# THE DUTCH POLICE AND ITS LEGITIMACY

An historical explanation of actual tasks.

At first sight it may seem strange too ask questions about the legitimacy of the Dutch Police. In fact the authority of the police has never been challenged in a serious way. Even in the most difficult urban area's everyone will agree that maintaining public order is one of the main tasks of the police and only a few radical Morrocan youngsters will be prepared to fight against police-officers because the see them as belonging to the white and discriminating powers. Most people simply accept the authority of the police in the Netherlands, even if they have some complaints about the fulfilment of tasks.

These impressions can be illustrated if we look at the degree that the police are trusted by ordinary people. Compared to other social or political institutions, the figures for the police are no bad at all. To give an example: in the year 2005 only 34 percent of the population indicated to have any trust in political parties and 41 percent trusted the national government. The proportion was a bit higher for trust in the national parliament (51 percent) and the judicial system (61 percent) but 73 percent of the population said to trust the police. Only philanthropic institutions did receive a higher score and were trusted by 77 percent. On the basis of these indicators we cannot conclude that the legitimacy of the Dutch police is really at stake. Not only the level of trust in the police is relatively high, it also turns out to be relatively stable. Ten years ago 71 percent of the Dutch said to trust the police and since then the variation of this proportion is rather small. The only exception are the years 2002 and 2003 when the Netherlands experienced quite a lot of turbulence in the political field. The score for trust in the police dropped temporarily to 60 percent but even then it remained much higher than trust in actors on the political scene (Dekker 2007: 78). The same conclusion can be drawn if we choose a comparative perspective. In a more general sense the Netherlands can be characterised as a high trust society and this can also be said in relation to the police. Whereas other European countries such as Belgium or Spain show rather low levels of trust in the police, the Dutch score lies above the average level for the European Union as a whole. It is true that the score of Denmark is much higher but we cannot conclude that the Netherlands are confronted with serious problem at this point.

Nevertheless, it seems that the Dutch police themselves do have their doubts. In recent years more and more police-officers are complaining about the way they are treated by the general public. Many citizens don't show enough respect and from time to time the interaction has aggressive undertones. This tendency seems to be illustrated by an historical analysis in the archives of the National Ombudsman, where complaints of citizens about their treatment by the police are documented. These documents show that forms of verbal an physical violence between citizens and police-officers have increased since 1985 and that the authority of the police has become more vulnerable nowadays (Van Os 2007). In reaction to this tendency several inquiries were started to understand the causes or circumstances of these

developments and they generally come to the conclusion that the authority of the police in the public domain has become an problem indeed (Gunther Moor 2000, De Vries 2002). One of the most interesting books in this respect was published in 2006 and it treated the question of legitimacy. Several contributors tried to understand the problem both from a theoretical and a practical point of view (Van der Vijver 2006). My own contribution to this volume was a bit different. I tried to combine an historical and philosophical perspective in order to avoid the enormous problem of giving an precise definition of general concepts as trust, authority or legitimacy of looking for reliable indicators in big databases. To my opinion legitimacy is a complex phenomenon that only can be understood as the product of a rather long multilayered development. Therefore it is very important to understand the real history of the Dutch police and the specific layers that are influencing the practice of policing in our actual world.

In fact I believe that four 'layers' or dimensions come together in the issue of legitimacy. They emerged in various phases of history, from the mid 19th century onwards, and bring their very own perspectives with them. This train of thought – whereby modern history is viewed as a process of sedimentation – can be illustrated at different levels. I will explain it first at the conceptual level, followed by the strategic, tactical and operational level. This all leads to a *modern* view of authority and legitimacy, whereby it is not a question of a definition or a dilemma, but of a combination of the forces which are linked with various dimensions of our historic reality.

1. A conceptual perspective

The legitimacy of the police is inextricably linked with that of the government in a more general sense. For this reason, I would first like to say something about the various forms the latter has taken in the course of history, and about the way in which these forms are interrelated. In doing so, I will make use of the typology proposed by A. Hoekema and N. van Manen a few years ago. It roughly coincides with a classification I used in my study of the public attitude to politics (Van den Brink 2002: 11-27). In both cases, history since 1848 is divided into a few main periods, which are not only characterised by their own form of legality, but also by a specific relationship between the government and the public.

The first period stretches from 1848 to about 1900 and is dominated by a 'liberal philosophy': the government is limited in scale and interferes as little as possible with society. One can definitely speak of legality, but it has a rather formal nature. It rests on a coherent system of abstract laws, within which the individual is granted his rights but without being unduly obstructed in his freedom of movement. It stems from the core values of a liberal society: the principles of freedom and equality which were placed on the agenda following the civil revolutions at the end of the eighteenth century, but were only realised in a formal-legal sense for the time being (Hoekema 1994: 35-57). Although the government plays a modest role, it is fundamental in one sense i.e. when it comes to safety and public order. When these are threatened, the rights of citizens may be violated. However, maintaining public order is more than simply fighting crime. The term 'police' still covers a fairly broad spectrum in the second half of the nineteenth century. It refers to the enforcement of decent behaviour, but also to care for the poor, the surveillance of urban

2

neighbourhoods and measures relating to hygiene. In addition, it is important from 1848 onwards that a democratically elected government exists. Those entitled to vote might well be limited to the (upper) middle classes, but nevertheless the administration is founded on a representative democracy. This has far-reaching implications for the legitimacy of the government. Laws and other measures can no longer be legitimated by the power of the King or ancient traditions. From now on, politicians are treated as representatives of 'the people' (Van den Brink 2002: 12-14).

