Foresight as a strategic public management tool: six Scenarios for the Belgian Criminal Justice

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FORESIGHT AS A STRATEGIC PUBLIC MANAGEMENT TOOL:
SIX SCENARIOS FOR THE BELGIAN CRIMINAL JUSTICE

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ABSTRACT

This paper presents the result of a foresight research on the Belgian penal justice system. The purpose and method of this study are discussed and compared with other foresight exercises. This study’s distinctive features are the exploration of three levels (professions, organizations, and policy) and the use of a participatory method that enables interaction and learning. Summary results, in the form of scenarios, are presented for one organization (the public prosecutor’s office) and for the system as a whole. While expressing some of the issues and challenges facing the Belgian judicial system, they also show the purpose and potential of this kind of foresight study for policy and strategy exploration.
The unique thing about crises is that they are necessarily accompanied by a strategic need. Faced with current and medium-term uncertainty, the development of a strategy - i.e. the choice of which directions to take, "which way to go?" - becomes even more urgent than speed. To illustrate this, the oil issues of the 70’s led to a certain number of works on foresighting (Linneman and Klein, 1983), some of which gained widespread acceptance (Wack, 1985). The current crisis situation is marked, especially at this beginning of a new decade, by a resurgence of foresighting on social, political or environmental issues, taking varying time horizons (2020, 2030, 2050...) into account. Although foresighting is obviously no panacea in analysing contemporary challenges - for example, no foresight study mentioned the possible fall of the Berlin Wall and the collapse of communism -, can it be a tool helping to end the crisis? We will assume the relevance of the method as a tool for strategic development, evaluation of public policies and, more broadly, the collective construction of knowledge.

Casual evidence suggests that crises are having a major effect on the state and its institutions – though it would seem they have been suffering crises (public finance crisis, crisis of legitimacy, efficiency crisis, etc.) for the last thirty years. This article will not however attempt to identify the ways state structures are changing in the light of contemporary crises. More modestly, it will summarize the results of a research into the

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Belgian criminal justice system using a foresighting methodology, both at the level of the experience gained in using the method for producing knowledge and at the level of substantial results in the form of six scenarios illustrating the ways Belgium’s criminal justice system could develop.

The sector studied has twofold significance. First, criminal justice – one of the last sovereign bastions of European states – is regularly criticised as being cumbersome, slow or even archaic, i.e. lacking in performance. The system is not immune to a trend towards “managerialization”, facing the same questions regarding structure and management as any other public body (Bernard 2009; Jean and Salas, 2008; Langbroeck and Fabri, 2000). We note in passing that, in the Belgian case, one reform project follows another (bearing such names as Phoenix, Khufu or Thémis), all characterised by a never-ending development rarely surpassing the stage of pilot implementation.

Secondly, parallel to this problem of effectiveness, criminal justice appears to have a problem of purpose. The increase in criminal justice activity (due to a growing amount of litigation), the reorganisation and strengthening of the authorities upstream of the criminal justice system, the upgrading of such topics as proximity, mediation, restorative justice or citizen participation in criminal justice activity are phenomena that contribute to the loss of purpose and direction within the criminal justice system, leading some authors to diagnose its "political and moral deflation" (Kaminski, 2009).

Bearing this in mind, how could we go about rethinking the purpose of justice? This article attempts to provide one answer, using a foresighting approach adapted to a reflection on criminal justice oriented towards exploring potential scenarios for its future development.

I. Introduction: foresighting – or moving beyond cognitive frames

When speaking about foresighting, it would seem a good idea to first present some semantic details about certain terms that may seem closely related but really are quite far apart, such as prophecies, utopia, planning or predicting (Wolff, 1963; Barel, 1971). Unlike a prophecy, foresighting is based on a methodical, reasoned and participatory approach. Far from basing its authority on religious, magical and mystical sources, foresighting aims to be a process of collective construction of knowledge for decision support and mobilisation. Utopia

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1 The Belgian legitimacy crisis resulting from the paedophile cases in the early 90’s is well-known (Kuty, 1999). Reference could also be made to the gangster and terrorist cases in the 80’s (Van Campenhoudt et al., 2000).

