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## News from the pit: Journalistic performativity and discourse on Belgian internment policy

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### ABSTRACT

This contribution examines the ways in which newspapers open or close mediated debate on the Belgian internment issue, and whether this can be connected to different journalistic practices. Although human rights guarantees are often articulated as a matter of near-universal consensus, Belgium has been convicted 23 times by the European Court for Human Rights for its treatment of mentally disabled criminal offenders. Considering news media's central role in shaping debate on human rights issues, we study internment news in two Dutch-language newspapers between 2013 and 2015 using critical discourse analysis. Our research shows that studying media as a site of struggle enables a deeper understanding of how debate is opened or closed, and explores the possibilities of studying discursive strategies that shape the mediated debate together with practices that reinforce journalistic credibility.

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### 1. Introduction

While human rights are often articulated as a matter of near-universal consensus, mediated controversies surrounding Belgium's internment policy reveal a different image. In theory, internment policy answers a legitimate concern for the wellbeing of criminal offenders with psychological issues. Under criminal law, mentally unaccountable offenders are committed to specialised facilities where they receive mental care aimed at social reintegration (Gezin and welzijn en gezondheid (2016)). In practice however, many internees reside indefinitely in prisons without appropriate care (Directoraat-generaal Penitentiare Inrichtingen, 2016), which has prompted multiple international convictions and reprimands (e.g. 23 judgements by the European Court for Human Rights since 1998). Criminal and psychiatric experts have denounced internment in regular prisons, the lack of a set release date, and the ambiguous enforcement of 'reasonable' balance between societal and internees' interests (e.g. Commissie voor Justitie, 2015; League for Human Rights, 2011; Vandeveldel et al., 2011; WHO & ICRC, 2005). The lack of systematic improvement<sup>1</sup>

in the so-called "pit" of Justice (e.g. FPS Justice, 2017) since the first ECtHR conviction (Aerts v. Belgium, 1998) prompted the Court to pronounce a rare pilot judgement in 2016 (W.D. v. Belgium), setting a two-year deadline for Belgium to implement appropriate measures and reform its internment system (ECtHR, 2016).

Legal, political and advocacy actors involved in the symbolic struggle over the stakes in internment issues do not operate in a legal-political vacuum (Cavadino et al., 2013), but often orient themselves toward mediated debate (Nash, 2009). From an agonistic pluralist perspective (Maesele & Raeijmaekers, 2017), we understand the internment issue as reflecting an underlying power configuration, which implies that this mediated struggle over meaning entails the inclusion and exclusion of particular perspectives. However, reducing journalism to news content limits our understanding of journalism's role in constructing the internment debate. To have a fuller understanding of the journalistic construction of internment, we also consider journalism's performative power, i.e. its professionalised strategies for presenting information in a manner that conveys truthfulness and authenticity (Broersma, 2010).

This contribution therefore explores how and about which elements of the internment issue newspapers open or close mediated debate, and whether these discursive strategies can be connected to different journalistic practices. Using a critical discourse analysis, we examine 143 articles from two Belgian quality newspapers, covering three mediated internment controversies, i.e. the 2013-trial of 'baby killer' Kim De Gelder, controversial legislative developments in 2014, and the 2015 euthanasia request of a long-time internee hinging on psychological suffering.

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<sup>1</sup> Policy countermeasures have generally fallen short. Internment operated largely under the law of 1964 until the 2014 Internment Act (Vander Beken et al. (2016)). Still, the new law did not fundamentally revise previous legislation, nor could it remedy shortcomings in available mental care (Heimans et al. (2015)). This deficit necessitated a 'reparation law' which entered into force in October 2016 (i.e. the Act of 4 May 2016 on internment and various provisions on Justice).

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## 2. An agonistic pluralist perspective on mediated debate about internment

Rogers and Pilgrim (2014) point out that mentally ill offenders are often perceived as 'doubly deviant', stigmatised as both criminal and 'mentally abnormal'. They argue that public suspicion and media stereotyping might make politicians less likely to address continuing concerns with existing policies. A radical pluralist perspective on criminal justice issues (Cavadino et al., 2013) urges us to consider the meanings attached to internment not as a reflection of tangible fact, but as a temporary result of underlying processes of negotiation and (re)articulation that decide what internment means from a judicial, psychiatric, political, personal, or journalistic perspective. Nash (2009) emphasises media's substantial role as spaces of symbolic struggle, where debate on human rights issues is structured, and where the 'authority' to determine the stakes is decided. This leads to the question: do media allow different viewpoints on alternative futures for internment to contest in internment news? Or does mediated debate remains closed around one set of perspectives or other?

