Laat maar zitten
Janssen, Janine Hubertina Lambertha Joseph
Summary

*Just Sit it Out*

*An exploratory study into the consequences of short-term imprisonment*

From the turn of the century onwards, attempts have been made to limit the number of short prison sentences or even to abolish this type of punishment. Surprisingly, hardly any empirical research into the practice of short-term imprisonment has been conducted, although many drawbacks of this form of punishment have been described in the literature. This study attempts to deal with this lacuna to some extent. The research problem of this study is: what are the consequences of short-term imprisonment? For the purpose of this study, short-term imprisonment is defined as a sentence of at most six months that is served in a closed or semi-open prison. Detention centres and penal institutions for long-term imprisonment have been disregarded.

The study investigates relevant changes in the life of short-term prisoners during and after short-term imprisonment. The question concerning the individual consequences of short-term imprisonment has been divided into four secondary questions:

1) What was the social and economic situation of the short-term prisoner before detention?
2) What changed during detention in the life of the prisoner?
3) How did the short-term prisoner experience the sentence imposed?
4) What are the circumstances of the short-term prisoner after detention?

To answer these questions, one hundred respondents in detention — all adult males with legal residence in the Netherlands — have been interviewed by means of standardised protocols. Chapter 2 describes their recruitment and selection. Respondents were selected from both closed (N=76) and semi-open (N=24) prisons. After their detention, half the group was interviewed again in open interviews. Apart from the interviews, information from penitentiary files and extracts from the criminal records register were also used to obtain research data.

Chapter 3 describes the juridical history of the respondents. When the study began, the majority had already had many dealings with the legal authorities. Only three respondents had no previous convictions. If dismissals and transactions were not taken into account, the number of first offenders rose to seven. In addition, another six respondents had only been convicted to various fines and seizures or unconditional disqualification from driving, although some of these had been given dismissals and transactions. Around ten per cent of the respondents were first detainees. These were serving their first prison sentence,
mainly in semi-open prisons. Around ninety per cent, therefore, had previous experiences with the prison system, while approximately thirty per cent had a relatively broad prison experience (defined as having spent ten per cent or more of one’s adult life in prison). In general, respondents from closed prisons had a more extensive criminal record than those serving their sentences in semi-open prisons. Most of the respondents were serving one sentence. Almost a quarter was serving two consecutive sentences, while the rest was serving three or more consecutive sentences. These were relatively often served in closed prisons. The majority of the respondents had been convicted for property crimes. Around seventy per cent of the sentences had been pronounced in absentia, and more so with the respondents in closed prisons than with those in semi-open prisons. On average, the period between the oldest offence and the start of detention was around three and a half years. An important conclusion drawn in this chapter is that the process of the imposition and enforcement of short sentences could not be understood exactly in many instances. Repeat offenders in particular had lost sight of their court cases and the sentences they were to serve. It was not easy, therefore, for this group of respondents to provide a detailed record of the punishments imposed on them through the years.

Chapter 4 describes the circumstances of the respondents prior to detention. More than half of them felt there was no difference between weekdays and the weekend. The lack of structure in their schedules was mainly due to a lack of work and/or a fixed abode. Another important factor was addictions. Almost half had no life partner in the period prior to detention, while around forty per cent did not have children. Most of them had a place of their own to live, while one quarter lived in lodgings. Fifteen per cent had no fixed abode. The housing situation of those who served their sentences in semi-open prisons was more favourable than that of the respondents in closed prisons. Among the latter group, the percentage of homeless was relatively high and fewer of them had a place of their own. Around sixty per cent gambled, drank, and/or used hard drugs. Among the respondents in closed prisons, addiction was a relatively more serious problem than among those in semi-open prisons. Addiction was accompanied by medical and psychological problems for several respondents, but the majority had no medical and psychological problems prior to detention. To put it mildly, the respondents’ financial situation prior to detention was not very favourable. Forty per cent derived an income from work, which was often semi-legal or illegal. Around sixty per cent received some kind of social benefit. On the whole, the financial position of respondents in closed prisons was worse than that of those in semi-open prisons. The same is true for expenditure: the respondents in closed prisons spent more money on gambling, alcohol, and drugs. More than half of the respondents was in debt. In this respect, there was no difference between those in closed prisons and those in semi-open prisons, although the latter group often owed higher debts. A typical characteristic of respondents in debt was that quite a few of them received social benefits. This group also showed considerable overlap with the group of gamblers and alcohol and/or drug abusers.

The respondents were divided into five categories of short-term prisoners on the basis of their situation in life. This division was based on three variables that may be assumed to be more or less necessary for a reasonably adjusted life: having a place to live, not having any addictions, and being employed. The combination of these three dichotomous variables yields eight categories, five of which were present in the research sample.

1) **Homeless addicts** (N=14). With one exception, all members of this category had
already served prison sentences before the detention period included in this study.

2) **Unemployed addicts** (N=34). Only one respondent in this group had not been detained before.

