Introductory Chapter Prisons of the Future (version 3-11-2015)

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1.1 Introduction

"Do you know where you are going to?" That is the intriguing question the famous song 'Theme from Mahogony' starts with. The project 'prisons of the future' focuses on the same question. In our first meetings we started to ask ourselves: "where are we coming from and where are we going to?" We want to understand current developments in prison & probation practice in order to understand where we are going to. These questions, so easily formulated, are not easy to answer. Patterns have to be recognized. After detecting these patterns, the next question is whether the future will follow the current patterns or will have its own revolutionary logic. The final question we want to answer in the project prisons of the future is: What are innovative options for the future? The project should result in realistic recommendations for the future of prison and probation practice.

Looking to the past, a lot of changes took place in prison & probation practice in European countries. For example, different policy measures were implemented one after the other. Sometimes they were perceived as effective; other times the policy measure was withdrawn before it had been really implemented.
Divergent opinions can emerge on what changes in the past are really important. Policy makers and scientists probably have their own perceptions of what is going on. Their perceptions are not necessarily in agreement with the experience of practitioners in prison and probation practices. Consequently, it is hard to find out what is really going on in our prisons and to understand where we are now and where we are going to. The question is also difficult to answer, because there is a distinction between 'what people say or tell' about our prison & probation practice (i.e., the 'espoused' theory) and what they really do (i.e., the 'theory-in-use').[1] Stakeholders and organizations that are involved in prison & probation practice have their own stories. Subsequently, the general public does not really know 'what is taking place behind the walls of our prisons'. In other words, 'prison is hidden from the public view'.[2] Therefore, prison & probation practice seem still to be a black box.

The project Prisons of the Future wants to open the black box of prison & probation practice. It aims to get insight into the theories-in-use in prison & probation practice. Based on these insights, we want to understand where prisons are really needed for and what their primary function is or should be, nowadays and in the near future. We are especially interested in best practices and what works when and where and in what circumstances. We also want to know what alternatives to detention are possible and desirable. Consequently, we want to find out whether the institutional context of a prison would survive in the near future or whether prisons would disappear and are or should being replaced by other kinds of institution. The project prisons of the future should result in a concrete toolbox of innovative prison options as well as non-prison options.

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[1] Argyris & Schön, 1978.
[2] P&R, 2014, p. 86.

In the next section we detect some general trends in the current practices of prisons & probation. Then, we introduce the project proposal of prison of the future and the outline of the project. Next, some basic theoretical assumptions are formulated. We conclude the introductory chapter with possible images or scenario's of prisons of the future.

1.2 Current trends

It is hard to imagine a society without prisons. It can be expected that as long as offences will take place, there will be prisons. The function of prisons can change over time, and, accordingly, prisons are reshaped. In many countries the official policy is that prisons function as a last resort in relation to other sanctions. However, in practice, prisons can come to the fore, especially for punishment of offenders who commit serious crimes with many victims. Even if incarceration is considered, it is still possible that due to practical reasons, such as budget cuts or overcrowding, alternatives to regular imprisonment are applied. For example, in Belgium, electronic monitoring has increasingly become an alternative to imprisonment. Consequently, different reasons can attribute to the function of the prison as a first or last resort.

The reasons why offenders are sent to prison can change over time. In general, sending offenders to prison has a societal function. It makes clear to victims and citizens that offenders are punished and that public safety is established because the offender has been 'eliminated' from society for some time. Imprisonment can also be used to make offenders responsible for what they did to victims and the society as a whole. More and more, reducing recidivism becomes a central objective of the criminal justice system. As a consequence, the function of imprisonment can change. The question whether imprisonment contributes to a reduction of recidivism becomes relevant. Current research seems to confirm that whenever an offender has once been in prison, the chance increases that he will again commit offences and will have to stay in prison again. Consequently, from the perspective of reducing recidivism, the function of imprisonment to an offender's personalized trajectory should be (re)considered.

In the course of time, (new) alternatives to imprisonment occurred, as the result of changes in the system of sanctions. For light offences, typical sanctions are fines or community services. Offenders with serious mental health problems can be offered treatment outside the prison. Treatment usually takes the form of contract care or a conditional sentence. The prisoner has to agree that instead of going to prison he undergoes treatment. The offender will be incarcerated when he overrules the imposed treatment restraints. In addition to real alternatives to incarceration, new options for psychiatric and addiction care can emerge behind the walls of the prison. The prison options for treatment can influence the prison climate. Consequently, the prison functions not only as a safe harbor to society by means of thick walls and deprivations of liberty. Basic treatment facilities can support the function of the prison to reduction of risks of reoffending due to mental health problems.

