

# Repeat Offenders

- Repeat offender population:  $\pm$  19,000
- Most **persistent repeat offender population**:  $\pm$  5,000
  - 3.8% of the total offender population, but responsible for a **disproportionate amount of total crime**
- 2 year recidivism rate: 70-80%
- 8 year recidivism rate:  $>$  90%
- (Comorbid) **problems**: housing, unemployment, income, education, relationships, behavioral skills, (drug) addictions, mental disorders, etc.

# Repeat Offenders

- Sentencing repeat offenders:
  - From all types of diversion to coercion: imprisonment and in particular the custodial security measure ISD
  - ISD: not retributive (penalty) but preventive (measure)
  - Legal aims: to protect society through confinement (and possibly through treatment) and to end recidivism
  - For whom: all types of repeat offenders, including md
  - Criteria: e.g. prior recidivism ( $\geq 3$  convictions, sic!) and a risk of future recidivism (risk and treatability assessment)

# Repeat Offenders

- Sentencing repeat offenders:

- Duration: **max 2 years** (in practice: always 2 years, net!)
  - possibly  $< 2$  years: interim evaluation by judiciary
  - possibly  $> 2$  years: repeated ISD order
- Content:
  - treatment, up until 'assessed' lack of success
  - otherwise 2 years of basic confinement
  - 3 phases: from intramural towards extramural
  - difficulties in implementing

## Repeat offenders

- The judiciary clearly supports the legislative aims:
  - imposition of the ISD upon unmotivated repeat offenders
  - recurrent imposition of the ISD
- But always from a long-term meaningful perspective:
  - subsidiarity: the ISD is not a cure all, but a last resort
  - aims of public safety & ending recidivism: not a short-term interpretation (incapacitation) but a long-term interpretation (treatment & rehabilitation)

# Repeat offenders

- The ISD appears to be *effective*:
  - 12-16% lower recidivism rate (but still 72%!)
    - average prevention of 9.2 crimes a year per person
    - a positive cost-benefit analysis
    - but *only incapacitative effects!*
  - and, *only small numbers* → 420 impositions in 2005, and 280 in 2012
  - yet, *currently increasing due to a new focus on...*

# Young adult offenders

- New policy, including the Young adult offenders law (2014):
  - extension of the legal possibility to apply youth sanctions to young adult offenders → from age 21 to 23
  - policy to stimulate the use of this possibility
- Main arguments legislator:
  - criminality: 1/3 of the suspects is 15 to 23 years old
  - brain research: adolescent brain is still developing
  - effective youth sanctions available

# Young adult offenders

- **Sentencing** young adult offenders (18-23):
  - not in a prison but **in a Juvenile Detention Centre**
  - regime: focus on **education** in the broadest sense
  - during pretrial detention as well as the execution of an imposed **custodial youth sanction** →
    - youth detention (max. 2 years)
    - measure ‘Placement in Juvenile Detention Centre’ (“youth TBS” → max. 3 years, can be prolonged up to 7 years)



## Young adult offenders

- 18-23 years old in Adult Prisons:

2011 1733 (15%)

2015 839 (9%)

- 18 years and older in Juvenile Detention Centres:

2011 298 (53%)

2015 291 (71%)

- Many **implications** for the regime and the detainees composition within Juvenile Detention Centres

# Personal remarks and experiences

- Being:

- academic researcher
- judge (thus, the imposition of sanctions)
- chair of the complaint committee of the prison in Rotterdam (thus, the execution of sanctions)

## Personal remarks and experiences

- See for further research on the impact of detention e.g.:
  - the Prison Project ([www.prisonproject.nl](http://www.prisonproject.nl))
  - government research institute (<http://english.wodc.nl>)

**Thank you!**

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