2 Defined as the whole criminal justice complex, consisting of the punishment side, its institutions, current thinking and representations (Garland, 1985).
is defined in its turn as an imaginary situation describing the ideal reverse of a real situation. It does not involve any exploration of the field of possibilities and reflects implicit pessimism about the possibility of taking any action.

In the face of uncertainties, foresighting *a contrario* adopts a pre-active (preparing for an anticipated change) and proactive (action-oriented) attitude to bring about desired change (Godet, 2001). However, foresighting is not the same as planning. Instead of guiding an organisation in a prescriptive manner towards a programmed future (Mintzberg, 2004), foresighting explores new solutions, trying to open up an organisation’s cognitive cage, beginning with an investigation of potential choices devoid of any structural constraints. Thus, contrary to prediction, seen as an exercise in extrapolating the past, the foresighting approach integrates disruptive, perhaps even unpredictable, elements – the *black swan* described by Taleb (2008) – and tries to bring out the faint signals, the seeds of an evolving situation in order to anticipate its effects. Though prediction implies an inference on the relationship between two phenomena, there is no question of assessing with any degree of confidence the likelihood of one or another event happening in the future. The aim of scenario-building is to improve players' ability not only to prepare for a possible future but to question their perception of reality, i.e. their cognitive framework (Lesourne, 1995).

**A product of collective knowledge**

Solving problems concerning public issues is today more uncertain and more complex, more dependent on the participation of stakeholders in public policy implementation than ever before. Stakeholder involvement has become flexible and fragmented (Duran, 1999), requiring the management of interdependencies and the horizontal scope of problems. The implementation of public policies or reforms, or even public decision-making itself, therefore requires new and innovative guidance systems (Bailly, 1998), oriented toward collective action and leaving the major part to negotiations and communication between actors. In this context, a foresighting approach can:

- provide pictures of the future promoting a new organisational culture (Chermack and Korte, 2007) and, as a consequence in the public sector, renewing the definition of public interest;
- adapt if not reverse preconceived attitudes and views (Wack, 1985);
- help construct knowledge processes detecting breakpoints and opportunities for change. As already said above, this requires breaking thought patterns, thereby broadening categories of action and opening up the range of policy choices;
- ask questions rather than provide answers. The elucidation of political decision-making is done beforehand and not retrospectively, after a decision has already been taken;
- think about tomorrow's problems while at the same time elucidating today’s problems.

Anticipating a social occurrence can only lead to it being changed. In other words, a desire to change the future means changing the present - "regarder l'avenir le bouleverse" (Berger, 1964). Systemic and multidisciplinary, integrating varying temporal modalities and incorporating discontinuities of action (de Jouvenel, 1999), the foresighting approach demonstrates a further quality: its plasticity. As both a knowledge system and a relational process, the approach develops both a communicational and technical orientation (Fuller and Loogma, 2009). According to Hatchuel (2000), foresight is defined as "a process of collective production of knowledge on the future of a group, whose learning mechanisms are made possible by a form of governance." In other words, the goal is to articulate in a balanced fashion, rationality and creativity (Gonod and Gurtler, 2002), knowledge and action, thereby avoiding that some contributions remain unheeded or, conversely, that discussions end in a feeble consensus.

The foresighting approach is consequently based on the following points:
- Foresighting is a custom-built process. The technical aspects of the approach remain subordinate to the decision-taking or communication objectives pursued;
- The compilation of scenarios and final pictures is no more important than the route taken to arrive at them, i.e. the process is just as important as the result itself;
- Rather than just investigating a subject, foresighting aims to transform a subject or collective player;
- The collective knowledge produced is ultimately dependent on the form of governance used during the foresighting exercise.

A distinction is traditionally made between two major types of scenarios: exploratory scenarios (based on past and present trends, leading to possible future constellations) and normative scenarios (constructed on the basis of alternative images of the future, these can be either desired or feared). The scenarios proposed here have been produced using the exploratory approach and are designed to identify possible future constellations in criminal justice within a timeframe reaching up to 2015.

