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General introduction

1.1 Introduction

Since the beginning of this century, the Dutch government has been particularly concerned with high recidivism rates. Reports showed that 70 per cent of all former detainees come into contact with the criminal justice system again within seven years of their release from prison (Directoraat-Generaal Preventie, Jeugd en Sancties, 2008). With rapidly increasing imprisonment rates since the mid-1980s (Boone & Moerings, 2007; Downes & Van Swaaningen, 2007), and its effectiveness in terms of high re-offending rates under heavy debate, a major policy aim of the Ministry of Security and Justice in reducing recidivism rates was to increase the effectiveness of the sanctions system. Part of this objective was to seek selectivity and differentiation in the type of sanctions offered, with a strong focus on implementing sanctions that pay attention to the nature of the offence and the criminogenic needs and risks of the offender (TK 2009/10, 32 319, no. 3).

Subsequently, suspended sentences, which have been part of the Dutch penal system since 1915, received renewed interest from policymakers. This renewed interest was also accompanied by an increased imposition: between 2002 and 2011, the proportion of (partially) suspended prison sentences on the total number of prison sentences imposed increased from 48 per cent to 58 per cent (Beerthuisen & Wartna, 2013). A majority of the Dutch prison sentences now contain a suspended component. Suspended sentences are deferred sentences, which mean that they will only be executed if offenders do not comply with the general and special conditions attached to these sentences during their probation period. Every offender is subjected to the general condition: they must abide the law during their probation period. In some cases, special conditions are attached to suspended sentences that focus on controlling and/or treating the behaviour of the offender. This threat of punishment accompanied by general and special conditions is expected by policymakers to reduce recidivism more effectively than imprisonment does, as the probation period provides the time to work on the behaviour of offenders (Directoraat-Generaal Preventie, Jeugd en Sancties, 2008). While offenders sentenced to a prison sentence of at least four months are eligible for some form of rehabilitation or treatment programme (the voluntary Prevention of Recidivism programme) (Van Der Linden, 2004), most offenders sentenced to imprisonment spend less than two months incarcerated (Directoraat-Generaal Preventie, Jeugd en Sancties, 2008). These offenders are less likely to receive any form of rehabilitation, as it is too short a period to work on and realize behavioural change.

Suspended sentences have been part of the Dutch penal system for nearly one hundred years, but up to now, little empirical research has examined this specific

sentence. In the context of the increasing popularity and imposition of suspended sentences, more knowledge is needed on the execution and effectiveness in terms of re-offending of these sentences. This thesis addresses three questions related to suspended sentences, which, so far, have received little empirical attention. Firstly, while the court is imposing them more and more often, to what extent does public support exist for suspended sentences? Knowledge on public opinion/support for sentencing is continuously progressing, but as Stalans (2002: 20) argues, researchers have ‘barely scratched the surface’ of public attitudes regarding punishment. This is especially true for suspended sentences. Evidence from international research shows that there appears to be much ambivalence and a lack of awareness among the public regarding the purpose of these sentences (Armstrong, McIvor, McNeill & McGuinness, 2013). In general, they have little confidence in suspended sentences as they feel offenders are let off (Freiberg & Moore, 2009). It is important to examine public opinion on suspended sentences as the public can influence sentencing and correctional policy (Roberts, 2002; Roberts & Hough, 2002; Sanders & Roberts, 2000). Judges can be receptive to public hostility towards sentencing, especially in the area of community sanctions (Roberts, 2002). They are less likely to impose community sanctions, regardless of their effectiveness, if they believe that the public holds unfavourable attitudes towards these sentences (Flanagan, 1996; Maruna & King, 2004). To our knowledge, only one study has examined public support for suspended sentences in the Netherlands (Van Gelder, Aarten, Lamet & Van Der Laan, 2011).

A way to increase confidence in suspended sentences is by letting the public know whether sentences are effective. However, little research has been done to determine the effectiveness of suspended sentences. The following two questions address this issue.

The second question this thesis addresses is: to what extent can compliance with the (special) conditions attached to suspended sentences be increased? Special conditions form an important part of suspended sentences. They are tailored to the individual offender to reduce the risks and criminogenic needs of each offender (TK 2009/10, 32 319, no. 3) and include, for example, treatment and substance abuse prohibition. In order for behavioural change to take place, it seems essential that offenders successfully comply with their conditions. Compliance with these special conditions is important to examine, because, as Robinson and McNeill (2008: 432) argue, ‘those who wish to promote community-based penalties as credible “alternatives to custody” in any jurisdiction must face the fact that such penalties rely to a far greater extent than custodial establishments upon the co-operation or ‘compliance’ of offenders to make them “work”’. Special conditions have gained a more central place in the Dutch penal policy (Directoraat-Generaal

Preventie, Jeugd en Sancties, 2008; TK 2007/08, 24 587, no. 299; TK 2009/10, 32 319, no. 3) and have been attached more often to suspended sentences since 2002 (Beerthuisen & Wartna, 2013). At present, however, little is known about Dutch offenders' compliance with these conditions or about how compliance can be enhanced.