Towards the end of the nineteenth century, this constellation attracts increasingly criticism and raises more and more questions. Processes such as industrialisation and urbanisation are creating new social inequalities and difficulties, which cannot be solved by formal legal measures alone. Governments are forced to protect poor citizens or to provide them with compensation. Both the legislator and the courts intervene more often in social life, for example when it comes to compulsory education or the situation within factories. The government can no longer restrict itself to issues of public order or safety. Not only police-related, but also moral arguments play a role, with people striving to achieve more social justice in particular. Certain segments of the working class begin to organise themselves and become one of the forces that struggle for power. In addition to the labour movement, a women's movement also becomes active at the end of the nineteenth century. People want more than guarantees of liberal freedoms and press for the improvement of social equality and the protection of weak social groups (Hoekema 1994: 59-86). All of this has political consequences. With the introduction of universal suffrage in 1919, the circle of participants increases massively. It is no longer the upper class that exerts political influence; the general public now shares in this. This gives rise to a new type of legitimacy. Legitimate action by the authorities not only demands that they respect the formal system of Law, but also that they take the endeavour towards social justice more seriously (Van den Brink 2002: 13-15).

The third period begins in 1945 and is associated with another very different set of elements. The government starts to collectivise the main risks of life. Gradually more and more regulations appear, to insure the population against the consequences of sickness, incapacity to work, unemployment and old age. This is motivated by an awareness that these risks are not so much the result of the action of separate individuals, but of the social situation in which they find themselves (often involuntarily). A division then emerges between the individual conscience and the institutional arrangement. The legislator thinks less and less in terms of personal responsability, but aims at the effective regulation of liability. This involves more than social justice and certainly more than a legal formality. To minimize individual risks the government develops a whole series of new arrangements (Hoekema 1994: 87-113). This does assume a certain degree of solidarity, but it takes on a bureaucratic and impersonal guise. Anyone who always pays his/her tax or insurance premium will automatically receive the care that he or she needs. Partly as a result of this, financial security becomes a very important theme in politics. The government legitimates its policy by referring to the effects on income and an equal distribution of economic setbacks. At the same time, a completely different configuration of actors emerges. Large sections of the population are affiliated with the organisations which were formed in the previous phase, but they do not play an active role. Policies are determined to a high degree by leaders of the (compartmentalised) organisations. This situation, which the political scientist Lijphart typifies as a form of pacification (Lijphart 1982: 131-163), goes hand in hand with a new form of legitimacy.

3

Government policy is not only acceptable because it keeps within a legal framework (legality) or because it compensates for social inequality (justice), but because it leads to financial security, an improvement in the standard of living and a steady increase in provisions (Van den Brink 2002: 13-15).

Finally, in the mid-seventies, a fourth era begins. More and more citizens are dismissive of the traditional power relationships and demand attention for their ideas. First in the form of social movements which are critical of the traditional policy, later in the form of professionally-led organisations which try to influence policy by means of campaigns and via the media. This tendency leads to a new type of legitimacy, where not only the results of decision making but also the game as such is under discussion. The adoption of laws and rules should no longer be a matter for governments; it is something that concerns the public. For this reason, there is a lot of interest in procedures, in forms of exclusion and in the skills needed to take part in the decision making. This presupposes citizens who want to play an active role or skilled professionals who shape the policy in consultation with each other. In the end legitimacy has changed: laws and other measures only have credibility if people can identify with them.[1] In this way, the political game changes focus. It is not primarily about public order or safety, nor is it concerned with social justice or financial security, but the way in which the involvement of the public and professionals takes shape. Apart from police-related, moral or institutional motives, more personal ones also play a role. In addition, communication and information are becoming increasingly important. Anyone who wants to play a serious role in the decision-making process must make sure that he/she has as much information as possible at the earliest possible stage. In this sense, the emergence of the knowledge society is not an autonomous or purely technical development, but linked to contemporary forms of exercising power (Van den Brink 2002: 105-114).

