

Justitie  
Plein 26  
s-Gravenhage  
Netherlands

THE DECREASE IN THE POPULATION OF DUTCH PENITENTIARY  
ESTABLISHMENTS

CAUSES AND CONSEQUENCES

The number of prisoners in the Netherlands (both persons remanded in custody and those serving sentences) has been decreasing in the past ten years.....

The phenomenon has attracted worldwide attention and prompted numerous foreign authorities to visit this country to find out how such a miracle is brought about.

For a small country with only 19 prisons (with capacities ranging from about 20 to a maximum of 150), 23 houses of detention (with capacities ranging from 45 to a maximum of 170), 1 psychiatric observation clinic, 2 selection centres and 7 State Institutions for Criminal Psychopaths, it is not always easy to receive all the visitors properly without greatly upsetting the routine in the institutions.

The aim of this article is to tell the reader more about Dutch penitentiaries and help him to understand the system. Developments in the psychiatric institutions are not dealt with in this article, because the State Institutions for Criminal Psychopaths come under the competence of the Psychiatric Treatment and Probation and After-Care Department, which functions as a separate unit alongside the Prison Directorate. Suffice it to state that the total number of patients in these institutions has also fallen noticeably, viz. from 850 daily at the end of 1965 to about 400 daily at the end of 1973.

THE DECREASE AND SOME OF ITS CAUSES

Prison population figures in the Netherlands in the past ten years show some fluctuations up to 1967 and a steady decrease since then. In 1965 the average figure was 3,400 persons a day; in 1973 it was only approximately 2,650 (including about 30 women). This means that, with a population of 13½ million, there are 19 or 20 prisoners a day per 100,000 inhabitants.

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Judging by the corresponding statistics of other countries for the year 1969, this proportion is much lower than those in the countries surrounding the Netherlands (see Tables 1 and 2). On the other hand, although the average daily population has decreased, the number of prisoners per year has been increasing steadily. In 1968 there were about 17,000 prisoners in the penitentiary establishments; in 1971 there were 23,000.

The only possible conclusion is that the length of sentences decreased in that period. It should be noted that, as far as the crimes known to the police in that period in the Netherlands are concerned, crime increased both absolutely and relatively. Yet the total number of prisoners serving sentences dropped slightly in 1970, returning to the 1966 level, viz 235 sentences per 100,000 inhabitants.

#### Short sentences

The changes in the penalties imposed have a marked effect on the various factors that cause the decrease in the average daily population of the prisons. The number of persons sentenced to imprisonment under criminal law is relatively diminished viz. the number of fines <sup>which</sup> have been imposed. The number sentenced to imprisonment under the Road Traffic Act, on the other hand, has clearly increased in the same period (the members of the Judiciary probably do not regard fines as effective enough). Since quite a large number of sentences fall into the last-mentioned category the ratio of the total number of prison sentences to fines has hardly fallen at all (see Table 3).

The percentage of entirely suspended sentences scarcely rose in the period 1963-1970 (it is still about 13%). \* Nor did that of the partly suspended sentences (about 31% of the total number of prison sentences) rise. It is becoming clear that the remaining factor, the duration of the sentences imposed, must play an important role. Statistics show that whereas in 1963 sentences of less than 6 months constituted 80% of the total number of unconditional prison sentences,

\* Criminal Statistics 1970.

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they accounted for 90% in 1970. In the same period sentences of less than 1 month showed an even steeper increase (see Table 4).

#### Why shorter sentences?

There are a number of reasons for imposing short prison sentences, viz.:

##### Criminological research

The results of research undertaken by the various criminological institutes in Dutch universities have clearly demonstrated the depersonalising and stigmatising consequences of long imprisonment and its ineffectualness.\*\* The research has made some impression on the press, public opinion and the Judiciary.

##### After-Care

There is a very active after-care service. About 700 after-care officers draw up for the courts an ever-increasing number of informative reports every year (approx. 14,000 in 1972). In these they not only give the courts all kinds of information on the offenders' social and cultural background but, as the courts are on the whole not very much in favour of imposing prison sentences, they increasingly make recommendations as to out-of-prison treatment.

The court can of course ignore the recommendations, but in point of fact after-care is having an increasing effect.

