

Summary

PUBLIC CORRUPTION IN THE NETHERLANDS

What is the nature and extent of public corruption in the Netherlands, and how are cases of corruption dealt with in internal and criminal investigations? These were the central questions in the research project of the *Vrije Universiteit* Amsterdam, sponsored by the Ministry of Justice and reported in this book.

The Netherlands has a reputation as a corruption free country. As the Group of States Against Corruption (GRECO) of the Council of Europe stated: 'The Netherlands appears to belong to the group of those GRECO members that are least affected by corruption. (-) There is a general perception among the representatives of the Dutch State authorities that corruption is not a major problem in the country'. But in its analysis GRECO expressed some scepticism, and it recommended that 'the authorities responsible for formulating anti-corruption policies adopt a more pro-active approach towards the phenomenon of corruption in order to combat it more efficiently and develop more detailed statistics, targeted research and analysis, in order to measure more clearly the extent of the corruption phenomenon in the country.' This GRECO remark was one of the reasons the Dutch government initiated research on the topic.

The research project started in the summer of 2004 and consisted of a number of subprojects on the extent, nature and criminal investigation of public corruption cases. Public corruption was defined as offering, giving, asking or receiving private gain because of the position or (non)action of a public functionary. Among these functionaries are civil servants as well as politicians.

This definition is more or less in line with the Dutch penal code. The 'bribing' articles state that a public servant who asks for or accepts private gain (of which it is apparent that it is offered to him/her to influence his/her actions), can be punished with a maximum sentence of four years in prison. The law does not specify the amount of gain nor the importance of the involved action (or decision).

How corrupt is the Netherlands and what are the characteristics of that corruption? Before we report on the data, it has to be stressed that it is very difficult, if not impossible, to bring all corruption to the surface. All parties involved have an interest in hiding information and it is a 'victimless' crime. For this situation the metaphor of the iceberg is appropriate: only a part of the phenomenon is visible (the top of the iceberg) but nobody knows exactly what the volume of the iceberg is. The study has explored different parts of the iceberg in order to find out more about its characteristics as well as its extent. The existing types of research are summarised in Figure 1. The new research projects focus on internal and criminal corruption investigations.

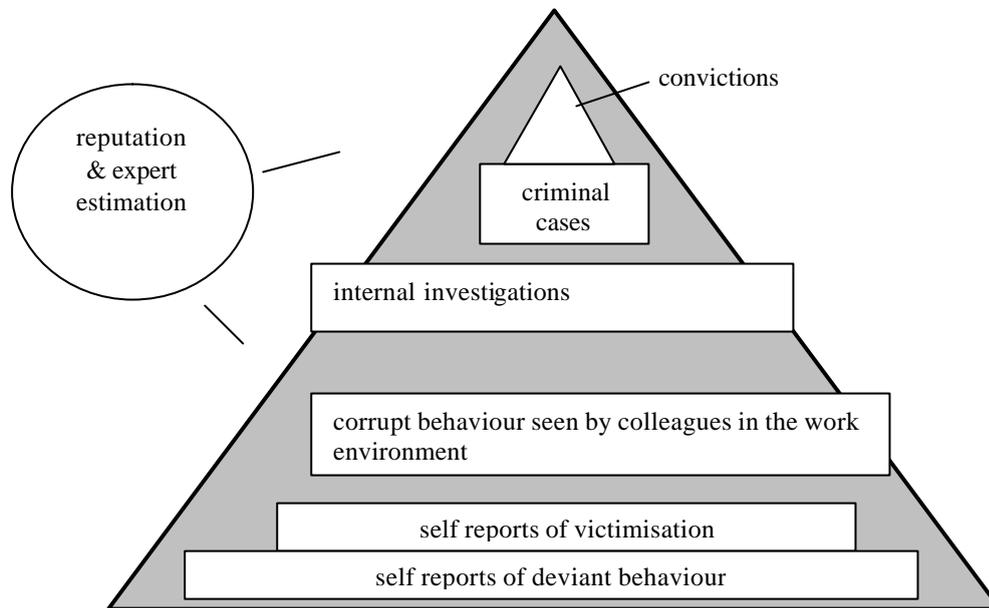
Research

As part of the research project the existing knowledge on corruption in the Netherlands was listed and reviewed. Three new research projects were completed (from September 2004 until February 2005):