It is beyond debate that such classifications fail to do justice to the complex and by no means uniform history of our political past. But they do remind us that the political game has been played very differently in different periods and that this has consequences for the way in which the government legitimates itself. Hoekema and Van Manen are right in writing that these types do not replace each other and that one kind of legality is not simply substituted by an other (Hoekema 1994: 171). Several forms of legality can indeed exist in the same time, but in my opinion their interrelationship is a bit more complicated than that. Personally, I try to understand this succession as a process of sedimentation in the geological sense. There are several layers, which are developed at different times, whereby an old layer might well be covered by a more recent one but without disappearing or losing its significance. One could even say that the oldest layers are the most important, because they form the foundations for the rest. The only problem is that this oldest, bottom layer is also the most invisible and the public debate always focuses on the most recent one (Van den Brink 2002: 16-18). Translated into the forms just discussed, I suggest to see the formal legality as a first layer. It forms the bedrock for the liberal state that gives all citizens the security of freedom and equal rights. The second layer relates to social justice. Although it is formulated within the framework of the constitutional state, it brings a new dimension with it. It is on the basis of this that the welfare state was built in the years after the Second World War: again, new elements are added to the historical basis. Finally, a desire to more direct involvement of the public and professionals has emerged in recent decades. For the people at the

4

time, the issue of legitimacy is placed in a different light in each period, but from an historical perspective, it can best be viewed as a process of accumulation.


2. The strategic perspective

The questions one can ask with respect to government in general also apply to the police. Like all other government agencies, the police service is involved with issues of formal legality. It must also be sensitive to aspects of social justice and discharge its duties in an expedient manner. Finally, it must communicate in a modern way and explain how it wants to deal with private citizens or institutions. All this applies equally to the tax authorities or the Ministry for Education but the police occupies a unique position, because it has a monopoly on the use of force. Therefore the police is confronted with a number of questions about its legitimacy, which can only be answered adequately if one acknowledges the strategic position the police occupies in society. This question too is subject to change and must be reconsidered from time to time. For this reason, I would like to link up here with the latest report in which this strategic position is discussed. I am referring to *Politie in ontwikkeling (Police in Evolution),* which was published in 2005 and which will have a significant influence on the debate in the coming years.

Let us start with the four components into which policing is divided nowadays. In the Police Act of 1993, three main duties are listed and a fourth follows from these. The police is charged with 1. maintaining public order, 2. investigating crimes, 3. providing help in emergencies. The authors derive a fourth duty from this, namely identifying problems or providing advice. Of these tasks, number two is actually the oldest and it is most directly connected with the monopoly on force: tracing and apprehending citizens who have committed a crime and ensuring that they are punished. In discharging this duty, it becomes unavoidable to exercise the monopoly on the use of force. No wonder that most people still consider the main task of the police to be 'catching criminals'. Nevertheless, *Politie in ontwikkeling* makes two critical remarks. First, the authors are no great fans of repressive action in reducing crime. Public opinion overestimates the contribution penal law makes to improving safety. The authors prefer the strategy of 'thwarting', whereby crimes are prevented or at least made more difficult to commit. Penal law is allocated a primarily symbolic function. As the police responds promptly to violations, it demonstrates to the public that it is better to abide by the law, but this does not actually make things safer. Second, the authors object to the proposition that fighting crime is the police's core duty. They believe very firmly in the balance between the three tasks of investigation, enforcement and assistance and they are supported in this by a report from the Netherlands Scientific Council for Government Policy (WRR), which states that effective law enforcement is one of the conditions for a well-functioning constitutional state (Welten 2005: 60-80). This task is unequivocally associated with the monopoly on force and thus with a specific element of the police as government agency (SCP 2002: 655-678).

A second important duty of the police is to maintain public order and supervise social life. As representative of the government, the police exercises its authority in the public arena. It is the agency to which the public can always appeal. *Politie in ontwikkeling* makes use of different terms when it comes to interpreting this function. In the public domain, the police must 'ensure order, peace and safety' but

5

also 'protect persons and their possessions', as well as 'enforce' in its role as supervisor. Elsewhere, the authors write that social safety relates to the orderly course of events in the public domain and the protection of people against (perceived) threats to person and property. In other words: it is not always clear what is meant by enforcement. We also know that this function has been interpreted differently through time. Until the late 1970s, the police simply implemented orders from the local authorities. After that, people developed a rather light-hearted approach to enforcement in the Netherlands, and tolerance became popular. Since the end of the 1990s, calls for tougher action have been heard again and people feel that the police has neglected its role as representative of (government) authority too much. At the same time, a process of 'fragmentation' has occurred. Through the years, more and more specialised inspectorates and investigation departments were developed, focusing on just one aspect of police work. Also, increasing numbers of supervisors, such as civic guards and community managers, were appointed, whilst numerous private security firms became active. *Politie in ontwikkeling* speaks of a structural increase in authority and believes that this has led to a lack of clarity regarding responsibility (Welten 2005: 48-49, 54-57, 78-79). This last point seems rather exaggerated and one could just as easily see it as a sign of specialisation. In my opinion, the legitimacy of police action in maintaining public order is not at issue.

