

U4 Expert Answer



The State of Research on Corruption in the Netherlands Antilles

Query:

"Has any research been done on the state of governance/anti-corruption issues in the Netherlands Antilles? Are there any future prospects in doing such research? If so, what kind of research will this be and what will it cost? Please also provide some details about the CPI (Corruption Perception Index) of the Netherlands Antilles and the datasets that are available"

Purpose:

To inform a partner institution about research possibilities on the state of governance in the Netherlands Antilles.

Content:

- Part 1: The State of Governance Research in the Netherlands Antilles**
- Part 2: Selected Examples of Corruption Diagnostic Tools**
- Part 3: Further Reading**

Note: This Expert Answer has been dealt with as an urgent query and provides preliminary information on the topic of interest.

Summary:

Little is known about the levels and patterns of corruption in the Netherlands Antilles. Beyond anecdotal evidence of the prevalence of corruption, there is little data and research available on the islands' state of governance and corruption. The territory has only recently been added to those countries assessed by the World Bank Institute's World Governance Indicators. The few other studies available have mainly focused on issues related to its activities as an international financial centre. To address this knowledge gap, there is a need to measure levels of corruption and/or conduct an in-depth diagnostic of the state of governance in the Netherlands Antilles. Such research should be conducted with a view to mapping corruption risks, identifying critical issues of public governance as well as priority areas for reform.

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Part 1: The State of Governance Research in the Netherlands Antilles

Background

The Netherlands Antilles form an autonomous part of the Kingdom of the Netherlands, consisting of two groups of islands in the Caribbean Sea, off the Venezuelan Coast. The islands' economy depends mostly on tourism, international financial services, international commerce, petroleum refining and trans-shipment.

The Netherlands Antilles were scheduled to be dissolved as a unified political entity on December 15, 2008, so that the five constituent islands would attain new constitutional status within the Kingdom of the Netherlands, but this dissolution has been postponed to an indefinite future date.

In June 2008, the Netherlands Parliament had asked for an update on the conditions of administration in the Netherlands Antilles to determine whether the islands could comply with the conditions of constitutional reform. This followed the publication of a report entitled "The Antilles: a mafia within the Kingdom¹" presented in June 2008 at a press conference by a Member of Parliament. The report highlights practices of nepotism, self-enrichment, and criminality, based on newspaper articles and information from other public sources. It presents anecdotal evidence of the state of corruption on the islands, listing 120 allegedly corrupt politicians, government workers and officials as well as providing 170 concrete examples of corrupt practices. (http://dev.expatica.com/nl/articles/news/Hero-Brinkman-ruffles-Antilles_-feathers-again.html).

In February 2009, as a response to the Parliament's request for an update on the state of governance in the islands, the Netherlands State Secretary of Kingdom Relations also voiced her concerns regarding the state of corruption on the islands in a seven page letter to the Second Chamber. Her statement is substantiated by several investigations, including cases of fraud at the St. Maarten Immigration Service involving two senior

¹ The Helpdesk could not access this report within the time frame of this query.

police officials, who are currently being investigated for fraud and corruption. These cases have only been tackled with major input from the Netherlands in deploying judges, prosecutors and investigators. The State Secretary calls the government to take a more proactive stance to prevent conflicts of interest and lack of transparency. (www.thedailyherald.com/news/daily/1238/corrupt1238.html - 9k).

International Governance Indicators

Yet, beyond anecdotal evidence of the prevalence of corruption in the territory, little is known about the actual scale and forms of corruption as well as the sectors most vulnerable to corruption risk.

As an autonomous part of the Kingdom of Netherlands, there are very few studies and specific sources of data available on corruption and governance in the Netherlands Antilles. Most international governance indicators tend to focus on the Netherlands as a whole and do not distinguish between the various territories constituting the Kingdom.

The World Bank Governance Indicators

The Netherlands Antilles have only recently been added to the countries and territories assessed by the Worldwide Governance Indicators (WGI) of the World Bank Research Institute. It is one of the only global measurement tools to specifically assess the state of governance in the Netherlands Antilles.

The WGI assess six dimensions of governance using aggregate indicators, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. The WGI cover more than 200 countries, combining cross-country data from 30 survey institutes, think tanks, non-governmental and international organisations.

