

The quest for rehabilitation and reintegration of FNPs in Belgium

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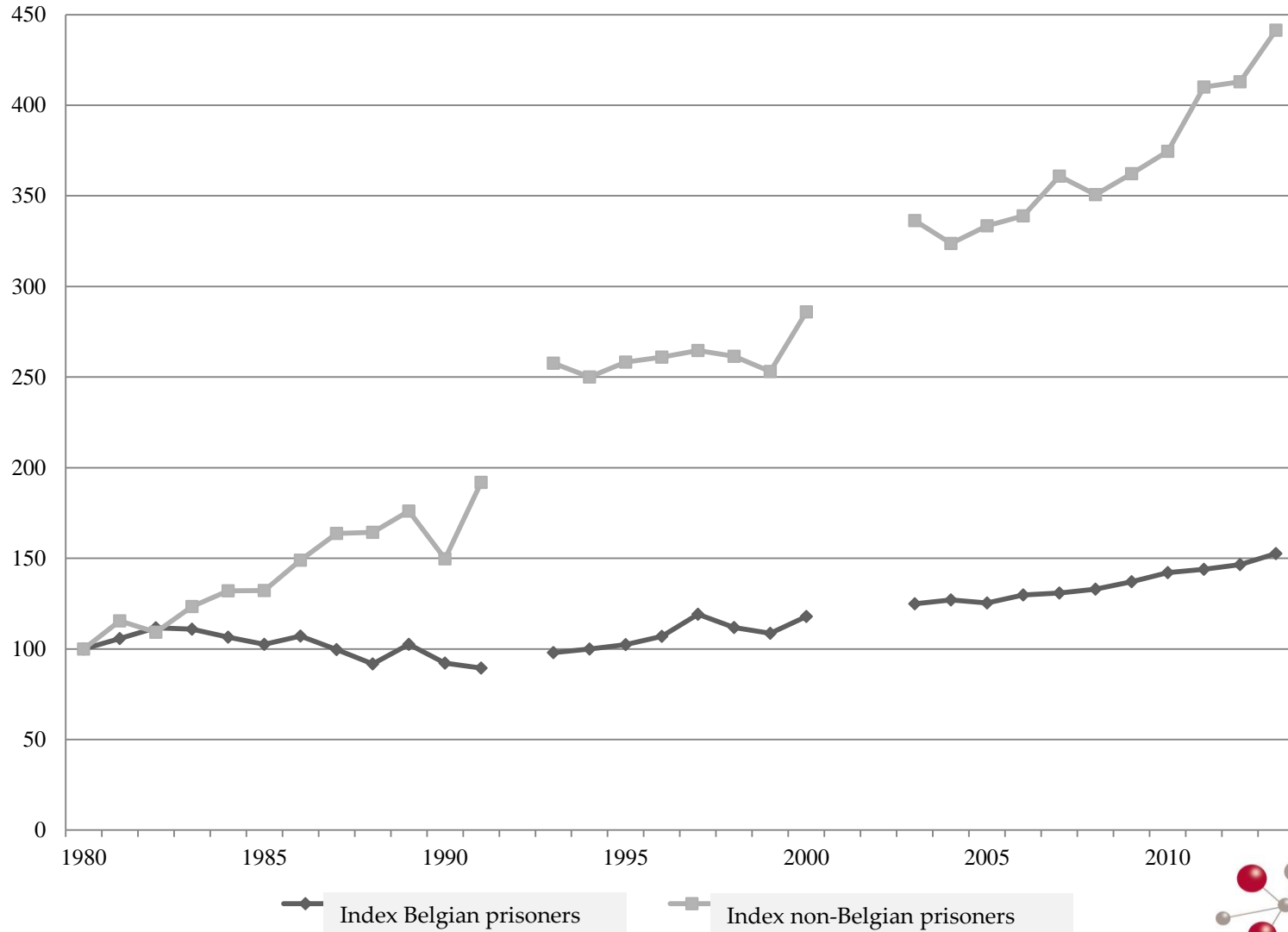
Content

- Figures about FNPs in Belgium
- International and national rulings
- Definitions of rehabilitation and reintegration
- Belgian release system
 - Sentences up to 3 years
 - Sentences of more than 3 years
- Actors within prison
- Conclusion and discussion

