# Prison Governors as Policymakers, *Phronetic* Practices as Enacted Knowledge

## CHRISTOPHE DUBOIS

*Lecturer, Faculty of Social Sciences, University of Liege, Belgium*

*Abstract: In the last 15 years, Belgian prisons have been characterised by an increase of managerial and legal regulations. Building on an empirical account of prison governors' work practices and bureaucratic working context, this article shows how the rise of policy inscriptions paradoxically leads to a sharper need of prison governors for practical knowledge. Drawing on four years of qualitative research with 40 Belgian prison governors, the article illustrates how they define 'ethical dilemmas' – that is, uncertain and ambiguous events – and reach a particular decision. Two analytical concepts are used in that respect. First, the concept of 'phronetic practices' (Nonaka and Takeuchi 2011) relates to the practical knowledge used to make decisions in uncertain and ambiguous situations. Second, the concept of 'enacted knowledge' (Freeman and Sturdy 2015) enlightens how such decisions contribute to shaping prison policy, organisations, and administration. In that perspective, this article proposes to recognise the ethics of prison governors conceived as policymakers.*

Formally responsible for running their prison and administrating the regime within the limits of law and budget, Belgian prison governors have been facing an increase of managerial and legal regulations over the last 15 years (Kennes and Van de Voorde 2015; Snacken, Bevens and Beernaert 2010). Organisational scholars have long emphasised two consequences following the proliferation of formal regulation. First, in his analysis of the *Bureaucratic Phenomenon*, Cozier (1964) depicted how an increasing number of rules contribute to multiplying the 'zones of uncertainty' that are vested with 'power games' and 'discretionary practices', as pointed out by various studies of prison officers' and managers' work (Cheliotis 2008; Crawley 2013; Crewe and Liebling 2015; Liebling 2000, 2004; Sparks, Bottoms and Hay 1996). Second, considering that rules, law, and policy do not apply automatically, Lipsky (1980) and Weick (1988) have inspired various analyses of how human actors mobilise practical knowledge and create meaning in relation to the situation whenever they

interpret formal – and often ambiguous – inscriptions. I therefore assume that knowledge is a central ingredient of prison governors' practices, especially because they use it to cope with the many 'dilemmas' – that is, zones of uncertainty and sources of ambiguity – proliferating in their working context. In other words, how do prison governors get to know what to decide whenever they have to choose between relying on a prison guard or on a prisoner's narrative of a disciplinary incident; or whenever they have to arbitrate between complying with the law or with the Minister's instructions; or whenever they have to prioritise individual health issues over collective educational activities or vice versa; or whenever the administrative measure they take is likely to be subject of an appeal to a complaints jurisdiction.

Many scholars have frequently highlighted the relevance of knowledge as a key concept to analyse work practices in public policy, administration and organisation studies (Freeman 2007; Laws and Hajer 2006; Raadschelders 2008; Wagenaar 2004; Weick 1988). But what is knowledge? An Aristotelian typology distinguishes between three forms of knowledge: *episteme*, 'a universally-valid scientific knowledge'; *techne*, 'a skill-based technical know-how'; and *phronesis*, or 'know-what-should-be-done' (Nonaka and Takeuchi 2011, pp.60–1). The typology elaborated by Freeman and Sturdy (2015) considers that knowledge is often 'embodied' in people, 'inscribed' in documents and instruments, or 'enacted' in interaction with others. Formal and informal meetings, like dilemmas, are 'occasions for the expression, articulation and negotiation of knowledge in response to a question . . . or the sharing of a concern' (p.206).

Drawing on this double typology, and conceiving prison administration as 'a highly complex and knowledge-intensive area of practice that places high analytical, judgmental, political, ethical, and other demands on its practitioners' (Rooney and McKenna 2008, p.709), this article addresses the following question: what happens when prison governors have to deal with some ethical dilemmas caused by proliferating inscriptions, where neither 'epistemic' nor 'technical' knowledge is available? Adopting an interpretive approach (Annison, article in this special issue; Bevir and Rhodes 2003), this article aims to illustrate how they define ethical situations, how they think through their options, and how, and why, they reach a particular decision (Sullivan and Segers 2007, p.309). The concepts of '*phronetic* practices' (also translated into 'practical wisdom' or 'prudential practices' by Champy (2012); Chia and Holt (2008); Nonaka and Takeuchi (2011); Shotter and Tsoukas (2014)), and 'enacted knowledge', lie at the centre of this study as they relate to the practical knowledge used to make decisions in uncertain and ambiguous situations, making sense of these situations, and contributing to shape the meaning of prison policy.