The authors then deal with a number of activities in the domain of public service. Most of these duties evolved in the 1980s and 1990s, in a process that was encouraged by the publication of *Politie in verandering* (Police in Change) in 1977. This report argued in favour of the socialisation of police work, of better contact between police and public, of working on the basis of knowing and being known and of a community-based method. The police must clearly demonstrate that it is serving the public and act on the basis of social involvement. In this way, the centre of gravity shifted: the emphasis came to rest more on the police officer as helper and partner in local safety policy and less on his/her role as supervisor or enforcer of the rule of law. The field of operations thus expanded massively. Yet there are signs of further expansion in the new memorandum, in four senses. First of all, the term community does not only allude to a district or neighbourhood, but also to other forms of community such as a business or a certain professional sector. The principle of knowing and being known is also applied to these. A second expansion involves not only looking at the lack of safety in objective terms. There is a growing recognition of the way people and parties perceive problems of safety. The authors even say it is unavoidable that the police involve subjective 'unsafety' when developing its policy. In the third place, it is important that the police is responsive to all groups and cultures. Finally, responsibility for safety is becoming increasingly interwoven with the work of other professionals. At the end of the 1980s, social safety became the concern of several parties: apart from the police, the Public Prosecutor's Office, businesses, the public, the social field and local authorities were supposed to contribute to it (Welten 2005: 16-17, 26, 39, 48, 88). All together, a pretty ambitious agenda, which makes considerable demands on the available capacity.

To this already broad package of duties, *Politie in ontwikkeling* adds another and new dimension, which is referred to as the 'nodal orientation'. The background to this is that the conditions of the old safety concept have been undermined. Traditionally, safety was based on territory and geographic boundaries, but that is increasingly less so. The disappearance of borders and associated means of performing checks cannot be undone. Modern society is characterised by generalized

6

mobility. Social processes are determined more and more by the flows of people, goods, money and information. That creates not only new opportunities for social exchange or economic activity, but also for terror and criminality. Special attention needs to be paid to the points where these flows come together. There, we could reduce the level of anonymity and spot or stop the wrongdoing. Examples of such interfaces are ring roads and airports. Although the report does not mention any computer networks or servers, it is clear that they are among the main 'culprits'. These should be subjected to ongoing checks, geared towards identifying wrongdoing. These should be routine checks, with the police acting more toughly and using stronger powers than are acceptable in the neighbourhood (Welten 2005: 84-86, 90-91). This does raise a number of issues in connection with legitimacy, however. For example: should the police be visible as such in the digital domain when conducting its surveillance? Invisibility has technical advantages, but visibility probably has a more preventive effect. Another question relates to the status of the digital domain. Does it constitute a social space where people are expected to respect each other or does it form an imaginary space, a world of fancy? Should the emphasis be placed on identifying problems and drawing attention to them or does the police also have duties here in the realm of providing help, enforcement and investigation? Can the huge quantities of information actually be stored, managed and processed? And what requirements must be set on the capacity to interpret this information? It is perhaps rather easy to raise all kinds of problems as soon as a new idea is launched, but viewed from the perspective of the issue concerning us here, they are definitely urgent. Before the police embarks on this new course, the technical, legal, intellectual and ethical aspects of the nodal method must be thoroughly investigated and discussed.

Although *Politie in ontwikkeling* consciously speaks of an equal order of duties, that equivalence is not easy to justify from an historical perspective. It would be better – referring to the forms of legality in the previous section – to speak of accumulation or sedimentation, whereby certain duties have been discharged for a very long time by the police, whilst others have been introduced more recently. In this way of thinking, the monopoly on the use of force when arresting criminals and maintaining public order must be viewed as the oldest and most classical of police duties. During the 1970s, functions relating to public service were added and at the moment a new task is developing in the field of information processing. The appearance of new duties does not mean that old ones become less relevant: they continue to be basic duties but new ones are added to them. That is very important for an institution looking for trust or legitimacy. The police is no longer an instrument in the hands of the government, but has evolved into a professional organisation that is fully prepared to account for its action (Welten 2005: 14-15, 24-25).

Which criteria are the most relevant in this respect ? It is understandable that the professional should resist too strong interference on the part of the Ministry. Detailed regulations and hierarchic accountability are fatal to one's professionalism. But how do they want to give account? Must they comply with the wishes or expectations of the public? This is not without risks, because these expectations are ever-increasing and that can quickly lead to dissatisfied citizens. Partly for this reason, *Politie in ontwikkeling* states that each municipal authority should develop a safety programme, by means of which the police can indicate what it stands for. On the basis of this, they can give account to both the competent authority and the local community. It is crucial that all parties know which duties the police has taken upon

7

itself and which priorities are observed in discharging these duties. Another difficulty is that police work always involves several activities. In practice, watching over the constitutional state, maintaining order in society, taking repressive action and providing help are constantly intertwined. That not only applies to the organisation as a whole, but also to every officer individually. He or she must assess each new situation and decide what kind of action has priority. In my opinion the police must account for its action in terms of achieving balance. It must get the optimum mix of signalling problems, offering help, maintaining public order and the use of force. This balance has been subject to change through time. In the 1960s, police legitimacy was pushed aside because there was a one-sided emphasis on enforcement and repression. During the following phase, the centre of gravity shifted to providing help and social engagement. At the end of the 1990s, the centre of gravity moved again, and the police was considered too soft. In its orientation on the public, it had allegedly overshot the mark and needed to act more often as enforcer (Welten 2005: 26-27, 40-49, 102-103). All of this illustrates how the right balance between these duties is not only an issue for the police itself. What is considered the most desirable mix depends partly on the social situation.


