

International case comparison social security scandals

The Dutch childcare allowance affair is not unique!

A comparative case study of Norwegian, Australian and Dutch social security scandals

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1. Abstract

The Dutch childcare allowance scandal has had a huge impact on the trust of the citizens in the government. However, this social security scandal is not unique. In the same period there have been similar occurrences in Australia and Norway. In this article the three cases are dissected and compared. The examined cases show major similarities: the scandals went on for years and have greatly scarred already vulnerable victims. There is not one guilty actor to be pointed towards, however there is a systematic weakness in which all involved stakeholders bear a responsibility. The political climate and the wish to prevent (benefit) fraud with public means, led to unlawful policies and execution hereof. Possible explaining factors for this government failure are: 1) a perverse window of opportunity (Kingdon, 1995), 2) a disconnect between policy and implementation, 3) an economic assumption regarding calculating citizens from the management philosophy New Public Management and 4) the importance of legitimacy for the purpose of solidarity as a necessary prerequisite of the welfare state.

Key words: social security, government failure, scandal, allowances affair

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2. Introduction

In March 2022, Norway published a trust survey together with the OECD based on the OECD Trust Survey that provides citizens' perspectives on government performance and values of public administration. The report describes the specific challenges to restoring trust and provides concrete action perspectives for the Norwegian government (OECD, 2022a). This report revealed that Norway experienced a similar social security scandal to the Dutch benefits affair a few years ago. No research has been done to date (July 2022) on the parallels between the two scandals. This was the concrete reason for this article, with the aim of comparing the two cases. During the research, a third similar case emerged from Australia (called Robodebt). This case is also included in this article.

In Norway, Australia and the Netherlands, implementing organizations wrongfully denied and/or reclaimed benefits, while citizens were entitled to them. Such scandals are rare in the Netherlands, Australia and Norway. Therefore, it caused a stir in society.

The Netherlands, Australia and Norway are among the countries that score best on the World Bank's good governance indicators. In particular, when looking at government effectiveness, the quality of regulation and public participation and accountability, these countries score exceptionally high (World Bank, 2021).

The World Justice Report ranks a rule of law index based on four principles: accountability, just laws, open government and accessible and impartial dispute resolution. Both the Netherlands and Norway are in the top five, scoring exceptionally high on each of these principles. The same holds for Australia, taking ninth place (World Justice Project, 2020). In 2021 there have been minor shifts with Norway still in second place, the Netherlands dropped to sixth place and Australia to thirteenth (World Justice Project, 2022).

Norway and the Netherlands are among the group with the highest level of public trust of all OECD countries. They are well above average. Australia, on the other hand, scores below average on trust (OECD, 2022b).

This article answers the following three questions:

1. What characterizes the Norwegian, Australian and Dutch social security scandals?
2. What are the differences and the similarities between the three cases?
3. What are possible explanations for the emergence of such social security scandals?

Firstly, a brief review of the available literature on government failure is presented. Then the Australian, Norwegian and Dutch cases are explained. Those who know the background of the Dutch scandal can skip this case description. A comparative analysis shows that the scandals have great similarities. Reference is also made here to a scandal in Great-Britain.

The article ends with a pluralistic reflection on the possible hypotheses explaining the origins of these scandals. This is an attempt to distill possible explanatory factors from a governance, economic and sociological perspective.

3. Literature review

On government failure a lot of literature can be found. Different dimensions and terminologies can be distinguished. Think about terms such as failure, error, fiasco, crisis, disaster, catastrophe and fail (Oppermann & Spencer, 2016). Bovens and 't Hart (1996) argue that a policy failure refers only to a situation a) with significant social damage and b) that is highly politicized. The three cases described in this article meet both conditions.

In the book "It should not have been this way" (In Dutch: "Dat had niet zo gemoeten") (2020), Roel Bekker names several authors who have written about the backgrounds of government failure. Among others, he names Peter Hall's book called "Great Planning Disasters" (1981) with descriptions of major government projects that have utterly failed. Hall paints a picture of willful disregard for the principles of good project management. He also argues that large projects have a kind of self-propelled nature that cannot be stopped by ordinary interventions (Bekker, 2020). Bekker also discusses dissenting scholars such as Peter Schuck. Schuck (2014) points to the excessive amount of information that a government must be able to process in order to implement policy through large systems, with, in addition, numerous exceptions to be mindful of individual problems (Bekker, 2020).

A commonly cited explanation for government failures is that policymakers do not sufficiently consider implementation. Crewe and King (2013) wrote about this frequently. They call it a disconnect that can be both operational and cultural. Operational is about a disconnect between policymakers and implementers and on the other hand cultural disconnect which is about policymakers' lack of understanding of the target group for which the policy is made (Bekker, 2020).

A significant proportion of the government failure literature focuses on social policy failures. Examples include the British child support organization, the reform of the social security system in the UK and the implementation of the U.S. Patient and Affordable Care Act (Obama care) (Whiteford, 2021).

This article discusses three recent social security scandals that show similarities to the above-mentioned examples. At the same time, there is a difference since in these scandals there were not only problems with implementing the policy, but in fact the policy itself was already problematic (Whiteford, 2021).