This article draws on four arguments that are being put forward on the basis of the research findings. First, following Lipsky (1980) and Souhami (2015), I argue that prison governors can be considered as policymakers. My focus 'thus lies on the decentral-problem-solving of local actors rather than on hierarchical guidance' (Pülzl and Treib 2007, p.94). Second, following Bennett (2016a), governors can be conceived as 'micro-actors entangled

within and attempting to make sense of the dialectical relationship between structures and agencies' (p.38), revealing how structure and agency are interrelated. The crucial interpretive point is thus that while 'structural constraints' may be experienced as fixed objects, they are better viewed as (interpretations of) the actions of others, informed by ongoing practice and other actors' beliefs (Annison, this special issue, p.307–8). The third argument is that governors' *phronetic* practices contribute to shaping their occupational culture (Bennett 2016b). Their occupational culture is composed, in particular, by their acts of resistance and their humanising use of agency (Cheliotis 2008), or by what Bryans (2013, p.161) calls their capacity to act as 'liberal idealists' concerned by the morality of imprisonment. I would, furthermore, argue that their *phronetic* practices also shape what Abbott (1988), a leading sociologist of professions, calls their 'jurisdictional claim'. Through this key concept of 'jurisdictional claim', Abbott assumes that a profession is cognitively structured: 'the sequence of diagnosis, inference and treatment embodies the essential cultural logic of professional practice. It is within this logic that tasks receive the subjective qualities that are the cognitive structure of a jurisdictional claim' (p.40). My argument is that the governors' profession is structured around some specific type of cognitive – *phronetic* – practices or, to put it differently, around some specific practical – enacted – knowledge. This leads to the fourth argument according to which governors' *phronetic* practices can be conceived as a specific type of 'enacted knowledge' (Freeman and Sturdy 2015); that is, that governors' *phronetic* practices contribute to enacting prison policy, organisations and administration (Weick 1988). These four arguments structure, more particularly, the following third and fourth sections of this article, the following first two sections being dedicated to setting the scene of Belgian prison governors' work (first section) and bureaucratic working context (second section).

This study is based on some empirical material collected in Belgium between 2012 and 2016. Fifty semi-structured interviews were conducted with 40 members of the management teams of five different French-speaking institutions, six executives of the central administration and four governors who had retired less than ten years ago. Different official documents (legal texts, executive and judicial decrees, press cuttings, management plans, etc.) as well as various notes taken over a period of eight days observing the work of four prison governors complement the empirical material centred on their discourse. Prison governors' discourse provides both a rational perception and a meaningful interpretation of their working environment.

### Who are they? The Members of Belgian Prison Management Teams

Every day, some 9,000 employees (medical, psycho-social, technical, administrative personnel, and over 7,000 prison officers) work in 35 Belgian institutions holding almost 11,500 prisoners. The management teams are composed of 103 women and 57 men (64.4% women), where the average age is 47 years (44 years for women *versus* 51 years for men).[1] Each team has between two and twelve civil servants, who as well as being called

'prison governors' on the ground, fulfil a composite role for which no specific training course has been organised.[2] *De facto*, anyone can see the difference between the prison governors and the deputy governors. Their degree of responsibility and their extent of official remits vary, however, depending on the size of the prison – hence the number of prisoners and the management team – as can be illustrated in the organisation chart of two contrasting institutions. The first prison has twelve prison governors, 640 prison officers and about 1,030 prisoners divided up between the correctional institution (290), the remand prison (560), the psychiatric wing, the semi-detention (60), and the women's wing. The second prison has three prison governors, 105 prison officers and 140 prisoners (mainly convicted). Both prisons illustrate the importance of the size of the institution. The smaller the prison, the more the prison governors need to be versatile, since the various matters to be organised, as well as the guarding duties, must be carried out by a smaller team. For this reason, in this article the term 'prison governor' refers to people active in management teams beyond the range of diversity of their categories and remits, the latter differing from one prison to another.