3. The tactical perspective

The third level on which the legitimacy of police action can be evaluated is the tactical one. This not only involves the question of how we view the police as government organisation in a general sense (section 1), nor the strategic problems associated with the monopoly on the use of force (section 2), but the more concrete question of how the police has to behave in a specific social situation. As a rule, that will be determined by local or regional circumstances. It depends on the sort of citizens the police have to deal with in their daily work. It is connected with the specific risks or problems in the municipality in question. And it is related – last but not least – to the way in which governance and accountability are organised. In other words: one can point to many factors and circumstances which have an impact at the tactical level and they can all have either a positive or negative influence on the legitimacy of police action. It is not practical to deal with all these circumstances and, for this reason, I will restrict myself to a subject of which I have some understanding. That is the question: what is the social profile of the citizens with whom the police are involved and what implications does this have for the tactical aspects of their work?

This question relates mainly to the attitude of these citizens towards the constitutional state. People who have little regard for the principles of our constitutional state will, generally speaking, be more negative towards the police and require different tactics than people who adopt a more positive attitude. This group consists of a large number of subgroups of course. For instance, (young) men with a high-risk lifestyle, who regularly indulge in antisocial or aggressive behaviour. Or football hooligans who have a regular job and at the weekend look for kicks in violent confrontation. Another category comprises those who are involved in the traffic in women, drugs or weapons and other forms of organised crime. One can also think in terms of people who take to violence, commit attacks or plan kidnappings for religious or political reasons. The police will employ repressive measures against all these groups. Examples of this include bugging, infiltration, deployment of the riot squad, arrest and, if necessary, shooting to kill. Which tactic is chosen in a specific

8

case depends on the actual circumstances. Common to all these situations is that the police employ various forms of coercion. This is legitimate, as it involves citizens who pay no heed to the principles of the constitutional state. But it is clear that other situations demand different tactics. Apart from serious crime a distinction must be made between three types of citizen and social environment.

The first group can be referred to as *embarrased citizens*. These are people who have little faith in parliamentary democracy and often do not bother to vote in elections. In their eyes, the government does not come up to scratch, but they also show little interest in politics as a whole. They are uncertain on moral issues and tend towards authoritarianism. They feel the need for strong leaders and believe that society should be rid of its antisocial elements heavy-handedly. These citizens often live off benefits or a modest income, are not well educated and tend to live in neighbourhoods where a lot of problems converge (Van den Brink 2002: 77). In these 'deprived neighbourhoods', two points are important when it comes to safety. According to Pieter Winsemius there must be a dominant police presence and sufficient manpower must be deployed. An important priority is to make sure that the law is enforced unambiguously. Tolerance is often fatal in such neighbourhoods, because the young people then just make fun of the officer. The police must therefore act forcefully and deal with offences as soon as they happen. Sometimes a form of 'social re-conquest' is necessary, to show who's the boss on the streets. The need for such tit-for-tat policy is prompted partly by the strong bonds which often characterise life in deprived neighbourhoods. Local residents may enter into joint confrontation with the police. Sometimes there is tight social control, as a result of which crimes are not reported. As a result, maintaining public order will be given a prime part in police tactics. This does not mean that it is only a question of rules and regulations. Alongside enforcement, Winsemius is a great believer in welfare and social work, whereby problem juveniles are offered a new chance. But that will only work if the police does not make too many concessions when it comes to public order (WRR 2005: 69-70).

Generally speaking, the police may adopt a different approach with the second group of citizens. These people are loyal to the Dutch constitutional state, although they do not have pronounced views on it. They are sometimes active in their local area or socially, but are often reticent when it comes to politics. Partly as a result of this, I have called them *awaiting citizens*. This is misleading in as far as they do take action when they feel that their own interests are threatened. This has implications for the way in which the police approach them (Van den Brink 2002: 78-79). Particular attention must be paid to their own sense of responsibility. In the middle-class neighbourhoods where they live, the police can adopt an open and accessible stance. The emphasis is not on catching criminals, but on improving prevention and self-vigilance. The community police officer regularly drops in on the local residents to hear their concerns and tries to work with them, without taking over all responsibility for safety. It is important to respond adequately if the citizens have particular questions or needs relating to safety. At the same time, the police can try to mobilize the local residents when it comes to things they can organise together. The central idea is that citizens themselves can do quite a lot to improve the safety of their environment. Sometimes this could involve technical measures, another time agreements between neighbours and, yet another time the way in which children are raised (WRR 2005: 70-71).

9

The third group can be considered as *ambitious citizens*. They tend to be people on a good income, who have been well educated. They display a lot of interest in politics, often show themselves to be socially active and have a positive attitude towards parliamentary democracy. They have clear opinions on moral issues and they reject authoritarian action or strong leadership (Van den Brink 2002: 77). Winsemius refers to the social environment in which they live as 'privileged neighbourhoods' and outlines the implications in terms of safety. These local residents find it easy to reach agreement and display a great deal of reciprocal trust. They are able and willing to invest in their own safety, for example by installing alarm systems or hiring private security. When evenings are held on burglary or prevention, a lot of people show up and the community police officer usually has little trouble explaining what the police can and cannot do. Knowledge and information play a prominent role when it comes to safety in this environment. In some places, a neighbourhood network has been set up, where the local residents can report such things as groups of young people loitering, problems with drugs or litter on the streets. In other words: these are active citizens who like to share their ideas on safety policy in the neighbourhood and are willing to be called to account on their contribution (WRR 2005: 71-72, 155). In the tactical sense, it is mainly a question of identifying problems or advising and the police will focus mainly on communicating in the right way.

