



Tweede Kamer

DER STATEN-GENERAAL

ERKENNING voor mens en recht

Report of the parliamentary committee of inquiry into
Fraud Policy and Public Service

Aim and approach

The parliamentary committee of inquiry into Fraud Policy and Public Service was established on 3 February 2022. The aim of the inquiry was to understand and assess the government's fraud policy. The inquiry focused on how the government combats fraud, and on how it has fallen short in providing services and legal protection to citizens. The committee examined how the government's fraud policy came about and looked at how it was implemented. Particular attention was paid to the role of the House of Representatives, the use of discriminatory risk profiles and the sharing of information and data. In its report, the committee draws lessons for the future, based on the guiding principle that everyone should be able to trust that they will receive fair treatment from the government.

The committee started requesting written information and documents from relevant organisations and agencies immediately after its establishment, based on which it conducted an in-depth investigation. It also commissioned a context analysis.

In spring 2023, the committee held private preliminary interviews with experts and witnesses to obtain additional information and review its initial findings. Its investigative work continued during this period. The first public hearings were held after the 2023 summer. Between Wednesday 6 September and Thursday 5 October, the committee conducted 40 hearings. The final report was presented to the House of Representatives on Monday 26 February 2024.

Composition of the parliamentary committee of inquiry into Fraud Policy and Public Service Provision

Early elections for the House of Representatives were held on 22 November 2023, after which new MPs were sworn in on 6 December 2023.

As a result, the committee consisted of the following MPs until 6 December 2023:

- Salima Belhaj (D66) - chair
- Michiel van Nispen (SP) - vice-chair
- Thierry Aartsen (VVD)
- Evert Jan Slootweg (CDA)
- Senna Maatoug (GroenLinks-PvdA)
- Lammert van Raan (Partij voor de Dieren)
- Farid Azarkan (DENK)
- Sylvana Simons (BIJ1)

These eight members all participated in the public hearings and contributed to the report, and this iteration of the committee collectively drafted conclusions and recommendations. After the new MPs were sworn in on 6 December 2023, the committee consisted of the following MPs:

- Michiel van Nispen (SP) - chair
- Thierry Aartsen (VVD)
- Senna Maatoug (GroenLinks-PvdA)

These members completed the report.

Summary

The report *Unprecedented injustice* by the parliamentary interrogation committee on Childcare Benefits revealed what had happened in the childcare benefits scandal. However, the question of how this could have happened was still unanswered. The House of Representatives commissioned the parliamentary committee of inquiry into Fraud Policy and Public Service Provision to investigate how the government combats fraud and what impact this has on citizens. The committee was asked to base its inquiry on the findings of the parliamentary interrogation committee on Childcare Benefits, and on the report of the temporary committee on Implementing Organisations, *Stuck between policy and implementation*.

The committee concludes that, in a hardened political and social climate, the three branches of government have been blind to their inhumane and unjust treatment of citizens. As a result, people's lives have been destroyed. The committee finds it painful that the very system of social security and benefits, which is meant to support people, has ruined those who rely on it. The cabinet and parliament have fallen short, the implementing organisations have acted unlawfully and the judiciary has failed to protect people. This has led to the violation of people's fundamental rights and the dismissal of the rule of law. The committee's investigation shows that this was caused by several underlying patterns, which persist to this day.

Wrong decisions in the design, introduction, implementation and adaptation of laws and regulations have caused untold suffering

Through the many errors and wrong decisions made by the cabinet in designing, introducing and implementing the laws and systems that underpin social security and benefits, the foundations were laid for untold human suffering. Some errors in laws and regulations have existed for almost two decades, as the legislature has failed – and continues to fail – to resolve these issues.

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People who made small mistakes were treated as ‘fraudsters’

These flawed laws and regulations led to the erasure of the distinction between fraud – the deliberate misuse of schemes – and mistakes. People who made a small mistake were labelled ‘fraudsters’. The combination of making the recipients responsible for ensuring the accuracy of the information on which benefits or allowances were based, the high risk of error in providing this information, the potentially high repayments for wrongly granted benefits and allowances, and the higher fines imposed for fraud/mistakes, meant that the very people who needed the government the most, were hit the hardest.

Victim:

That period had a very negative effect on me, due to the fact that I was in a bad employment situation, and especially because I was subsequently labelled a fraudster – even though, to my mind, I demonstrably wasn’t. I’m glad this was confirmed by the ruling of the Central Appeals Tribunal, but I was ashamed of the situation I was in. Most people around me didn’t know this, and still don’t.