## Bureaucratic and Relational Logics of Custodial Management

Beyond the particularities of the organisation in which they work, prison governors' working context is affected by the uncertainty and unpredictability of events that may occur, and their consequences:

When you push the door open in the morning you never know what is going to happen that day. Mood swings of a staff member, an incident with a prisoner, a nasty letter from a lawyer, a problem with a visitor, a riot, a suicide or an escape, like the one that occurred last Saturday. (female[3] prison governor, three years' experience)

The bureaucratic structure of prisons aims to guarantee security. As the Belgian Prison Act 2005 (Art. 2, 8° to 10°) specifies, guaranteeing security involves not just protecting society by neutralising individuals who have broken the law (external security), but also maintaining order inside the prison walls (internal security). The Prison Act (Art. 9, §2) also specifies that 'the execution of a custodial sentence is focused on the reparation of the damage caused to victims, on the rehabilitation of the offender, and on the personalised preparation of his (or her) reintegration into open society'. As several authors have shown, the security mission, nevertheless, takes precedence over the social mission, which in practice remains 'residual and utopian' (Chauvenet, Orlic and Benguigui 1994, pp.35–48). The prison governor and prison officers must first prevent escapes, riots, suicides, and other acts of violence, in other words avoid disorder (Sparks, Bottoms and Hay 1996, p.119). To achieve this, formal rules remain the main tool. These are mainly found in the 2005 Prison Act, as well as in internal memos or rulebooks. Being responsible for the application of these texts, prison governors cannot control their application, neither completely nor

directly: first, because they lack time (we will return to this point later); and then because of physical distance (the administrative corridors, where they have their offices, are often separated by several hundred metres of corridors). Being relatively far from the cells, they depend on the prison officers:

The prison officers must control their men. They must gain their confidence. It is for this reason that they do not report everything that goes on in their section. (male prison governor, nine years' experience)

Discretion is a characteristic of the role of prison officers (Liebling 2000). They preserve their margin of manœuvre *vis-à-vis* the prison governors by filtering feedback of information, and *vis-à-vis* their base by filtering instructions. Being dependent on their co-operation, prison governors are 'hierarchically responsible for a ship steered by prison officers and prisoners', as pointed out by one of them. Thus, while formal rules 'do not regulate all possible variations and loopholes, smart cheating practices are nevertheless regulated by *other* types of rules. They reveal that some *implicit* rules exist behind the explicit rules' (De Herdt and de Sardan 2015, p.2, italics in original). This is especially the case in institutions where the proliferation of inscriptions creates a 'bureaucratic vicious circle' (Crozier 1964). Therefore, uncertainty and indeterminacy characterise what the prison governors define as 'their core business': *custodial management*.

Many studies demonstrate that the aims of (both internal and external) security and reintegration assigned to prisons are translated by prison officers into two logics of collective action. These can be called 'bureaucratic' and 'relational' logics of action (Dubois 2007) and are connected to the 'compliance' and 'negotiation' models developed by Liebling (2000). These two rationales also characterise the ways in which prison governors manage detention:

Custodial management, for me, is first of all regime management: executing the decisions of justice. ... Receiving 'newcomers', signing committal papers; preparing requests for temporary release, prison leave, electronic surveillance; managing disciplinary procedure and summons; communicating decisions of the council chamber, etc. In general, I do that every afternoon. In the morning I answer letters from solicitors and prisoners: some want to be able to make a phone call, obtain an unsupervised visit with their partner, obtain work, etc. You also have to follow up on all these requests, check the list of visitors, visit the prisoners placed in solitary confinement. (female prison governor, five years' experience)

In addition to controlling (partially and indirectly) their subordinates' respect for formal rules, the bureaucratic management of detention requires the completion of various administrative and routine tasks. These tasks require 'epistemic knowledge' (Nonaka and Takeuchi 2011) of various inscriptions, such as procedures, prison law,[4] penal law, penal procedure code, social defence laws, rules relating to motivation of administrative acts, etc. Epistemic knowledge can be assimilated to 'inscribed knowledge'[5]

(Freeman and Sturdy 2015). It is both a major input of bureaucratic custodial management and its main output, as most governors' decisions – have to – take a written form. But managing disciplinary procedures also requires some 'technical knowledge' (Nonaka and Takeuchi 2011), especially as it relates to the 'know-how' decisions should be transcribed, how requests should be sent, and how forms should be filled. This technical knowledge is needed to treat disciplinary procedures, an activity considered as 'dangerous' by most prison governors:

> It must be remembered that the disciplinary reports are written by the prison officers playing power games with prisoners. Prison officers protect themselves; not everything is written down, as you can imagine! As a governor, I must sense all the stakes that are involved in disciplinary relations. For that, there is no specific training. You just have to go to and meet both the guards and the prisoners. But there isn't much time. (female prison governor, ten years' experience)

The co-ordination of pedagogical activities (classes), professional training courses, and work carried out by the prisoners (domestic work and the workshops) (Dubois 2008), as well as the preparation of the Sentence Enforcement Court hearings, management of emergencies (escape attempts, suicides, riots, etc.), and individual problems of prisoners, require both technical knowledge of the subjects, and a 'sensitive' type of knowledge of the prisoners, the prison guards (in permanent contact with the prisoners), partners (trainers, teachers, and event organisers), and the institution (the local organisational culture). This knowledge is 'embodied' through interpersonal contacts and meetings. This takes time, 'a commodity that is increasingly rare', according to the prison governors.

Ensuring individualised custodial management, based on regular interactions with the prisoners and the personnel, contributes to the maintenance of order. The relations between governors and prisoners also make it possible to prevent the de-socialisation effects of detention, to favour maintenance of social links, and help to prepare prisoners for reintegration. However, working to promote reintegration is only possible if security requirements are met. The security objective, therefore, often takes precedence for all prison governors in terms of custodial management. Here, I should also point out that the functioning of prison organisations is based on very sensitive balances. In fact, each decision taken by a prison governor and considered as excessively security-based by the prisoners, risks causing incidents: acts of violence, riots and even suicide (attempts). On the other hand, each decision considered as too lax or 'pro-prisoner' by the prison officers can cause strikes (Gracos 2013), or declarations of incapacity to work. Constantly 'on a razor's edge', the strategy of many governors most of the time consists of following the advice of senior prison officers, even if it often happens that prison governors consider that a prisoner should be given the benefit of the doubt. But if their working context does not always allow prison governors to take the decisions that they consider fair, they sometimes 'create policy in the discretionary decisions they employ through the course of their work' (Souhami 2015, p.154), as we will see in the next section.

## An Increase of Policy Inscriptions

Prison governors daily interact with the Prison Service, for example to request some authorisation (like urgent transfer requests) or to take certain decisions (like putting in place security devices when suspecting an escape attempt). The Prison Service also expects to be continually informed by the governors about any event occurring within their prison, by telephone first, and then by written report. By reporting these events in real time, prison governors contribute to the centralisation of the Prison Service. The introduction of New Public Management (NPM) reinforced the centralisation of information, as the directives on reporting are part of the 'modernisation' process in Belgian prisons. The 2008–16 masterplan requires management teams to draft an operational plan where their 'strategic and operational objectives' are defined every two years. Based on the 'missions and visions' of the Prison Service and on a SWOT analysis (strengths, weaknesses, opportunities, and threats), these objectives must then lead to a measurable auto-evaluation.

Another impact of NPM lies in the increased responsibility of deputy prison governors in terms of budget management and compliance with accounting standards. They have to check and sign purchase orders, pay bills, draw up an annual budget, which they present and defend before the head of the Prison Service. The maintenance of buildings also reflects this bureaucratic hypertrophy, as prison governors have to respect the standards set by the Federal Agency for Safety of the Food Chain, fire-safety requirements, surveillance cameras, and security gates procedures, etc. Because of shrinking budgets, requests for building works are the subject of many detailed and justified files sent by governors to the Belgian Buildings Agency. This neo-managerial process of bureaucratisation increases both the inscriptions and control mechanisms in the prison administration (Boin, James and Lodge 2006; Bryans 2013; Cheliotis 2008; Liebling 2004).