3) **Employed addicts** (N=14). With the exception of one individual, all respondents in this category had served prison sentences before the start of the study.

4) **Unemployed non-addicts** (N=13). In this group, two respondents had no prison records, while one of these had had no previous convictions.

5) **Employed non-addicts** (N=24). Seven respondents in this group were first detainees, while two of these had no previous convictions prior to the detention included in the study.

Chapter 5 explains how the various categories fared during detention. Particularly the addicted respondents from the first three categories were confronted with a fixed daily routine while in prison, something that they were largely unfamiliar with ‘on the outside’. The addicted respondents from the first and second categories had relatively few visitors. Only a handful of respondents admitted that they used drugs while in prison. This mainly concerned soft drugs. However, a large amount of medication was used by all categories. During detention, the number of medical and psychological problems rose sharply across the board. The most striking finding is perhaps the increase in the first category of homeless addicts.

Before detention, the financial situation of most respondents was not very favourable. In principle, all received the same wages in prison. Particularly in the fourth and fifth category, these wages were supplemented by individuals from outside prison. There was a substantial group in the second category whose social benefits continued while they were in prison. In general, however, the respondents’ financial situation did not change much during detention. Their level of education and job experience did not improve either. The respondents felt, therefore, that they would not be better prepared for the labour market upon discharge.

Finally, chapter 5 also shows that the ideas voiced by the respondents at the beginning of their detention did not differ much from the statements they made in interviews at the end of this period. One explanation for this finding is probably that many respondents were serving consecutive sentences. In many cases, it was not clear when their detention would end.

Chapter 6 describes to what extent changes occurred in the lives of the respondents after they had been discharged. Prior to detention, half of them had paid work; after detention, this had dropped to around forty per cent. With only a few exceptions, the respondents stated that the way they spent their time had hardly changed after discharge.

When discharged, almost twenty per cent of the respondents maintained contacts with fellow-inmates. As far as other social relationships are concerned, a striking finding is that the number of respondents without a partner had risen by ten per cent after their detention. As far as housing is concerned, the number of respondents who were homeless or had no fixed abode had risen, while the number of those with a place of their own had decreased. In the area of hard drug abuse, the situation did not change much after detention. Around twenty per cent of the respondents only had health problems (mainly sports-related injuries) during detention. After the detention period, these problems disappeared. Upon discharge, thirty per cent still had medical problems. One third stated they had psychological problems, almost the same percentage as before their detention.
Almost eighty per cent received social benefits after their detention. Particularly the respondents who had served their sentences in a closed prison appeared to be highly dependent on social benefits afterwards. Around one third stated that they supplemented the benefit with income earned through illegal jobs and criminal activities. More than seventy per cent had debts. After their discharge, several drug addicts who had had a place to live before detention appeared to have become homeless. On the other hand, the number of respondents in the relatively favourable categories four and five rose slightly, while some respondents were no longer addicted after detention. Still, the group that ultimately remained addicted and lost their income from work was the larger one. Although some favourable changes can be discerned, therefore, most of the changes in the lives of the respondents appear to be negative. Changes after discharge mainly drove respondents in the direction of the first, least favourable category and to a lesser extent in the direction of the more successful categories four and five. This increased the gap between the respondent groups.

Chapter 7 describes how the respondents fared after detention in relation to the law. Two years after discharge, thirty per cent of the respondents had not been convicted again. More than half of the respondents from semi-open prisons had not been convicted again, while approximately one fifth of the respondents from closed prisons had not been convicted again. After discharge, the respondents from closed prisons were convicted significantly more often to prison sentences than the semi-open prison group. Around forty per cent of the respondents were not convicted to any prison sentence after discharge. A relatively large number of this group had served their sentences in semi-open prisons. Around twenty per cent were convicted to community service. Ten per cent of the respondents — all from closed prisons — still had cases pending against them before the subdistrict court. More than forty percent still had cases pending against them before the district court. Around half had no cases pending against them, either before the subdistrict or the district court. This group had a relatively high number of respondents from semi-open prisons.

There were persistent offenders in all categories. Repetition of offences was higher in categories in which addictions played an important role. In the first three categories, a relatively large number of respondents had been convicted again to a prison sentence since their discharge. The first category had the highest percentage of repeat offenders (86 %). The respondents from the first three categories were also to a relatively high degree involved in cases that were still sub judice.

Chapter 8 discusses developments that occurred after the field work stage of the research. In this period (1995-1999), the number of unconditional short-term sentences decreased — both in absolute numbers and in relation to long-term sentences. Nevertheless, the short sentence still made up more then seventy per cent of the total number of prison sentences pronounced in 1997. Although the numbers of short sentences and community sentences are nearing each other, this is a very gradual process. For the time being, the number of short sentences greatly exceeds the number of community sentences.