It thus appears that the legitimacy of police action is partly dependent on which citizens are involved and the nature of their social situation. The police must deploy its resources differently, depending on the problem (Engbersen 2005: 19-21). Yet one cannot say that it is only a question of the right choice at this level. There also needs to be a certain balance. In other words: it is partly a question of policy and the police are not the only ones concerned with this. To put it more strongly: the local authority bears prime responsibility for it. Decisions about safety policy not only affect the police, but also education, the welfare service, the housing corporation, the hospitality sector and other local players. In fact, there are few local authorities which adequately perform their role as policymakers. They sometimes draft impressive plans, but things often turn out very different in practice. It is apparently difficult to get professionals from different backgrounds to co-operate. Moreover, the local authority often deploys insufficient manpower for co-ordination and harmonisation (AEF 2005: 34-37). Winsemius names three problems which regularly crop up. Firstly, authorities still too often choose a uniform approach whilst the emphasis should be on the specific problems of a neighbourhood, enabling the police officer to focus on community policing. Secondly, front-line workers (including police officers) are often held on very tight reins by their manager. Thirdly, there is considerable room for improvement when it comes to the co-operation between different players in the field of safety. To solve these problems, one could make use of intervention teams or special officers more frequently. Winsemius refers to the example of the so called 'city marines' in Rotterdam. These officers mainly work in problem neighbourhoods, have extra powers to intervene if necessary and are judged on the results of their action (WRR 2005: 72-75). Recent experience shows that the deployment of such resources definitely benefits police legitimacy (Tops 2007: 192-227).


4. The operational perspective

This brings me, finally, to the operational level. One can raise the question of what constitutes the legitimacy of government action in a general sense, one can try to improve the legitimacy of police work and one can strive towards legitimacy at the municipal level, but all of this remains abstract unless it is expressed in the everyday work of the police officer. Ultimately, legitimacy has to be earned on the streets. As far as the interaction between individual police officers and individual citizens is concerned, we can make another distinction between four components.

Let us first look at the question of how the police respond to dangerous situations and physical violence. Given the repressive aspects of police work, these situations are unavoidable, but it does not mean that all officers are well prepared or sufficiently skilled. Specialised units such as arrest teams or riot squads have usually been trained rather well. They make use of clear lines of command, a fixed allocation of duties and reliable means of communication, so that the use of force occurs in a professional manner. That applies much less to the officer who is faced with dangerous situations or physical violence during normal police duties. Very little training is given in this, and there are also insufficient procedures for exchanging intelligence and providing leadership. According to Jaap Timmer, more attention should be paid to such matters as maintaining enough interpersonal distance between officer and adversary, a conscious 'dosing' of the force used, the communication with colleagues and the checking of exits when an enclosed space is involved. Furthermore, there must be more practice of skills such as self defence and use of the police firearm. Finally, he points out that self-confidence on the part of the officer is a precondition for motivated and professional performance (Timmer 2005: 509-522). I will not comment on whether or not the Dutch police are sufficiently trained and equipped in this area, but we must note that their performance is not always convincing in the eyes of the public. A common complaint is that the police have become much too soft and many people feel they should act more forcefully.[2] That does, of course, impact on the issue of legitimacy. One simply cannot get away from the fact that the police wields the sword in our society and if they are not prepared or able to use that sword adequately their credibility is very limited indeed.

One would expect this credibility to be greater in the execution of other police duties. But one cannot take that for granted. I will illustrate this by means of a study that Bas van Stokkom carried out on maintaining public order. In the major cities in particular, many citizens have little regard for traffic regulations. If you rebuke someone for their antisocial behaviour, you get a mouthful back. Yet such behaviour as swearing, urinating in public, vandalism and causing a nuisance do have a demoralising effect. As a result of degeneration, the public develop avoidance behaviour and social control in their neighbourhood is undermined. Furthermore, it appears that verbal abuse and physical violence are often related. Professionals who are verbally abused are more likely to be the victims of physical violence too. This applies pre-eminently to police officers. The smallest incident can escalate in a big way. Apart from people who cause trouble under the influence of drugs or mental diseases, there is no shortage of 'street fighters', who become aggressive as soon as they even see a police officer. There are assertive passers-by who fly into a rage at the least provocation. And there are aggrieved citizens who demand their rights immediately. As a result, the authority of the police in the public arena is under pressure. In response to this, the Amsterdam police force has given top priority to combating deviant behaviour. Under the title *Streetwise,* a project was launched in 1997 that focuses on dealing with minor but frequent offences. In this way, the police