##### The expediency principle

This is an essential feature of the Dutch Code of Criminal Procedure. It gives the Public Prosecutors' Department the authority to abstain from criminal prosecution. As a result, the executive (i.e. the Minister of Justice), to which the Public Prosecutors' Department is ultimately responsible, can bring its influence to bear on the general prosecution policy.

\*\* Professor Rijksen: "Meningen van gedetineerden" (Prisoners' views).

Statistics show a slow but steady increase in the number of cases set aside.

Of the 143,413 cases that came to the notice of the police in 1963, 58% (79,739) were cleared up, compared with 41% (109,241) of the 265,732 in 1970. Of every 100,000 inhabitants between the ages of 12 and 79, 332 were sentenced for criminal offences in 1963 and in 219 cases it was decided not to prosecute. In 1970 the ratio was nearly fifty-fifty - 305 were sentenced and 309 set aside (see Table 5). The tendency is to abstain from prosecuting whenever possible, especially in cases involving juveniles.

#### Prison administration and the Judiciary

It is very important that there be sound links between the central prison administration department and the Judiciary. Once a year members of the Judiciary are given the opportunity of visiting the penitentiary establishments.

The exchange of information on the new ways of implementing short prison sentences has certainly conditioned the Judiciary's policy in administering justice.

Specialist officers of the Prison Administration Department (the area consultants) are making increasing use of the possibility of informing the Public Prosecutor's Department of the various ways in which punishment might be meted out to a certain accused person.

#### Society

The real answer to the question about the decreasing number of prisoners and the short sentences is hidden behind these reasons, since the Prisons Department and the regimens in the prisons are clearly related to the society of which they form part. The present trend towards a more permissive and tolerant society and the consequent removal from the crime list of certain forms of deviant behaviour are reflected in

prosecution

prosecution policy and the implementation of prison sentences. Owing to this interrelation, a description of what happens at the end of the chain is highly dependent on the beginning, i.e. society itself, and is therefore of comparatively little value to quite differently organised societies abroad.

## RESULTS AND REASONS FOR CHANGE

### Underoccupation

As the number of penitentiary establishments remained unaltered while the number of prisoners decreased, several of them were underoccupied at the beginning of 1972. Officially there was accommodation for 4,200, but the daily population amounted to only 2,900, so there was a surplus capacity of 30%.

The reason for the underoccupation was that, though there was a distinct increase in the annual number of persons detained, the shortness of the sentences was making itself felt.

In 1965 the average daily population was about 3,400, more than 2,000 of whom were in houses of detention, whereas in 1972 the figures were 2,900 and 2,000. Under the present system, in which the average time spent on remand in custody is about 3 months, this means that as a rule prisoners spend most of their time unsentenced in custody in houses of detention.

Although formally the law provides for release on bail, this facility is seldom made use of.

In fact it was particularly in the prisons that underoccupation made itself most strongly felt.

### Overstaffing

In the period in which the average daily population of the prisons dropped by 500, the staffing of the penitentiary establishments increased by about 700 to 3,200, at which figure it has remained since the end of 1971.

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In view of the aforementioned developments and also for budgetary reasons, the only way to achieve a certain stability was by reducing the number of penitentiary establishments and transferring the staff of the closed institutions to other establishments which, owing to the general ban on engaging staff, were in ever greater need of extra workers.

#### Aims of restructuring

The principles underlying the restructuring of the prison system which took place in 1972 and continued into 1973 were: --

1. that the houses of detention, which have very few treatment facilities, should be reserved as far as possible for those remanded in custody;
2. that the greatest care should be devoted to the treatment of prisoners serving long sentences; a great diversity of alternatives must be created for them;
3. that offenders who acquiesce in imprisonment need little or no security and can serve their sentences under fairly normal conditions, affording them the best opportunities of preparing for their return to society;
4. that offenders should be told of the various types of penitentiary establishment available and should be allowed if possible to voice their opinion as to how and where they should serve their sentences;
5. that the staff of a penitentiary establishment should be quite clear as to the establishment's nature and purpose if their work is to be effective;
6. that if the members of the Judiciary are also fully informed as to the functions of the various penitentiary institutions, they will find it easier to decide what sentences to impose.

