



PROBLEMATIC SITUATIONS: THE CRIMINAL JUSTICE SYSTEM

Jehanne Hulsman- Hulsman Foundation

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SOCIETY

Is it a monopoly game?

COMPETENCE

Arent van Haersolte, a professor in the philosophy of law, researched the capacity of humans, versus the capacity of systems and institutions (personificatie van sociale systemen)

He found that humans can take on very complex tasks and perform them well.

He found that there is intelligence in systems and institutions, but they are capable of performing tasks on the level of a worm

Louk Hulsman in 'Peines Perdues' wonder why we as humans give so much power to an actor with the competence of a worm.....

LANGUAGE ISSUES

- Presenting, addressing from the 'we' perspective
- Crime and criminals, as opposed to problematic situations
- Intersectionality, who do you relate to?
- Systemical language, inclusion and exclusion
- Assumptions
- Waivers for incompleteness

LAW AND ENFORCEMENT

- Moral issues, secular – religious
- Democratic law, principles of democracy
- Minorities – majorities
- Politics
- Making of laws, the process
- Enforcement, political choices

PROFESSIONAL PROBLEMS

- Budget
- Appointed time
- Legal assistance
- Bias
- Meaning of used language in court and police settings



WHAT THE CJS DOES NOT GET, WHAT FALLS IN THE WATER

Most criminalisable behavior never comes into the system

Of the cases that do come into the system, many end up without a valid judgement on the actual complexity of the problematic situation

Cases come into the CJS that are not a problem

THE MENU IS NOT THE MEAL

Some laws are binding, others are not (international law)
(European court, ICC, (Derencinovic, Sipowo)

Not all law is enforced (Prakash, Schaefer, Fengler, Seitz,
Marshall, Wang, Shekar, Selvakumar)

The practice of law leaves vulnerable groups out in the cold
(Craig, Joseph, Beichner, Scharie Tavcer)

Prevention and sharing of knowledge works (Scharie Tavcer,
Ferns, Roebuck, Mc Glinchey)

THE APPEARANCE OF CORRUPTION

For me this is a good place to share my developing thought, that any institute, government, state, organization, corporation, if it acts in good faith, being aware that humans are fallible and therefore any form of construct will be fallible and will be sure to make mistakes, should organize an accessible, low cost, low threshold procedure, with a form of *equality of arms*, to invite the addressees of their existence, the users of their systems or workers in it, to share findings that do not comply with the self-proclaimed intentions and goals of those institutes, governments, states, organizations or corporations (or the combination of them) and should compensate people who take the trouble to make these institutes, governments, states, organizations and corporations aware of what does not work within their own sphere of accountability.

If such a procedure is not voluntarily organized, I basically consider that situation of that institute, that state, that organization, that corporation, a situation with at least the appearance of corruption.

JUST ONE SMALL LEAK AND THE BOAT WILL SINK

If the monopoly of violence is given to the state to prevent people from taking the law into their own hands,

How does that relate to abuse and unwarranted violence by professionals like policemen?

THE CASE

2021 Covid Period

A young man of Caribbean descent

An unjust developing criminal record

Working comes back parks his car to get something to eat.

As he walks away from the car, he remembers he should take his mask (Covid)

As he reopens his car to get his mask a police car drives into the street

PUBLIC SPACE

ID

The police asks his ID

He asks why

They don't give a reason and say they want to look into his car

He does not give consent

The police tell him they want to do a body search

He complies

THE ARREST

The police tell him he is arrested for not showing his ID

He asks permission to look into his car, where his drivers license likely will be

Permission denied

He is forcibly put on his belly on the street and handcuffed

One policeman places his knee on his neck

He is injured in the process

SEARCH INTO THE CAR

The police search the car without consent

They find his drivers license, nothing criminalisable

They bring him to the police station, there he is photographed, and his fingerprints are taken

MORE ABUSE IN THE POLICE CELL

In the police cell they want to remove his pants, because of a cord

He asks that the handcuffs may be taken off, so he will take off his pants

They tell him to kneel

He does not kneel

He is kicked in the back of his knee with a security boot

He is handled by three policeman who strip both his pants and his underpants

LEGAL AID

My cellphone rings in the weekend, it is the police

They have charged him with resisting arrest, which means he has no right to subsidized legal aid, but has to pay for the lawyer himself

Assistance during interrogation.

Send home, with an appointment at the hospital

NO SUBPOENA

We wait for a subpoena that does not come

Appointment to file criminal complaint against policemen

Criminal record changes

Subpoena arrives almost a year later



DAY IN COURT

Preliminary plea

Consensus

Acquittal

Continuance to aks for criminal procedure against policemen

CONCLUSION



OUTCOME AND BALANCE

First win on the word of two policemen against one civilian in 13 years in my practice

So with an awful lot of luck winning is possible

The client still has a residue of the injury

We are still going to court for damages

We are still going after the involved policemen (possible danger for client)

There is a loss of trust in the police

REAL CONCLUSION

There is no balanced procedure for abuse of police

Worldwide there is an unbalance to invest in non-material values (aid, assistance, enforcement of international law that protects, prevention, education)

The true value is with you, people who research, work in the field, are interested and curious, have the ability to learn and share

In time we can show that problematic situations are best dealt with by people who care

THANK YOU

Jehanne Hulsman

info@hulsmanfoundation.org

www.hulsmanfoundation.org