11

wanted to promote decent behaviour in the public domain and reinforce its own authority. For clarity's sake: this approach is not a form of zero tolerance. The main thing is to establish proper relations with the public, whereby the police remain fully attuned to the social situation. Although the Van Stokkom study reveals that the implementation of *Streetwise* is often associated with problems, all officers believe it is necessary. They reject the former policy of tolerance and are keen to see their authority on the streets increased. There is no more looking the other way: anyone who breaks the rules must be dealt with. A large section of the public agrees with this and, in this sense, the effects of *Streetwise* can be considered positive. The people of Amsterdam now show more respect for the traffic regulations and antisocial behaviours such as urinating in public or causing a nuisance have been less common in recent years (Van Stokkom 2005: 13-18, 106, 139). This suggests that it *is* possible to strengthen the authority and legitimacy of the police in the public domain.

At the same time, this study reveals that it is not simple – precisely at the operational level – to do this in an acceptable way. The response to a crackdown on minor offences is often one of incomprehension or resistance. Many officers complain that they get a lot of verbal abuse. Citizens see control measures as an unlawful infringement of their personal integrity. Using freedom of speech as their excuse, they believe that they have the right to verbally abuse a police officer. They prefer to think of the suspect and the officer as equals and fail to appreciate that police officers represent legal authority. In other words: modern and assertive citizens force us to adopt a sensible approach in which the show of force is avoided as much as possible. Various behaviours have an adverse effect, such as the use of handcuffs and other means of coercion, making sarcastic or so-called funny comments, showing contempt or humiliating citizens. It is understandable that such behaviour occurs among the police, because brutal or aggressive conduct also irritates police officers. Yet they may not give in to this irritation. A coercive approach often leads to unnecessary problems, whilst officers with a co-operative and problem-solving attitude have more success. Police officers must realise that displays of animosity only undermine their authority. Van Stokkom even believes that the avoidance of such behaviour should be an elementary police skill (Van Stokkom 2005: 20-22, 47-48, 68-69, 125, 147-149). This latter conclusion perhaps goes a bit far, if only because officers will not put up with everything they get thrown at them. Yet it is necessary that they deal with such feelings in a professional manner and develop skills which are appropriate to the assertive lifestyle of today's citizen. To this end, more needs to be done than comply with rules of conduct. The police must also be able to adopt a helpful, responsive and flexible approach. All being well, that does not replace enforcement, but is based on the understanding that enforcement also calls for the necessary social intelligence. If people want to acquire a *modern* form of authority, then they must assume that supervision and involvement are not mutually exclusive but sooner reinforce each other (Van den Brink 2006).

Finally, one can ask the question of how the police operates when it comes to identifying problems and advising. As far as I know, this has not yet been studied empirically in the Netherlands and I will therefore have to give an example that relates to problem neighbourhoods. In these neighbourhoods, we see a convergence of problematic phenomena such as high relocation rates, a concentration of ethnic minorities, people on average income leaving the area, degeneration of the public space, increased crime, etc. These processes have often been under way for some time, but at a certain point they start to reinforce each other to such an extent that they

12

create a downwards spiral (Van den Brink 2007: 318-322). To what extent can the police spot these signs of deterioration at an early stage? How do they respond if the customers of a coffee shop become more of a nuisance, if the local shop closes down, if the local residents barricade themselves in behind a reinforced door or use an unlisted telephone number, or if certain rumours are doing the rounds in the neighbourhood? The community police officer must not only spot these signs as soon as possible, but also pass them on to the agencies which can perhaps do something about them, such as the local council, housing corporations, social services or the local business community. In the unlikely event that these agencies fail to accomplish anything, there is always the option of informing the local media, to generate public discussion or indignation. At all events, the police can give more weight to its duties in the field of identifying problems, advising and, if necessary, raising the alarm, than has been usual up to now. That would also be good in terms of legitimising its own action. One simply has more authority if one warns against problematic developments at an early stage and, considering the unique position the police occupies in terms of intelligence, it would be sensible to do this.

It goes without saying that legitimacy at this level is again a question of the right mix and not of making a choice. The individual police officer must be on the lookout and observing all the time, but also maintaining order. He or she must be able to provide help if the situation calls for it, but also hit the mark when things get really dangerous. One could say – to formulate it negatively – that an officer who is lacking one of these components immediately loses his/her authority. Officers who offer help without paying any attention to deviant behaviour or danger have little credibility. But that applies equally to those whose action is coercive or heavy handed without picking up on signals emanating from the social situation or the public. Expressed in more positive terms, this means that authority or legitimacy in modern society can only emerge from the coming together of several dimensions.


