Particuliere reclassering en overheid in Nederland sinds 1823

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Summary

This study deals with the historical development of the relationship between the Dutch Government and the private after-care and rehabilitation organisations from 1823 until today.

The first chapter covers the period that starts with the foundation of The Dutch Fellowship for Moral Reformation of Prisoners (*Het Nederlandsch Genootschap tot Zedelijke Verbetering der Gevangenen*, hereafter referred to as 'the Fellow-ship') in 1823, and ends with the introduction of the new Penal Code in 1886. The foundation of the Fellowship reflects the social and political climate of the first quarter of the nineteenth century. The Central Government played only a limited role in public life. Social care was primarily the responsibilty of private initiative and local authorities, who, throughout the nineteenth century were often one and the same people. This applied also to branch committees of the Fellowship and prison boards. Faith in the possibility of moral edification of the population in general and of the justitiable in particular, was a legacy of the 'Age of reason'. In the second quarter of the nineteenth century the Central Government gave the Fellowship more or less *carte blanche*. In particular, the education of detainees became increasingly the responsibility of private initiative. As the Government became more and more convinced of the usefulness of the aims that the Fellowship pursued, its work became less discretionary. Around the middle of the nineteenth century, when the discussion over the introduction of solitary confinement was taking place, the Department of Justice and the Fellowship shared the same ideals. However, when it proved politically impossible to introduce solitary confinement on a large scale, the views of the Government and of the Fellowship gradually began to diverge. This divergence was increased as the Government became more interested in progressive systems of detention, whereas the Fellowship remained faithful to the principle of solitary confinement. Another factor that put a strain on the relations between the Fellowship and the Department was that from the middle of the nineteenth century, at the same time that solitary confinement was introduced, the Central Government wanted to centralize the control of the prison system. The independence of the prison boards and the Fellowships' role in the prison system were reduced. By introducing experiments with solitary confinement, the Department of Justice had shown its interest in realizing other penitentiary aims than retaliation, aims that would also benefit from education, which was increasingly considered the State's duty. The Fellowship initially welcomed the Department's readiness to let the State bear the considerable costs of education, although it had great difficulty in giving up control of penitentiary policy. For the Fellowship all that remained, apart from keeping an eye on Governmental policy, was the care of the prisoners after their discharge.

In the second chapter an outline is sketched of the social, political and penal changes that took place around the turn of the century, between 1886 and 1910. It was a transitional period in several ways. At this time a fundamental change took place in the governments' relationship to the Rehabilitation. Three factors were instrumental to this change. Firstly, opinions were changing as to the extent of the role of Central Government. Due to socio-economic changes, Central Government had to intervene more firmly in the social sphere while political shifts that emerged out of the electoral reform led the Government into an unusual relationship with private initiative. The Government confined itself to imposing general rules while most of the actual work was left to private organisations. Almost at the same time both the objectives and the means of the Penal Code were about to change. Solitary confinement had proved to be an ineffective answer to recidivism. Gradually the Penal Code began to reflect a new vision of punishment, which replaced the 'classic' nineteenth century point of view. Thus, the position of the Rehabilitation in relation to criminal jurisdiction changed. The task of Rehabilitation was now better adjusted to the Government's requirements. Both the Government and the Fellowship acknowledged that the Rehabilitation could play a meaningful role in the reduction of recidivism. Finally, a shift in the means and methods of the Fellowship became apparent. After a period in which it had no other choice than trying to influence the Government's policy, a return to practical action occurred from the middle of the 1880s onwards. The revival of activities that took place around the turn of the century increased expenses. The Fellowships' agricultural colony and the maintenance of a Central Office for Information and Employment could hardly be supported from its own financial means. The Department of Justice was willing to provide some financial back-up, by which it also gave a sign of its' approval of the Rehabilitation work. In spite of the objections that existed within the Fellowship against the Rehabilitation Regulations, an agreement was reached with the Department. From this we may conclude that it became apparent that Government involvement in the Rehabilitation would have a benefitial influence on its activities. The fact that the first Rehabilitation Regulations were partly analogous to the Child Protection Acts, also concerning their implementing orders, indicates that their constitutive ideas were similar. In the matter of rehabilitation the Government thus felt a similar need to regulate what was gradually coming to be considered a task of the Administration.