The scenarios are qualitative: unlike foresighting based on crossing coded variables, a method based on brainstorming was selected here. The results are therefore not to be seen
either as predictions or projections to which any mathematical probabilities could be attached. In order for these scenarios to make sense from a decision support perspective, their development is characterised by a quest for balance (between such irreprehensible aspects as risks and other adverse effects), for contrast (the scenarios are mutually exclusive) and for simplicity if not stylisation (they seek to capture sentiment and to be broadly accepted). Thus, as "potential structures of the future" (Porter, 1985), they do not in themselves represent future reality but are a means of depicting it. In addition, the scenarios remain subject to criteria of relevance, coherence, plausibility, importance and transparency (Chermack, 2007).

The scenarios do not aim to develop indisputable norms for evolution but to bring out diverse, sometimes conflicting visions. The number of scenarios for each criminal justice organisation often reached four or five in this research project, amounting to a total that is by no means trivial. Limiting oneself to a mere two scenarios inevitably would have lead to a dichotomous or even normative vision being developed (good - bad, high – low, etc.) while having three scenarios would tend to offer a natural metric gradation between scenarios (Ringland, 1998). Both these options also lead to the presumption that one of the scenarios presented is the right scenario. Conversely, identifying at least four scenarios implies taking differing views into account, calls for greater creativity and fits better the exploratory approach.

**Using foresighting in the public sector**

Foresighting has now gained currency in the public sector with regard to such aspects as modernisation or decentralisation of political systems, in territorial development (town and regional planning), and in social (employment, demography, inequalities, etc.) or technological fields (Heraut, 2005). Various public sector foresights have examined for instance the future of the EU in 2010 (Bertrand et al., 1999), territorial planning or public agencies. With regard to Belgium’s justice system, one can point to the attempt to formalize two models – one liberal and one voluntary – regarding criminality (Van Outrive, 1999) or the attempt to analyse the evolution of the prison population using simulation (Rihoux and Brion, 2000). Some Anglo-Saxon research work can also be traced, recommending from the 80’s onwards the use of a foresighting approach in judicial matters (Stephens 1980, Stephens and Tafoya, 1985), drawing up scenarios on the evolution of courts, for example in the U.S. (Schultz, Bezold and Monahan, 1993; Inayatullah, 1991), and developing foresighting as a tool for analysing crime (Gorr and Harries, 2003; Walker, 2003; Klofas, Stojkovic, 1994) or the judicial system (Gramberger, 2001).
Unlike some of this work, the evolution of crime is not a starting point as such in our approach. We will not be considering alternatives to criminal justice with regard to projections on the nature and effects of what is / will be defined as a crime at a given time. Our focus will be on the system’s organisation and management: first at the level of professions (role of a public prosecutor, of a policeman...), then for individual organisations and subsequently looking holistically at the whole criminal justice system.

**Figure 1 : The research at a glance**

**II. A three-phase methodology**

This study involved a number of innovations compared to proven methods (Godet, 2001; Barbieri Masini, 2000; Hatem, 1993). First, it was necessary to move away from the epistemological approach of criminology involving detailed, case-grounded representations of the issues affecting the institutions within the criminal justice system (police, the public prosecutor’s office, the courts, prisons and the “maisons de justice”³). Instead, we needed an overview of how they are managed, based on a more stylized representation of how the institutions function. Secondly, contrary to certain foresighting studies that depend on the...
statistical correlation of variables to reduce the scope of investigation, we had to find a qualitative method of reducing the various factors and selecting the key variables.

Traditionally, a foresighting approach based on the development of scenarios consists of three stages: constructing the base, scanning the field of possibilities and finally developing the scenarios. Within the framework of the foresighting work conducted on the criminal justice system, these three stages can be seen as follows:

- a phase in which the information and data on the organisation of the criminal justice system are reduced at the level of each institution under review;
- a phase investigating the commonalities between the issues identified in the various bodies analysed;
- a generalisation phase devoted to the conceptualisation of scenarios.

