

# ‘Zeg maar Henk tegen de chef’

*Ervaringen met het Belgische detentieregime  
in de PI Tilburg*

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in samenwerking met

Boom Lemma uitgevers  
Den Haag  
2013

Afbeelding op het omslag: Siet Zuyderland, Gesloten afdeling Noord-3, Rijksasiel  
Dr. S. van Mesdag, Groningen  
Collectie Stedelijk Museum Amsterdam

Typografische verzorging: Wieneke Matthijsse

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ISBN 978-90-5931-948-6  
NUR 824

[www.boomlemma.nl](http://www.boomlemma.nl)

## Summary

Since February 2010, Belgian prisoners have been detained at the Penitentiary Institution (PI) of Tilburg. They are subjected to a predominantly Belgian regime that is executed by Dutch staff under a Belgian-Dutch board of governors. This unique construction, called Nova Belgica in internal policy documents, is the result of a Dutch government initiative in 2009 aiming to limit the consequences, in terms of numbers of staff, of the steadily decreasing need for prison capacity in the Netherlands. During that same period, there was an urgent need for more cell capacity in Belgium, which can only be solved in a structural way when the new prison, currently being built, will be ready. The project was originally set to run until December 2012, but has now been extended to December 2013. At the time of this empirical research, March-May 2012, there were approximately 650 Belgian detainees in the PI Tilburg.

This situation in the PI Tilburg provided a unique opportunity to examine the experiences of staff and prisoners in an international comparative context. Belgian detainees can compare their experiences in the Dutch PI Tilburg to their experiences in Belgian detention institutions, while the Dutch staff have the Dutch regime, in which they are accustomed to working, as a frame of reference. The Dutch Service for Penitentiary Institutions (DJI – *Dienst Justitiële Inrichtingen*) decided to use this opportunity by asking the Scientific Research and Documentation Centre of the Ministry of Justice (WODC – *Wetenschappelijk Onderzoek- en Documentatie Centrum*) call for tender for research proposals.

The research result are described in this report. It focusses on the factors that influence the lived experiences of the Tilburg detention regime of both prisoners and staff. The following central research question was formulated: *what are the (positive, negative or other) experiences with the execution of the Belgian detention regime in a Dutch institution, what are the consequences of those experiences and what are the possible causes of these experiences?*

The research is theoretically based on Alison Liebling's work (Chapter 4), in which she has developed an instrument for measuring the moral climate in prisons. This instrument, called *Measuring the Quality of Prison Life* (MQPL) is based on – extensive and lengthy – preliminary qualitative research among detainees (and later also prison staff) and is comprised of a questionnaire with more than hundred closed questions that measure fourteen dimensions of prison life. These fourteen dimensions inspired the construction of our own topic list that was used for our semi-open qualitative interviews with prisoners and staff.

Our research combines several methods: reviews of the literature and case law, analysis of existing quantitative data, observations and interviews (Chapter 2). The 71 interviews that we conducted with detainees and staff at the PI Tilburg are the core of our material. Given that the DJI wants to use this research to improve detention situations in the Netherlands, we compared the experiences of our respondents with those of a group of detainees and staff at the Dutch Penitentiary Institution Norgerhaven, an institute that is comparable with the PI Tilburg in a number of important aspects. In the PI Norgerhaven twenty interviews with prisoners and staff were conducted. All the interviews were recorded, transcribed verbatim and analysed with the qualitative data analysis software MAXQDA.

Chapter 3 contains an analysis of the legal position of Belgian detainees in the PI Tilburg based on the Agreement of Collaboration between Belgium and the Netherlands (regulated by treaty) and the Belgian legislation, rules and regulations on detention. There are salient differences between the legal position of Dutch detainees in a Dutch institution and that of Belgian detainees in Belgian institutions. For example, there are substantial differences in the regulation of conditional release; visiting rules in Belgium are more generous than in the Netherlands and the two countries also have a different structure of payment for labour. According to Belgian law, a detainee's behaviour during detention does not constitute a formal counter-indication for conditional release. Compared to Dutch personnel under Dutch regulations, Belgian members of staff have far less access to information concerning the criminal investigation and information on the detainee's detention record (in the current or other detention institutions). A number of security measures such as urine tests, body searches and cell inspections are less easily available on the basis of Belgian law. However, unlike Belgian penitentiary institutions, the PI Tilburg does have an internal security assistance team and Dutch regulations on medical care and transport apply. At the same time, how and to what extent these differences influence the way in which both detainees and personnel experience detention in the PI Tilburg often depends on the typical context of Tilburg. It is, for example, not easy to make full use of the more generous Belgian visiting hours because of the distance between the prison and the home of the prisoners, while the system of conditional release causes a great deal of frustration with the prisoners because services and facilities present in Belgian institutions are lacking in Tilburg.