A third question that arises is whether suspended sentences reduce recidivism. Beside compliance, recidivism forms an important topic of (research) interest, as the effectiveness of a sentence is often determined by its recidivism (see for example Directoraat-Generaal Preventie, Jeugd en Sancties (2008) regarding the aims of suspended sentences). It is expected that suspended sentences are more likely to reduce recidivism rates than short-term imprisonment are (TK 2009/10, 32 319, no. 3). However, evidence on the effect of suspended sentences on recidivism rates mainly stems from international comparative studies (e.g. Bartels, 2009; Cid, 2009; Lulham, Weatherburn & Bartels, 2009). To our knowledge, only two studies have focused on recidivism rates after suspended sentences in the Netherlands (Wartna, 2009; Wartna & Tollenaar, 2006). In addition, little empirical attention has been paid to comparing recidivism rates between different types of suspended sentences (i.e. fully or partly suspended sentences).

While suspended sentences have received attention in international literature, this thesis is one of the first to examine suspended sentences empirically in a Dutch context. Specifically, three aspects of suspended sentences are central in this thesis:

- (1) Public support for suspended sentences
- (2) Compliance with the conditions attached to suspended sentences
- (3) Recidivism rates after suspended sentences

The next sections provide a historical perspective on suspended sentences in the Netherlands and an explanation of its legal framework. This is followed by a discussion on its sentencing goals and an overview of the trends in the imposition of (suspended) sentences is given. Hereafter, an overview is provided of the research done on each of the three aspects of suspended sentences central in this thesis and to what extent previous research is extended in the subsequent chapters. Following each overview, a short description of the multiple data sources used to examine these three aspects is provided. The general introduction ends with an overview of the chapters.

1.2 A historical perspective on suspended sentences

1.2.1 The introduction of suspended sentences in the Dutch Criminal Code

Suspended sentences became part of the Dutch Criminal Code in 1915. They were introduced in a time when there was little confidence in short-term imprisonment (Kelk, 2004). Short-term imprisonment was imposed increasingly, but recidivism rates remained high (Franke, 1996). At the same time, scholars argued that offenders were not intrinsically bad, but committed offences due to external circumstances. They posited that merely inflicting suffering on the offender should not be the sole aim of punishment, but punishment should also aim to prevent future offending. To understand offenders and why they commit delinquent acts, scholars suggested that answers should be sought in empirical research. Sanctions found in empirical research to be most effective in minimizing future offending should be imposed (Bleichrodt & Vegter, 2013). The focus on empirical research and the emphasis on the effectiveness of sanctions have led scholars to make a distinction between two categories of offenders. The first group, the habitual criminals, are more driven by internal motivations to commit offences, while the second group, the ‘opportunistic’ criminals, commit offences due to external circumstances (Franke, 1996). For the first group, a (long) prison sentence was expected to be most effective, while for the second group this sentence would merely be counterproductive since they would have more difficulty reintegrating into society after their sentence. Other alternatives, such as suspended sentences, were believed to be more effective for these ‘opportunistic’ offenders (Bleichrodt & Vegter, 2013).

Confidence was placed in suspended sentences, as these sentences were deferred while simultaneously hanging over the heads of the offenders, functioning as a means to change their behaviour. If the threat of revocation was considered insufficient – if there were indications that the offender was not complying with the law (i.e. the general condition) – additional special conditions could be imposed (Bleichrodt, 2009). These conditions targeted the criminal behaviour of the offender. However, this resulted in judges imposing rather ‘creative’ conditions, such as an offender, convicted for kicking people with his clogs, who was not allowed to wear clogs during his probation period (Bleichrodt, 2000; 2009).