There has been a serious and prolonged failure of the branches of government to provide legal protection

People could not rely on the legislature, executive and judiciary to protect their rights. The legislature limited people’s access to justice, the executive was too oblivious to the human impact of its decisions, and the administrative courts ignored the devastating results of these policies, which they were aware of. The committee holds all branches of government responsible for this failure to provide legal protection.

Fundamental rights to privacy and equal treatment were violated in the use of data to combat fraud

Computerisation and digitisation have given the government new tools to monitor and combat fraud, leading to a growing demand for data. Structural deficiencies in the implementation practice of risk-based supervision in relation to social security and benefits have made certain groups of people more likely to be identified as potential fraudsters. This has led to the violation of their fundamental rights to privacy and equal treatment. In practice, legal frameworks were disregarded and safeguards were not applied. The government has been blind to the fact that there is a human being behind every piece of personal data, and that the safeguards for sharing, using and linking data are there to protect people.

The government has made financial decisions without considering the impact on people

Ill-advised budget cuts, coercive financial frameworks and perverse incentives have led to a hardening of fraud policy. Implementing organisations have had to make significant cuts over the years, because the government believed that this could be done without negative consequences. It did not make clear decisions as to where and how cuts should be made, leaving this to the implementing organisations. This resulted, among other things, in a loss of

service quality. In addition, the cuts led to the use of so-called business cases in implementation. The proceeds of wrongly paid benefits and allowances provided an incentive to look for more fraud, even where none existed. The fact that decision-making was dominated by financial interests only exacerbated the negative consequences for the people who were affected by this policy in practice.

MPs have actively contributed to tough fraud policy and failed to prevent suffering

Parliament has largely failed in its legislative and oversight role and is therefore partly responsible for the conditions that led to human suffering. MPs have a heavy responsibility when it comes to passing laws. In the Netherlands, legislation cannot be implemented without the approval of a parliamentary majority. The House of Representatives passed poor-quality laws and subsequently failed to fix design flaws in these laws. MPs – and journalists – also played a driving role in the hardening of fraud policy. The interplay between politics and media led to the dominance of one-dimensional narratives that did not do justice to reality.

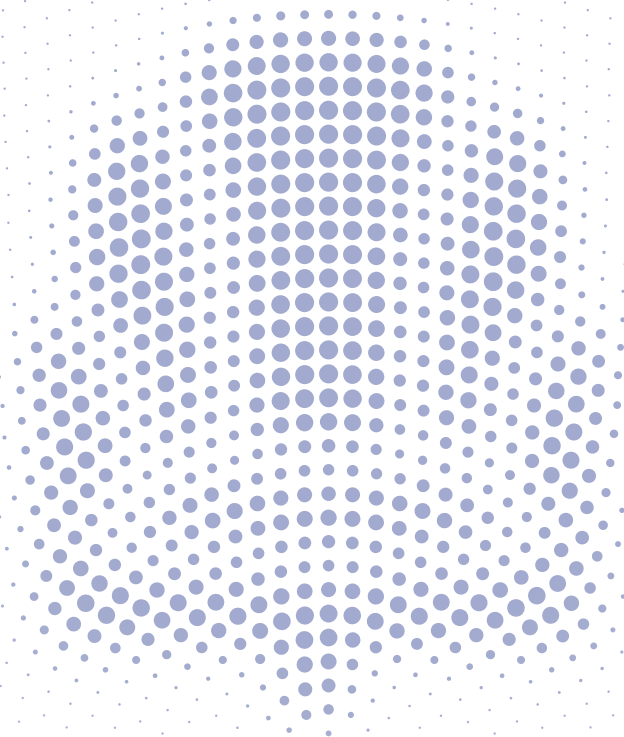
Victim:

As a society, which includes the politicians in the House of Representatives and the Senate, let's take responsibility for each other again.

It could happen again tomorrow

The committee's conclusions offer explanations for what happened. It should be noted, however, that the underlying patterns are still in place. Without proper measures, changes and safeguards, more scandals could follow. The government's blindness to its inhumane and unjust treatment of citizens is still there. The committee therefore makes a number of recommendations to break these patterns and prevent more people's lives from being destroyed.

In all branches of government, and at all levels, people's interests must be taken into account so that they can expect to be treated fairly at all times. This starts with a stronger rule of law, ensuring that fundamental rights are respected. In addition, the government must stop overlooking its citizens and guarantee that people can never again be disproportionately affected by its policies. This also means that people should be able to contact their government. Moreover, there needs to be an adjustment in the implementation of social security and benefit policies so that people who make mistakes are no longer treated as fraudsters. Concepts should be unambiguously defined and harmonised across the social security system so that there can be no misunderstanding as to their interpretation and meaning. Finally, people who disagree with a government decision should have easy access to legal aid. MPs bear the heavy responsibility of fulfilling their legislative and oversight role properly and thoroughly. The committee urges the House of Representatives to take its report seriously, and to pay particular attention to its recommendations.