Bovens and 't Hart (1996) distinguish four layers to identify policy failures: 1) what exactly happened?, 2) who are the stakeholders involved in the failure?, 3) what are the causes and rationales that gave rise to the events? and 4) were the events preventable? The case descriptions answer the first two questions, the comparative analysis addresses the third point. In the conclusion the fourth question is briefly discussed.

4. Australian case: Robodebt scandal

Background

Services Australia is responsible for providing high quality and accessible services and benefits such as social security, child benefit and health care. The goal of Services Australia is to provide services and income support to the people of Australia in a simple, helpful, respectful and transparent manner (Services Australia, 2021).

Responsibility for policy development for the social welfare system lies with the Department of Social Services. Administrative responsibility for the system lies with the Minister for Government Services (formerly Minister for Human Services).

Case

The Robodebt scandal refers to an Australian government initiative (from 2016) to recover "overpayments" of social security benefits. The goal was to recover \$1.7 billion within five years from citizens who received income support. With the idea to optimize fraud detection and recovery capacity through compliance and process improvement initiatives (including automation and targeted fraud prevention for high-risk groups) (Whiteford, 2021). There is no evidence that in the period prior to this initiative there was a large increase in illegitimate Social Security payments. Robodebt was actually a budget repair. It was a relatively easy way to make budget cuts. It supposedly involved money that never should have been spent (Whiteford, 2021).

The designation "Robodebt" refers to a data matching of payments made on social security and tax returns, to identify discrepancies between the two. Previously, such discrepancies were checked by a government official before a refund was claimed. But as of 2015, no additional investigation was done. The investigation consisted only of a simple algorithm that calculated discrepancies between surcharges and tax returns. The overpayments recovered by the government turned out not to be overpayments in reality (Whiteford, 2021).

One of the main problems was that discrepancies were identified by comparing the biweekly income to the average annual income (annual income divided by 26), in which the usage of averages was not transparent. There were also people who had inadvertently made mistakes in their returns. They for example confused net income with gross income. These were not fraudulent citizens (Whiteford, 2021).

The burden of proof was also shifted. Previously, the government had to prove that there was actual debt, whereas in this scandal, actually the individual citizens had to prove that there was no debt. Professor Carney (2018) argued that not being able to prove no debt is not legal proof of having a debt. The use of averages to determine overpayments of benefits (and therefore debts) rendered individual citizens unable to demonstrate that their original statement was accurate. Overall, the number of debt interventions increased from 20,000 in 2015-2016 to nearly 800,000 in 2016-2017 (Whiteford, 2021).

Many people paid back the "debt" rather than challenge it, in part because they no longer had access to their payroll records from this period. At the same time, a number of citizens who supposedly owed a debt filed complaints with the Ombudsman. This prompted an investigation, of which the report was published in April 2017. The report contained a number of observations and recommendations regarding transparency and dealing with targeted debtors.

Around the same time, the first committee of inquiry was set up by the Senate to investigate the scandal. The committee stated that there was a lack of procedural fairness and that the program

should be put on hold until all problems were fixed. The committee was also of the opinion that people had been subjected to emotional damage and trauma. Thus, policymakers were aware of the problems and illegality of the policy as early as 2017.

Yet it was until 2019 and took two lawsuits (of which the government knew in advance that they would lose) to end the Robodebt program (Whiteford, 2021). In 2019, the federal opposition called for an end to the Robodebt program. And the Senate voted for a second investigation into the policy. The opposition announced in September (2019) that it supported a class action against the program. In the same month, Services Australia dropped the guilty plea, but refused to pay interest to victims. Finally, in November came the ruling that using an average annual income was unlawful. The federal court decided that the creation of the debts was irrational. Therefore, also the decision to impose sanctions was unlawful. The byproduct was that the Australian tax authority had also acted unlawfully by unlawfully seizing income (Whiteford, 2021).

Government response

When in five cases the verdict stated that there was actually no debt, Services Australia did not appeal in any of the cases. This suggests that the organization was unsure of her position (Whiteford, 2021).

The government wrote in an initial response (following the report of the first commission of inquiry) that: *"the Government is committed to maintaining a strong social welfare safety net. This requires that there be integrity in the welfare system. Each person should receive exactly what they are entitled to, no more and no less"* (Australian Government, 2017). In the second interrogation, the government again referred several times to the integrity of the social security system. The goal of maintaining the integrity of the social security system is widely supported. Few would argue that intentional fraud should not be punished. The then Social Security Secretary argued that large amounts of overpayments had been made, and that they were addressing the problem. People were accused of tampering with benefits from the Social Security system (Whiteford, 2021).

The use of the phrase *"the right payment to the right person at the right time"* is very jarring because there had been no overpayment. One of the lawsuits even revealed that 480 Australian dollars less were paid out (than should have been paid out). If the government was really serious about the proper payment, they would have sent the person in question a pay check instead of a debt claim.

After the scandal came to light, it took a long time to map out the entire scope. Some accused the Australian government of withholding important documents. In contrast, the government argued that with public disclosure the confidentiality of documents would be violated.

In addition to the two commissions, two political parties (the Greens and the Labor Party) pushed for a Royal Commission if they won the election. So it happened in 2022. By the end of this year, the *"[Commission] will uncover the truth of the Morrison Government's illegal Robodebt scheme, return integrity to the public service, and ensure a disaster like this never happens again"* (Labor, 2022).