![Figure 2: Methodology](image)

**Reduction**

This is a preparatory phase, where information and relevant data are gathered. In this case, the work involved mainly a review of selected criminology texts chosen for their thematic diversity on criminal justice institutions, and read from a managerial perspective.
During this first phase that focused on the organisation of the criminal justice system, two interpretation perspectives or “filters” – one function- and policy-related, the other organisational (as presented in Appendices 1 and 2) – were used to reduce a stock of complex knowledge into an overall picture of symptomatic management findings. The result of this reduction work is set out in summary tables that identify issues specific to each institution. For example, the analysis of the literature on the public prosecutor’s office yielded a batch of 60 “raw” recurring, policy, management or organizational issues.

**Search for commonalities**

 Though the reduction work allows a diagnosis to be made for each criminal justice institution, it does not permit a look at the criminal justice system as a whole. However the objective is indeed to produce a foresight for the whole criminal justice system and not just for its constituent bodies. A horizontal approach is therefore needed. The aim is to define a limited number of incontrovertible public management issues common to the whole criminal justice system: the key foresighting variables. This cannot be achieved by listing all the common issues as a catalogue but involved a second round of aggregation, through a qualitative clustering method.

 These first two stages of the foresighting process can therefore be compared to a filter system. The first two grids filter out findings specific to each criminal justice institution, the summary filters compile them, providing an initial level of aggregation by identifying organisational and management issues common to the five institutions observed. Four key foresighting variables emerged upon which the initial scenarios were subsequently built:

- the roles and functions of the institution,
- their internal organisation,
- how they adapt to the socio-political environment,
- interdependency and cooperation within the criminal justice system.

 This drastic reduction in complexity yielded a tractable grid to structure questions and issues in the next phase. But of course the detailed meaning of these four key variables was not lost and was fed back when briefing workshop participants in the next step.
**Generalisation**

The aim of the generalisation phase is to produce an overview of all possible forms the criminal justice system might evolve into. Before proposing a certain number of system-wide scenarios (the ultimate objective of the approach), micro-scenarios (applying to professional practice) and meso-scenarios (describing each agency) are developed. It should be noted here that the strategic dimension, often found in foresighting, only plays a marginal role: the objective of the scenarios proposed in our research is not to provide recommendations but, as stated above, to bring to light the various forms the system might evolve into.

The construction the micro- and meso-scenarios relied on foresighting workshops – i.e. discussion and scenario-building groups consisting of 6 to 10 persons working in criminal justice and/or experts therein. Five foresighting workshops were organised, one for each agency (police, public prosecution, the courts, prisons, “maisons de justice”). Each workshop met on three occasions. The three sessions were devoted respectively to the formulation and validation of the micro-scenarios, drafting of the meso-scenarios and their validation. The meso-scenarios were structured using the four key variables but took into account the broader perspective of an institution within the criminal justice system. Their design was based on matching micro-scenarios into significant sets. This involved taking into account not only logical and rational consistency, but also reflecting apparently paradoxical or even antagonistic relationships. This meant that an intermediate scenario could both describe a consistent pattern of evolution, in which the key variables evolve in a single direction, or a paradoxical pattern of evolution, in which the key variables evolve in opposite but interrelated directions.

Finally, with regard to the system-wide scenarios, they are, unlike the other scenarios, not directly structured around the four key foresighting variables. They are compiled as before by matching scenarios, but here the meso-scenarios are used. The key methodological difference to the previous phase was that the system-wide scenarios are the result of discussions taking place within a joint research team (management science and criminology) and not within foresighting workshops.

**III. Results**

The presentation of the results is done in three stages. First of all a detailed presentation of the micro- and meso-scenarios is given for one of the institutions studied (the public
prosecutor’s office). This choice of is motivated by its pivotal role in the criminal justice chain and its representativeness with regard to the transformation sweeping through the criminal justice world. Two further examples (the police and prisons) are presented briefly to remind that each of the system’s organizations has been analysed using the same methodology. Finally, this is followed by a presentation of the system-wide “global” scenarios consolidating matching scenarios across the five organizations giving the perspective of the whole criminal justice system.