The advent of a double legal framework relative to the internal and external statutes of prisoners (Acts of 2015 and 2016) is a second process of bureaucratisation impacting management teams' working context. Having for a long time earned a reputation for their arbitrary ways of working, the negotiation of favours and the discretionary powers of prison officers (Crewe and Liebling 2015, p.8), Belgian prisons have been working under a new set of rules for the last ten years or so:

According to the 2005 Prison Act, prisoners need to be more and more informed and asked if they require a lawyer. We must supply them with the necessary documents and make copies of these documents. The officers complain because this is time-consuming and is added to the time they already need for writing notes and for movements and searches. More and more formalisation is requested of us. (female governor, seven years' experience)

The 2006 Prison Act also modified the practices of governors by implementing the Sentence Enforcement Court and the Direction of Detention Management.[6] These two decision-making bodies set the terms for

custodial sentences by ruling on the requests made by prisoners through governors (Bastard and Dubois 2016). It should be noted here, too, that, with the still recent advent of detention rights, rigorous motivation for every administrative act, within the official deadlines makes it possible to better predict any possible risks of infringement of these rights, which can be referred to the Council of State itself.

In the last five years, local and central authorities have also been taking part in the production of more policy inscriptions. At the local level, some mayors (*bourgmestres* in Belgium) have issued decrees to close establishments that were at risk of collapsing, Verviers in 2011, and struggling against overcrowding, such as those of Nivelles in 2012, and Forest in 2013.[7] Other locally-elected officials have been increasingly threatening not to release their police personnel to replace prison guards who are on strike.[8] At the central level, prison governors also interact each day with the Foreign Office Agency (responsible for identifying foreign individuals who are subject to deportation at the end of their prison sentence), whose objectives and requirements do not always concur with the constraints of the prison world:

The [Foreign] Office [Agency] regularly tries to prevail upon us to illegally continue to imprison foreigners who have reached the end of their sentence and are awaiting deportation having previously been identified. The Minister for Justice also tries to impose this upon us. In these cases, it is for us to decide whether we free the prisoner or not. Put differently, should we choose to put ourselves in a position where we are at odds with our superior, the Minister, or with prison law. (female governor, eight years' experience)

This last excerpt illuminates that prison governors are not causally influenced nor determined by inscriptions. Their activity cannot therefore be conceived as a pure rational answer to structural influences, but also as interpretive practices of the – increasing – ambiguity caused by the – increasing – inscriptions. Governors can therefore be conceived as policy-makers whose work is both partly determined (as demonstrated by the first two sections) and partly shaping (as the next two sections will illustrate) the structural features of their – political and organisational – working context.

### *Phronesis* as a 'Jurisdictional Claim'

In prison, the many 'unexpected events' require rapid and singular decisions. All the actors then turn to the deputy governor or another member of the management team. In some of these 'ordinary, everyday cases in which . . . [governors] are facing dilemmas, ambiguity, and surprise, and need to take action' (Shotter and Tsoukas 2014, p.224), their decisions generally depend on their experience – which is sometimes limited due to their young age – and/or on their 'feeling'. Their experience and feeling are part of their embodied knowledge of both the formal (laws, penal procedures, service notes, etc.), and informal rules (the local culture of the organisation):

Today we are understaffed. This morning I had to take a prisoner to hospital. The doctor had diagnosed appendicitis with a risk of peritonitis. A decision had to be made as to whether I should send the prisoner to hospital alone with only one guard, or with two as recommended in the formal procedure, and then run the risk of weakening the guard teams. I chose not to follow the rules: I sent only one guard. Otherwise I would have been obliged to cancel activities. But prisoners have the right to activities which are becoming less and less common, just as they have the right to medical treatment. (female governor, four years' experience)

In this ethical dilemma, 'there is no obvious way to determine which rule is relevant to the situation at hand' (Wagenaar 2004, p.651). Drawing on Champy's (2012) definition, the governor's decision is 'prudential' because it 'does not involve – or not essentially – the mechanical application of routines or scientific knowledge. Facing singular and complex problems, [the governors] take decisions that sometimes involve a degree of risk: [their work] is therefore circumstantial' (p.82).

The following extract, narrating another ethical dilemma, clarifies two characteristic traits of prudential practices that apply to prison governors:

On Monday evening I was on duty. A prisoner had barricaded himself into his cell. As a governor, I am responsible for the life and safety of the prisoner. I was conscious of the danger he represented both to himself and the officers. I had a choice between two options: I could wait until the prisoner calmed down, alone in his cell, but there was always the risk of suicide; or, I could physically intervene in a heavy-handed way without being able to predict the consequences for both the prisoner and the staff. I made a quick call to the deputy governor. The decision was made to make a forceful entry to the cell. But the prisoner had removed the toilet seat and smashed the head of a guard with it. This guard lost an eye. (male governor, 14 years' experience)

First, the *phronesis* exercised by prison governors can – but doesn't systematically – take the form of collegiate deliberations. This is the case during the daily morning meetings, which bring together the management teams in every prison facility, or more generally when a governor phones a colleague or goes to his/her office to discuss a particular case.