New-

#### New structure

Without going into the closing of institutions and the other changes that have taken place, the new system now operating is roughly as described below.

#### HOUSES OF DETENTION

1. According to law, there must be houses of detention in all of the 19 districts to accommodate persons remanded in custody. Juveniles (from 18 to 23 years of age) must where possible be kept separate from adults,

A few places have separate houses of detention for juveniles and adults, f.e. one of the two houses of detention in The Hague is intended entirely for juveniles and is experimental. It provides various kinds of group training for those wishing to benefit by it.

When judgement has become final and the period of actual imprisonment is at least one month (in most cases), the offender is transferred to a prison. It is for a man, once he is sentenced, better to be kept in a prison (even if this is at some distance from his home town, the Netherlands being a small country) than to have him in a crowded local house of detention with the limited opportunities it offers of carrying out side by side the regimens of persons already sentenced and of those awaiting trial.

Four of the smallest houses of detention that were comparatively underoccupied have been turned into daytime houses of detention. They remain open only during daytime working hours for persons awaiting trial whom the court, the lawyer or the after-care officers require to be brought over for certain purposes from the nearby house of detention where they are being held.

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2. Offenders whose sentences are pending and who have not been remanded in custody are at liberty from the time they are sentenced until they are summoned to serve their sentence, which is usually a short one, about 75% being shorter than 1 month.\*

These sentences are carried out in semi-open institutions (one for adult men and two for juveniles), since those who respond to the summons to report at a certain place to undergo their punishment can be expected to accept deprivation of their liberty and need little or no guarding. Those who do not respond to the summons are transferred to houses of detention to undergo their punishment. The system proved fairly successful in the first few months of 1973. Provisional figures indicate that 73% of the prisoners responded to the summons.\*\*

N.B. Since 1970, sentences not exceeding 14 days can, at the offender's request and with the approval of the Public Prosecutors' Department, be carried out in the form of "weekend execution"; they are served in the houses of detention only during the weekends (or on certain days of the week).

\* From 'Prison Statistics'.

\*\* Prison Administration figures. Those covering the first 7 months indicate that 17% of the 3,409 persons summoned in that period were unable to respond to the summons for various reasons (e.g. because a petition for mercy had meanwhile been filed), that 24% were asking for their sentences to be suspended and that 73% of the remaining 59% did report at the prison. (This is 43% of the original 3,409.) Of those who asked to have their sentences suspended more than 90% reported on the new date.

Prisons-

## PRISONS

### Short sentences

Arrangements have been made for offenders who receive short sentences (up to 4 months for adults and up to 6 months for juveniles) to enjoy a considerable degree of liberty while serving them but they are expected to take an active part in the regimens of these semi-open institutions.

Adults can be placed in the "Nederheide" Penitentiary Institution for Adult Education at Doetinchem and juveniles in "De Corridor" Corrective Training Camp at Zeeland (Province of North Brabant). Offenders who are not yet willing and able to live under such a regimen are placed in a closed institution with a more restrictive regimen.

### Long sentences

Adults with sentences exceeding 4 months can be placed in either of 2 prisons in which the inmates are free to associate. From there they can be transferred for the last 4 or 5 months of their sentence to one of the open institutions (or for the last 3 months to one particular semi-open institution). Those who for various reasons cannot be considered for placement in a communal institution can be accommodated in 3 other small prisons. The possibilities of transferring them are reviewed at regular intervals.

There is a special prison for juveniles with long sentences exceeding 6 months where they can be trained in any of various occupations; it has its own open institution. If, for some reason or other, placement there is not desirable, they can be placed in one of the prisons for adults.

Offender-

Offender participation

The country is divided in 3 regions, each with its own regional governor. In these regions it is the duty of the area consultants to visit the houses of detention to discuss with offenders the various ways in which their sentences can be served. This is particularly important where the offender may choose between the two types of institution for offenders with short sentences. The consultants also make recommendations to the Central Administration Department when prisoners are to be transferred from a closed prison with a strict regimen to a more open one with a liberal regimen (and vice versa in the event of failure). Prisoners can lodge appeals against these decisions with the Central Advisory Committee for the Prison System.