*The micro-scenarios of the public prosecutor’s office*

![Diagram]

**Figure 3: the micro scenarios of the public prosecutor’s office**

As presented in figure 3, each foresighting variable is characterized by micro-scenarios giving possible orientations for the organisation. The micro-scenarios for the public prosecution are presented in figures 4 and 5. Remember that these results have been formulated during foresighting workshops with professionals and experts; their substance is clearly professionally oriented, and is shown here to illustrate the process.
Roles and functions

**The participative structure:** In this scenario, not only participation but also the concepts of proximity and versatility are assessed. The organisational structure of a public prosecutor’s department is based on a strong local presence of magistrates in a given territory, leading to it being securely anchored and having a good knowledge of local life and partnerships. This scenario implies magistrates having the capacity to cooperate or even come to joint decisions in complex individual cases. An inquest is managed rather than conducted, with the ‘local’ magistrate taking on the role of a project leader, involving internal and external networks and acting horizontally (for example between different levels of authority, between jurisdictions or even with various administrations).

**Geographic restructuring:** This scenario refers to various forms of possible geographic restructuring in connection with specialised topics. The options range from the merger of the public prosecutor’s and labor auditor’s (“auditorats”) departments to the management of specific issues by a single department, and includes more informal forms of cooperation between prosecutors in certain areas. This consolidation process inevitably involves a restructuring of the judiciary in both geographic and organisational terms, involving the elimination of small public prosecutor departments, outsourcing, or administrative or support teams operating in a larger territory. Such restructuring does however seem to be quite complex in terms of the variables to be taken into consideration (size, population, socioeconomic characteristics, etc.) and risks leading to a loss of adaptability to the heterogeneity of local realities.

**The hierarchical pyramid:** this scenario foresees a public prosecutor’s office organised around its hierarchical structure, on bureaucratic lines. Vertical integration is strongly influenced by hierarchical relationships, with horizontal integration being challenged by the partitioning of the sections. This structure clearly defines the powers and offers a clear division of labour between magistrates, jurists and administrative staff but has an implicit tendency of building barriers, making cooperation more difficult. The top prosecutor is in charge of distributing cases and assigning case numbers, not just to improve performance but also for monitoring purposes. In this form of organisation, there could be a role distinction between working on a case and defending it in court, with a risk of declining motivation and disempowerment when faced with high workloads for example.

**The “marshalling yard”:** The public prosecutor’s office is regarded as a guiding body for individual cases. Compared to a traditional way of conducting cases, this scenario highlights a public prosecutor’s office developing selective support capabilities for finding the most suitable ways for dealing with a case. Downstream, the public prosecutor’s office is involved in the enforcement of sentences in a follow-up role. Upstream, the office remains the central player in the development of crime policy. Ultimately, in terms of flow management, the office has a triple role, providing guidance, direction and control.

**Enforcement - Punishment:** this scenario reflects a growing role of politics, concomitantly reducing the independence of public prosecutors. From an executive perspective, the public prosecutor's office has little influence on the development of crime policy (risking a proliferation of priorities) and displays a poor ability to “steer” cases (in favour of a “decision-making college”). The public prosecution office basically has a punishment role, with consideration for victims taking place in other bodies. The office is dedicated to enforcement, to a systematic legal response based on the equation “breach of the law + a suspect = legal proceedings”

**Repairing the damage:** going beyond the guidelines defined in criminal policy, the public prosecutor’s office would focus on damage compensation: the damage caused to the victim is central to the decision to prosecute. The prosecution, in seeking social harmony and the avoidance of any recurrence, develops various forms of alternative justice (compensation, redress, etc.). This scenario implies a redefinition of public action.

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Figure 4 : Scripts of micro scenarios for public prosecutor’s office : internal variables
Adaptation to the socio-political environment

- **Media tyranny:** lacking “corporate image”, the public prosecutor’s office takes the option of following a criminal policy dictated by the news media. Action is reactive and often hasty. The direction and intensity of responses are thus related to the emotional intensity and normative orientations of society or public opinion.