1. a survey among government institutions on internal corruption and fraud investigations. Previously, municipalities had been researched (in 1991 and 2003), so this time the research was done on national ministries, provincial government, polder districts, the courts and offices of the public prosecutor and bodies and organisations that operate more or less independent from the regular state system (semi-governmental organisations). Questions were asked about the number of corruption investigations, the kind of activities and policies that were investigated, the source of the information that started the investigation, the internal or court verdict and the resulting sanctions, and the integrity policies in place;
2. an in-depth study of ten cases of corruption that were investigated in the period 2000-2003 by the National Police Internal Investigation Department (*Rijksrecherche*) – an independent investigative unit that is part of the Public Prosecution service;

3. a quantitative study of the criminal records of the prosecutors office on corruption cases (what has been investigated, prosecuted, convicted), along with a more qualitative study of 50 cases of corruption suspicions to find out what happened in terms of investigation and sanctioning.

Figure 1: *Possible Research on the Extent of Corruption*



Results

Extent of corruption

What do we know about the amount of corruption in the Netherlands? In Figure 2, the existing knowledge is summarised.

The surveys that measure the corruption *reputation* of the Netherlands offer a clear and stable picture, that the country is viewed as among the ten least corrupt in the world. The Corruption Perception Index (CPI) for 2004 showed that the Netherlands is ranked 10th of the 146 countries with a score of 8.7 (on a scale where 1 is highly corrupt and 10 is highly clean).

The research on *criminal cases* concerns the tip of the 'corruption iceberg' in the Netherlands. It shows that there are a limited number of criminal cases and convictions each year (about 50 criminal cases, 27 convictions, 8 persons imprisoned).

Within the whole public sector, 130 *internal investigations* are conducted each year. Most of them are related to municipalities (61 investigations per year). National ministries conduct 43 internal corruption investigations yearly. Of the reported 1,550 internal investigations within the police over the years 1999-2000, 25 were directly related to corruption. In other parts of the governmental system, the number of internal investigations is smaller. The average number of internal investigations per 1000 employees varies between 0.31 investigations in municipal politics and administration and 0.06 for semi governmental organisations.

The surveys of the employees estimation on the extent of *corrupt behaviour in their work environment* show another picture. A survey among Dutch police officers showed that 4% of the police officers noticed bribery at least once in their team in the twelve months preceding the survey. For corruption like nepotism, cronyism and patronage, much higher percentages were found. From the surveyed police officers 19% perceived favouritism of family and friends at least once in their work

environment and 59% favouritism by the management. A similar survey among 1,000 randomly selected workers in the Dutch labour force showed similar patterns for corruption: 7% bribery, 33% favouritism of family and friends, and 73% favouritism by the management.

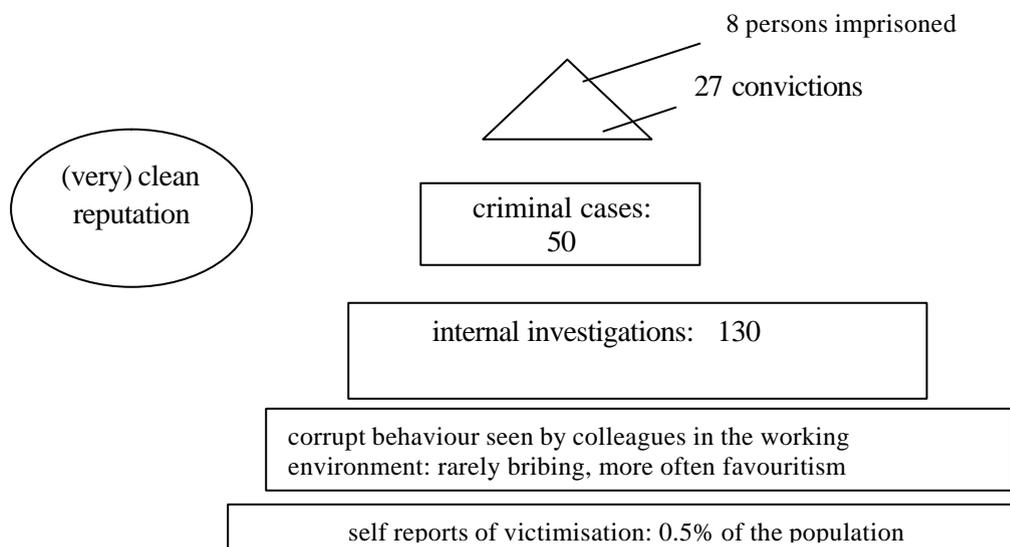
The last type of research we described was *self-reports* of individual behaviour. There are two main foci in this line of research: self-reports of victimisation, and of individual sensitive and/or deviant behaviour. The findings from the International Crime Victims Survey showed that about 0.5 % of the Dutch respondents reported to have been confronted with corruption by civil servants.