The third chapter deals with the effects of the subsidization of Rehabilitation work, in the period leading up to World War Two. The image of Rehabilitation was drastically changed by the statutory decision to subsidize its activities. The aims of Rehabilitation Regulations of 1910 to further develop the Rehabilitation were partly realised before the Second World War. As a result of the subsidy scheme the opportunities for charitable organizations to play an active role in Rehabilitation increased. However, the State's intention to involve various private associations in Rehabilitation, brought along its own problems. These problems were increased by the economic situation during the interbellum period. As a considerable number of private associations became involved in Rehabilitation work, the need for a coordinating organisation soon developed. In 1913 the Association of Rehabilitation Societies (the *Vereeniging van Reclasserings Instellingen*, VvRI) was founded. As a result of denominational segregation, forces

were joined in ideological sociopolitical groups. A conglomerate of Catholic and Protestant charitable societies united their activities in, respectively, the Roman Catholic Rehabilitation Society (the RKRV, 1917) and the Protestant Rehabilitation Society (the PCRV, 1929). Owing to the denominational organizations' claims to autonomy, the extent of the VvRI's mandate remained severely restricted, so that its' importance as a coordinating body particularly in relation to the Government remained small. As a result of the economic crisis, the organisational structure of the Rehabilitation became subject to criticism. The desparate financial situation confronted Rehabilitation with the high costs of ideological differentiation. The call for a more efficient organisation was increasing. The Fellowship in particular had tried hard to prevent the denominational segregation of the Rehabilitation and had often campaigned for a more efficient organisational structure. In secret consultations between the leaders of the segregated organisations, and the Fellowship, a new organisational structure was set up to overcome the disadvantages of ideological segregation on a district level by means of more powerful rehabilitation councils. The statutory status that the councils recieved in the 1947 Rehabilitation Regulations, was a legacy from the period of occupation that, nonetheless suited the post-war conception of the role of the Government in society. The basis of the post-war organisation of the Rehabilitation was nevertheless founded in the 1930s. In those years, A more authoritative Governmental regulation was proposed that fell in line with a general wish for the Government to take vigorous action during the time of crisis. The integration of rehabilitation into criminal jurisdiction characterized the period between 1910 and 1945. Despite denominational segregation, it was clear that the Government tried to expand its influence on private rehabilitation organisations in several ways. These efforts were understandable, since the involvement of the Rehabilitation in criminal jurisdiction had increased after the introduction of the possibility of sentence on probation, and the increased possibility of release on parole in 1915. With the introduction of pre-sentence reports made by the Rehabilitation organisations for the information of the court, the Rehabilitation was given a useful instrument with which it could increase its influence at several stages of a criminal procedure. The integration of the Rehabilitation within criminal jurisdiction developed successfully, in accordance to the wishes of both the Rehabilitation and the Government.

Chapter four centres around the reorganisation and further development of the Rehabilitation after the Second World War. During the period between 1945 and 1968 two stages can be distinguished in the relationship between the Department and the Rehabilitation. Directly after the war, the Government played a leading role. In collaboration with various organisations the Department tried to improve the quality of the rehabilitation by stimulating expansion and professionalization. Throughout the reconstruction period, a consensus prevailed between the Department and the organisations. As a result of the Rehabilitation Regulations of 1947, the Rehabilitation became subject to unprecedented enlargement and professionalization. The ties between the Government and the private initiatives were strengthened. The first ten years after the Rehabilitation Regulations of 1947, were characterized by the deployment of officials in guidance and after-care. Gradually, the voluntary workers disappeared from the picture, while a change took place in the decision-making capacities of the managers and the implementing personnel. The workers acquired greater authority. The organisations strove for expansion by