Second, the practical wisdom performed by the governors is characterised by satisficing[9] (March and Simon 1958) or particularly 'modest' objectives. In a general way, the situations in which *phronesis* is required, do not lend themselves easily to the achievement of excellent results in all aspects of the activity. But in the case of prison governors, their work situations are critical to the point that they aim at avoiding mediocre results rather than achieving excellent results. Most often, missions of reintegration and rehabilitation, which are aimed for in the long term, are sacrificed for the maintenance of order, without seeking a precarious balance. The absence of discontent on the part of the prison staff and partners is unrealistic, just like the offer of a job adapted to each prisoner, the eradication of addictions and suicide cases. Governors' *phronesis* is 'palliative' to the extent that it consists of some gambles aimed at maintaining critical situations in order, preventing steadily latent crises. This contrasts with, for example, architects and doctors' *phronesis*, which could result in both ambitious

and tangible benefits to their respective clients and patients (Abbott 1988; Champy 2012).

According to this definition, the concept of *phronesis* illuminates how prison governors make sense of ambiguous and uncertain situations in order to maintain a precarious balance at the organisational level. I assume that their *phronetic* practices lie at the heart of their occupational culture (Bennett 2016b) or rather, according to Abbott (1988), at the centre of their three jurisdictional claims. These claims consist in the sequence diagnosis (claims to classify a problem), inference (claims to reason about the problem), and treatment (claims to take action on the problem). This sequence underlies the mechanisms of 'enacted knowledge' and the strategic use of inscribed knowledge by the governors. Because, according to an agency perspective (Bennett 2016b; Giddens 1991), inscriptions (law, instruments, procedures, etc.), while being a source of constraints, can also offer resources, for them as for the officers and the prisoners. And while the governors complain about the bureaucratic overload caused by neo-managerial and legal administrative procedures, these procedures also offer them new flexibility as the loopholes in the rules are multiplied (cf. above section 'Bureaucratic and Relational Logics of Custodial Management').

On a daily basis, with regard to the reaction to the files that are sent to the Direction of Detention Management or the Sentence Enforcement Court, *phronesis* requires time. Because it is only through time and interactions (meetings) that they can learn and acquire some embodied knowledge, reflect, assess, deliberate, weigh up arguments, but also grasp the individual nature of cases with which they are confronted. Therein lies the very human and social nature of their work (Champy 2012, p.81). However, neo-managerial and legal inscriptions contribute to the bureaucratic hypertrophy of prison governors' working context, marked by proliferating zones of uncertainty and sources of ambiguity. In this context, the exercise of *phronesis* by prison governors tends to be increasingly necessary.

More generally, 'p*hronetic leaders* (i.e., leaders exercising practical wisdom), . . . are people who have developed a refined capacity to come to an intuitive grasp of the most salient features of an ambiguous situation and, in their search for a way out of their difficulties, to craft a particular path of response in moving through them, while driven by the pursuit of the common good' (Shotter and Tsoukas 2014, p.225). The objective of governors' *phronesis* can also be political in nature, like in the case mentioned earlier (cf. above section 'An Increase of Policy Inscriptions') where the foreign office tries to impose the illegal incarceration of an individual because the incarceration extends beyond the final day of the prison term. Governors, therefore, adopt political and ethical decisions in a prudent way (Delannoi 1987, p.602; Detienne and Vernant 1978).

### *Phronesis* as Enacted Knowledge

As previously suggested (cf. above section '*Phronesis* as a "Jurisdictional Claim"'), the implementation of legal reforms into the prison arena

constitutes a constraint as well as a resource for governors. The following press article clearly accounts for a specific type of legal reform – made by civil jurisdiction, in this case – that occurred during the empirical field-work:

A prisoner at Lantin with a heavy sentence is to benefit from a payment of 10,000 Euros in damages granted by the Civil Tribunal of Brussels due to irregularities relating to his detention conditions. . . . This prisoner . . . had on several occasions been subjected to disciplinary measures involving 'placement in particular conditions of individual security' (isolation) by the governor of the prison administration on the request of prison staff. These disciplinary measures are, by virtue of the Prison Act of 2005, likely to be the subject of an appeal to a complaints commission created by the above-mentioned law.