An important question is how to interpret the presented results. What do they say about the actual level of corruption in the Netherlands, and how reliable and valid are the outcomes based on the different research methods?

To conclude, research on criminal cases and convictions based on the corruption articles in the Penal Code support the image that the corruption problem in the Netherlands is rather limited. However, we have to keep in mind that these data only provide the tip of the iceberg of cases being discovered, investigated and prosecuted. Beneath these criminal cases are the internal investigations. However, the research clearly shows that the interpretation of the number of internal investigations is difficult. A crucial aspect to take into consideration is that data about investigations appear to reflect the priority the organisation gives to the struggle against corruption instead of being an indicator of the amount of corruption. This phenomenon can be referred to as the ‘integrity paradox’.

To start an internal investigation, somebody will have to report (possible) corrupt behaviour. In survey research we have conducted, employees indicated the amount of corrupt and corruption related behaviour they have seen in their work environment. The findings lead to the conclusion that only a fraction of what employees report to perceive becomes the subject of an internal investigation.

Figure 2: *Results of Research on the Extent of Corruption in the Netherlands (Annually)*



Nature of corruption

A ten case multiple case study was conducted with the main research question: *What is the nature of corruption in the Netherlands?* With a ‘corruption case’, one corrupt official is inferred. The cases for the research were selected from the files of the National Police Internal Investigation Department. Coupled with the within-case analysis was a cross case search for patterns. The research led to several propositions on the nature of corruption.

The study confirmed many findings of previous research. The nature of corruption is one of officials 'sliding down' towards corruption; most processes of becoming corrupt can be qualified as a 'slippery slope'. Corruption is rarely caused by personal problems of the official, like financial problems. Furthermore, important motives for officials to become corrupt are, next to material gain: friendship/love, status and making an impression on colleagues and friends. About the personality of the corrupt official, it was confirmed that often, corrupt officials have dominant and strong personalities. They know 'how to get things done'. They get or take the freedom to do things independently.

About the organizations of the official, it is noted that in most corruption cases, the supervision over the corrupt official is not very strong and that in many corruption cases, the control procedures are inadequate.

About the relationship between the briber and the corrupt official, it is noted that the relationship between briber and the official is often structural; corruption is part of an enduring relationship. Since both parties may be guilty of a punishable offence, there is trust on both sides. The way the entanglement between public officials and private interested parties seems to be taken for granted in the Netherlands, may also be a relevant factor. Corrupt officials, also the ones who operate outside so-called corrupt networks, do not limit their corruption to one incident. Also, the corrupt official hardly ever receives a gift for which a clear compensation is expected. Such a one to one relationship between gift and expected favour was exceptional in the ten cases that were studied.

Law enforcement

Relatively speaking, investigations on corruption are most frequently conducted by the regular police. The aforementioned National Police Internal Investigation Department (*Rijksrecherche*) is also an important player in this field.

In addition to regular police authorities, Dutch law enforcement consists of numerous special agencies. Many of these agencies fulfil supervisory and monitoring tasks over and above their investigative activities. The development of this patchwork quilt of special law enforcement agencies has often been explained as a product of the different tasks that these agencies fulfil in specific areas (agriculture, housing, social securities, taxes and so on). A striking result of this research is that, except for the Fiscal Intelligence and Investigation Department (FIOD), the special law enforcement agencies are hardly involved in the investigation of corruption.

One third of the investigations on corruption result in the prosecution of one of the primary suspects. On average, every year 33 persons receive a subpoena in relation to corruption. The main reason for the public prosecution department to waive prosecution is the execution of a disciplinary sanction by the employer of the corrupted public servant. If the latter is suspended or fired, and the public prosecution department is convinced that prosecution is not in the general interest, the (criminal) case will be closed.

In nine out of ten cases the prosecution of a suspect leads to a criminal conviction. Most people who are convicted for a corruption crime are sentenced to probation service and/or a fine. Over a period of ten years, only 77 persons were incarcerated, most of them were sent to prison for a relatively short period of time. The study reveals a gap between the sentence that the public prosecutor has in mind and the final decision by the judge. The latter takes several circumstances into account – i.e. publicity, organisational chaos at the workplace of the public servant – and tends to interpret these elements to the advantage of the condemned persons.