The initial enthusiasm for suspended sentences and their special conditions faded over time (Bleichrodt, 1996). The decline in confidence in special conditions was mainly caused by the difficulty to monitor these conditions (Bleichrodt, 2009). For example, a special condition stating that the offender was not allowed to go to a bar was difficult to monitor by the Probation Service. In addition, the public

prosecutor gave little priority to monitoring the compliance of offenders and the Probation Service was less likely to report violations, as they felt that this was not in line with their views about aiding and assisting offenders. Furthermore, with the development of other community sanctions such as community service and house arrest in the 1980s, suspended sentences lost their central position as effective substitutes for short-term imprisonment (Bleichrodt, 2009).¹

1.2.2 Attention remained suspended sentences in Dutch penal policy

Over the past few decades, many changes have occurred in Dutch penal policy. Compared with other Western countries, the Netherlands have witnessed one of the most striking punitive turns (Downes & Van Swaaningen, 2007; Tonry & Bijleveld, 2007). For example, from 1977 to 2004, the Dutch imprisonment rate grew with 375 per cent, followed by Spain with 119 per cent, and England and Wales and Italy with 73 per cent (Downes & Van Swaaningen, 2007), resulting in an expansion of prison capacity. In addition, there was also an increase in the imposition of community service since the late 1980s (Boone, 2010) and new sanction modalities such as electronic monitoring were developed (TK 2000/01, 27 419, no. 1). As a result of these developments, the complexity of the sanctions regime increased, which led the Ministry of Justice to question the credibility of its penal system. In 1996, the Ministry set up a working group to consider a re-orientation of the sanctions regime. In 2000, this working group released the policy memorandum ‘Sanctions in Perspective’ [*Sancties in Perspectief*] (TK 2000/01, 27 419, no. 1). One suggestion was to abolish suspended sentences with the general condition. The working group believed that this was not a credible sanction towards society as this condition – not committing new offences – applies to society in general and no extra effort is required on the part of the offender. A second suggestion was to combine community service and suspended sentences with special conditions as a way to make the penal system more transparent and legitimate (TK 2000/01, 27 419, no. 1).

Following this report, the Freedom Restriction Committee (Commissie Vrijheidsbeperking, 2003) was installed to examine the possibilities of revising the system of suspended sentences with special conditions. In 2003, it published its report ‘Freedom restriction through conditions’ [*Vrijheidsbeperking door voorwaarden*]. The committee recommended that suspended sentences with the general condition should not be abolished. Furthermore, it recommended replacing the broadly

¹ For a detailed overview of the legal developments of suspended sentences since 1915, see Bleichrodt (1996).

formulated special condition of ‘other special conditions concerning the behaviour of the offender’ by a more specific and limited set of special conditions. In addition, the committee advised that actions in response to non-compliance should be taken more swiftly and effectively so that suspended sentences remain credible sentences. It suggested allowing the public prosecutor, instead of only the judge, to make decisions regarding the execution of suspended sentences (Commissie Vrijheidsbeperking, 2003).

In 2004, suspended sentences again received attention by Dutch policymakers. In the policy programme ‘Modernising Sanctions Application’ [*Modernisering Sanctietoepassing*], the focus of the penal policy shifted from increasing its transparency (as was done in ‘Sanctions in Perspective’) to increasing its effectiveness. A shortage in cell capacity and high recidivism rates after imprisonment led the Ministry of Justice to focus, amongst others, on the possibility of a more selective and differentiating application of suspended sentences (TK 2003/04, 29 200, no. 167). Jacobs, Van Kalmthout and Von Bergh (2006) conducted research into the practice of its application and the possibilities of expanding suspended sentences and suspension of pre-trial detention with special conditions. Based on this research, a number of recommendations were made, including specifying the special conditions in the law (in line with the suggestion of Commissie Vrijheidsbeperking, 2003); including training programme orders in the list of special conditions instead of it being a penalty in the law; a further exploration of the possibilities of (different types of) electronic tagging; and paying more attention to the motivation of offenders. Regarding this last recommendation, Jacobs et al. (2006) found that compliance with the special conditions mainly depends on offenders’ motivation. They advised that when a suspended sentence is imposed, the external motivation of the threat of a prison sentence should be quickly turned into an intrinsic motivation, to maximize the probability that offenders will comply with their special conditions. Shortening the processing times between conviction and start of the supervision and in case of non-compliance are one way to help offenders’ motivation to comply with the special conditions.