Further implications

The ruling on the class action made that the government had to manually recalculate 500,000 individual debts. In November 2020, the group claim was settled for \$1,2 billion, consisting of \$721 million for refunds to 373,000 individuals, \$112 million for compensations and \$398 million for debt cancellation. This is the largest settlement for group claims in Australian history (Whiteford, 2021).

None of the responsible ministers resigned because of this scandal. The former Minister of Human Services (Marisa Payne) was promoted to Minister of Defense, then Minister of Foreign Affairs and Minister of Women. The former Minister of Social Services (Scott Morrison) became Minister of Finance and later became Prime Minister. His successor (Christian Porter) also became Attorney General and then Minister of Industry, Science and Technology (Whiteford, 2021).

As mentioned earlier, confidence in the Australian government is relatively low and lower than the OECD average (2021: 45% versus 51% average). This low level of trust has existed in Australia for some time. Between 2010 and 2012, trust in government fell 19% (from 61% to 42%) (OECD, 2022b). Over the last ten years, trust has remained relatively and constantly low, and the Robodebt scandal has in no way helped restore trust in the Australian government.

5. Norwegian case: NAV scandal

Background

In Norway, the Norwegian Labour and Welfare administration (*Nye arbeids- og velferdsetaten* a.k.a. NAV) is responsible for the provision of several services and cash benefits. Such as unemployment and sickness benefits, pensions, debt counselling and labor market guidance and stimulation. What type of entitlements someone can claim depends on citizenship and/or contributions to the National Insurance Scheme (NAV, 2022).

The NAV's goal is to assure for good services tailored to the citizen's need, for a well-functioning job market and stimulate people to have active work and not rely on benefits (NAV, 2022).

Case

In Norway, persons who receive government benefits have to comply with certain rules. These rules and regulations are necessary for a well-functioning of the Norwegian welfare state: they assure for equal treatment, predictability, efficiency and controlled expenditure. Without rules and regulations, solidarity (which is the foundation of the welfare state) would be limited.

Besides the national legal framework, there is an international framework in which Norwegian rules and regulations are embedded. Since 1994, the agreement on the European Economic Area (EEA), is in place. Norway, Iceland and Liechtenstein were brought together with the EU member states in a single market. The agreement provides for inclusion of EU legislation covering the four freedoms – free movement of goods, services, capital and persons. And it guarantees equal rights and obligations for individuals and economic operators in the internal market (EFTA, 2022). National legislation has thus to comply with the rules and regulations laid out in the EEA agreement.

In the case of the NAV, social security regulations were implemented incorrectly (in violation with EFTA regulations) and this led to wrongful denial of benefits to persons who were entitled to them (Williamson, 2021). The Norwegian law restricted (temporary) exportation of sickness benefits across borders. The argumentation: if you are too sick to work or to find a job, you are also too sick to go on a vacation (Berglund, 2019). Important to note is that persons who are covered under the Norwegian National Insurance Act who permanently moved to another country within the internal market were receiving their benefits. However, persons living in Norway eligible for these same benefits who wanted to travel temporarily to another country within the EEA, had to ask the NAV for permission. That permission would only be granted when certain criteria were met, provided that the stay abroad would be of a 'limited duration' (Bekkedal, 2020).

Persons who travelled without permission or who overstayed the limited duration were not complying with the NAV's regulations. They were not trying to get well or actively looking for work and checking in regularly with the NAV (Berglund, 2019). For this reason further benefits were denied and they had to repay received payments. In total 1,100 persons were forced to repay the received benefits to which they were actually entitled to. What is more, it led to the conviction of 86 persons for benefits fraud, including jail time and expulsion from Norway (Williamson, 2021). What makes this case even more painful is that most of the people the NAV deals with are already in a difficult personal and economic situation, lacking resources to contest NAV's or a court's decisions.

It took years before anyone realized that the actions of the NAV were going against the European legislation. A young judge noticed this for the first time in November 2018: the practice appeared to be in conflict with the principle of free movement across borders. (look also at text box 1). To state it shortly: if social rights are affected when moving across borders within the EEA, then persons are not really allowed to move freely (Berglund, 2019).

Text box 1: legal explanation of NAV case (Bekkedal, 2020)

Articles 4 and 5 of the Treaty on the Functioning of the European Union (TFEU) on equal treatment and article 7 TFEU on free movement provide an unconditional right to export sickness benefits in cash. This is further explained through the following four types of integrity (Bekkedal, 2020):

1. Integral integrity

Sickness benefits in cash are in principle exportable. So if a country requires for an individual to remain permanently within the country, this goes against European Union (EU) law. First of all, because it goes against article 7 TFEU of free movement. And secondly, because, facts or events within any member state, must be treated equally to facts or events in any other member state, according to article 5b TFEU (Bekkedal, 2020).

2. Systematic integrity

European law pursues a vision of Europe as a common home. The realization hereof requires entry and exit rights. The organization of the social security system remains a national responsibility, but when individuals move across borders, their rights have to correspond to the European entry and exit rights. This provides systematic integrity and coherence, at the level of secondary law (Bekkedal, 2020).