Besides treatment facilities, imprisonment can be accompanied by re-integration activities that support re-entry into society. Re-integration programs can start during detention and combined with, for example, possibilities of gradual release. Prerelease possibilities are

usually combined with supervision by probation officers. Due to the added objective of re-integration to imprisonment, the function of a prison can change, because punishment and re-integration have to be reconciled.

Current innovations within prison & probation practice are often related to the introduction of new technology. For example, offenders are offered more digital opportunities to keep contact with their social environment. Also social innovations can occur, such as new forms of cooperation between different partners or new forms of casemanagement that support personalized trajectories of offenders. Prison & probation practice can also be influenced by scientific research and 'what works' initiatives. For example, risk/need assessments can be applied to all offenders. The kind of activities inmates are being involved in during detention can change as well as the level of autonomy by which inmates perform these activities. These kind of innovations can change the prison climate to a certain extent. Also changes in supervision by probation officers can occur. For example, supervision can change from an emphasis on being supportive to an emphasis on controlling or both can be combined in an innovative manner. As a consequence, the function of prison & probation practice can change over time. For example, probation service can more and more function as a 'virtual prison'.

In conclusion, besides regular imprisonment and in addition to regular imprisonment, many prison options and non-prison options can be distinguished. The prison options can be ordered as 'frontdoor' options or 'backdoor' options. Frontdoor options try to avoid incarceration and can, therefore, be viewed as non-prison options; they function as a kind of alternatives to regular imprisonment. Backdoor options relate to early release from prison. The backdoor options shorten the time the offender has to stay in prison. Many sanctions, such as community services, forensic (contract) care, and electronic monitoring can be used as a frontdoor option as well as a backdoor option.

In addition to frontdoor options and backdoor options, also pre-trial options and after-care options can be distinguished. Personalized trajectories of offenders are usually built upon different combinations of pre-trial, frontdoor, backdoor and aftercare options. Depending on the shape of personalized trajectories, prison & probation practice will have different functions. These functions can be the result of external or internal driven innovations. External driven innovations are, for example, a result of changes in sanctions or the penal system and can be accompanied by societal or political changes. Prison and probation practice can also change due to internal driven innovations, such as professionalization and research & development.

1.3 Project objectives and project outline

The project Prisons of the Future aims to give an impression of the landscape of prison & probation practice in the future. Therefore, we are searching for a common framework for analyzing and assessing development in prison & probation practice. The framework should give insights into the working mechanisms of current prison options and non-prison options (i.e., what works when in what circumstances). The framework should also being able to reconstruct the comprehensive vision on prison & probation practice and the values that are

involved, such as retribution, rehabilitation and restoration. The project should result in a toolkit of innovative prison and non-prison options and their possibilities of application.

The objectives of the project prisons of the future are threefold:
1   to get insight into current prison options and alternatives to imprisonment in different European countries
2   to assess cross-national current options based on clear criteria and identifying best practices and working mechanisms
3   to search for innovative prison options and non-prisons options for the future.

The objectives will be attained on the basis of a participatory policy analysis methodology which combines scientific insights and subjective and tacit knowledge. During the interactively shaped process, different perspectives and arguments will be intertwined in order to build a comprehensive vision on prison & probation practice.

The main activities in the project consist of three subsequent working sessions with three representatives of each country; a practice-oriented scientist, an expert-professional from the prison & probation practice, and a policy maker.
The first working session is oriented at drawing up national trends of penal policy in the last decade and development in prison & probation practice.
For the second working session, a few best practices are selected, in order to assess them in depth on different criteria.
The third working session focuses on exploring implementation problems that will be encountered by applying innovative prison options and non-prison options for the future and the way these problems can be tackled.

Each of the three working session will be prepared on the basis of input from external experts and national teams. Results are presented and debated during a concluding conference and in a final report.

