Towards responsive law
School absenteeism and community justice in Amsterdam

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Towards responsive law

Development of the relationship between law and society (Nonet & Selznick)

Perspective in this presentation: judiciary (pilot on community justice in Amsterdam)
Focus of presentation

• School absenteeism in the Netherlands
• Role of Amsterdam’s community justice center – ‘responsive judging’
School absenteeism in the Netherlands governed by criminal law

**Legal framework**

Compulsory school attendance

- In the Netherlands: minors 5 – 18 yrs old subject to compulsory school attendance
- Legal framework: Compulsory School Attendance Act 1969
- Enforcement is regulated by criminal law. Minors of ≥ 12 yrs old also punishable in case of non-compliance

Non-compliance with Comp. School Attendance Act

- Sanction in case of structural unauthorized non-attendance:
  - Parents: fine or imprisonment (max. 1 month). Minors (≥ 12 yrs old): community service order or fine
  - Link from Comp. School Attend. Act to Penal Code
School absenteeism in the Netherlands

*Escalation stages*

- **Local Municipality (SAO)**
  - Art. 22 CSA Act

- **School**
  - Art. 21 CSA Act

- **Public Prosecutor**
  - Guidelines on criminal approach CSA + art. 77h Penal Code

- **Criminal Court**
  - Art. 77h Penal Code
School absenteeism – *in practice*

In practice

- Current practice – focus on prevention and voluntary juvenile support
- Joint vision statement by involved organizations (2017) – *Methodical Approach to School Absenteeism*

New: Amsterdam community justice center: additional intervention

- Involvement of Amsterdam’s Southeast community justice center in school absenteeism – additional intervention in line with current approach (pilot)
Pilot of Amsterdam’s community justice center fits in a broader development

- Ambition: aim to better meet needs of those seeking justice, and of society as a whole (Council for the Judiciary)
- In total: 40-60 pilots – a.o. Amsterdam Southeast community justice center (incl. intervention in school absenteeism)
- More in general: judiciary within the Netherlands development towards more solution focused judging, a.o. family law, administrative law (responsive judging) – as in many jurisdictions
Involvement of community justice center in school absenteeism

• Intervention of judge in initial phase of process
• Nature: solution-oriented discussion – judge as discussion leader, no decision-making power (no robe)

• Key characteristics
  - Participation on a voluntary basis
  - Relevant persons around the minor participate
  - Active participation to discussion by all participants (esp. minor)
  - Solution-focused nature + focus on underlying problems
  - Monitoring discussion after 3 – 4 wks
First results – various elements of intervention by Community judge seem effective

- Preliminary impressions (exploratory empirical research)
  - Setting + atmosphere of Comm. Justice center, incl. confidentiality
  - Communication skills (mediation techniques)
  - Time: ≥ 45min (versus e.g. 5-15 min in other juvenile cases)
  - Participants to discussion
  - Position of the judge (authority)
  - Monitoring discussions after 3 – 4 wks

- Resulting in:
  - ‘real story’ being brought to the table (underlying problems)
    - whilst not discussed before
  - start of solution direction tailored to core of underlying problem

- Looking ahead:
  - Continuous development of solution-oriented discussions led by Comm. Judge
  - Start Community justice center throughout the Netherlands (Tilburg + The Hague in 2023) – approx. 3 / year
  - Center for Justice innovation (2020)
    - ‘Community justice has always worked at the forefront of justice, and its growth and success come from one deceptively simple thing: listen and learn’
Thank you
APPENDIX
APPENDIX 1: Community judge – preventive phase

Process (simplified)

Traditional:
- School
- School Attendance Officer
- Public Prosecutor
- Criminal Court

New:
- School
- School Attendance Officer
- Public Prosecutor
- Criminal Court

Community Judge
Pilot of Amsterdam’s community justice center fits in a broader development

- In general
  - Judiciary within the Netherlands seems to develop towards more solution focused judging (responsive judging) – as in many jurisdictions

- Initiative from within judiciary itself: ‘MER’ 2016
  - Ambition of Council for the Judiciary: aim to better meet needs of those seeking justice, and of society as a whole
  - Discussions / interviews with judges: unable to make a difference in daily life conflicts, especially in cases that require attention beyond merely a legal judgment – cases with underlying conflicts and interests


- Various concrete pilot projects
  - Bottom-up by District Courts throughout entire country
    - Examples: Debt Desk pilot, pilots in divorce cases, Consultation Court etc.
  - In total: approx. 40-60 pilots, divided into 4 categories

- Category ‘multi-problem / community justice’: pilot of Amsterdam Southeast community justice center
  - incl. intervention in school absenteeism