

Justitiële verkenningen

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De tbs ter discussie

Summaries

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An overview in numbers of the tbs measure

J.L. van Emmerik

The Dutch tbs system has come under severe pressure. For a decade now there has been a shortage in capacity for treatment, input and output are not in balance. The population has grown with 100% in this period. As a result budgetary problems have arisen, but also juridical problems: patients have to wait unacceptably long for admission. Actions taken or in preparation to foster efficiency in the system are described in this article. Descriptive data are presented for the tbs population: development in the number of tbs patients, characteristics of their crimes, historical data on criminal behaviour and psychiatric history. Also diagnostic characteristics are described in terms of DSM classifications, IQ and addictive behaviour. Also attention is given to the throughput and output aspects (duration of treatment, the importance of general psychiatric facilities after treatment in tbs hospitals) and the available data on results: recidivism during and after treatment.

Oratio pro domo? The tbs system, its fundamentals and the building

B.C.M. Raes

Since the introduction of the tbs measure (tbs: detainment at the government's pleasure) into Dutch criminal law in 1928, there has been an ongoing debate if this measure is applicable to mentally disturbed offenders recognized as 'diminished responsible'. Since the eighties the tbs-population has changed significantly, specifically its criminal and psychopathological characteristics. The capacity of the tbs system is by far not big enough to admit all the tbs patients. They have to wait up to two years within the prison system before their treatment can start. Nowadays opponents of the tbs measure use this capacity problem as an argument to exclude diminished responsible offenders from the tbs system. This article defends the tbs and presents a more differentiated approach to the problem.

Tayloring the Dutch tbs-system; an overview of the discussion

H.J.C. van Marle

The tbs-system ('detained at the governments pleasure') has been developed from 1928 onwards to get mentally disordered offenders out of society into maximum security hospitals. The measure of tbs is meant to prevent recidivism. It can be combined with a prison sentence. Nowadays, with the emphasis on efficiency, the main subject being discussed is which kind of offenders should be incarcerated: the ones suited for treatment or the ones with a mental disorder irrespective of their will to cooperate or not. The author suggests it is a treatment- and detention measure for dangerous mentally disordered offenders, especially personality disorders. Motivation for treatment is not necessary for incarceration in the tbs-hospitals, it is for treatment in the ambulatory modality of the tbs, which includes the offenders who do not pose an imminent danger for society. The author puts forward the question as to why psychotic patients are being taken up in the tbs system during the last twenty years instead of being sent to a general psychiatric hospital. Permanently dangerous disordered offenders have the possibility to stay in the tbs for ever; continuing their treatment without the perspective of curing them is judged to be too expensive compared to other needs of society. When

and how to finish treatment and starting a life-long 'long-stay'? Answering these questions implies the development of a system for registration and evaluation for all mentally disordered offenders. Criteria for decision-making should be brought forward by all parties involved.

The benefit of advantages and use of the order for coercive treatment in the administration of justice

Y.A.J.M. van Kuijk and P.C. Vegter

In this article the authors go into the practise of the order of coercive treatment (the so called tbs measure). First of all the role of the advisory expert in psychology or psychiatry and the valuation by the judge are discussed. Subsequently the authors illustrate the causes of the structural increase of tbs measures. One of the discussed questions is to what extent the judge has a positive opinion about the result of treatment within the framework of the tbs measure and whether this promotes the number of tbs-measures. The main dogmatical question is whether the tbs measure has a right to exist in addition to the punishment of imprisonment. Before answering that question a brief description is given of how the legislator looked at the character of punishment and that of a measure since the implementation of the so called Psychopathewetten in 1925/1928 until now. The authors conclude that in sentencing an essential difference exists between the tbs as a measure and the punishment of imprisonment. During the execution there can be some integration of these sentences.

'Over flows' (On currents); the report of the Ibo tbs 2 working party

O. de Lange

The first part of this article discusses the outcomes of the second interdepartmental policy investigation (Ibo tbs II) of hospital orders. This study focused on two consecutive phases of hospital detention, the first of which is admittance to the tbs programme. The working party makes recommendations for a transparent, coherent and efficient organisation of the decision-making process, from the first contact with the police up to the moment of the trial. It also favours the introduction of quality requirements for the reports to be drawn up in this connection. The second phase concerns the intramural treatment of persons detained under hospital orders. The working party makes recommendations for increasing its quality and effectiveness (by improving the scientific basis) and its efficiency (by introducing a new financing system). These measures, combined with a policy geared towards enhancing the flow and outflow of hospital order detainees, are expected to bring about a reduction in the duration of intramural treatment. This reduction in the duration of treatment was a central aspect of the task assigned to the working party. In the second part of this article the author comments on several aspects of the issue. The tenor of this part is that, as hospital orders have been given a new chance to prove their worth, right now is not the time to question the continued existence of the tbs.

A critical evaluation of the Ibo tbs II report

M.G.A. Tervoort

In the report 'On currents' the interdepartmental working group of the Ministry of Justice and the Ministry of Public Health proposes to rationalize and enhance the efficiency of the tbs-sector. More efficiency and a select assignment of those convicted to tbs to respective tbs-clinics could, in time, shorten the length of intramural treatment, which is now seven years. According to the author, it is possible to shorten the period of tbs-treatment to an average of three years by abandoning the two track policy of obligatory residence and treatment and to focus on the primate of the setting. One can either get the situation where one can talk of treatment in the first place in a closed setting within the context of the Health department or the situation where detainment is most important and treatment comes second within the context of the Justice Department. Such a choice implies that either tbs-clinics become closed treatment clinics under the auspices of the Health Department or treatment prisons within a Justice department context. A select assignment of people convicted to tbs to separate clinics is refuted by the author because it will, in his opinion, result in less care. Besides it would be diametrically opposed to the developments nowadays within the Dutch mental health care, like regionalising and a differentiated assignment of care.