1.4 Basic assumptions derived from research

A lot of research has been done on the prison population in different countries. From this research, it can be learnt that the crime rate in a country can hardly be related to the number of prisoners in a country. A famous publications is the one of David Downes[3] who tried to understand why the number of prisoners in the Netherlands decreased whereas the crime rate was increasing at the same time. He compared the Netherlands with England and Wales where in the same period of time the numbers of prisoners were still increasing. From his research it can be derived that the basic and common assumption of using the prison 'as a last resort' turns out differently in prison practice in different countries.

Besides knowledge of the number of offenders entering our prisons, we need to disclose the black box of our prison & probation practices. Goffman was one of the first authors who was

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[3] Downes, D. (1988). *Contrasts in Tolerance: Post-War Penal Policy in The Netherlands and England and Wales*. Oxford: Oxford University Press.

able to reconstruct prison practice.[4] He made us aware about what is going on in prisons and other 'total institutions'. According to Goffman, one of the basic characteristics of a prison is that prisoners are isolated from society. The total institution covers all areas of their life. Consequently, the prison deprives prisoners of their social identity. Outside the walls of the prison the inmate is 'nobody'. Consequently, prisoners try to develop an identity within the prison by creating 'a second life'. In prison practice an 'upper' world and an 'underworld' develop. The upper world corresponds to the formal rules and prisoners adaptation to these rules. The underworld relates to the informal culture and informal networks that emerge within the prison between inmates mutually and in their relation to staff. Goffman designated the behavior of inmates in the 'upper world' as primary adaptation and the behavior of inmates in the 'underworld' as secondary adaptation. Especially secondary adaptive behaviors of prisoners can help to understand non-cooperative behavior and resistance of inmates.

Since Goffman, more researchers tried to open the black box of the prison. A lot of research has taken place within prisons, inspired by the early research of Goffman. Pains of imprisonment are distinguished, that are closely related to self respect of prisoners and the way the prison effects inmates self esteems. Liebling and her research group investigated the moral quality of life in prisons, especially based on the experiences of (lifelong) prisoners. In one of her articles, Liebling makes clear that in the course of time the moral quality of life in a prison even can get worse. One of her collegues, Crewe, introduced criteria as the depth, weight, and tightness of imprisonment.[5] Whereas the criteria did not change in the course of time, they can be operationalized differently, due to developments and innovations in prison practice. Shammas[6] used the criteria of Crewe to explain prison practice at a Norwegian prison island. He found that in an open prison without clear 'red rules' soft power relationships can occur between staff and prisoners. Prisoners are uncertain whether they are violating the 'soft rules' which makes them even more dependent on staff. Consequently, in addition to 'hard power' such as walls and locked doors, soft power even contributes to pains of imprisonment.

1.5 Basic assumptions derived from politics

A lot of research concerns the relationship between the prison population in a country and the political economy of that country. It is generally assumed that the kind of political economy influences the number of prisoners. These findings help to understand why one country has more or less prisoners than another country. However, this kind of research does not really contribute to developing innovative prison options and non-prison options for the future. The political economy of a country cannot be changed easily.

In this book, another political phenomenon is emphasized, i.e., the level of political polarization with regard to issues of criminal justice. It can be assumed that in some countries prison & probation practice can become controversial, i.e., that debates on these

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[4] Goffman, E. (1961). *Asylumns: Essays on the social situation of mental patients and other inmates*. England: Penguin Books.
[5] Crewe, 2011.
[6] Shammas, 2012.