3. Constitutional integrity

The EU primary law guides the interpretation of regulation 883/2004: coordination of social security systems. The purposes that can be derived from case law of the European Court of Justice are clear: to establish *“As complete a freedom of movement for workers as possible”* and to *“prevent the possible negative effects that the exercise of the freedom of movement for workers could have on the enjoyment by workers and their families, of their social security benefits”*. These purposes provide a link between the constitutional level and the regulation. Distinctions at the level of secondary law that do not exist in primary law (for example between ‘residency’ and ‘stay’) are difficult to justify to the extent that they deter the realization of the constitutional aims. This is the case in the Norwegian social security scandal, where a distinction is introduced which has negative effects on the exercise of free movement for workers (Bekkedal, 2020).

4. Integrity of national law and EU law

The purpose of the regulation on social security systems is coordination, not harmonization. The regulation makes territory irrelevant, but it does not merge different legal regimes. It requires that at any given time the legislation of only one member state is applicable, but prohibits cut off, for example due to a requirement of presence. Coordination measures envisions a Europe where the law of the complement is applied, no matter where somebody is located in Europe. This equilibrium preserves the integrity of both national and EU law (Bekkedal, 2020).

The court in charge notified the NAV that they were considering taking the case to European court. After this happened, the NAV quickly decided to change its practice. Nonetheless, the citizens they had unlawfully been prosecuted and/or denied benefits, were not compensated (Berglund, 2019).

A lack of EEA law knowledge and a misinterpretation of the Norwegian National Insurance law are stated to be the root causes for this scandal (Williamson, 2021). Furthermore, it has been suggested that civil servants were more focused on the wishes of the minister than on the legality of their acts or the impact of their actions on citizens. Politicians were determined to limit (in their eyes)

illegitimate uptake of benefits. Sitting on a Spanish beach while collecting benefits was viewed as illegitimate and had to be prevented (Berglund, 2020). In light of this political climate, it is interesting to note that during the last decade the NAV doubled the number of employees that work on detecting welfare fraud. This demonstrates that the NAV actively tried to restrict the exportation of benefits, actively engaging to comply with political wishes and ignoring its legal obligations (Berglund, 2019). Norwegian politicians did not stand alone in their desire to control exportation of benefits across the EEA (look at text box 2).

Text box 2: exportation of Dutch unemployment benefits to Poland

All workers that have been active in the Dutch job market for a certain amount of time, can apply for unemployment benefits. There have been several cases of Polish workers who would work a couple of months and then go back to Poland to enjoy the (high) benefits, without actively looking for a job and being available for work (which is required). There has been abuse on a large scale. A lot of Polish workers fabricated prove by sending fake applications and receipts in order to avoid being caught committing an offense.

Article 7 TFEU states that there should be free movement of people, capital, goods and services. So, the fact that the Polish workers returned to Poland while searching for work, is not illegal (EU, 2021). The Dutch agency has to monitor if the benefit receivers are actually searching for a job. If it turns out workers have not complied with the terms of their unemployment benefits, the agency can through court demand the workers to return these benefits. The court has recently ruled that 6 Polish workers have to return received benefits (Centrale Raad voor Beroep, 2020). Since several countries have expressed a need to control exportation of cash benefits, additional EU rules have been put in place to limit abuse of benefits cross-border.

Government response

In October 2019 the Norwegian government finally admitted that through the NAV and its courts, it had wrongfully prosecuted recipients of sickness benefits who stayed temporarily abroad (Williamson, 2021). A month later the government appointed a committee for an external review of the scandal. The commission published a critical report called Blindsonen (The Blind Zone) in August 2020 (Williamson, 2021).

The reports states: *“that primarily the NAV is responsible for the misapplication of the corresponding laws. However, the Ministry of Labor and Social Affairs, the National Insurance court, the Norwegian prosecuting authority and moreover lawyers, courts and academia also carry a significant responsibility as well”* (Norges offentlige utredninger, 2020). It points out a systematic weakness that has been going on for 26 years within the three governing powers.

The scandal led to the resignation of the NAV’s former director. Additionally, the prime minister Erna Solberg replaced the Minister of Labor and Social Affairs Anniken Hauglie, just before Parliament threatened a vote of lack of confidence. She was replaced by Torbjørn Røe Isaksen. However, critics emphasize that no other former Labor and Social Affairs minister, top civil servants or responsible figures within the judicial system were dismissed.

Isaksen declared a worrisome lack of communication about regulations and their implications and how these regulations were implemented (Berglund, 2020). He promised (as was recommended in the Blindsonen report) to update and educate both the NAV and Norwegian judicial system in all aspects of EEA law (Williamson, 2021) and to nurture a new culture to better understand the link

between Norwegian and international law. He also mentioned a 'clean up' by refunding benefits owed to victims of the scandal and improving the communication with victims (Berglund, 2020). To fulfill this assignment a special task force was set up. They are in charge of contacting NAV clients who were likely wronged and opening compensation cases (Berglund, 2019).

Speculations are that the 2,400 recipients who were unlawfully cut off from receiving benefits may be just the tip of the iceberg. Lastly, the minister Iksaksen said that the ministry and implementing organizations (such as the NAV) need to better collaborate and communicate with each other, to prevent future mistakes from happening (Berglund, 2020).