Research

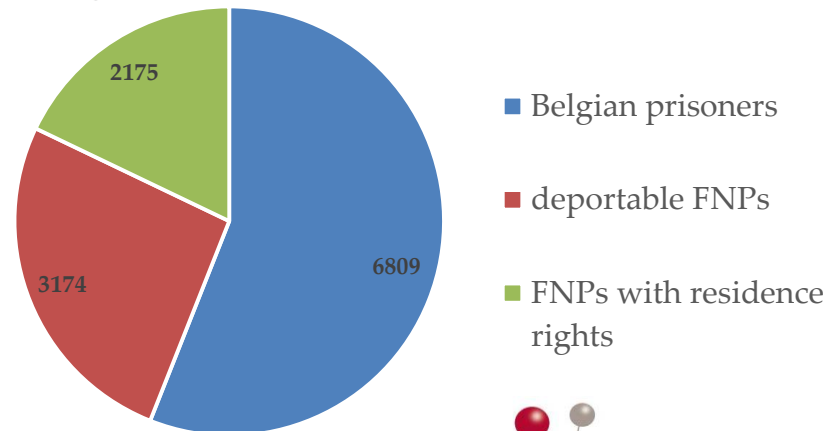
- **Foreign national prisoners facing expulsion.**
 - Relation between sentence implementation law and migration law
 - Legal analysis of prison release regulation since 1980
 - 60 interviews with deportable FNPs (third country nationals)
 - 10 interviews with identification officers of the Belgian Migration Administration/ Immigration Office
- Promoters:
 - Prof. Dr. Kristel BEYENS and Prof. Dr. Sonja SNACKEN
- Current research
 - Comparison between Belgium and the Netherlands of prison release, return and migration law enforcement

Foreign national prisoners in Belgium



Foreign national prisoners (FNPs) in Belgium

- 2013 (stock):
 - Total number of 12.158 prisoners in Belgium
 - Total number of 5.349 FNPs
 - Total number of **3.174** *deportable* FNPs
 - 59,3% of the population FNPs (N= 5.349)
 - 2015: 59,6% (N = 3.118) of the population FNPs (N=5.228)
 - 26,1% of the total prison population
 - Remand prisoners: 1.015
 - Convicted prisoners: 2.043
 - Mentally ill prisoners: 116



International and national rulings

- European Prison Rules (article 6)
 - *All detention shall be managed so as to **facilitate the reintegration** into free society of persons who have been deprived of their liberty*
- Recommendation CM/Rec(2012)12
 - *The prison regime shall accommodate the special welfare needs of foreign prisoners and **prepare them for release and social reintegration.***
- Belgian legislation (Art.9 §2 2005 Prison Act)
 - Imprisonment for all prisoners aims to realize “*the rehabilitation of the offender and the **preparation of his reintegration** into society”*”

Definitions

- Travis (2000):
 - Primary objective of 'reentry' = *preventing the recurrence of antisocial behavior*
- Van Zyl Smit & Snacken (2009):
 - Resocialization or social rehabilitation = prisoners need to be re-socialized with regard to some forms of deficiencies
- Maruna (2011):
 - Judicial rehabilitation = restoration as a full citizen
- Maruna, Immarigeon & LeBel (2004):
 - lengthy process starting before and continuing after release
- How does prison release and the preparation for reintegration relate to migration law enforcement?
- Does rehabilitation and reintegration include the preparation for return?


Belgian release system

- 2006 Prison Act
 - Belgian prisoners and FNPs *with residence rights*
 - Eligible for conditional release
 - Eligible for sentence implementation modalities
 - FNPs *without residence rights*
 - Eligible for provisional release **in view of expulsion**
 - ! Not a decision on the expulsion (and entry ban)
 - = competence of the Belgian immigration office

Provisional release in view of expulsion

- Sentences **up to 3 years**
 - 2 contra-indications
 - (quasi-)automatically released after 1/3 of the sentence
 - Since 2005:
 - Released 4 months before meeting the time conditions in case of imminent removal
 - Implemented in 2013 with a period of 2 months

➔ Release system created that facilitates removal



Who supports
the
preparation of
reintegration
and return?



Provisional release in view of expulsion

- Sentences of **more than 3 years**

- 4 contraindications

- ~~Proof of shelter~~


- Risk of recidivism
- Attitude towards the victims
- Payments civil parties



*And the Sentence Implementation Court decides whether they **send you back** or keep you here for 6 more months*

*I asked the sentence implementation courts 3 times to give me a chance and to **send me back** to my country [...] If I can't stay here, why don't you send me back?*

- Positive identification or imminent removal are **not** contraindications nor a guaranty for release!
- No reintegration plan! (art. 48 2006 Prison Act)



Who supports
the
preparation of
reintegration
and return?



Relevant actors

1) Penal actors

- Prison staff
 - safety in prison
- Psycho-social services
 - Writing reintegration-oriented reports for release
 - Providing assistance in view of meeting contraindications
- Prison governor
 - Deciding on release regarding sentence of up to three years
 - Submits an advisory report regarding sentences of more than three years
- Sentence implementation courts
 - Decide on release regarding sentences of more than three years

2) Immigration Office

- Mentally ill prisoners: special needs project
- Convicted prisoners: priority = migration law enforcement (removal and entry ban)

➔ Who is structurally embedded within the Belgian penal context to support and facilitate reintegration, rehabilitation and return?

*There is an urgent need
for an independent
return service active in
prison supporting
reintegration and
rehabilitation!*