The scores of the Netherlands Antilles in terms of the governance indicators used by the World Bank contradict the above-presented anecdotal evidence which suggest a relatively high prevalence of corruption on the territory. In all areas of governance measured by the World Bank, the Netherlands Antilles perform well above average, with scores ranging from 63-90,4, especially on indicators of control of corruption (86) and

of political stability (90,4). (Please see: http://info.worldbank.org/governance/wgi/sc_chart.asp)

The Corruption Perceptions Index

The Netherlands Antilles have never been included in Transparency International's Corruption Perceptions Index, mainly due to insufficient sources of data on corruption in the country. Inclusion in the index depends solely on the availability of data: a country must be assessed by at least three of the sources used to calculate the index and TI has no influence on which countries are assessed by each source. In 2008, the Netherlands Antilles were covered by only two surveys and could not be included in the index. Data sets for the Netherlands Antilles are not publicly available.

National Government Assessments

The Helpdesk has neither found research reports nor studies looking at the state of corruption and governance in the territory. We have also not identified research projects planning to do so. This dearth of research means little is known about the prevalence, patterns and specific forms of corruption in the country.

Sector Specific Studies

Given the specific features of the country's economy, however, there are some studies available on specific aspects of corruption and anti-corruption in particular sectors. Since the financial services sector has formed - along with tourism - the backbone of the Netherlands Antilles economy since the 1970s, the few studies that have been unearthed within the framework of this query focus on the Netherlands Antilles as a tax haven or in connection with money laundering initiatives.

The Netherlands Antilles as a Tax Haven

As an international financial centre offering an attractive regime with low tax rates, the Netherlands Antilles and Aruba have long been regarded as tax havens. Under pressure from the international community through the OECD, the country has reformed its tax system in recent years and has just been removed from the tax haven blacklist during the recent G20 summit in London. It is still included on a longer "grey list" of countries, which, while co-operating with efforts to improve transparency, do not yet meet international standards.

Two papers, respectively published in 2006 and 2005, have looked at issues related to the Netherlands Antilles as a tax haven.

The first paper investigates the extent to which the Netherlands as a whole can be considered a tax haven. Based on available empirical evidence, it concludes that the Netherlands is a tax haven as it deliberately offers companies who wouldn't otherwise seek to be resident in the country the means to reduce their tax charges on interests, royalties, dividends and capital gains from subsidiary companies. The paper dedicates a section to the "Netherlands Antilles route", highlighting that the Netherlands tax treatment is particularly amenable to companies registered in the Netherlands Antilles. Although this mechanism has become less attractive in the last decade, it remains a widely used facility. At the time of the report's publication, there were about 2600 firms incorporated in the Netherlands with direct subsidiaries in the Netherlands Antilles, of which 2000 are financial holding companies. This strongly suggests that these holdings are structures set up to benefit from the "Netherlands Antilles route". (http://somo.nl/html/paginas/pdf/netherlands_tax_haven_2006_NL.pdf)

The second paper, published in 2005, analyses the recent changes that have occurred in tax regulations in the Netherlands Antilles under pressure from the OECD. The paper analyses the modification of the islands' tax agreement with the Netherlands in response to this pressure, providing what the author considers a good example of how a legislature can both satisfy the international community and preserve a local economy mainly based on offshore financial and tax services. In considering whether this is an adequate solution for other tax havens, the paper argues that such a model is not appropriate for use in a small economy which can neither rely on a supportive mother country nor on tourism as an alternative resource. (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1174301).

The Netherlands Antilles and Money Laundering

Over the past few years, the Netherlands Antilles and Aruba have been criticised for creating opportunities for money laundering by criminal elements. The CIA report on the Netherlands Antilles identifies the territory as a money laundering centre and a trans-shipment point for South American drugs bound for the US and Europe.

<https://www.cia.gov/library/publications/the-world-factbook/geos/nt.html>

A book published in 1998 addresses the Netherlands Antillean legislative response to money laundering and offers suggestions for improvement. The paper covers a number of topics including the scope of the problem, preventative and repressive legislation, the role of financial institutions and specialised advisors, the process of reporting unusual transactions, the penalization of legal entities, Dutch High Court jurisprudence and bank secrecy and other secrecy requirements. (<http://www.amazon.de/Fighting-Money-Laundering-Legislations-Netherlands/dp/9041107282>).