reducing the number of divisions. The Department stimulated the influx of paid workers, the promotion of expertise, and the scaling up of the rehabilitation work. The organisations accepted the Government's authority, whether directly or via the public rehabilitation councils. In the following period, starting at the end of the fifties when the professional development had reached its peak, the Rehabilitation gradually began to question the authoritative role of the Government. From that moment on, the relationship between the Department and the private rehabilitation organisations came under increasing pressure. The professional development was a necessary condition for the discussion about the position of the Rehabilitation in relation to criminal jurisdiction and the Department. This discussion had three major aspects. Firstly, new ideas about rehabilitation work developed. Social workers aimed at operating as much as possible according to their own professional insight. In short, they needed a relationship with their clients that was based upon trust, which was difficult to combine with the judicial tasks of the rehabilitation organisations. As a result, a re-evaluation became nescessary to consider the position of rehabilitation work within the whole of criminal jurisdiction. Another point of vital importance was that the initial individual-psychological orientation of the social scientists was exchanged for a more sociological perspective, whereby society itself becomes subject to critical analysis. As a result, the aims of the rehabilitation work were extended beyond the more confined goals of the Department. The Department endeavoured to keep the expansion within reasonable limits. Secondly, the changing of society as a whole had repercussions on the Rehabilitation. The fact that probation officers were educated at colleges for social work contributed to the Rehabilitation's receptiveness to the ideals of the sixties, bringing with it a critical attitude towards authoritative institutions. This led to the need for professional autonomy, at a time when the initial arguments in favour of the private character of the Rehabilitation had lost their validity. The private character of the Rehabilitation had to be redefined, now that the idea of the 'sovereignty of private circles' was finally abandoned for a more professional attitude towards the task of Rehabilitation. Besides the three conditional aspects of the professional development, a high workload and a deteriorating relationship between informative and after-care services, served as concrete starting points for debate.

Chapter five examines the impulses that led to a fusion of the Rehabilitation organisations. I describe the short, but eventful period between 1968 and 1976 as a phase in which a definite swing from an ideologically inspired rehabilitation towards a professional service took place. The new orientation of the Rehabilitation was consolidated along with numerous discussions. Guidance to discharged prisoners, and servitude to criminal jurisdiction were progressively looked upon as mutually exclusive categories. Because the guidance of the justitiable came first, a polarised relationship with criminal jurisdiction was created. The 'professional revolution' also had its influence on the relationship between the Department and the private rehabilitation organisations. Between 1965 and 1969 it seemed that the Department gave in to the organisations, at least as far as having to acknowledge their professional identity is concerned. The opposition of the organisations to the Governmental interference dating from the end of the fifties, finally bore fruit. This can be seen in the Rehabilitation Regulations of 1970. The rehabilitation councils lost their guiding and controlling position; the responsibility of the organisations to public councils was exchanged for a system of internal communications. Because

no new administrative system took its' place, the Department gradually assumed a non-directive attitude towards the organisations. The end of the chapter five shows how the professional basis of the Rehabilitation again led to the scaling up of the rehabilitation organisation. The Departments' call for closer cooperation and efficiency in 1968, was interpreted by the implementing workers as an encouragement towards fusion. The probation officers who were at the basis of the organisation deliberately acted as catalysts for this process. By pressing for a fusion they brought about the supremacy of the professional over the ideological attitude towards the rehabilitation work. At the time of the formulation of the objectives of the General Rehabilitation Society (the *Algemene Reclasseringsvereniging*, ARV), the most that the founders could achieve was a compromise between the rendering of services to Criminal Justice and support to the justitiable. Given the internal disagreements over the objectives of Rehabilitation it would not have been wise to include an explicit stand in the statutes. Within the Rehabilitation a new approach was sought from which the foundations of the work and the relationship with the Government had to be redefined. By 1976, when the ARV was founded, this reverification was nowhere near completion.