- **The instructional approach:** in the face of a public opinion with limited understanding, oriented towards responses giving utmost priority to security and supported by media distortion, the public prosecutor’s office puts additional focus on its internal and external communication (sending judgments to the police, the parties concerned, etc.) guided by a desire to instruct.

- **The shift towards the executive:** with its independence decreasing over the years, the public prosecutor’s office shifts towards a purely executive role. Criminal policy is dictated by politics or at least by finding compromises characterising it. The role of vision and guidance decreases, leading to a certain takeover by the state.

- **The supply constraint:** though the public prosecutor’s office has the exclusive competence for prosecuting, the supply of cases remains an area of major uncertainty. This scenario portrays a public prosecutor’s office dependent on cases submitted to it by upstream actors in the criminal justice system, who are themselves becoming increasingly independent in their legal powers (official police investigation, independent police case-handling, etc.) and able to impose their own performance indicators. This scenario questions the place the public prosecutor’s office has in criminal investigation.

- **Downstream inconsistencies:** without feedback and monitoring systems, the public prosecutor’s office becomes dependent on the decisions of its downstream partners, namely prisons, “maisons de justice” or even mediation by voluntary organisations. With downstream cooperation in criminal justice practically nonexistent, the decisions of such partners are not controllable, having the potential to overturn the directions decided upon by the public prosecutor’s office and thereby reinforcing the inconsistencies within the system.

- **The public prosecutor at the centre of the criminal justice response:** in response to the two questions above, the public prosecutor’s office takes on a central role in the criminal justice system, both upstream and downstream. The office is of vital importance in partnerships and social networks, ensuring the transfer of all kinds of expertise and coordinating players within the chain. The magistrate is responsible for the inquest (allocating capacities, planning local anti-crime policy) and his coordinating role with regard to the prosecution and defence increases. The public prosecutor’s office also has a pivotal role in international cooperation.

**Interdependency and cooperation within criminal justice**

*Figure 5: Scripts of micro scenarios for public prosecutor’s office: external variables*
The intermediate scenarios of the public prosecutor’s office

By matching micro-scenarios in the four key internal and external variables presented in figures 5 and 6, four significant meso-scenarios have been selected.

- **The public prosecutor’s office as an orchestra conductor:** this scenario puts not just the public prosecutor’s office at the centre of the criminal justice system but also the magistrates in the centre of legal proceedings. Integrated in their social environment, the magistrates are responsible for judicial and quasi-judicial services and direct the investigation. Working autonomously, setting the direction and driven by the desire to find the most appropriate means according to the specific cases, magistrates are instrumental in diversifying forms of criminal justice response.

- **Tradition strengthened:** this scenario depicts the idea of putting a stop to all wishes for reform within the institution. It is translated into a strengthening or reappearance of a traditional public prosecutor’s office. Within this pyramid the roles are clearly defined but the actors often isolated. The public prosecutor’s office, with a role more executive than judicial, stands out as an enforcement and punishment agency without influence on the other institutions within the criminal justice system.

- **The law of the victim:** taking the victim into consideration and seeking compensation for damage incurred would seem to play a dominant role in social expectations. However, giving too high a priority to such social demands brings with it the danger of reducing the decision-making independence of the public prosecutor’s office. The legitimacy of any action taken would then be subject to the response to media attention. The filtering role performed by the latter becomes another form of supply constraint for the public prosecutor’s office. In a further assumption, the construction of a figure of the victim could also constitute a rhetoric enabling previously discontinued cases to be addressed, thus widening the scope of prosecution.

- **Territorial expansion:** this scenario involves a public prosecutor’s office restructured to form larger entities. Such territorial extension would lead to a gain in autonomy in terms of resource management, but at the same time carries the risk of becoming subject to centrally-defined criminal policy on the one hand, and distancing the offices from the local level, on the other hand.
These organisational meso-scenarios for public prosecutor’s office are visually represented in figure 6, where each coloured diamond path around the four axes stands for one of the meso-scenarios described above. Figures 7 and 8 similarly illustrate the meso-scenarios for the police and prisons.