Part 2: Selected Examples of Corruption Measurement Tools

The lack of research and data on the state of governance and corruption in the Netherlands Antilles makes it difficult to interpret the gap between the territory's performance on the World Bank's governance indicators and the incidences of corruption reported by both the Netherlands Secretary of State and the Parliamentary report.

An important step to address this knowledge gap could consist in measuring levels of corruption and conduct an in-depth diagnostic of the state of governance in the Netherlands Antilles, with a view to mapping corruption risks and identifying priority areas of reform. There are several tools commonly used by the international community that could be introduced to measure the state of corruption, identify weaknesses and monitor progress over time.

Example of Country Level Corruption Surveys

The World Bank Institute's Governance Anti-Corruption Country (GAC) Diagnostic Surveys

The GAC Country Surveys complement the above-mentioned WGI by providing a more nuanced and detailed country level diagnostic that allows mapping areas of vulnerability to support participatory, targeted reform planning.

GAC Country Surveys use and triangulate information gathered from a country's own citizens, business people and public sector workers to diagnose

governance vulnerabilities and suggest concrete approaches for fighting corruption. The use of rigorous statistical methods generates a quantifiable baseline which can be used to set targets and hold leaders accountable for reform progress. (Please see: <http://web.worldbank.org/WBSITE/EXTERNAL/WBI/EXTWBI/GOVANTCOR/0,,contentMDK:20726148~menuPK:1928498~pagePK:64168445~piPK:64168309~theSitePK:1740530,00.html>).

The survey method aims at (1) unbundling corruption (administrative, state capture, bidding, theft of public resources, purchase of licenses) (2) identifying weak and strong institutions (3) assessing the costs of corruption to different stakeholders and (4) identifying concrete and measurable ways to reduce those costs through targeted reforms.

Key features of the GAC diagnostic surveys' methodology are:

- multi-pronged, separate surveys of users of public services: households, firms, public officials, and non-governmental organizations, which permit triangulation of the results;
- use of experience-based (vs. opinions/generic) type of questions;
- a broad governance and service delivery conceptual framework; and
- rigorous technical specifications at the implementation stage.

The analysis developed with this approach encourages local stakeholders to make use of the results to promote a constructive debate on institutional reforms which can lead to concrete changes. The agency-specific data steers the debate on institutions rather than individuals, de-politicizing the problem and facilitating the reform process. A more detailed overview of the methodology can be accessed at: <http://web.worldbank.org/WBSITE/EXTERNAL/WBI/EXTWBI/GOVANTCOR/0,,contentMDK:20726077~isCURL:Y~menuPK:1740556~pagePK:64168445~piPK:64168309~theSitePK:1740530,00.html#gdc>).

TI Kenya Bribery Index

An alternative approach can be to conduct a citizen's survey on a regular basis to monitor changes over time - as TI Kenya does with its Bribery Index. In an effort to inform the fight against corruption with sound research and analysis, TI Kenya conducts an annual corruption

survey, asking citizens about their perceptions and experience of corruption in the previous year.

The survey captures corruption as experienced by ordinary citizens in their interactions with officials of both public and private organisations. Respondents provide information on the organisations where they have encountered bribery during the past year, where they paid bribes, how much they paid and for what.

The bribes are analysed in terms of their various purposes, using the following five categories: law enforcement (i.e. avoiding consequences of wrongdoing and/or harassment by the relevant authority); access to services (e.g., medical treatment, school places, water, electricity, etc), business (obtaining contracts, expediting payments, etc.) and employment matters (e.g., securing jobs, promotions, transfers, training, etc).

The data allows for comparison and monitoring trends over time as well as providing another set of benchmarks for future surveys of this nature. With its seventh iteration in 2008, the TI Kenya Bribery Index is one of the few country level surveys that has been repeated consistently with the same methodology to allow meaningful comparisons over time. (Please see: <http://www.tikenya.org/documents/KenyaBriberyIndex08.pdf>).