As a way to reduce high recidivism rates and based on the aforementioned reports, the Ministry of Justice implemented four policy programmes in 2008: 1) the Judicial Conditions programme [*Justitiële Voorwaarden*]; 2) the Prison Modernization programme [*Programma Modernisering Gevangeniswezen*]; 3) the Innovating Forensic Care programme [*Programma Vernieuwing Forensische Zorg*]; and 4) the Aftercare programme [*Programma Sluitende Aanpak Nazorg*]. The first programme focuses in particular on improving and increasing the use of suspended sentences, as policymakers believe that suspended sentences constitute an important means of reducing recidivism, more so than short-term imprisonment. In this programme,

two measures are formulated (TK 2007/08, 24 587, no. 299). Firstly, the application of special conditions can be increased by implementing the law on conditional release (which was done in 2008),² and expanding the list of special conditions in the Criminal Code (see section 1.2.2 for more details). Secondly, the application of suspended sentences can be increased by improving the professionalization of advice given by the Probation Service. Furthermore, supervision practices need to be improved.³ Finally, the cooperation between the different chain partners involved in the process surrounding suspended sentences needs improvement. This measure has been evaluated in the pilot project ‘Optimizing Suspended Sentences’ [*Optimalisering Voorwaardelijke Sancties, OVS*] in four court districts: Amsterdam, Groningen, Maastricht and Zwolle-Lelystad (Jacobs, Siesling & Van Kalmthout, 2009).⁴

1.2.3 Revision of the law on suspended sentences

Based on the findings and recommendations of the abovementioned reports of Commissie Vrijheidsbeperking (2003) and Jacobs et al. (2006), the law on suspended sentences was recently revised and came into force in the Dutch Criminal Code

² Since this law is beyond the scope of this thesis, see for more information Flight et al. (2011).

³ Due to a lack of standardization, ambiguity existed in the application of probation supervision. Consequently, ‘Redesign of Probation Supervision’ [*Redesign Toezicht*] was developed to increase the effectiveness, transparency and reliability of the execution of probation supervision. According to this new working method, the Probation Service makes an individual assessment of the risk of recidivism, the risk of harm, the criminogenic needs and the responsibility for each offender. Based on this assessment, advice is given on the intensity and content of the probation supervision. There are three intensity levels: low, medium and high. Offenders on whom special conditions have been imposed and whose compliance with these conditions is monitored by the Probation Service are placed into one of these three levels. They are required to meet their probation officer on a regular basis during their probation period. The frequency of these meetings depends on the intensity level; the higher, the more frequently offenders meet with their probation officer. Probation supervision consists of two parts: control and guidance (i.e. encouraging and motivating). If offenders do not comply with the conditions, the Probation Service makes an effort to intervene quickly and to apply appropriate consequences (see Plaisier and Pennekamp, 2009).

⁴ A process evaluation has been done on the new working method to determine whether suspended sentences are imposed more often, faster, more effectively, efficiently and professionally (Jacobs et al., 2009). The researchers recommended that to introduce the OVS working method consistently, all parties (i.e. the Public Prosecution Office, the Probation Service, the judiciary, the police, municipalities, care institutions and penal institutions) must be involved. Other recommendations the researchers made were an explicit description of the special conditions in the verdict, a shortening of the periods between arrest and adjudication and a shortening of the time between sentencing and the start of the probation supervision. (see Jacobs et al., 2009).

in April 2012. The five main changes are: 1) an expansion of the list of special conditions⁵; 2) allowing the Prosecution Office to detain an offender in case of non-compliance without having a judge examine and rule in the case first; 3) the option of starting probation supervision before the case becomes irrevocable, which was not possible before; 4) the introduction of the possibility of a training programme order as part of the special conditions instead of as part of community service, but only for juvenile offenders; and 5) the extension of the duration of the probation period from two to three years (Schuyt, 2011). The new law on suspended sentences as found in the Dutch Criminal Code (hereafter CC) and its changes is described below.

1.3 The Dutch Criminal Code

The main sanctions, imprisonment, custody, fines and community service, can be fully or partly suspended (article 14a CC). Not all prison sentences can be suspended. Imprisonment not exceeding two years may be fully or partly suspended. In case of a prison sentence exceeding two years but not four years, a maximum of two years of that sentence may be (partly) suspended. Imprisonment exceeding four years cannot be suspended (article 14a CC). Penalties, such as deprivation of certain rights (e.g. taking away a driving license) can also be fully or partly suspended (article 14a CC). The court determines the length of the probation period and can differentiate the length of the probation period in each individual case as he deems appropriate. The maximum duration is three years, but can be extended to ten years when there are serious indications that the offender may commit a serious crime again (article 14b CC).⁶

⁵ Before the introduction of the new law in 2012, Jacobs et al. (2006) found that in half of the cases in which special conditions were imposed, judges merely imposed the condition of 'mandatory contact with the Probation Service', allowing the Probation Service a great degree of freedom on the type of special conditions to be imposed. By expanding this list and forcing judges to be more specific about the type of special conditions they attach to suspended sentences, the legislator has tried to increase the transparency of the sanction and the effectiveness of probation supervision (TK 2009/10, 32 319, no. 3).