issues are immune to resolution by an appeal to the facts. Political debates can not be resolved by scientific arguments. It depends on the party's frame what counts as a fact and what arguments are relevant. Controversial issues can become politicized, which can imply that policy makers and national prison & probation service are resorting to hierarchical control. Room for implementation of street-level bureaucrats is replaced by control and surpression.
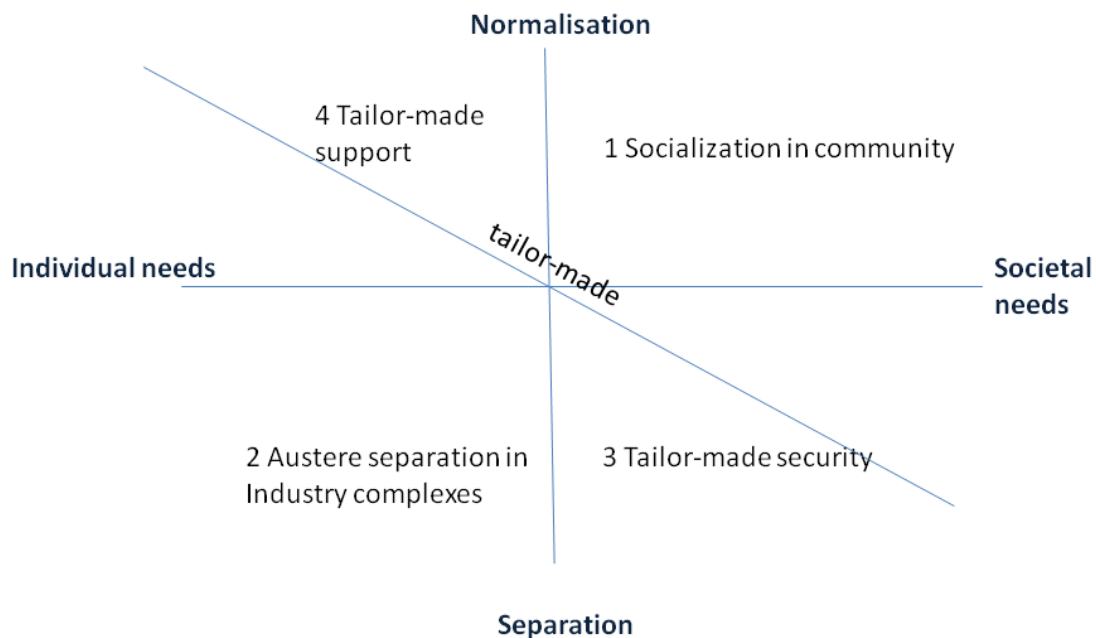
The phenomenon of politicization can be understood from the role and function of politicians in policy making. Politicians feel somehow and somewhere the need to give expression to the public's voice. They are experts in feeling the 'public temperature' with regard to safety issues and public emotions. Consequently, in addition to pains of imprisonment, 'pains of criminality' can be distinguished as experienced by citizens in general and victims in particular. Politicians try to represent the public's voice.

Local prison & probation practice not only have to deal with 'pains of imprisonment' as experienced by offenders, but also with 'pains of criminality' as experienced by citizens and victims. If prison & probation practice becomes more politicized, it can be expected that the external forces of national prison & probation service and policy makers are stronger than the internal forces of prisoners and their social networks. It can be assumed that the stronger the external forces, the more prison & probation practice will be governed hierarchically.

1.6 Future scenario's

Where are we going to with our prison & probation practices?
In all European countries, prison & probation practice seem to be based on similar assumptions. In all countries values as retribution, rehabilitation, restorative practices, normalization, efficiency and professionalism are in some way somehow intertwined. In order to look forward to the future of prison & probation practice, we like to present some possible scenario's. The presented scenario's here are build upon current and visible trends. We distinguish the following scenario's:

Figure 1.1 Current scenario's

Scenario of further socialization
It is the year 2025. We travel around Europe. One of our strange habits is that in every country we visit, we look around for the most nicest prisons. We still have the image of a traditional prison in mind, with fences, windows with bars and many cameras. However, we are so amazed, because we do not see any prison anymore. How is that possible? We ask people in the streets about the pains of criminality in their country and they still agree that there is a lot of serious crime. However, they do not know where the offenders are. They look at us if they have never heard from a prison. They make us reconsidering the prison institution. Where do we need prisons for? When we ask experts on the criminal justice system, they tell us, from the west to the north of Europe, that they became convinced that prisons as a last resort were not needed anymore. There are many alternatives to imprisonment. Researchers explain to us that they found that prison only had a symbolic value. It was also doubted whether putting offenders in prison was effective at all with regard to reduction of recidivism and re-integration.

We walk around, searching for innovative non-prison options. We enter a forensic care hospital. The lady at the reception tells us that they only help patients that have asked by themselves for forensic care. It is also possible that their family as well as neighbours can offer patients for treatment. The forensic hopital also helps patients that not already committed a serious crime, but who need treatment due to their high risk profile. Patients

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voluntarily agree to stay in the forensic care hospital. We are wondering how sex offenders are treated in this country. We find out that circles of support and accountability (COSA) have replaced traditional imprisonment for sex offenders. After conviction, and even as a pre-trial option and aftercare option, sex offenders participate in COSA. The circles help to manage the risk of sex offenders when they continue their stay in the community. Volunteers take care of the sex offenders and are coached by professionals.