The period discussed in chapter six covers 1976 to 1982, when the attitude of the Department changed again. Although it refrained from interfering in the implementation, its interest in planning and management was increased. The discussion around the position of the Rehabilitation with regard to criminal jurisdiction exercised the minds of many, even after the fusion. The Rehabilitation looked upon itself as a welfare organisation, operating on jurisdictional grounds. Instead of attempting to decrease the tension that was thus created, it elevated this point of view to its field of activity. The Rehabilitation wished to express its public welfare values at a certain distance from criminal jurisdiction. Initially, the Department did not participate in the discussion about the Rehabilitation's identity. However, during the late seventies it was the Department of Justice that accelerated the discussion. At the same time that the ARV completed its internal structure, a jurisdictional change of climate took place which left its marks on the Rehabilitation's tasks. An increase in criminality caused a capacity problem within the Penitential system. The Rehabilitation was responsible, in part, for the solution. The Department wanted the Rehabilitation to be clear about its readiness to be involved in experiments with alternative sanctions. Not only were the Rehabilitation's job responsibilities expanded for the first time since 1915, its attitude towards criminal jurisdiction also changed. As a result the idea gained ground that neither Criminal Law nor guidance were capable of providing an adequate answer to the increase in criminality. By acknowledging the relative value of both guidance and Penal Law, the tension that was raised after the discussion on aims, finally seemed to diminish in the early eighties. This was the first step towards solving the discrepancy between 'punishment' and 'care' that had grown within the Rehabilitation. Another important aspect of the period between 1976 and 1982 was the recurring division between decision-making and implementation within the Rehabilitation, which was supposed to be settled partly through the foundation of the ARV. There was an increasing inclination to include policy-making within the work structure in such a way that the top of the working organisation could set up the outlines, while the regional organisations would be free to fill in their alloted

policy-making space. Finally, it was important that a turning point was reached in the policy of the Department of Justice towards the Rehabilitation. After a decade of 'unprecedented freedom', the Rehabilitation was confronted with a Department that showed an increasing interest in policy-making. The Department tried to guide the management of the Rehabilitation according to its own wishes. In this respect the non-directive attitude of the Department came to an end in the last quarter of the 1970s, even so it remained unwilling to trouble itself with the implementation.

In the final chapter, I handle the period between 1982 and 1995. The reorganisation carried out between 1983 and 1986 was not so much a break with the previous developments, more an acceleration of them, partly dictated by the cutbacks considered nescessary. Natural developments were thus speeded up considerably, and sometimes even forced. Coupling the Rehabilitation's restructuring with severe cutbacks made the process hard to stomach, particularly since, under financial pressure, redefining the relation between Government and private initiative took place at high speed and left little room for compromise. Here I also try to indicate that reducing the cost of Rehabilitation was not the only role-playing factor. In the period refered to, the Government was reviewing the scope of its tasks. The size of the Governmental apparatus and the way government should operate in society, were under debate. For the Rehabilitation this meant that the Department of Justice took control of rehabilitation policy. One example of the pressurised alteration of the Rehabilitation's objectives was that service rendering ceased to be the primary aim of operational principle. Initially, this worsened the relationship between Government and Rehabilitation. The Ministerially required adjustment of the Rehabilitation's aims brought up sentiments that were rooted in the discussion about the Rehabilitation's identity. In this respect the reorganisation also marked the end of a period, now that in the early eighties the discussion about the Rehabilitation's identity finally appeared to be settled. The improved relations between the Government and the Rehabilitation were in my opinion at least partly due to changes in the Penal Code, which made the implementation of criminal jurisdiction much more accessible to the Rehabilitation's activities. The Dutch Federation of Rehabilitation Agencies (*Nederlandse Federatie van Reclasseringsinstellingen*, NFR), founded in 1986, served as an intermediary between the Department and nineteen autonomous Rehabilitation Foundations. This brought along a new problem because, particularly the larger organisations were not prepared to give up part of their autonomy to a coordinating organisation. In 1992, the disfunctioning of the NFR led to the latest reorganisation, eliminating the inadequacies of the rehabilitation organisation and clarifying the relation between the Government and the Rehabilitation.