

*"The world will judge me sternly, I expect it." Wallenstein in
The Revolt of the Netherlands by Schiller.*

Netherlands Penal System

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THE NETHERLANDS is a small country of 12 million people in a land area of 12,600 square miles, which is about twice the size of Yorkshire. Until comparatively recently rural and sea-faring the country is rapidly becoming urbanized but in conditions far removed from those of the English Industrial Revolution. Indeed it would be quite pointless to compare the two countries. Moreover, the Dutch are a religious people by European standards, 40 per cent being practising Roman Catholics, 40 per cent practising Protestants with 20 per cent professing other Faiths or no Faith at all. However, traditionally and historically, the Dutch are Calvinist and Calvinism predominates whatever the religion or the lack of it. Grafted on to this religious tradition is the predominant culture of Europe, that of France, and I believe that it is impossible to understand the Dutch penal system unless one appreciates these two facts.

Dutch law is codified as in France, the original Code being that of 1886 and this was revised

40 years later. Common Law in the Anglo-Saxon sense does not, therefore, exist and there are no Magistrates as we understand Magistrates and no Juries. 19 Criminal Courts undertake the criminal work of the country and there are five Appeal Courts; the latter having the power to order a re-trial, but appeal must be made against conviction and sentence, not as in our case against conviction or sentence. Finally, there is the Court of Cassation which is, of course, traditionally French.

Prosecution is undertaken by the Public Prosecutor, who is a Civil Servant and a qualified Jurist and his duty is to prosecute, not as under English law to present the case for the Prosecution and he prosecutes to the extent of asking for whatever sentence he deems appropriate. The Defence argues the opposite way but there is no examination, cross-examination or re-examination as we understand it. Furthermore, the Judge has all the relevant information at his disposal before trial, including previous convictions, social, psy-

chological and psychiatric reports, and after a finding of guilt, the sentence is postponed but must be pronounced within fourteen days.

This procedure, which is completely different from that in England emphasizes, I believe, the futility of trying to compare the two National systems.

There are two Police forces, Local Police for towns and cities and State Police for the rural areas which are divided up into districts, and anyone apprehended accused of an offence can be detained by the Police for only four days; the case must then be handed over to the Office of the Public Prosecutor who undertakes the preliminary and subsequent examination. For this purpose the accused is remanded in prison custody because there is no bail in the Netherlands and he is kept in prison until the Prosecutor has completed his case. In serious cases this can, and does, take up to as much as a year or more and although in the event of a finding of not guilty the unfortunate man can claim compensation it appears that he would be very unlikely to get it.

Psychiatric investigations prior to trial are carried out at the Psychiatric Observation Institute of the Prison Service and there are available in the Netherlands some fifty full time and part-time forensic psychiatrists. The Institute holds the view, however, that after qualifying in psychiatry it requires three years training to qualify in

the forensic branch of psychological medicine. Some 2,000 psychiatric reports are submitted annually to the Courts as opposed to 8,000 social ones, and these reports include a summary by the mental nursing staff, a detailed physical report by a physician, appropriate laboratory tests and electrophysiology, if necessary, a social report by a Probation Officer or Social Worker, a Psychologist's assessment and finally a summary by the Psychiatrist in charge, including diagnosis and any necessary recommendation. These reports are submitted to the Judge and although the Defence may ask for further psychiatric evidence separate reports are never submitted by the Defence and Prosecution.

The staff of the Institute comprises Guards, whose duties are purely custodial, qualified mental nurses, physicians, laboratory technicians, Probation Officers and Social Workers, Psychologists and Psychiatrists, and weekly staff meetings take place. Indeed, no report is submitted without a full discussion by all members concerned and the report is long and detailed (about 20 foolscap pages in length). Psychiatrists seldom appear in Court, except occasionally in cases of murder, and if a Psychiatrist is called the case can be discussed in the absence of the accused if such a procedure is deemed to be in his best interests. Those offenders who are regarded as being totally

irresponsible mentally are committed to mental hospitals either State or private for a year or more if necessary, while those regarded as fully responsible go to prison or are placed on probation. The offender whose responsibility is diminished may well, if the case is a serious one, be sentenced to prison and the first two-thirds of that sentence are served in prison, the final one-third, which is in our sense remission, will be spent in a mental hospital, but the principle appears to be one of punishment first and treatment afterwards. One assumes that psychopaths form the majority of these cases and indeed it appears that after the final one-third of the sentence has been spent in a mental hospital the offender can remain in that hospital indefinitely. This may be the answer to where have all the psychopaths gone!