Further implications

As mentioned above, the NAV case influenced minor changes in the political and administrative leadership and also led to a conviction of the European Court of Justice (ECJ) (look at text box 3). The NAV most probably will have to pay reimbursements, assure for debt canceling and compensate for the victims.

Text box 3: ECJ case

Since the case is about non-compliance with EU law, the European Commission and EFTA surveillance authority (together ESA) made legal proceedings against the Norwegian government in the European Court of Justice. With signing the agreement, Norway promised to honor the free movement of persons, goods, services and capital within the internal market. The ECJ ruled that the NAV had for more than 25 years – since 1994, when Norway signed the EEA agreement - illegally cut welfare benefits to recipients who had traveled to another country within the internal market (Berglund, 2021).

All cases in which citizens were unjustly prosecuted are to be reviewed and compensated. But these reviews have been put on hold until the highest court of Norway treats the case and makes its own determination (Berglund, 2021). It is unsure when exactly the case will take place, but after the September 2022 elections. The expectation is that the Norwegian highest court will agree with the EFTA court and it is expected to cost the NAV at least 250 million NOK to reimburse. Furthermore, NAV will cancel debts of those wrongly prosecuted and expects compensation claims.

This scandal has had other (negative) implications. As reported in the Norway Trust Survey, agencies in charge of managing benefits and providing assistance (besides NAV also the Norwegian Directorate for Children, Youth and Family) fare comparatively poorly in levels of satisfaction. The trust in NAV is very low, namely 25% (OECD, 2022a). NAV has thus suffered quite extensively from reputational damage.

This raises an important question: how can trust in the NAV be restored (and how can overall trust in the government be maintained)? The Norwegian government set up an initiative (together with the OECD) to measure trust levels within the government and is working on improving these.

6. Dutch case: childcare allowance affair

Background

In the Netherlands the department of Allowances (previously part of the tax authority, now directly part of the Ministry of Finance) is responsible for determining and providing allowances, such as rental subsidy, healthcare and childcare allowance. The entitlements that can be claimed depend (amongst other things) on citizenship, income levels and family situation (Rijksoverheid, 2022). Usually, the allowances are based on data of previous years or self-determined estimations. Sometimes mistakes are made in these calculations, which leads to readjustments and therefore possible high repayments for the beneficiaries of these allowances.

The DG Allowances strives to enable everyone in society to afford life's most essential services: housing, medical care and child care (Rijksoverheid, 2022).

Case

The foundations for the childcare allowance scandal were partly laid in 2013, in the aftermath of the Bulgarians fraud, a scam orchestrated by Eastern European criminal networks. Persons from Bulgaria (and other Eastern European countries) moved to the Netherlands for a short period of time. On arrival they applied for different types of benefits. These benefits were provided beforehand and only afterwards it was determined whether the benefits were rightfully given. Once the tax authority determined that these persons were not eligible for these benefits, the 'ghost citizens' had already disappeared. The money was almost impossible to retrieve. This scandal was known by the civil service, however they did not communicate this with the minister nor act to prevent (further) abuse. When the scandal came to light, the Dutch politicians pushed for the creating of an anti-fraud team (Parlementaire monitor, 2014). This anti-fraud team was in charge of detecting fraudulent activities.

This scam led to an extensive search for possible fraudsters, in such a way, that it can be seen as an overreaction. Throughout the years tens of thousands of persons were for diverse reasons incorrectly marked as fraudsters (Parlementaire ondervragingscommissie Kinderopvangtoeslag, 2021). In such a case somebody's benefits were immediately stopped and the received benefits had to be repaid at once. A payment arrangement was no option. The specific scandal involved families which were wrongfully denied childcare allowances. This caused massive financial struggles and also disturbed their personal lives heavily. (Bekker, 2020).

In 2017 the National Ombudsman published a critical review of the fraud detection approach. He was very critical on the tough approach of possible fraudsters by the Dutch tax authority and the detrimental consequences hereof on Dutch citizens (Nationale Ombudsman, 2017). Within the same year a top lawyer of the tax authority wrote an internal memo which recognized that benefits of three hundred parents had been cut-off illegitimately and stated that these parents had to be compensated.

Even though important signals were sent out, these were not picked up by the top of the tax authority, nor by politicians or policymakers. The media picked up this story in 2018, when they documented the illicit denial of objections of affected parents. The government was not eager to dig into this case. When the affected families petitioned their own files, the tax authority made a lot of information unreadable. This led to heavy criticism led finally in December 2019 to the resignation of the State Secretary of Finance, Menno Snel. Also, the Director General responsible for the implementation of the policies of the tax authority resigned.

Government response

These resignations got the ball rolling. Eventually, in 2020 the Minister of Finance Wopke Hoekstra pressed charges against the tax authority because of ethnic profiling. This because it became clear that persons with a double nationality were checked more rigorously than others.

Two parliamentarians (Renske Leijten and Pieter Omtzigt) invested a lot in discovering the facts, figuring out length of this scandal and defending the affected parents. After questions of Omtzigt in October 2020 the memo (from 2017) that had been covered up came to light.

A Parliamentary Commission was put into place and questioned involved politicians and civil servants. This commission published a report in December 2020 titled “Unprecedented injustice”, that is very critical about the role of the cabinet members, parliamentarians, the Ministry of Finance, the Ministry of Social Affairs and Employment and tax authority. Also, the justice system was accused of wrongful doing (Parlementaire ondervragingscommissie Kinderopvangtoeslag, 2021) (Tweede Kamer der Staten Generaal, 2020).