Figure 6: Scenarios for the Public Prosecutor's office
Figure 7: Scenarios for the Police
As a reminder, meso-scenarios were built for each type of institution within the criminal justice system (police, public prosecutor’s office, the courts, prisons, “maisons de justice”). By merging them from an internal (which scenario for police is coherent with which for public prosecutor or for prison?) and external (which environmental variable could influence organizations?) consistency perspective, six global scenarios have been identified by the research team and validated through discussion with criminologists.

• A differentiated evolution

This scenario describes a situation where criminal justice institutions evolve in different directions and at different speeds. Without speaking of the garbage can model, where decisions just accumulate, these institutions take choices, either voluntarily or guided by contingencies, which do not amount to a criminal policy. The meso-scenarios portray a
fragmented criminal justice system, where institutions pursue specific directions adapted to their particular interests and culture.

- **An adaptation of criminal justice responses**

  This scenario involves the adaptation of criminal justice responses, firstly to the local context and the individual aspects of the cases dealt with and, secondly to clear criminal justice objectives (crackdowns, rehabilitation, mediation, compensation, etc.). Each case is the subject of specific attention and decisions are properly supported by a variety of expertise. The functioning of the criminal justice system is subjected to a complete review and each institution within the criminal justice system moves towards a conflict-resolution function through diversification of their response methods.

- **A criminal justice system oriented towards punishment**

  This is a "traditional" scenario, marked by a criminal justice system primarily oriented towards criminal punishment. Both upstream and downstream, criminal justice institutions focus primarily on a repressive mode of action. This scenario does however uphold a certain criminal justice tradition, with each criminal justice institution operating autonomously and developing its own methods of punishment.

- **The law and order choice**

  Punishment also permeates this scenario. However, there is *a contrario* strong government interference in the autonomy of criminal justice institutions. Around this politically legitimised law and order choice, the institutions involved tend to focus their methods and operations on an objective laid down by the executive. Specifically, decisions are oriented towards a desire to isolate deviants.

- **Extra-judicial systems of reference**

  Criminal justice organisations respond to logic and objectives not coming initially from the legal world. Managerial methods have a prominent role in this scenario but there is also wider use of psychological, legal (non-criminal) or even economic systems of reference, meaning that “Justice” as an institution adopts performance standards from other fields.
• *Victim Justice*

Within each criminal justice organisation, heightened attention is given to victims. The figure of the victim adopts a central role in the implementation of the criminal justice process. The judiciary’s response centres around repairing the damage incurred. This scenario does not simply involve great concern with victims, but also its exploitation with a view to strengthening the criminal justice network.

Figure 9 shows these six global scenarios (bottom row) and their contents as dotted lines connecting meso-scenarios from the five organisations in the system.
Figure 9: Global scenarios and their composition

**INTERMEDIATE SCENARIOS**

- **The police**
  - Techno-bureaucracy
  - Growing autonomy
  - State police
  - Heightened specialisation

- **The public prosecutor**
  - The orchestra conductor
  - Strengthened tradition
  - The law of the victim
  - Territorial expansion

- **Courts**
  - Friction
  - The “right” form of management
  - The search for the right direction
  - The automation of decision-making

- **Prisons**
  - The “governed” prison
  - Withdrawal
  - The technical alibi
  - Everything done according to law

- **“Maisons de justice”**
  - The equity of the service
  - Upgrading social work
  - A preponderance of control
  - Justice as a commodity

**GLOBAL SCENARIOS**

- A differentiated evolution
- Adaptation of criminal justice responses
- Orientation towards punishment
- The law and order choice
- Extra-judicial systems of reference
- Victim justice

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IV. Conclusions

Can foresighting be a strategic tool in the public sector? The case of criminal justice has been discussed giving a detailed perspective with various scenarios at the level of professions, organisations and criminal justice. Nevertheless, a tool is not a magic wand and the question remains as to what extent this method allows strategic insight linking various levels in public policy setting.

Three arguments could be mentioned in favor of foresighting: the frame building and envisioning, the couplings between actors and organizations and the leadership exercise.