⁶ For juveniles, the law regarding suspended sentences is similar, with a few exceptions. Imprisonment, community service and fines can be fully or partly suspended. The probation period, however, cannot exceed two years (article 77x CC). In addition, a learning order can be attached to suspended sentences as a special condition, instead of being part of a community service (Schuyt, 2011). As this thesis focuses solely on adults given suspended sentences, the remaining section will discuss the criminal code of suspended sentences applicable to adults.

1.3.1 General and special conditions

Suspended sentences are always subject to the general condition that the offender must not take part in any criminal activity during his or her probation period (article 14c CC). Since the revision of the law on suspended sentences, two additional conditions fall under this general condition: 1) the offender must cooperate in establishing his identity and 2) the offender must cooperate during his probation supervision. These two additional conditions only apply when the judge imposes special conditions (article 14c CC).

It is at the court's discretion to determine whether one or more special conditions accompany the general condition. Since 2012, the list of special conditions that can be imposed has expanded; it can be found in article 14c CC.⁷ Special conditions can be divided into four groups (see Figure 1.1 for a complete overview). The first group of conditions is referred to as 'restorative special conditions'. The focus of these conditions lies on restoring the damage done to the victims, including compensation or reparation. The second group concerns control-oriented special conditions. These special conditions focus on controlling the behaviour of offenders, such as imposing a restraining order or a ban on the use of drugs and/or alcohol. The third group concerns behaviour-oriented special conditions; the focus is on changing the behaviour of offenders through behavioural interventions or their referral to or treatment in a healthcare facility. The final special condition allows the judge to impose other conditions concerning the behaviour of the offender that is not laid down in the law. Each of these special conditions can be combined with electronic monitoring (article 14c CC). In addition, one or more special conditions can be attached to suspended sentences.

⁷ Before its revision, article 14 included only five special conditions: 1) full or partial compensation for the damage caused by the offence; 2) admittance to a healthcare facility; 3) the deposit of a sum to be determined by the judge; 4) payment of a sum to be determined by the judge in the Violent Offences Compensation Fund, or payment to an institution that aims to defend the interests of victims of crime; and 5) other conditions concerning the behaviour of the offender. These conditions mainly concerned restorative special conditions.

Restorative special conditions

1. Full or partial compensation for the damage caused by the offence;
2. Full or partial reparation of the damage caused by the offence;
3. The deposit of a sum to be determined by the judge;
4. Payment of a sum to be determined by the judge in the Violent Offences Compensation Fund or the donation of such payment to an institution that aims to defend the interests of victims of crime.

Control-oriented special conditions

5. A ban on making contact with certain persons or institutions;
6. A ban on being or standing in the immediate vicinity of a particular location;
7. An obligation to be present at certain times or for a certain period at a certain location;
8. An obligation to report to a specific institution at specified times;
9. A ban on the use of drugs and/or alcohol and the obligation to participate in blood or urine tests to determine compliance with this condition.

Behaviour-oriented special conditions

10. Referral to a healthcare facility;
11. An obligation to be treated by an expert or health care facility;
12. A stay in an institution for assisted living or social care;
13. Participation in a behavioural intervention.

Other special conditions

14. Other conditions concerning the behaviour of the offender
-

Figure 1.1 Overview of special conditions (article 14c CC)

1.3.2 Probation Supervision

The court can commission the Probation Service to supervise offenders and monitor their compliance (article 14d CC). In 94 per cent of the cases, the Probation Service supervises offenders who are given suspended sentences with special conditions (Jacobs et al., 2006). In general, the Probation Service is not involved in supervising offenders who have been given restorative special conditions, nor does it monitor the compliance of offenders given suspended sentences with only a general condition.

The probation officer meets with the probationer at least once a month in order to monitor his compliance with his conditions. In addition, house visits can take place and in case of substance addiction, urine and drug tests can be done. Besides monitoring compliance, probation officers keep contact with the institutions and professionals that play a role in the probationer's life during his probation period. For example, the health care facility or the training officer that gives a behavioural intervention. In case of non-compliance, the probation officer will first reprimand

the probationer. When the non-compliance with the condition(s) continues, the probation officer is to give the probationer an official warning. In principle, an official warning is given before the Prosecution Office is contacted regarding the consequences of these warnings (Abraham, Van Dijk & Zwaan, 2007). While the Probation Service supervises offenders, the Prosecution Office retains the final responsibility for the monitoring of compliance with both the general and special conditions (article 14d CC). This means that the Prosecution Office makes the final call regarding revocation, and the Probation Service merely has an advisory role in these cases.