Throughout this whole affair the basic principles of the rule of law were violated. Parents did not stand a chance against a government that came after them with the full force of the law. And also, information from the tax authority to politicians, the committee and victims was bluntly inadequate and incomplete (Parlementaire ondervragingscommissie Kinderopvangtoeslag, 2021).

The Prime Minister Mark Rutte stated that the government should be ashamed of its actions and suggested ten points to improve¹ (Rutte, 2021). A discussion started on whether the involved politicians should resign. In the same month, the state secretary of Finance Alexandra van Huffelen declared that all victims would receive a €30.000 compensation, independently of the damage that they had suffered. For some of them a higher compensation would be available.

The prosecutor’s office decided to not condemn the involved parties. The public pressure eventually led to the resignation of Minister of Social Affairs Lodewijk Asscher. And one day later, the full cabinet resigned. The debts of the victims to all government bodies were canceled

In the aftermath of the events, the minister of Social Affairs and Employment Wouter Koolmees announced the trajectory “Work on Implementation”. This program intends to find possibilities to improve services and flexibility and future-proofness of public services. It exists of two phases. Firstly, mapping the current situation and the experienced problems within organizations. Secondly, creating concrete action perspectives for the short and longer term (Werk aan Uitvoering, 2022).

Meanwhile, the action perspectives have been determined. These are: future proof services, accelerating the digital agenda, understandable and practicable legislation, intensifying cooperation and improving the official steering (triangle), increasing the stature and attractiveness of the implementation and the role of politics (Werk aan Uitvoering, 2022).

Further implications

The cabinet thus resigned because of the scandal and also the Director General was dismissed. As in Norway, the scandal had an impact on the trust levels. Even though it is hard to distillate the sole effect of the scandal on trust levels (the Covid-19 pandemic also had much impact), it certainly

¹ 1) Broadening and accelerating the recovery of aggrieved parents, 2) discontinuing with benefits in its current form, 3) learning from practice; taking signals seriously, 4) strengthening services throughout the whole government, 5) creating laws and regulations with an eye for the human dimension, 6) preventing discrimination and assuring proper usage of personal data, 7) openness in provision of information for both society and the parliament, 8) information management well-organized 9) taking into account the role of other state powers 10) strengthening civil servant’s craftsmanship.

caused reputational damage. Not only for the tax authority, but for the government as a whole. In 2021 40% of the Dutch citizens believed the government intentionally tried to mislead the public by issuing statements of which they knew that they weren't fully correct or fairly exaggerated. And within one and a half years the percentage of Dutch that have a lot of faith in the government diminished drastically, from 70% (April 2020) to less than 30% (September 2021) (Erasmus University, 2021).

7. Comparative analysis

The similarities are striking between the Norwegian, Australian and Dutch case. The described scandals within the field of social security went on for years in a row and heavily scarred victims who were already vulnerable. Every time after the scandal came to light a very critical external report was published that put an emphasis on systematic weaknesses that resulted in disaster for the victims.

The scandals find their roots in several factors. Firstly, the human dimension was not taken into account in the government's actions. Persons were not treated in a benevolent way, but merely seen as a number. The government sanctions were not proportionate in comparison to the accusations towards the citizens.

Secondly, there was a general distrust (instead of trust) in the citizens from the government. A general assumption is that a group of people will try to fraudulently gain from benefits. This assumption was reflected in the system. In the Dutch and Australian cases for example, algorithms wrongly pointed out citizens to be fraudsters. Once they were on a black list, it was impossible for them to get off. The government has shown a misplaced trust in the system. Various warnings were given, but these were discarded. This didn't only happen in the Netherlands, Australia and Norway. Also in Great-Britain a scandal took place that confirms this blind trust in the system (look at text box 4).

Text box 4: British case: postal office scandal

Between 2000 and 2020 around 2,500 British post office owners were wrongly accused of accounting fraud and theft. Weekly deficits on their balance sheets were caused by a defect computer accounting program. Even though owners were very early to detect this, nothing was done with their signals (de Volkskrant, 2022). As was the case in Norway, Australia and the Netherlands, again, there was a distrust towards the victims and a misplaced trust in the system.

The repercussions of this scandal were equally big. Many lost their post office, houses and were prosecuted. It led to divorces, incarceration and even suicide. Since many of the post offices are in the hands of persons with an Asian background, this scandal disproportionately affected this community (de Volkskrant, 2022).

It is striking that no bells rang within the government when a lot of post offices were showing shortages. Affected post office owners were told they were the only ones struggling with this issue. A fair compensation for the victims has not been given so far (de Volkskrant, 2022). An investigation is taking place to discover the truth which supposedly leaves no stones unturned.

Civil servants in the Netherlands, Australia and Norway did not take signals from society seriously enough and did not act upon these. This is because they looked too much 'up' to the minister, instead of 'outside' to the citizens. The political climate was focusing too much on not giving out 'free money' and preventing people from receiving benefits illegitimately or without putting in sufficient effort. Norwegians weren't allowed to lie on the beach in Spain while receiving benefits. And in Australia and the Netherlands, the urge to cut-off illegitimate users of government benefits led to a witch hunt for fraudsters and wrongfully appointing persons to be fraudsters. In the Netherlands this also had a discriminatory basis: the algorithm especially targeted persons with two nationalities.