Political Economy Analysis of Corruption

Another approach consists of exploring the underlying reasons for the governance and corruption situation in a given context and analysing patterns of incentives that lead local political actors to support or resist change, using elements of political economy analysis. The following is based on a recent Expert Answer specifically focusing on this methodology. (See: <http://www.u4.no/helpdesk/helpdesk/query.cfm?id=187>)

Initiatives such as DFID's Drivers of Change or SIDA's Power Analysis are examples of this emerging approach. Each donor uses different methodologies and conceptual frameworks to conduct such analysis, but there are common denominators between the various approaches. They all to some extent explore the link between political factors, economic conditions and institutions, including an historical account of the formation of the state. They focus on the formal and informal factors affecting the political will (or lack of

thereof), striving to analyse more strategically how change occurs in a given context.

The Dutch Ministry of Foreign Affairs itself has recently developed a new approach to governance and corruption analysis called the "Strategic Governance and Corruption Analysis" (SGACA). The SGACA provides a framework to help analyse the governance and corruption climate of a country according to context-specific criteria. (Please see: http://www.clingendael.nl/publications/2007/20071000_cru_occ_unsworth.pdf).

The SGACA has four main components that combine standard monitoring approaches with a "power and change" analysis. A workshop is then organised to consolidate the findings and review the donor strategies, while a Strategic Choices document summarises the findings and presents the policy choices regarding the governance and anti-corruption strategy for the coming years.

While these studies have generated a wealth of knowledge, the challenge remains to incorporate the findings into operational work and use them to inform the development of effective anti-corruption strategies.

TI National Integrity Country Surveys

The TI National Integrity System (NIS) assessment offers a comprehensive evaluation of the integrity system in a given country. It provides a framework which anti-corruption organisations can use to analyse both the extent and causes of corruption in a given country as well as the effectiveness of national anti-corruption efforts. This analysis is undertaken via a consultative approach, involving the key anti-corruption agents in government, civil society, the business community and other relevant sectors with a view to building momentum, political will and civic pressure for relevant reform initiatives.

The NIS consists of the principle institutions and actors that contribute to integrity, transparency and accountability in a society. The research exercise focuses on an evaluation of the key public institutions and non-state actors in a country's governance system with regard to (1) their overall capacity, (2), their internal governance systems and procedures, and (3) their role in the overall integrity system. These institutions include the legislature, the executive, the judiciary, the public sector, the law enforcement agencies, the electoral management bodies, the

ombudsman, the supreme audit institution, anti-corruption agencies, political parties, media, civil society and the private sector.

For a more detailed overview of the methodology, see:
http://www.transparency.org/policy_research/nis/

Part 3: Further Reading

The Netherlands: A Tax Haven (2006)

This report investigates the extent to which the Netherlands can be regarded as a tax haven. It analyses the factors behind this, such as the unique network of bilateral treaties for the avoidance of double taxation and the special fiscal regimes for group financing operations. It estimates the number of 'mailbox companies', mostly established to route financial flows through the Netherlands purely for fiscal reasons, at almost 20,000, and this number has been increasing rapidly in recent years. The paper allocates a chapter to the Netherlands Antilles, as more than 43% of these mailbox companies have a parent in tax haven jurisdictions such as the Netherlands Antilles.
http://somo.nl/html/paginas/pdf/netherlands_tax_haven_2006_NL.pdf

Redesigning Heaven: Tax Haven Reform in the Netherlands Antilles (2005)

This paper identifies legislative changes in tax havens resulting from pressure exercised through the OECD. It focuses on the specific situation of the Netherlands Antilles. The paper analyzes the response given by the Netherlands Antilles to the international community through the modification of its tax agreement with its 'mother country' in Europe, and considers whether this is a solution for adoption by other tax havens.
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1174301

Fighting Money Laundering, With Comments on the Legislations of the Netherlands Antilles (1998)

This book, available for purchase, provides a description of various aspects of organised crime, discusses various forms of money laundering and examples of international agreements to fight money laundering, providing specific comments on the legislation of the Netherlands Antilles and Aruba.
<http://www.amazon.de/Fighting-Money-Laundering-Legislations-Netherlands/dp/9041107282>