1.3.3 (Non-)compliance

In case of non-compliance with the general and special conditions, the Prosecution Office may ask the court for a revocation. The court decides whether to revoke the suspended sentence fully or partly. It may also impose other conditions, extend the probation period or impose community service (article 14g CC). Although no statistics are known regarding the compliance with the general condition, Lamet, Dirkzwager, Denkers and Van Der Laan (2013) found that in 2010, 23 per cent of the probationers failed their supervision programme. However, this number does not only regard suspended sentences. It also includes other suspension modalities, such as the suspension of pre-trial detention under conditions, detention under hospital orders with conditions and conditional early release from prison.

The new law on suspended sentences also allows for the detainment of offenders when there is a serious presumption they have not complied with one or more conditions, before the judge has ruled on whether the suspended sentence will be executed (article 14fa CC). Article 14fa CC is not limited to offenders who have committed new and serious criminal acts. Offenders can also be detained for offences for which no pre-trial detention is legally possible and/or in cases in which offenders did not comply with the special conditions (Schuyt, 2011).

1.4 Sentencing goals of suspended sentences

Suspended sentences serve three sentencing goals: retribution, deterrence and rehabilitation (Bleichrodt, 1996). The purpose of retribution is to punish offenders for their actions (De Keijser, 2000). Although suspended sentences seem to contain no immediate penalty, punishment or retribution lies in the threat of punishment and by attaching conditions to the suspended sentence (Bleichrodt, 1996). This sentencing goal seems less relevant in the context of this thesis, since it exclusively focuses on punishing offenders and not on influencing the offender's behaviour

or reducing his re-offending. The other two sentencing aims – deterrence and rehabilitation – are arguably more important goals of suspended sentences as is discussed below.

1.4.1 Deterrence

Deterrence is an important foundation of the criminal justice system (Paternoster, 2010). According to deterrence theory, the threat of punishment is a way of discouraging future offending. Deterrence is usually subdivided into individual and general deterrence (De Keijser, 2000). A convicted offender might be deterred from re-offending, because the unpleasantness derived from experiencing punishment is believed to stop the offender from committing new offences (i.e. individual deterrence). In addition, people in general (non-offenders) might desist from committing offences (i.e. general deterrence), because of the fear of sanctions, which they see are imposed on convicted offenders (De Keijser, 2000).

According to deterrence theory, people behave as a response to rewards and punishments related to obeying the law (Nagin, 1998). This is also referred to as instrumental compliance. The assumption is that individuals make a cost-benefit analysis as to whether they will comply with the law. Criminal acts will only occur when the benefits of committing an offence outweigh the costs of punishment. There are three factors that people making such a cost-benefit analysis take into account: sentence certainty, sentence severity and sentence celerity (Geerken & Gove, 1975). The deterrent effect is the greatest when there is a greater likelihood of punishment (certainty), the punishment is severe (severity) and is promptly imposed after the offence took place (celerity). This relates to both specific and general deterrence.

Deterrence and suspended sentences

Regarding suspended sentences, policymakers expect that deterrence or instrumental compliance is achieved through delaying the sentence (TK 2009/10, 32 319, no. 3). Suspended sentences hang over the heads of offenders while they are avoiding the negative influences of incarceration (Bartels, 2007). By delaying the sentence, ‘fear’ is created among offenders since not only the suspended punishment is hanging over their heads but also the new punishment in case of non-compliance.

Studies have found that people are less likely to engage in illegal behaviour when they think they might get caught and punished (Nagin, 1998; Nagin & Pogarsky, 2001; Paternoster, Saltzman, Waldo & Chiricos, 1983). In a probation supervision setting, Maxwell and Gray (2000) found that the perceived risk of punishment was related to compliance. Specifically, these researchers examined to what extent

the perceived certainty of sanctions affected the likelihood of revocations among offenders who were court ordered into an intensive drug-diversion programme. They concluded that offenders who perceived the certainty of their case getting revoked as high were more likely to comply with the conditions of their intensive supervision programme.

However, with a few exceptions, the general conclusion is that deterrent-based strategies are considered ineffective as they solely focus on (the threat of) punishment to increase compliance (Wodahl, Garland, Culhane & McCarty, 2011). Sanctions that include some form of rehabilitation are considered more effective (Aos, Miller & Drake, 2006).