There has been a restricted rise in crime in the Netherlands since the War but no explosion as in so many other Western European countries and it is interesting to speculate what the effect of rapid urbanisation will be in the future. However, at present crime is not a serious problem as we know it. Until 1953 there had been little progress in the penal reform and on reception into prison the convicted offender's head was shaved, he wore a hood to conceal his face from other prisoners and he spent the first month of his sentence in solitary confinement. During the War many an honest Dutchman

had a taste of his own prisons to which he was committed by Dutch Quislings and their Nazi overlords and this sparked off an agitation for prison reform. Head shaving and similar indignities were abolished in 1953 even to the extent that no-one can remain in solitary confinement for more than two or three days without the specific approval of the Minister of Justice.

Dutch prisons are circular in design and each establishment has a Supervisory Board of six to ten persons similar to our Visiting Committee—they are, in fact, appointed by and responsible to the Minister of Justice. The cells are 12ft. long by 9ft. wide as opposed to 13 ft. long by 7 ft. wide, and appear far more spacious, while the cell furniture is both superior in design and quality to ours. However, the slopping out process remains and there are no recesses, slops being taken out on exercise to a central disposal centre. Furthermore, no hospitals are attached to the prison, there being at best a couple of rooms set aside on a landing, and my question of what happens when a prisoner is sick brought the immediate reply that prisoners come to prison for punishment not treatment, if they are sick they should be in outside hospitals. Workshops are very well equipped and the whole atmosphere relaxed and casual. There is in Holland as in most European countries a severe and acute shortage of labour and because of this

the Prison Authorities find little difficulty in obtaining contracts for useful and productive work from both public and private organisations.

It is, in fact, quite striking how private and public institutions co-operate so closely and not only are Probation Officers appointed by the Local Authorities and private organizations but there are State and private rehabilitation facilities and State and private mental hospitals. Welfare services are, in fact, extensive organizations and much emphasis is placed on keeping offenders out of prison if at all possible. How successful they are can be judged by the fact that 77 per cent on probation keep out of further trouble.

It is impossible in a short paper to give more than an outline of the penal system of the Netherlands. I can, therefore, do no more than mention the State Observation Home for delinquent boys, the State Institution for delinquent and backward boys, the Judicial Child Welfare, the special children's police, the Central Training School with an attached prison for long sentence adults, a Central Classification Institute and an Asylum for psychopaths. In addition there are prisons for young adults, open prisons and hostels very similar in many respects to English institutes and the accent on the training and treatment is by group methods. Finally, there is the Van der Hoeven Clinic, which is a rehabilitation unit dealing with severe

personality disorders. Patients graduate to this from a prison regime and then to working outside and may remain, if necessary, after the official release date.

In a seven day period one can gain no more than an impression of any organization as detailed as the Dutch Penal System and my conclusions must of necessity be rather superficial ones. They are, for what they are worth:—

1. A Calvinist tradition allied to a French culture, no *gemutlichkeit* or English pragmatism.
2. A fixed penal code.
3. Trial by inquisition.
4. A highly organized staff who are intensely professional in outlook at all levels.
5. A highly organized penal system combined with careful planning which leads to a certain lack of flexibility.
6. A traditional kindness and generosity (Dutch hospitality is unbounded) but allied to this a certain harshness and if need be ruthlessness (machine gun towers have only recently been abolished).
7. Emphasis on group training and group treatment.
8. A blending of State control with private organizations.
9. Rapid urbanization and industrialization, the effect of which will not yet be realized and which may prove interesting.
10. Despite the psychiatric, psychological, welfare and training facilities punishment is punishment.