Chapter 5 reports on existing quantitative analyses of the experiences of personnel and detainees in the PI Tilburg (Van der Broek et al. 2011), which gave rise to the DJI to commission this research. Our findings do not differ substantially from previous quantitative research, but our qualitative data, however, provide much more nuance, interesting explanations and additional results. Chapter 6 presents the findings from our qualitative research in the PI Tilburg and PI Norgerhaven, while Chapter 7 contains an extensive answer to our central research question. The following are our conclusions, based on the fourteen dimensions of the MQPL.

### Relational dimensions

We would contend that the PI Tilburg scores reasonably well on the dimension of *respect* (dimension 1). Among personnel, there is a culture of dealing respectfully with detainees. Our interviews with Belgian detainees show that, certainly compared to experiences in Belgian institutions, the staff has an open attitude and is prepared to listen to the prisoners. They attempt to communicate as directly as possible and to respond to detainees' questions, which is an important aspect of organizational respect. They also make an effort to approach detainees as individuals, for example by responding to situations of stress in with regard to their conditional release.

This approach is closely related to the second MQPL dimension, *humanity*, which is realized through interpersonal relationships and attention to material conditions. We conclude that much effort is made to realise these two aspects of humanity as fully as possible, given material and staff limitations.

As far as the third dimension, *relationships between personnel and detainees*, is concerned, new and idiosyncratic dynamics have developed in the PI Tilburg as a result of the situation being new for both detainees and personnel. The approach taken by the prison officers surprised the detainees and in general it has had a positive effect on both order and security within the institution and on psychological well-being (dimension 9). We also found similarities with Liebling's findings: some detainees, for example, have their reservations towards (too much) familiarity and some also point to individual differences in the way personnel treat detainees. It should also be noted that the positive effects of a humane approach are undermined if detainees and personnel do not speak each other's language. In this regard it is important to note that a considerable part of the prisoners have an illegal status and are often transferred from Walloon or Brussels prisons, and thus French speaking. There is also *distrust* (dimension 4) in the PI Tilburg, especially between the detainees themselves. At the same time, we must also conclude that the fact that staff members approach detainees positively engenders a basic trust, especially among detainees with a knowledge of the Dutch language. The effect is less obvious among those who do not speak Dutch. This trust is closely related to the respectful and humane approach taken by the staff.

Staff also has an important role of *support* to play in prison (dimension 5). Here too we conclude that a respectful and humane approach plays a positive role and that a so-called 'culture of talking' defuses potential tensions in the PI Tilburg. At the same time, we must note that not much can be done in the way of help for, or an individual approach to vulnerable groups, such as detainees with psychiatric problems. Some detainees who are used to the generous prescription of drugs in Belgium, experience the very different and restrictive Dutch approach to medication as a lack of support.

As far as the relational dimensions are concerned, it is our conviction that a great effort is being made in the PI Tilburg and that this forms some

compensation for the difficulties that detainees experience with regard, for example, to not having enough visits or problems in preparing for release.

### **Dimensions of regime**

According to Liebling, *fairness* (dimension 6) is realised through clear, consistent and impartial treatment according to rules or standards that allow detainees to tell their side of the story. As far as this is concerned, most of our interviewees felt themselves to be treated fairly. Personnel attempt to take individual differences and needs into consideration. On the other hand, it must be said that detainees are rarely familiar with the possibilities for complaining officially and that non-Dutch-speaking detainees feel excluded.

Because of the structured daily routine and tight organization, life in prison is highly structured and predictable, through which *order* (dimension 7) is realized. Coercive measures are used as a last resort, after it has become clear that talking will not help. If coercive measures are employed, for example by deploying the internal security assistance team, they are drastic and clear, and detainees are aware of this.