1.4.2 Rehabilitation

Rehabilitation is defined as ‘improving or re-instating the offender’s position in society and/or changing the offender’s personality in order to make him less prone to criminal behaviour’ (De Keijser, 2000: 18). Since Martinson’s (1974: 25) conclusion that ‘the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism’, evidence on what works in offender rehabilitation has grown at an impressive rate (e.g. Andrews & Bonta, 2010; Andrews, Bonta & Hoge, 1990a; Andrews et al., 1990b; Petersilia, 1999). This is referred to as the ‘what works’ literature and it demonstrates the effectiveness of interventions in reducing offender recidivism. One of the first reviews is Lipsey’s (1992) analysis of four hundred interventions with juvenile delinquents. He found a ten per cent reduction in recidivism in programmes that included some form of treatment. This percentage is much higher when one differentiates between community-based and prison programmes, ranging from a 25 to 60 per cent reduction in recidivism in favour of community-based programmes that included treatment (Andrews et al., 1990b; Gendreau & Ross, 1981).

In the offender rehabilitation literature, three principles of the ‘what works’ literature in particular increase programme effectiveness, all part of the so-called Risk-Needs-Responsivity model (hereafter RNR) (Andrews et al., 1990a). The risk principle states that criminal behaviour is the result of static (e.g. gender, criminal history) and dynamic risk factors (e.g. pro-criminal attitudes, peers, substance abuse). Furthermore, when the level of service or appropriate intervention is matched to the offender’s risk of re-offending, recidivism can be reduced. The need principle claims that, in order to reduce recidivism, interventions or treatment should focus on the dynamic risk factors, or criminogenic needs, of the offender. The final principle, the responsivity principle, considers the factors that are needed to maximize the offender’s ability to learn from the treatment. To date, the

‘what works’ literature has expanded to include other principles associated with programme effectiveness, such as well-trained staff and effective management; ensuring the programme is delivered as designed; providing aftercare; having resources for continuity and having evaluations and feedback (Bonta & Andrews, 2007; Raynor, 2002). Still, the RNR principles are considered the core of the ‘what works’ and offender rehabilitation literature (Bourgon, Bonta, Rugge, Scott & Yessine, 2010).

Research has demonstrated the cumulative impact of the RNR principles in correctional treatment. For example, in a review of 374 treatment programmes, Andrews and Bonta (2010) found that programmes not adhering to any of the three principles were associated with increases in recidivism rates, while programmes that adhered to at least one principle were associated with a (small) decrease in recidivism. Treatment programmes that adhered to all three principles were associated with the greatest decrease in recidivism rates. Particularly in community settings, reductions in recidivism have been reported of up to 50 per cent (Andrews & Dowden, 2006).

Rehabilitation and suspended sentences

With a ‘renewed’ interest in suspended sentences also came an appreciation of the value of special conditions as a means to influence offender behaviour. This appreciation, as Bleichrodt (2009) argues, is possibly influenced by the ‘what works’ literature. The cornerstone of special conditions is tailoring the conditions to meet the risks and criminogenic needs of offenders. Before the judge attaches special conditions to the suspended sentence, in almost all cases, an assessment of the recidivism risk is done by the Probation Service to match the appropriate level of supervision to the offender’s risk (the risk principle), as well as an assessment of the criminogenic needs to define the goals of the intervention (the needs principle).⁸ In addition, these assessments are individual-based, taking into account the motivation, skills, intelligence and emotionality of the offender (the responsivity principle) so that offenders benefit most from the conditions imposed (Jacobs et al., 2006). Based on this assessment, a report is made [*voorlichtingsrapportage*] in which the probation officer advises on whether s/he believes a suspended sentence is feasible (e.g. whether the offender is motivated to be placed under supervision and willing to comply with the imposed special conditions). The report also states the special conditions the probation officer believes are needed to minimize the risks and criminogenic needs of the offender. Although percentages are not available,

⁸ This assessment is based on the Risk Assessment Scales [*Recidive Inschattingsscalen, RISc*] a diagnostic tool of the Dutch Probation Service.

Jacobs et al. (2006) found that of the five judges interviewed, all adopt the Probation Service's recommendations.

