

Abstract

At the request of the Ministry of Justice and the WODC, Motivaction has conducted a research study investigating current images of the democratic constitutional state. The objective of this research is formulated as follows: "To investigate existing images of the democratic constitutional state among citizens, academics and professionals".

The research is intended to compile an inventory of existing knowledge and to evolve new hypotheses. These hypotheses can be tested empirically in a possible subsequent study.

On the basis of the research objective the following specific problem can be inferred: "Do the inhabitants of the Netherlands perceive images based on the concept "democratic constitutional state", and if so, what is the background to these images and to what extent do they deviate from the way in which the concept is used by academics and professionals?"

In this study we are interested in the opinions of academic experts, but also in those of experts in a broader sense, e.g. politicians, administrators and lawyers, referred to here as 'professionals'.

In order to be able to answer the defined problem, the following stages of research were conducted in the period August 2005 to February 2006:

- Literature study
- Analysis of available data
- Expert meeting
- Focus groups with citizens.

In the literature study the opinions of academics and professionals concerning the democratic constitutional state were identified and the opinions as expressed by citizens deriving from empirical research were investigated.

Parallel to the literature study the data available from the Motivaction's Mentality-database were also analysed. A number of questions were selected from this and analysed in order to provide insight into the attitudes of citizens regarding crucial sections of the democratic constitutional state. Detailed attention was paid here to political, criminal and also socio-cultural aspects.

On the basis of the results from the literature study and the analysis of available data an expert session was held involving four academic experts. The objective of this session was to reflect upon the literature study and Mentality analysis and to identify any insights that may have been missed concerning the perception of the democratic constitutional state among academics, professionals and citizens.

Subsequently five in-depth focus groups were conducted with groups from which we expected to identify specific perceptions regarding the democratic constitutional state. 4 respondents with pronounced opinions, characteristic of their group, also participated in a second focus group, in which confrontation between differing opinions took place.

The conclusions from this research are summarised below.

Citizens

There is broad-based support for the idea of the democratic constitutional state among citizens. This is evident from large-scale, representative surveys as well as depth interviews with citizens. The democratic form of government and the legal system are highly valued. The principle of equality and the right to freedom of speech

are also supported extensively within the population. The extent to which citizens show an interest in politics has also increased in recent years.

A substantial section of the population appears to perceive freedom as the core value of the democratic constitutional state. According to them freedom is being able to do what you want and being able to say what you want. This freedom is not considered absolute. Most people consequently denounce incitement to crime and offending others; people of public standing are also more likely to reach this threshold earlier.

Where the exact definition and actual functioning of the democratic constitutional state in the Netherlands is concerned, confidence is low and the supporting basis is fragile. Much criticism is heard relating to the enforcement of law and regulations: there is too much bureaucracy, punishment is not implemented consistently or punishment is not severe enough. There is also evidence of increasing distrust regarding politics and politicians and the official channels through which democratic policy-making is defined.

The Netherlands does not appear to be generally perceived as a 'real' democratic constitutional state. In the reactions given by citizens participating in this study much disappointment, embitterment and cynicism is heard when discussing the Netherlands as a democratic constitutional state. It is easily conceivable that this specific viewpoint reflects overall social, economic and political dissatisfaction in the Netherlands. In which case the citizens would not be dissatisfied as such with the Netherlands as a democratic constitutional state, but would project their general dissatisfaction on this specific topic. The concept of democratic constitutional state would therefore not be much more than a commodity term.

However, it would appear that the basis for the negative tone voiced by citizens stems from dissatisfaction concerning the functioning of the democratic constitutional state itself in the Netherlands. Citizens are shown in this research to be especially sombre concerning the way in which government and politics function and the extent to which citizens influence this. Solutions for this are also sought. Citizens appear to consider the referendum as clearly being the best means to revitalise the democratic constitutional state, given that the provision of information is good and something is done with the result.

