

## New interfaces between citizens and the justice system

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Every democracy rests on two pillars. Effectiveness is the first: the government's capacity to provide security, employment, and prosperity. Legitimacy is the second: the conviction within broad strata of the population that the political institutions and those involved in them are worthy of their confidence. And that whoever governs the state is entitled to do so. History teaches us that not one single democracy has survived a protracted weakening of one of the pillars.

The courts are in principle important suppliers of legitimacy. The failure of the judicial system and the judicial policy has in many cases thoroughly upset relations with the people. As a result, legitimacy drains away from the political system. The research, summarized below, was intended to examine how relations could be improved between the people and the justice system in general and the courts in particular, with a view to a restoration of the legitimacy of the democratic order.

A study of the relationship between citizen and the justice system can tackle the subject in many ways. The choice here is for an investigation that limits the problem in two ways. In what follows, attention is given exclusively to justice in a restricted sense: the department of justice and the policy that is developed in its agencies and in parliament. As a result, the project covers only one segment of judicial activities in Belgium, since the government is also active in judicial policy outside this department's domain. The second limitation is the option for a study of the position of judicial issues on the political agenda. This approach is justified. For decades, this sector never or rarely appeared on the political agenda even though public opinion groups had been pressing long and hard for it. The deep chasm between the public's interests 'the agenda of the public' and what the politicians brought to attention 'the political agenda' is one of the reasons for the derailing of the relations between citizen and government. Half way through the nineties this state of affairs changed completely: from then on the justice system received almost absolute priority. This remarkable course of events calls for extensive analysis and some explanation. A great part of the research is devoted to these issues on the basis of a study of a large variety of documents. The media were and are involved in the making of both the political and public agenda and play an important role in transferring the signals between citizen and justice. A history of the reporting on justice is included in our research. A survey allowed the journalists to speak for themselves on the press's position vis-à-vis the problems of the judicial sector.

### 1. The years of political neglect of justice

That there is public disquiet about the course of events in the judicial sector is not new. Our study shows that in the sixties and seventies such matters as the backlog in the courts, party political appointments, the high cost of the administration of justice, the unsolved cases of serious crimes occasionally gave rise to strong reactions. Well-considered diagnoses and remedies were proposed on occasion. But the political class never or hardly ever reacted. Justice in general, and the administration of justice in particular, could count on little political interest. Indications of this are the decrease in the justice budget, the absence of serious debates in parliament, and the lack of projects and plans in the governmental programs. Changes appeared from 1988 on. Political involvement in the problems of justice increased in a number of areas. But gradualism was still the preferred way. Half way through August 1996, a totally new era began. The Dutroux case pushed justice irresistibly to the top of the agenda both for the public and the politicians. Both agendas now influence each other intensively.

The place of justice on the political agenda is determined by the very specific mechanisms in our country for agenda setting. The study shows how these mechanisms worked to the disadvantage of justice until the beginning of the nineties.

## 2. The media between citizen and justice

The press has extended its field of interest in two ways over the years. First, the media have been following the scandals and trials involving those highly placed in the political and legal world more and more avidly since the beginning of the eighties. At the same time, the press refocused its attention on an earlier phase in the handling of a case: from the trial phase, which is public, to the investigation, which is, in principle, secret. That evolution is not, of course, without risk. The facts in the initial phase are, first of all, still very complex, confusing, and delicate. That complicates the journalist's task and increases the chance of error. Press attention then threatens to come increasingly into conflict with the suspect's privacy, the presumption of innocence, and the honor and good name of the persons being examined during the investigation. Third, the shift of media attention intensifies the conflict between the right to free gathering of news and the confidentiality of the investigation and the professional secrecy of the magistrates. Journalists, moreover, rarely subject themselves to the codes of our legal system, the media frequently imposing in part their own codes and rhythm. A second important shift flows in part from the first: from the end of the eighties journalists began to develop investigative journalism in the area of justice. Both these developments bring journalists into areas where they collide more quickly with the judiciary and the courts. That leads to criticism of and much thought about the media in legal and necessarily also in political circles.

## 3. Suggestions for policy-makers

The research reported here has focused attention primarily on the question of which factors inhibit, rather than promote, parallelism between the public and political agendas. The recommendations we present in the report are concerned almost exclusively with this problem. First, there are suggestions to inspire how the most important phases in forming the public agenda are conducted. The study also contains a detailed dissection of the media's role in transferring information from the people to the government and vice versa. A second series of recommendations is based on this analysis.