Clearly the three powers didn't guarantee the rule of law and didn't protect their citizens. In all three countries there were illegitimate policies and the judicial power had not timely signaled this. They went along with the legislative and executive power and together they assured that these illegal practices went on for years. It is crystal clear that the culpable of these scandals is not one organization / institute, but that the system as a whole failed.

In the aftermath of the scandals not many politicians and/or civil servants were dismissed. Quite some rotations in posts have taken place, but according to some there were not 'real' consequences for the involved actors. All this resulted in reduced levels of trust in the government, specifically the organizations involved in the scandals. The governments have promised to do better in the future. Firstly by compensating and solving the issues of the victims of the scandal, but more broadly by promising systematic changes. A cultural transition within the government and the three powers has to take place. The three countries have stated a need for better communication and collaboration between the ministries and implementing organizations, also in relation to politics.

8. Hypothesis

An important question remains; what is the context in which these events took place? The Netherlands, Australia and Norway are three countries that structurally are amongst the highest scorers when it comes to good governance. How is it possible then that here a massive scandal occurred?

For answering this question several dimensions are relevant. Successively, the following perspectives will be discussed: public administration, economic and sociological perspective.

Public administration perspective

From a public administration perspective, there are two possible explanations for the occurrence of such social security scandals. Firstly, from the analysis above, it seems that these cases involved a perverse window of opportunity in which the scandals were able to unfold. This window opens when three streams converge: 1) the problem stream: the recognition of a problem in the public policy arena, 2) the policy stream: a solution is available and 3) the political stream: the ambition and ability of politicians to make a policy change. Once these three streams unify, the "window of opportunity" is open and action can be taken (Kingdon, 1995). The problem was seen as the abuse of benefits or surcharges within social security systems. The solution was seen in strict enforcement and an active search for fraudsters (with the help of algorithms). The political conditions were favorable because there existed a general sentiment in society and politics that unintended use of social security schemes should be prevented. Fraudsters were perceived as a burden on hard-working taxpayers (Whiteford, 2021).

Within this context, unlawful policy making could occur, resulting in the unjustified crackdown against innocent citizens. Much of the literature on government failure focuses on implementation problems within the government (Schuck, 2014) (Light, 2008). And there is also something to be said about the implementation of policies (by means of faulty algorithms) and the lack of loyal dissent from implementation toward policy. Internal and external signals were not (sufficiently) transmitted by these organizations to policy and politics (Bekker, 2020). But the disconnect between policy and execution finds its foundation in both parties and both bear a responsibility to ensure good policy and good execution (King & Crewe, 2013).

Economic perspective

One of the assumptions within traditional economics is that individuals are rational, calculating and well-informed and that their choices are well-founded and logical. It is assumed that every person is competent in his actions (Ariely, 2008), also in his actions with and towards the government.

New Public Management (NPM), a management philosophy introduced in the 1980s, has this economic assumption at its core. This movement is diametrically opposed to bureaucratic principles. The basic idea is to apply the private sector model to the public sector, with frugality, efficiency and effectiveness as core values. Privatization is a way to achieve these values.

Within NPM, citizens are seen as calculating, opportunistic and competent in policy formulation. There is no space for unconscious errors due to mistakes or lack of knowledge about relevant information. Mistakes that are made, are made deliberately. And thus citizens are distrusted. The citizens that make mistakes do so for their own gain and as a conscious choice. The formulation and implementation of policies reflect this distrust, as the three cases have shown.

Slowly, there is a growing awareness of the complexity of policies and their incomprehensibility for citizens. In addition, the realization arises that too much emphasis on efficiency comes at the expense of other values, such as equality and justice.

Sociological perspective

The welfare state, the foundation of the Norwegian, Australian and Dutch society is based on solidarity towards people in need. What is important here is that citizens only call upon the social safety net when there are no other options and as much as possible for a limited time. Labor market activation for the unemployed is therefore an important tool to limit public spending. The welfare state creates comfort by knowing that when you are in need, the state will protect you. Solidarity is reflected in the willingness of all citizens to support this system financially. Misuse of public money will greatly affect people's confidence in the welfare state and consequently their willingness to cooperate. Without solidarity, the system cannot function.

In addition, the system design did not sufficiently take into account the social context. Discriminatory prejudices seeped into the algorithms, causing people to be unfairly labeled as fraudsters. The ICT practitioners that were responsible for the algorithms had insufficient knowledge of the legal and social dimensions of their work.

These different perspectives do not excuse the faulty government action, but provide a possible explanation for the blind spot among the three powers. The pressure to prevent abuse with public money at the expense of benevolent citizens is immense. The government's actions however have gone much too far. By trying to prevent abuse at all costs, already vulnerable groups in Norwegian, Australian and Dutch society have been severely aggrieved. Currently, governments are working on systematic improvements to prevent mistakes in the future. It is important that these take into account underlying principles that influence our actions and behavior.

9. Conclusion

These previously discussed social security scandals shook Norwegian, Australian and Dutch societies. Especially since these three countries rank in the top 10 scores for good governance. The mechanisms in which these events played out resulted quite similar. There was no one guilty party, but there was a systematic weakness in which all parties involved bear a responsibility.