Among citizens two strongly divergent views are identified concerning the way in which the democratic constitutional state is interpreted. Citizens with low levels of social and political participation and also little confidence in the democratic constitutional state plea for strong leadership and a strong government which defines clear boundaries, corrects, offers protection and does not make too many rules. These citizens consider that the freedom of expression of opinion must not be at the expense of offending others and needs to be defined by boundaries. They see the referendum as a valuable instrument: it offers the possibility of exerting influence in an orderly and tangible way. The combination of the call for strong leadership as well as citizens having more say would appear contradictory. It is possible that both are expressions of an identical desire for a simpler and more orderly basis for decision-making.

Citizens with high levels of social and political participation and who have strong confidence in the democratic constitutional state appear to expect far less from the government and relatively speaking want to give broad scope to the freedom of the individual. They place the responsibility for words and deeds in a democratic constitutional state on the citizen him/herself and consider that everyone also needs to be fully aware of the reactions he/she causes in others. For these citizens the dilemma of freedom of expression of opinion and not offending those who think differently is therefore perceived to be a personal matter in which everyone needs to

determine his/her own opinion. The referendum is also welcomed by this segment of citizens, but needs to be implemented sparingly.¹

The Moslem men in this research express strong doubts concerning the extent to which the principle of equality is guaranteed in practice. For them this principle represents the core of our democratic constitutional state, in contrast to the native Dutch people who mainly regard the principle of freedom as the central issue.

The dissatisfaction within the population concerning the democratic constitutional state therefore appears to stem from two different sources. According to native Dutch people it is especially the claim 'democracy' that is not substantiated, whereas according to the moslms it is the claim 'constitutional state'.

In a subsequent study the exact scope of the dissatisfaction expressed and the lack of confidence identified would need to be quantified. Only then will it become clear which segments exactly exist, how large they are and to what extent the various dilemmas are present.

Academics and professionals

The focus in this research was mainly placed on 'the citizen', because most gaps are evident in current knowledge concerning this target group. It has also become evident that the democratic constitutional state is also a controversial concept among academics and professionals, the definition of which is linked to different political and philosophical schools of thought. Three central contradictions can be identified here: 1) the representational or participatory democracy, 2) a state which either does or does not give any expression to a cultural community and 3) legitimisation of the decision-making process within the democracy and the principle of legality versus a system of 'checks and balances'.

What experts from different disciplines agree on is that the democratic constitutional state in the Netherlands is under pressure. Due to social developments such as internationalisation, increasing complexity and individualisation the state is losing authority and influence. In addition to this political events such as the threat of international Moslem terrorism and political murders in the Netherlands have undermined confidence in the democratic constitutional state.

Confrontation between two perspectives

Dutch citizens do not generally feel they are represented particularly well by politicians. A clear desire emerging repeatedly from this research in reaction to this is for (more) use to be made of direct forms of democracy. Hope is especially placed on referenda, but a directly elected prime minister can also rely on receiving considerable support. On the other hand in this research the need was also audible for more leadership within politics. It is felt that politics is often complex and aloof and citizens want to be able to rely on strong leaders and a strong government which defines clear-cut boundaries, takes corrective measures and offers protection.

In the same way as academics and professionals, citizens are therefore also not in agreement over the most desirable way to implement the democratic constitutional state: a system of direct, participatory democracy versus a system in which citizens are represented by a democratically elected elite. However, it would appear that citizens who feel the need for more 'leadership' would also like to exert more direct influence on the choice of the leaders who represent them. In this respect the difference for citizens between participation and representation is not so much a contradiction, instead both systems are able to complement each other.

¹ Citizens from the passive-confidence segment are also the only ones to see referenda as having little to offer and have more confidence in indirect democracy.

The question as to whether or not the state should reflect a cultural community or should remain neutral regarding standards and values, appears to be scarcely linked by citizens to the democratic constitutional state. The same applies to the question as to whether decision-making should be legitimised via democracy and the legal principle or via the system of 'checks and balances'. The introduction of dualism in local government politics and the discussion concerning the judge-legislator relationship for instance are not issues considered important by citizens.