Section 2

Conclusions

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Section 2. Conclusions

Main conclusion

In a hardened political and social climate, the three branches of government have been blind to their inhumane and unjust treatment of citizens, which has destroyed people's lives. It is painful that the very system of social security and benefits, which is meant to support people, has ruined those who rely on it. The cabinet and parliament have fallen short, the implementing organisations have acted unlawfully and the judiciary has failed to protect people. This has led to the violation of people's fundamental rights and the dismissal of the rule of law. The underlying patterns that caused this persist to this day.

Wrong decisions in the design, introduction, implementation and adaptation of laws and regulations have caused untold suffering.

- The cabinet failed to draft high-quality laws and regulations, which caused serious problems for people.
- The cabinet made wrong decisions when introducing the General Income-Dependent Schemes Act, the effects of which will be felt for years to come.
- The legislature was unwilling to solve problems.

People who made small mistakes were treated as 'fraudsters'.

- The legislature has made individual citizens responsible for managing the risks of complex laws and regulations.
- Mistakes were classified as fraud.
- Mistakes were punished more harshly with higher fines.

There has been a serious and prolonged failure of the branches of government to provide legal protection.

- The legislature limited people's access to justice.
- The executive was oblivious to the human impact of its decisions.
- Administrative courts ignored the devastating results of government policies and failed to provide legal protection.

Fundamental rights to privacy and equal treatment were violated in the use of data to combat fraud.

- For a long time, insufficient attention was paid to the consequences of massive data sharing by the government.
- Implementation violated fundamental rights.
- The implementation practice of risk-based supervision shows patterns of structural deficiencies.
- The sharing of unlawfully processed data and unsubstantiated risk scores have exacerbated the negative impact on people.

The government has made financial decisions without considering the impact on people.

- Cuts went hand in hand with efficiency measures.
- Cuts in implementation came at the expense of service provision.
- Financial frameworks determined policy choices.
- Perverse incentives resulting from the use of business cases reinforced tough fraud policy.

MPs have actively contributed to tough fraud policy and failed to prevent suffering.

- MPs have failed in their legislative and oversight role.
- MPs and journalists played a driving role in the push for tough fraud policy.

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Section 3. Recommendations

A stronger rule of law that serves citizens, ensures that fundamental rights are respected and prevents the government from acting unlawfully.

- Test laws against the Constitution both before and after they are passed.
- Ensure knowledge building on the risks of data and digital applications and create safeguards for citizens.
- Strengthen the watchdog role of the Data Protection Authority by increasing its annual budget.
- Make the government legally accountable for discriminatory acts.
- Separate the Administrative Jurisdiction Division from the Council of State and transfer it to the judiciary.

A government that never overlooks its citizens.

- Ensure that government actions never lead to disproportionate adverse effects on people.
- Prevent devastating effects on individual lives in practice.
- Ensure that laws are better aligned with citizen's needs.

A government with a human face.

- Help people instead of judging them.
- Give people the right to personal contact.
- Show political courage and abolish the benefits system, without ignoring people's short-term interests.

A humane enforcement and sanctioning policy.

- Combat genuine fraud, but be wary of excesses.
- Thoroughly overhaul the enforcement and sanctioning system to ensure that the human dimension and individual circumstances are always considered.
- Define and harmonise relevant social security concepts.

A legal safety net and easily accessible legal aid.

- Provide a nationwide network that helps and supports people dealing with socio-legal issues.
- Increase fees for legal-aid lawyers and relax the criteria for subsidised legal aid.

A well-functioning parliament.

- Parliament should take its legislative role seriously.
- Ensure that the House of Representatives has the right information.
- Strengthen the position and support of MPs.

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General information: parliamentary inquiry

The parliamentary committee of inquiry is a particular type of temporary committee of the House. The parliamentary inquiry is the most powerful instrument the Dutch parliament has at its disposal to carry out its duty to scrutinize the work of the Government.

Witnesses called by a committee of inquiry are obliged to appear before the committee. This holds true for ministers and state secretaries as well. Witnesses are questioned under oath. This means that they can be prosecuted for perjury if it turns out that they have not been telling the truth. Hearings are held in public, a process that often takes several weeks. They often attract a lot of attention from the public and the media.



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26 Februari 2024