The government did not respect the law allowing for the exercise of right to appeal against disciplinary measures. . . . . 'The lack of concrete action by committee, especially the Appeals Board of the Central Council, constitutes culpable negligence on the part of the executive branch,' said the court, speaking in favour of the prisoner.

After a failed appeal, this judgement will set a precedence and could lead to legal proceedings by any prisoner who is the subject of disciplinary procedure and who has not been given the right to appeal, in line with the 2005 Prison Act. (*La Libre Belgique*, 22 March 2014)

In this extract, and beyond the decision of the civil tribunal of Brussels, prolonged use of solitary confinement for a particular individual constitutes a third type of ethical dilemma for the governor. I have been observing how such a dilemma requires a prudential assessment by the governor and involves two traditional parameters: the risks to internal and external security on one hand; and on the other, the dissocialising effects caused by application of this measure to the prisoner. A third parameter applies to several similar cases where the measure in question allows governors, *subtly mediated* by the prisoner's lawyer and the tribunal, to report the non-application of the Prison Act of 2005. The strategy of the governors – and their mediators – aims to denounce – indirectly – political inaction with regard to prison policy matters.

Therefore, *phronesis* allows governors to use the law as a resource. The many cases of 'blockages' they face with regard to sentence enforcement can illustrate this statement. Indeed, so that a prisoner can benefit from conditional release by the Sentence Enforcement Court, he must previously have been granted a release permission by the Direction of Detention Management. The latter, when taken in the context of maximum risk limitation, tends to refuse these requests. The 'trick' used by many governors consists of using Article 59, para. 1, of the Prison Act of 2006. This Article allows the Sentence Enforcement Court to 'exceptionally' grant a release permission, a short prison leave or an electronic bracelet to a prisoner 'whose requests are systematically refused by the Direction of Detention Management', on condition that the measure in question constitutes an indispensable step in obtaining another measure. Of course, the governors cannot themselves request these measures, nor grant them. They can, however, 'suggest'

recourse to Article 59, either directly to the judge, during the hearing, or indirectly, to the prisoner or his lawyer, during personnel meetings particularly (Bastard and Dubois 2016, p.162). They also have to assess whether or not such a request will have a chance of success. So, the governors develop a certain 'know how' that aims at fighting the security policy of the Prison Service rather than directly resolving the custodial problems for which they are responsible.

Some governors can also play (and have played in some circumstances, which, for reasons of anonymity I am not allowed to reveal) a decisive 'behind the scenes' role when certain local politicians take steps to limit the overcrowding of some prison facilities, or threaten to prohibit their police forces from replacing prison staff who are on strike, or to close a prison that is threatening to collapse. Mobilisation by the governors of certain allies – which includes the Sentence Enforcement Court, elected local representatives, lawyers, the International Observatory of Prisons, and the Convention on Prevention of Torture, and the media, etc. – depends as much on an in-depth assessment of various parameters linked to (*phronesis* and) political action, (often reflected in the media) more than the strict maintenance of public order. Indeed, the timid and necessarily discreet development of these strategies depends on *phronetic* practices that aim to reduce the inherent uncertainty of the bureaucratic framework in which they work, and to denounce – in a 'cunning' way by using the expertise of third parties (Detienne and Vernant 1978): lawyers, Sentence Enforcement Court, magistrates, media, elected local representatives, etc. – the hypocrisy of managerial and humanistic politico-administrative discourse talking about reinsertion objectives, the struggle against overcrowding or the dignity of detention conditions.

## Conclusion

This contribution to an empirical analysis of prison governors' *phronetic* practices makes it possible to get an understanding of the bureaucratisation processes and the high degree of interdependence impacting prison governors' working context. But, more generally, it enlightens how the increase of inscribed knowledge leads to a sharper need of prison governors for discretionary decisions that are enacted knowledge (Freeman and Sturdy 2015). This explains why, and how, their *phronetic* practices aim at solving some conflicts of values and regulations. This observation points out an irony or paradox: prison officers are confronted with increasing policy, administrative, and judicial inscriptions, they seem to deploy no less practical wisdom in going about their work. Where one might expect regulation to crowd out their working context, it increases their need for practical and situational judgment. The first reason for such a paradox is that law does not apply itself, but must always be interpreted and applied by human actors. Actors must, therefore, know, or at least figure out, when and how to apply a rule. And they do this collaboratively, as illustrated by prison governors' interactions and *ad hoc* consultations. *Phronesis* is shared