The political climate and the desire to prevent (benefit) fraud with public funds led to abusive practices. Many (already vulnerable) individuals were accused of benefit fraud and the government proceeded to prosecute and recover, when in reality these individuals were entitled to these benefits. The government showed no mercy and was not sufficiently sensitive to the human dimension. Moreover, she was insufficiently receptive to external signals. The prevention of benefit fraud was placed above all other goals, including the needs and wishes of citizens.

What is more, it appeared that the government had a misplaced absolute trust in the system. Practices were not sufficiently questioned, and when they were, the political and administrative top officials quickly brushed them aside. Could the scandals have been prevented? The answer is: yes. There were more than enough internal and external signals that the policies were unlawful and had disproportionately far-reaching consequences for the citizens involved. The fact that the political and administrative top management have not picked these up makes it more detrimental. When the affairs came to light, it eroded citizens' confidence in their governments.

Table 1 summarizes the three cases and their similarities and differences.

Table 1: overview case studies

Dimension	Norway	Netherlands	Australia
Rule of Law ranking (2020)	#2	#5	#9
Type of scandal	Social security scandal: Sickness and unemployment benefits unlawfully withheld	Social security scandal: Childcare allowance unlawfully withheld and reclaimed	Social security scandal: Social security payments unlawfully withheld and reclaimed
Situation	Persons were denied benefits because they (temporarily) spent time in another EEA country	Persons were screened (by an algorithm) and incorrectly designated as fraudsters	Persons were screened (by an algorithm) and incorrectly designated as fraudsters
How did it happen?	Insufficient knowledge on European law and a general distrust towards citizens	Insufficient eye for the human dimension and a general distrust towards citizens, usage of an erroneous algorithm	Pressure to get government finances in order, usage of an erroneous algorithm
Political context	Persons shouldn't be allowed to lie on the beach in Spain and enjoy benefits	Benefit fraud has to be prevented at all costs. To this end an anti-fraud team was put in place	Commitment to diminish the budget deficits of the government. Societal sentiment that unintended usage of social security benefits has to be prevented.
Who is responsible?	All those involved in the system: the executive, legislative and judicial power. The NAV was regarded as the main culpable, but the responsibility is to be shared	All those involved in the system: the executive, legislative and judicial power. Also here, the Dutch tax authority was appointed culpable, but the responsibility is to be shared	All those involved in the system: the executive, legislative and judicial power. Here Services Australia and the Australian tax authority were appointed culpable, but the responsibility is to be shared
How could it go on for so long?	No correction of the judicial power No one critically reviewed the Norwegian regulations against European law	No correction of the judicial power Signals from outside and from the implementing organization were ignored and the truth was obstructed from coming out	Signals from outside and from the implementing organization were ignored and the truth was obstructed from coming out
Which promises were made?	Compensation for victims and improving governance to prevent future mistakes from happening	Compensation for victims and improving governance to prevent future mistakes from happening	Compensation for victims and improving governance to prevent future mistakes from happening

10. Lessons learned

From these cases the following important lessons can be learned. To (re-)establish trust in public institutions, the government has to undertake actions.

Firstly, it is important to prevent tunnel vision, within all three powers. Not having an open mind assures for blind spots.

Secondly, knowledge on European legislation and regulations is as important as complying with national laws. Being part of the European Economic Area or the European Union implies following the agreed rules, whereby EU law precedes above national law. International integration comes with the risk of benefit fraud. Nonetheless, knowledge on European Union Law has to be present and complied with within each governmental institution.

The human dimension has to be given more weight. When creating or amending policies the needs and wishes of the citizens have to be taken into account and also the context in which they live. Moreover, the implications of proposed policies on society have to be determined. Policymaking should serve citizen perspectives. It should not be a political game in which the goal is to find a compromise for the politicians involved.

Additionally, when legislation is created, there should always be space for human judgements in laws and regulations. This can be assured for through the use of hardship clauses. When civil servants observe disproportionate effects of policies on the citizens, they should be able to apply their professional judgement. These decisions should not be arbitrary, but it should be possible to treat unequal cases unequally.

Between politicians, policymakers and professionals implementing the policies, there should be better collaboration and communication. A civil servant should stand between society and administration and pass through signals coming from society. The politicians and top civil servants should appreciate loyal criticism much more. Critical thinking must be stimulated much more throughout the whole government. Social safety is needed to generate a climate in which civil servants feel comfortable to pass on signals and formulate criticism towards the top of the organization. In the end, this will make the government stronger.

Additionally, the three powers should not have a blind faith in the system. The system is never without flaws and this has to be recognized. Moreover, systems should not be designed on a basis of general distrust towards citizens.

Good governance should be the starting point of each government. The rule of law needs to be guaranteed. The judicial power must be critical towards the legislative and executive powers. They are a gatekeeper of the human rights of the citizens and this important task has to be fulfilled in the best possible way. To all in society a voice has to be given, especially those whose voices are not likely to be heard. And if mistakes are made, the culpable (governmental) bodies have to take responsibility and show accountability. Openness and transparency will go a long way in assuring for this.

All these points are vital to strengthen the confidence between the government and its citizens.

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