On 1 January 1999, the Penitentiaire Beginselenwet Gevangeniswezen (PBW: Penitentiary System Act) came into force. This act replaces the Beginselenwet Gevangeniswezen (Prison Act) of 1953. The PBW is formulated in accordance with the principles formulated in the Werkzame Dententie (Detention that Works) memorandum. A remarkable principle of the PBW is that it no longer distinguishes between short-term prisoners and those that serve long sentences. In the old act, this distinction was one of the
starting-points of the differentiation system. The new act no longer adheres to this criterion. A distinction is still made, however, on the basis of the number of days of the sentence that are still to be served.

Werkzame Detentie (1994) introduced the standard regime, which made detention considerably harder for the majority of prisoners. An even more sober regime was introduced on 1 November 1996. This so-called ‘austere regime’ is a variant of the limited community regime. It offers the minimum statutory activities in a day programme of no more than eight hours. There is no evening programme. The maximum number of days under the austere regime has been set to sixty days. This regime is intended for the following groups of detainees: those that have been arrested so that they may serve an unconditional prison sentence, those serving alternative sentences, and suspects from the so-called nuisance category who have been given a short sentence as part of accelerated criminal proceedings.

One of the principal instruments for realising the reintegration of prisoners into society has undoubtedly been the introduction of the ‘penitentiary programme’. Only prisoners that have been convicted to a prison sentence of which the unconditional period is at least one year are eligible for this programme (art. 4, section 2 sub a PBW); short-term prisoners are excluded from it.

On 27 July 1998, a legislative proposal was submitted to give community service an independent status beside the prison sentence and the fine (TK 1997-1998, 26 114, nos. 1-2). As far as severity is concerned, community service should take up a middle position between the two other main forms of punishment. The proposal also provides a legal basis for compulsory training sentences for adults and relaxes the regulations for community sentence offers and subsequent assent. The maximum number of hours of community service remains 240, while the maximum for a combination community/compulsory training sentence is 480 hours. The proposal also allows mixing community service with fines and prison sentences and enables the court to impose an alternative community sentence for all criminal offences punishable with prison sentences or a fine and for all offences punishable with detention. In more cases than provided for under the old legislation, the public prosecutor will be able to demand a community sentence with a maximum of 120 hours or offer such a sentence in the form of a transaction. Effectively, this severs the link between community service and short-term imprisonment (TK 1997-1998, 26 114, no. 3: 1-3). The aid to prisoners has also changed in some respects. In view of the capacity allocated to the probation service and the number of offenders, the probation service intends to devote its efforts to clients whose resocialisation will also have a social effect. This means that the level of social nuisance and repeat offending should decrease and that the clients should be able to function adequately in society again. In practice, this means that the probation service will only provide aid for ‘motivated’ clients. In addition, more attention will be paid to clients in the 16-25 age bracket, because it is expected that this group is still susceptible to attempts at behavioural change.

In 1997, a government-sponsored evaluation study appeared in the United States into the effectiveness of punishment and therapeutic treatment of delinquents (Sherman et al. 1997). One of the conclusions of this study is that three methods have been proven effective for decreasing the number of repeat offences. Firstly, several programmes concentrating on resocialisation proved effective. One of the characteristics of these programmes is that they are highly structured. Furthermore, they concentrate on the
development of social skills, improving the level of education, and teaching other skills that are useful for the labour market. The programmes employ psychological techniques to achieve behavioural change (Sherman, 1997: 442). In the Netherlands, a programme with a similar approach is the ‘Stelselmatige Dader Aanpak’ (Systematic Perpetrator Approach) project, which has been running for some time.

Secondly, therapeutic communities for drug addicts within a penitentiary setting appear to have a positive impact on reoffending (Sherman, 1997: 442-443). This concerns projects that strongly resemble the ‘Drang op Maat’ (Flexible Compulsion) and ‘Strafrechtelijke Opvang Verslaafden’ (SOV: Counselling Addicted Offenders) projects.

Thirdly, incapacitation is regarded as an effective means for preventing repeated offences. A prerequisite for the success of this measure is that those incapacitated should mainly be multiple offenders. If, however, less serious offenders were to be detained for long periods or even for life, the costs would outweigh the benefits. Determining which offenders should be incapacitated is still a major problem in criminal justice (Sherman, 1997: 442-443).

The enforcement of short-term imprisonment in closed and semi-open prisons mainly affects individuals on the fringe of society: addicts, the homeless, and the unemployed. In the past, individuals were considered either corrigeable or incorrigible. Today, many short-term prisoners are labelled with the less-than-fortunate term ‘revolving door case’. On the one hand, this term seems applicable to persistent offenders who come into conflict with the law again and again. On the other hand, this creates a false impression of a judiciary system swamped by such cases without the legal authorities having any influence on this.

However, the policy of the legal authorities itself contributes to the ‘production’ of this type of prisoners in two ways. Firstly, several social problems have increasingly become the domain of the Ministry of Justice. Secondly, repeat offenders are increasingly subjected to more severe punishments. Repeated imposition of short sentences will often contribute to offenders sliding even further downhill towards the fringes of society and increase the number of the down-and-out.