5. Conclusion.

Based on the above, I believe that we must not view authority and legitimacy in a digital way (you have it or you don't). It is not even correct to see it as something gradual (you have more or less of it). Instead, I think of police legitimacy as a complex affair, whereby four components are combined in a specific way: a repressive, a normative, a responsive and an informative component. As this involves independent dimensions, one can never say that one aspect is at the expense of another. Tough action when it comes to enforcement by no means conflicts with providing help, gathering intelligence or infiltrating in criminal networks. I admit that, in the public debate (and perhaps also in the subjective experience of officers themselves) choosing one might exclude the other. But that is mainly a question of

Table 1
Legitimacy on four levels (conceptual, strategic, tactical, operational) and the four dimensions involved.

|  | 1848 | 1900 | 1945 | 1975 |
| --- | --- | --- | --- | --- |

13

|  | repressive | normative | responsive | communicative |
|---|---|---|---|---|
| conceptual | legality | justice | certainty | involvement |
| strategic | investigating | enforcing | offering help | identifying |
| tactical | delinquents | embarrassed | awaiting | ambitious |
| operational | arresting | surveillance | assisting | signalling |

perception. The picture people have of a member of the riot squad is simply difficult to reconcile with that of the police officer who drops by for coffee with the people in his community. In reality, the police have a vast repertoire to choose from when performing their work and a good officer is one who – depending on the situation at hand – can switch between these different possibilities. That not only applies to operational action, but equally to what I just referred to as the tactical, the strategic and the conceptual level. The local safety programme should also be a well balanced mix of repressive, normative, responsive and informative elements, whereby the weight given to these components depends on the situation of citizens or neighbourhood. The same applies *mutatis mutandis* to how the police functions as a whole and even to the government in a more general sense. A government that chooses solely to enforce the rules – therefore without paying any heed to the needs of the public and without any concern for the communicative side of its policy – will enjoy little authority under modern conditions. On the other hand, its authority will equally be undermined if it adopts a communicative, responsive and normative attitude but is not prepared to make use of the monopoly on force it possesses in the constitutional state.


Gabriël van den Brink

Literature

AEF (2005) *Regie in de uitvoering, een kwestie van willen, kennen en kunnen*, Utrecht: AEF.

Brink, G. van den (2002) *Mondiger of moeilijker? Een studie naar de politieke habitus van hedendaagse burgers*, Den Haag: Sdu Uitgevers.

Brink, G. van den (2006) *Van waarheid naar veiligheid. Twee lessen voor een door angst bevangen burgerij*, Amsterdam: SUN.

Brink, G. van den (2007) *Prachtwijken ?! De mogelijkheden en beperkingen van Nederlandse probleemwijken*, Amsterdam: Uitgeverij Bert Bakker.

Dekker, P. & P. Tammes (2007) 'Het opinieklimaat', in: R. Bijl, J. Boelhouwer & E. Pommer red. (2007) *De sociale staat van Nederland 2007*, Den Haag: SCP.

Engbersen, G., E. Snel & A. Weltevrede 2005) *Sociale herovering in Amsterdam en Rotterdam. Eén verhaal over twee wijken*, Amsterdam: Amsterdam University Press.

Hoekema, A. & N. van Manen (1994) *Typen van legaliteit. Recht en maatschappelijke orde in de twintigste eeuw*, Deventer: Kluwer.

Gunther Moor, L., & K. van den Vijver red. (2000) *Het gezag van de politie*, Dordrecht: SMVP.

Lijphart, A. (1982) *Verzuiling, pacificatie en kentering in de Nederlandse politiek*, Amsterdam (4$^e$ druk): J.H. de Bussy.

Os, G. van & G. van den Brink (2007) 'Tweezijdige behoorlijkheid', in: A. Brenninkmeijer red. (2007), *Werken aan behoorlijkheid. De Nationale ombudsman in zijn context*, Den Haag Boom Juridische uitgevers, pp. 149-168.

SCP (2002) *De kwaliteit van de quartaire sector. Sociaal en cultureel rapport 2002*, Den Haag: SCP.

Stokkom, B. van (2005) *Beledigd in Amsterdam. Verbaal geweld tussen politie en publiek, Amsterdam*: Politieregio Amsterdam Amstelland.

Timmer, J. (2005) *Politiegeweld. Geweldgebruik van en tegen de politie in Nederland*, Alphen aan den Rijn: Kluwer.

Tops, P. (2007) *Regimeverandering in Rotterdam. Hoe een stadsbestuur zichzelf opnieuw uitvond*, Amsterdam: Uitgeverij Atlas.

Vries, M. de & C. van der Vijver (2002) *Beelden van gezag bij de bevolking en bij de politie*, Dordrecht: SMVP.

Vijver, K. van der, & F. Vlek red. (2006), *De legitimiteit van de politie onder druk? Beschouwingen over grondslagen en ontwikkelingen van legitimiteit en legitimiteittoekenning*, Den Haag: Elsevier Overheid.

Welten, B. e.a. red. (2005) *Politie in ontwikkeling. Visie op de politiefunctie*, Den Haag: NPI.

WRR (2005) *Vertrouwen in de buurt*, Amsterdam: Amsterdam University Press.

---

[1]    Hoekema 1994, pp 115-170. Strictly speaking, Hoekema and Van Manen make a distinction for the post-1975 period between forum legality and co-operative legality. Further analysis shows, however, that the differences between these two are very limited.

[2]    See cover article of *HP-De Tijd,* published on 12-8-2005, entitled 'Hoe soft is onze politie ?' (How soft are our police?)