We enter a community centre and they tell us that offenders are one of their target groups. As a community service, they visit many families in the neighborhood and try to support them with regard to basic issues, such as housing, debts, and basic skills. In offering these services, they make no difference between offenders and non-offenders. Both types of clients are treated respectfully; the client is 'in the lead' organizing its own personalized trajectory. Additionally, we learn that some offences are decriminalized, such as the use of drugs and drunken-driving. Drug-users and drunken-drivers are seduced to treatment and/or should compensate victims. A new option is created for homeless people that show divergent behavior or criminal behavior. They can stay temporarily in 'tiny houses', that can easily be moved to another area.

Scenario of further separation/austerity
It is the year 2025. We travel around Europe searching for particular settings and methods for offender management. We are told that offenders are treated quite differently from inhabitants that are not convicted. Offenders are assembled at large facilities that are located far away from communities and cities. Because the public does not like to have these kind of facilities in their own backyard, the offenders are preferably located at industry complexes. These large facilities show similarities with prison industry complexes. In contradiction to traditional prisons, the large facility focuses on efficiency and self-sufficiency of offenders. Offender are responsible for house keeping activities. Due to budget cuts, the staff-offenders ratio in the large facility is very low. The service level is low and the facility is characterized by austere regimes. It looks like a ware house where a large amount of offenders are stored. Due to the isolated location it is not necessary to invest much in security measures. The large facilities show similarities with the facilities that were created ten years ago when a lot of asylumn seekers came to Europe. The facilities for asylumn seekers focused on elementary conditions for living due to the enormous numbers of asylumn seekers. In the Netherlands, these kind of large facilities were also used ten years ago for offenders with a very short prison time. The large facility offers them a resting place where they wait for the next phase of their personalized trajectory.

Scenario of further risk analysis: tailor-made security
It is 2025. Offenders are primarily assessed on their risks to society. Accordingly, a tailor-made solution or a tailor-made trajectory is developed. Deprivations of liberty are in accordance with the results of the risk analysis. In case of a high risk offender, more areas of life will be controlled than in case of a low risk offender. The high-risk offender will stay in a high secure setting as long as it is expected that the offender will be of a high risk to society. If, after the execution of the sentence, the offender is still expected to be of high risk to society, it can be arranged that he has to stay in a high-secure setting. It is also possible that, due to the expected high societal risk, a person who might be a risk for himself or others, will get compulsory treatment in a high-secure setting. The compulsory treatment is applied for

reasons of prevention the risk of committing a crime. Personalized trajectories of offenders will be shaped in accordance with the subsequent results of risk analysis in the course of time. When the offender's risk to society is reduced, the security setting will be downscales to a less secure one and the intensity of supervision will be diminished. Downscaling the security setting can imply that the offender may stay at home with supervision of a probation officer. The focus on tailor-made safety and control in this scenario can be accompanied by new forms of casemanagement and new technology. Additionally, is it possible to take into account the personal experiences with regard to pains of imprisonment. The applied options and deprivations of liberty can be matched with the impact they have on the offender. The scenario builds upon developments of a decade ago with regard to electronic monitoring, prison cloud, and digital stigmatizing.

Scenario of further need analysis: tailor-made support
It is 2025. Offenders are primarily assessed on the basis of their personal needs. The basic assumption is that unless the seriousness of the crime and the need for punishment of the offender, it should be able that vital activities in the offender's life can be continued, to facilitate his (re)integration in society. Vital areas of life are, for example, labor/income, contacts with social network/family, treatment, and learning/personal development. The focus in this scenario is on basic survival needs and basic standards of living. The vital functions are matched in accordance with the personal needs of the offender as well as the needs of his social network. Depending on the needs, it can be expected that in this scenario non-prison options come the fore.

Taking into account these scenarios based on current trends, we remembered the discussion we had, ten years ago about 'prisons of the future'. At that time, we saw evolutionary changes in our prisons & probation practice. We were talking about objective risks- and needs analysis and technology developments in our prisons. The espoused theory at that time seemed to be a focus on re-integrating prisoners as full-fledged citizens in our society. Part of the theory-in-use at that time seemed to be that prisons & probation practice can hardly be changed. As members of the current criminal justice system, we had difficulties to transcend current reality and to imagine 'the incredibles' of that time. We did not really know where we were going to.