There may be a further drop in the figures in 1974, and further adaptation may for that reason be necessary. The implementation of a new law restricting the Remand in custody may make itself felt. At all events finality does not seem to have been reached.

E.J. Besier,

Legal Officer at the Prison Administration.

1973

compared with the Netherlands

Country	Total detained	Per 100,000 population	
The Netherlands	3,280 x)	25,4	Source: Dr. J. van der Grient
Belgium	6,000	63,2	"Staff in Penitentiary
Luxembourg	214	64,8	Establishments", February 197
France	35,000	70	published by the Information
Denmark	3,300	71,7	Section, Ministry of Justice.
England and Wales	33,000	72,5	

x) Including those detained "at the Government's pleasure".

Table 3. Main penalties and other penal measures imposed; as percentages of total.

		total convicted (100%)	imprisonment (%)	fine (%)	other (%)
Convictions under Criminal Code	1963	25,715	9,189 (35)	16,457 (62)	(3)
	1967	31,103	9,333 (30)	20,085 (65)	(5)
	1970	29,799	8,960 (30)	19,473 (65)	(5)
Convictions under Road Traffic Act	1963	9,559	3,100 (33)	6,337 (66)	(2)
	1967	12,206	5,232 (43)	6,878 (56)	(1)
	1970	14,355	5,622 (39)	8,583 (59)	(2)
Grand total	1963	35,582 <sup>x)</sup>	12,376 (34)	23,144 (63)	(3)
	1967	43,727	14,738 (34)	27,250 (62)	(4)
	1970	45,334 <sup>x)</sup>	14,941 (33)	28,953 (64)	(3)

Source: Criminal Statistics.

x) Including economic and other offences.

Table 4. Duration of prison sentences.

	prison sentences (100%)	1 year or more (%)	6 months 1 year (%)	3 months 6 months (%)	1 month 3 months (%)	less than 1 month (%)
Total number of offences under Criminal Code and Road Traffic Act						
1963	10,657	186 (2)	1450 (14)	1894 (18)	1878 (18)	4728 (44)
1967	13,128	203 (2)	1499 (11)	2055 (16)	2139 (16)	6741 (51)
1970	12,954	127 (1)	978 (7,5)	2012 (15,5)	2161 (17)	7457 (58)

Source: Criminal Statistics.

Table 5. Offences under Penal Law per 100,000 inhabitants between 12 and 79 years of a

year	cases to be prosecuted	total sentences	of which crimes of violence	moral crimes	theft, etc.
1963	551	332	98	27	176
1967	586	331	105	24	201
1970	614	305	96	15	193
set aside					
1963		219	70	21	126
1967		255	75	22	157
1970		309	86	22	199

Source: Criminal Statistics.

POPULATION OF PENITENTIARY INSTITUTIONS ON 31 DECEMBER.

Table 1.	1968	1969	1970	1971	1972
<b>MEN</b>					
Awaiting trial (House of Detention)	1425	1199	1336	1371	1285
Remanded in custody (House of Detention)	32	46	28	33	31
Others (House of Detention)	56	66	86	91	76
Convicted (Prison)	1151	892	906	1040	929
Convicted in special prison	42	19	17	18	17
Convicted and detained "at the Government's pleasure" (indefinite sentence, psychiatric inst. )	51	30	32	29	17
<b>Total population</b>	<b>2757</b>	<b>2252</b>	<b>2405</b>	<b>2582</b>	<b>2355</b>

<b>WOMEN</b>					
(in the only penit. est. for women )					
Awaiting trial	38	15	14	13	23
Convicted	18	10	9	10	8
Remanded in custody	-	2	1	1	2
Special category	-	-	-	-	-
Detained "at the Government's pleasure" (psychiatric inst.)	2	1	2	1	2
Others	1	-	2	-	2
<b>Total population</b>	<b>59</b>	<b>28</b>	<b>28</b>	<b>25</b>	<b>37</b>

Average daily population throughout the whole year ( men and women )	3350	2867	2644	2830	2774
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Population of the Netherlands	12661095	12798347	12957621	13119430	13269563
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N.B. The average daily population in 1973, as far as was known in October, was about 2700. ( the total population of the Netherlands was approx. 13.500.000 by the end of the year ).

Prison statistics, Central Bureau of Statistics.

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