Framing and envisioning

Foresighting is something else than a machine to produce scenarios. As opposed to quantitative methods of prevision, this method leaves some place to the subjectivity of actors and integrates a communicational logic. In others words, while many methods are based on a rather instrumental rationality – i.e. means adapted to ends – the prospective workshops used here allow a “communicational rationality” (Habermas, 1987) leaving space for interpretation, discussion and consensus among actors. In this regard, interpretation is at core of the strategic process (Koenig, 2004). As a perception tool, foresighting gives an opportunity to organize significant perceptions, which is necessary for action orientation and success (Fuller, Logma, 2009).

In our experience, the foresight methodology in three meetings, enabled actors to project themselves in the near future and to draw out the new limits of their could-be job. By the way, these workshops constitute for a scholar a kind of at a glance evaluation of professional’s representations and change maturity of an organization. This knowledge construction phase essentially takes place while working out the micro-scenarios. Two key aspects have to be pointed out: the debate context promotes mutual understanding between various actors, and the collective aspect of knowledge construction is decisive for the scenarios’ appropriation.

Couplings between actors and organizations

Sharing objectives is essential for coordinated action. In this perspective, scenarios appropriation is certainly a main objective of any foresighting exercise. The collective creation of knowledge for action is a spiral (Nonaka, 1994). To illustrate this process, let’s
take the example of a young policeman: the way he understands his profession is initially influenced by colleague’s actions (“socialization phase”); then his representation could evolve into a more explicit vision based on a metaphor or a scenario i.e. policeman as a mediator or as an executant or as a virtual actor… (“externalization phase”); then he could be involved in a specific taskforce on community policing, aiming at combining and exchanging knowledge inside the organization (“combination phase”); finally this policeman will be confronted to act in concrete situations (“internalization phase”).

As metaphors, scenarios allow building shared representations to reinforce cooperation between actors but also to link organizations and their environment. In this perspective, each public organization is confronted to “organizational hypocrisy” (Brunsson, 1986) when action is inconsistent with the ideal rationality pursued while coherence between discourses, decisions and actions is a kind of promise to the citizen and to the society. In this perspective, foresighting could help, as illustrated in our study, to link public policy at the level of criminal justice with organizations and professions reforms (police, courts, prisons…) in a more managerial perspective.

In terms of public policy preparation – the definition of social and political needs to be pursued by a public organization – foresighting seems an essential tool for public policy sectors in lack of finality: global scenarios are construction blocks for political decision. Do we want a penal justice based, for example, on organizational autonomy (“differentiated evolution”), on external responses (“extra-judicial systems of reference”), on cooperation (“an adaptation of criminal justice responses”)? Or based on mixed answers? Foresighting is not the panacea against state and societal crises, but this tiered method allows to develop responses and innovative finalities and, at the same time, the means to achieve them.

**A leadership exercise**

Developing a shared vision, enhancing couplings between actors and between organization and environment aren’t spontaneous organizational behaviors and certainly don’t proceed from traditional hierarchical control. That means that public representatives, public managers of different levels have to exert leadership on that matter. What kind of penal system do we want (system level)? What kind of organization do we want for the police (organization level)? What is the profession of an assistant of justice for example? These are fundamental questions. In a process of strategic management, professional officers (“Chefs de
corps”), senior civil servants, ministers are on the frontline to give sense and make sense (Weick, 1979).

Promotion of accountability and autonomy has been largely diffused in public services but, for various reasons, in a way that tends to reinforce tasks division, power centralization and procedural actions. In this context strategic management may become locked in routines or downright too operational, leaving a gap between operational and political concerns. Foresighting at the level of the profession, of the organization and of the system could be a missing link between managerial reforms and policy settings.
Bibliography


LÄNDRIEU, J., Prospective pour une gouvernance démocratique, La Tour d’Aigues, Editions de l’aube, 31.


### Appendix 1 & 2

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*Figure 10: Functional and policy grid applied in reduction phase*
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Figure 11: Organizational grid applied in reduction phase