Our interviews with detainees and personnel allow us to conclude that most feel reasonably comfortable about *security* (dimension 8). The most important way of realizing security is through relational security (constructive relationships between personnel and detainees) and a high degree of responsivity among personnel, although that does not detract from the fact that there are also measures such as camera surveillance in the visitor's room, searches and the use of the internal security team. We found that the number of disciplinary reports is highest when detainees are at work, which is probably due to the presence of a greater number and more mixed group of detainees in the same space, and to greater differences in approach by members of staff. As opposed to individual cells, group cells imply a greater risk of incidents and psychological insecurity. At the PI Tilburg, attempts are made to take the demands of detainees into account in the formation of the group cells, in order to achieve a good mix of those sharing a cell. This has become increasingly difficult now that the prison is full and this has a negative effect on order and security. We did not get the impression that the PI Tilburg has bigger problems with drugs or contraband than are to be expected in a prison context. This is remarkable in the sense that Tilburg lacks a number of security measures, or these are less readily available, than in the context of the Dutch prison regime, where they are readily available and often used to combat the presence of drugs.

*Psychological well-being* (dimension 9) is associated with contentment and feeling well psychologically and can be promoted by positive surroundings and a positive atmosphere. Detainees need time and space in which to escape from prison life, where they can cast off their prisoner's 'mask'. Group cells and the limitations of small open air promenades lead to a lack of private space. Moreover, the uncertainty of getting conditional release and other forms of temporary furlough cause a great deal of stress. The detainees also obviously

suffer from what Crewe calls 'soft power'. The long distances between the prison and the home and the requirement that leaves can only take place via the prison of Wortel also have a negative effect on the psychological well-being of the prisoners.

In the sphere of *personal development* (dimension 10), we must distinguish between the availability of activities that makes life in prison bearable and the activities and services aimed at facilitating a return to society. As far as the first aspect is concerned, the PI Tilburg has made a huge effort to install a daily structure that gives prisoners the opportunity to keep busy and to spend enough time out of their cell. Detainees are especially enthusiastic about the sports facilities and the way in which personnel put these to use. Most detainees regard opportunities to spend time in the company of other prisoners as a way of making their time in prison go faster, which raises their level of contentment. Like most prisons, however, the work on offer is monotonous, while the prison infrastructure at the PI Tilburg does not really allow for an increase in the number of working hours per day per detainee. Good vocational training programmes and services preparatory to employment are lacking, so that the PI Tilburg does not score very well in this respect and the stay in prison is very much reduced to 'doing time'.

Opportunities for *contact with family* (dimension 11) are severely restricted in the PI Tilburg because of the distance to detainees' homes. There are opportunities to have conjugal visits and special child visits, but the latter especially is not well developed and there seems to be little enthusiasm to remedy this. The prisoners experience the additional forms of control, such as the use of drug dogs e.g., with the prisoners as well as with the visitors, disturbing.

In general a big effort is being made to realise the dimension *decency* (dimension 12), both with regard to cleanliness, order, security and health as with regard to the amount of time a detainee is able to spend outside of his cell. However, because of the intensive use of group cells the PI Tilburg does not do so well as far as privacy is concerned.

### **Dimension social structure and meaning**

Finally, there are two dimensions that determine the moral performance of a prison: power/authority and prisoner's social lives.

Power/authority (dimension 13) are defined as 'the actual or perceived use of control, influence or authority by prison staff. The degree to which prisoners have the capacity to exercise control over their own time, treatment and life'. This is, therefore, a multi-layered dimension that is concerned with the opportunities of both staff and prisoners for exercising power. We were struck by the extensive use of relational forms of power through building constructive relationships that are generally used in a positive way. We did however find many indications of the pressure exerted by 'new' forms of power in the form

of having to have a good rehabilitation plan, which poses big demands in terms of detainees' sense of responsibility and self-discipline. This is also apparent in the prisoner's fear of becoming involved in incidents while they are working towards their release, and in the haziness and their uncertainty about the extent to which their behaviour may be used against them in decisions on release. This means that, as well as the increasing power of the Psycho-social Service (PSD – *Psychosociale Dienst*), there is also a great deal of invisible power that is wielded by actors who are not even present in the prison but who do have a big say in (temporary) release decisions, such as the Prison Administration and the Sentence Implementation Courts. It should be noted that such forms of soft power are an important part of the prison regime at the PI Tilburg.