and improvised as people work out what to do together, and in relation to the situation. The second reason lies in the fact that the increase in inscribed (organisational, administrative, public, and judicial) policies makes it increasingly likely that they will conflict and enhance both uncertainty and ambiguity. In other words, the increase of policy inscriptions leads to an increase of ethical dilemmas. For example, prison governors have to assess prisoners' right to health services *versus* their rights to education or cultural activities; prisoners *versus* staffs' security; obeying the Minister *versus* enforcing the law, etc. This, in turn, explains and maybe increases officers' more general inclinations to 'satisficing' decisions (March and Simon 1958), as previously illustrated in this article. Here lies the demonstration of how their *phronetic* practices – ongoing interactions and *ad hoc* consultations leading to satisficing decisions – contribute to shaping the cultural logic of their occupational practices (cf. the third argument based on research findings).

Another output of this article is that it leads to an analytical deconstruction of prison management work. This work involves various groups of actors (prison governors, clerks, guards, officers, civil servants, Direction of Detention Management, Sentence Enforcement Court, non-governmental organisations (NGOs), agencies, local authorities, associations, prisoners, etc.), practices (central and peripheral to custodial management), and interactions (inside and outside prison facilities and prison administration), as well as public policy and discourse, legal rules and management tools that are enacted in – and therefore shaping – concrete situations. This empirical analysis of prison governors' work and working context also clarifies how prison governors can be considered as both policymakers (cf. the first argument based on research findings) and 'micro-actors entangled within and attempting to make sense of the dialectical relationship between structures and agencies' (Bennett 2016a, p.138) (cf. the second argument).

Beyond the bureaucratisation of their working context, this contribution therefore depicts prison governors' capacity for action. It illustrates how *phronesis* lies at the centre of their jurisdictional claim. Like enacted knowledge, prudential practices are 'often highly constrained by rules and norms, regulations and guidelines, but these exist precisely because of the essential contingency and uncertainty of enactment' (Freeman and Sturdy 2015, p.208). Although they find themselves 'between a rock and a hard place' – to use the words of a governor – the governors' autonomy and engagement are practised when they find a measured way to circumvent the rules and renounce statements that do not concur with their concept of justice. Therefore, *phronetic* practices enable us to conceive how governors are enacting (and are not only determined by) their work environment (Weick 1988). Such practices contribute to shaping – at least marginally – prison policy, organisations, and administration (cf. the fourth argument based on research findings). In that perspective, this article proposes to recognise – or at least preserve, or develop – the ethics of prison governors.[10]

## Notes

1 Data provided by the Prison Administration on 19 May 2017.
2 Almost all have a university degree – most often in criminology, sometimes in social and human sciences. Some have successfully competed in the various competitive examinations of the civil service during a first career as a prison officer or employee (especially prison registry staff).
3 Although the gender of Belgian prison governors is not the object of this article, I decided to mention their sex and their seniority just for information, without analysing the impact of these factors on their discourse.
4 See the 2005 Act (relative to the internal judicial status of prisoners) and both the 2006 Acts (one relative to the external judicial status of prisoners, the other establishing the Sentence Enforcement Court).
5 According to Freeman and Sturdy (2015), knowledge 'may be written down in texts, or represented in pictures and diagrams; or it may be incorporated into instruments, tools, and machines, among other things' (p.10).
6 The Direction of Detention Management is the department of the central prison administration ruling on the granting of certain measures (like short prison leave) as well as provisional release to prisoners serving a sentence of up to three years.
7 *Sources*: *La Libre Belgique*, instalments of 7 September 2011, 11 April 2013, and 24 June 2013.
8 Thus, 'In Bruges, the police refuse to replace the prison officers who are on strike' (*La Libre Belgique*, 17 July 2015) and 'Courtrai police supplements Bruges colleagues' (*The Brussels Times*, 20 July, 2015).
9 The model of 'bounded rationality' developed by March and Simon (1958) indicates how rational choices usually lead to 'satisficing' ('satisfy' and 'suffice') rather than 'optimising' decisions.
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