Understanding internment news as a struggle over meaning implies interrogating the underlying mediated contestation between 'commonsensical' and alternative perspectives. Applying insights from agonistic pluralism to media coverage (e.g. Maesele et al., 2017; Maesele & Raeijmaekers, 2017; Raeijmaekers & Maesele, 2015), we contend that mediated discourse is always the end-result of a symbolic struggle between different actors and viewpoints. We are therefore in need of particular analytical tools to examine which discourses are normalised and which are contested in discourse. Agonistic pluralism (e.g. Mouffe, 2005; Tambakaki, 2010) argues that claiming the existence of a societal consensus on any issue negates its underlying exclusionary mechanisms. *A priori* denying the legitimacy of claims that do not adhere to this presumed consensus and characterising these claims as less rational or moral, turns the symbolic struggle into an antagonistic conflict between right and wrong. Mouffe (2005, 2013) instead argues for turning to an agonistic form of debate, which recognises the plurality of voices and interests at work in any societal issue. Such a debate would revolve around adversarial contestation between different, equally legitimate claims and actions (Maesele & Raeijmaekers, 2017). Thus, mediated debate on a societal issue like internment is a reflection of one or more perspectives that have gained prominence/dominance over the alternative viewpoints, programmes and actors involved. This also implies that an assumed consensus can always be challenged and debated, i.e. that debate can be opened to include different perspectives.

In line with critical media scholarship (e.g. Carvalho, 2008; Dahlberg, 2007a), insights from agonistic pluralism implore us to examine the ways in which media coverage opens or closes debate on internment, by studying which sides of a social issue are (not) addressed (*scope*) and the manner in which they are represented (*form*). Although agonistic perspectives have been on the rise within political philosophy (e.g. Tambakaki, 2010; Wenman, 2013) and media research (e.g. Karppinen, 2013; van Zoonen et al., 2011), few studies employ it to evaluate how discursive strategies play into opening or closing mediated debate.

## 3. Journalistic construction as performance

Although agonistic pluralism compels us to acknowledge that mediated debate is shaped by a symbolic struggle over meaning, instead of 'mirroring' social reality, journalism has been "remarkably successful in getting people to believe that it reports 'the truth'" (Broersma, 2010, 16). Idealising journalistic logics when

analysing news about societal issues, blinds us to mechanisms of exclusion/inclusion involved in the struggle to define these issues (Raeijmaekers & Maesele, 2017). Additionally, it neglects how professionalised journalism functions to convey reliability on journalistic truth claims (Broersma, 2010). To move beyond evaluating *news content* and actively examine its *journalistic construction*, we also need to consider the ritualistic nature of journalism practices.

Critical scholarship (e.g. Curran, 2002; Dahlberg, 2007b; Hall et al., 1978) has long questioned whether news media function as neutral transmitters of information by adhering to professional newsmaking practices. Broersma (2010) urges us to consider the *performative* nature of these journalistic conventions, arguing that standardised routines, choices and norms create a recognisable discursive format for news audiences and instil journalistic perspectives with a sense of credibility and authority. By applying speech act theory to journalistic utterances, Broersma makes a convincing case that (re)confirming the authoritative nature of discourse is an essential function of journalistic practice.

Broersma's framework (2010) examines how journalistic conventions regarding form and style relate to performativity. *Form* is conceptualised as the visual structure of discourse that confirms journalistic professionalism. This involves, first, genre conventions that impact the representation of a story, e.g. the possibility of relating background information or journalistic commentary on a story. Second, design (e.g. lay-out) informs how news is read. Third, textual structure (e.g. rhetoric, story length) reveals editorial choices regarding importance and interpretation of a story. Next, Broersma conceptualises *journalistic styles* as overarching sociocultural practices and professional conventions that inform "what news is and how a journalist should act" and "how the medium wants to be seen and how wants its readers to experience social reality" (2010, 23). He distinguishes different journalistic styles whose primary aim is either to inform the reader of certain events, or to reflect on particular perspectives about events. Even if one style is typically dominant at a certain time, different styles can co-exist in a media landscape or even an individual medium.

The 'agonistic pluralist' framework and Broersma's work on performativity share a concern with journalistic truth claiming. Performative 'form' shares traits with the way formal aspects of text and 'discursive interventions' (Carvalho, 2008) are understood in media research that applies agonistic pluralism, with several overlapping aspects (e.g. design, structure). As we will argue below, a pragmatic combination of these frameworks allows us to investigate how journalistic processes and discursive strategies together shape the internment debate.

## 4. Analytical framework

This analysis is concerned with how discursive strategies play into opening or closing the mediated debate on the internment issue, and explores how these patterns may be connected to differences in journalistic practices. To this end, we combine the performative understanding of *form* (an articulation of journalistic conventions on genre, design and story structure) and *style* (sociocultural practices and routines informing professional journalism), with the key analytical categories of *scope* (i.e. representation of different actors/viewpoints) and *form* (how these sides are represented) from the agonistic pluralist framework.

In this study, 'form' is conceptualised from both an agonistic pluralist and a performative perspective. *Discursive form* in its agonistic pluralist conceptualisation concerns the way in which social issues are presented in discourse (see below). According to Broersma's performative perspective, form articulates journalistic conventions to strengthen the authority of journalistic utterances. This is what we term *manifest form*. Both touch upon similar

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