As far as the last dimension (14) is concerned, *prisoner's social lives*, we have already pointed at the degree of distrust between detainees; we also see the formation of groups according to ethnic background and residence status (legal versus illegal). Prisoners do not have 'friends' in prison, but talk in terms of 'prison associates', as it is also termed in Liebling's book. At the same time, they are also positive about solidarity and attempts to live together peacefully in group cells. Prison staff try to take the problems detainees have with sharing a cell into account as much as possible. Given that the PI Tilburg is full, this is becoming increasingly difficult.

### **What can the Netherlands learn?**

All in all, this research has provided a number of important new insights as a result of the special detention context of the PI Tilburg. Unfamiliarity with how the different dimensions are realised in the other country makes their contours clearer and sharpens their relative significance for both prisoners and staff. That is why this research also provides a number of lessons for the Dutch detention situation.

To start with, our research confirms the great importance of interaction between prisoners and staff and of the approach to detainees, both of which are emphasised by Liebling and many others. That the Dutch approach is appreciated by the prisoners who are used to a different prison culture is also apparent from our research and seems, moreover, to have a positive effect on both the atmosphere and (feelings of) security in the institution. This has led us to wonder what the consequences will be of a overly strict system of promotion-degradation such as is proposed in the plans for modernising the prison system (*Moder-nisering Gevangeniswezen*). At present, the staff is able to make an important contribution to the good atmosphere and (feelings of) security in prison, by maintaining positive relationships with the prisoners. That quality may well come under pressure if they are forced to attach consequences to detainees' negative behaviour or speech. The new way of working could, of course, have a positive effect on the relationship between detainees and personnel, but it is important to be careful not to throw the baby out with the bathwater.

There are essential differences between the Dutch and Belgian systems of preparing for conditional release. This is a second lesson for the Netherlands. On the one hand, Dutch personnel and detainees feel there is much to be said for the concrete and practical way in which preparation for conditional release is given substance in the Belgian system. On the other hand, the strict requirements of conditions of release and the fact that Belgian detainees are themselves responsible for determining how they meet them lead to emotional pressures that can become so strong that detainees give up beforehand, with all of the negative consequences for relationships and atmosphere in the prison that this can bring.

If prisoners can choose, nothing is more important than contact with the outside world, visits from their loved ones. For that they would gladly return to the often inferior conditions in Belgian prisons, undergo burdensome transfer visits and a disruptive stay in the penitentiary institution of Wortel. Although prisoners from the PI Norgerhaven also sometimes receive but few visits because of the institution's remote location, they appeared to feel less strongly about this, as long as it was their own choice.

A fourth important insight to be derived from our research is that the quality and positive experiences of approach and communication quickly deteriorate if prisoners and staff do not speak each other's language. This is an aspect that is structurally underestimated by members of staff, but for the detainees concerned it determines everything about how they experience incarceration. It is also an aspect that came sharply to the fore in this research as a result of the sudden transfer of a large group of French-speaking detainees from institutions where they could express themselves to one where French is barely spoken.

In the fifth place, the quality of the food is a source of complaint in every penitentiary institution, but we have never heard such clear and perpetual complaining as in Tilburg. Torn from their own surroundings and what they are used to eating, food apparently becomes extremely important to prisoners. Aside from the question of whether, in the first instance, food should be tasty or healthy (a question on which detainees and board of directors differ), food is also an expression of culture and it has a strong social function. This second aspect of food is apparent at Tilburg in the excellent cooking facilities of the group cells and in the eager use that is made of them.

Finally (and unexpectedly), although they lack a number of the important security measures they are used to having available, staff at the PI Tilburg seems able to guarantee a humane and relatively secure regime in this difficult institution through interaction and communication with detainees. We attribute this predominantly to the professionalism of the staff and to the solidarity that working on this experiment has brought to the institution. However, it also raises questions as to the necessity of those security measures and their widespread use in other Dutch prisons.