Research examining the effectiveness of probation supervision has acknowledged the importance of adhering to the RNR principles. The rise of the hybrid model (surveillance- and treatment-oriented supervision) in probation supervision is 'largely attributable to a growing awareness of the effectiveness of the "Risk-Needs-Responsivity" model' (Skeem & Manchak, 2008: 236). Aos et al. (2006) concluded in their meta-analysis of 34 studies on intensive supervision programmes (ISPs), that ISPs incorporating treatment showed lower rates of recidivism. ISPs without any treatment did not have any effect on recidivism. Bonta, Rugge, Scott, Bourgon and Yessine (2008) found that almost half of the clients (47%) whose probationer officers spent less than 19 minutes of their meeting discussing their criminogenic needs recidivated, compared to 3 per cent of the clients whose probation officers spent more than 40 minutes discussing their criminogenic needs. Bonta et al. (2011) evaluated a training programme for probation officers based on the RNR model. Probation officers were randomly assigned to either the training or no training condition. The researchers examined audiotaped interviews between probation officers and their clients at the beginning of the supervision, 3 months later and 6 months later, and found that probation officers assigned to the training programme adhered better to the RNR principles. In addition, probationers of whom the officer had received the training were less likely to recidivate than probationers of whom the officer had received no training.

1.5 Trends in sentencing practices

Between 1946 and 2011, compared to (un)suspended prison sentences and community service, fines were most often imposed (see Figure 1.2). Although fines show a fluctuating trend, a decrease in their imposition can be observed from 2000 onwards (from 51,270 to 35,280 imposed fines per year). Community service is the second most often imposed sanction in the Dutch penal system, with an increase in its imposition until 2006, followed by a period of fluctuating trends. Since 2008, a decrease in its imposition can be observed.

With regard to unsuspended prison sentences, a slow increase in their imposition can be observed from 1963 with a steep rise during the 1990s. Between 2003 and 2011, the imposition of unsuspended prison sentences dropped significantly (from 28,680 to 14,645 imposed unsuspended sentences per year). Fully suspended prison sentences follow a similar trend compared to unsuspended prison sentences: they were imposed more often in the period from 1950 to 1990 than unsuspended prison sentences (19,875 fully suspended prison sentences versus

10,051 unsuspended prison sentences in 1990). During the 1990s, a decrease in their imposition can be observed. Partly suspended prison sentences show a steady increase in their imposition, but have been imposed less often than fully suspended prison sentences and unsuspended prison sentences have been during the period from 1946 to 2011 (9,980 fully suspended prison sentences versus 6,615 partly suspended prison sentences in 2011). In 2011, fully and partly suspended prison sentences have been imposed less frequently than fines or community service have been. Separately, they have also been imposed less often than unsuspended prison sentences.

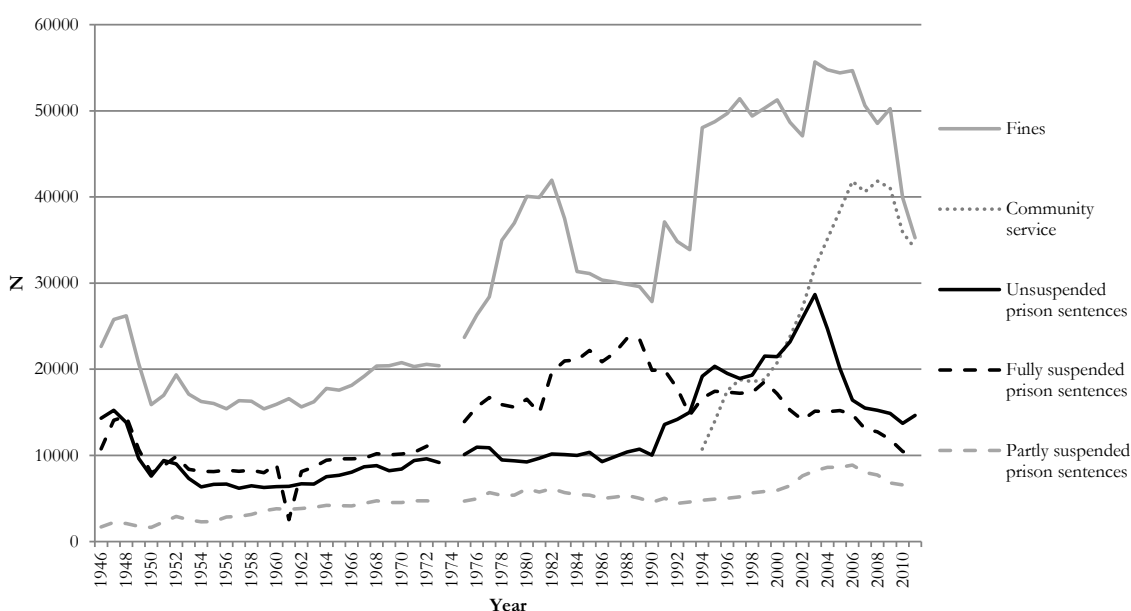


Figure 1.2 Sentencing trends in the Netherlands from 1946 to 2011 (source: Dutch Central Statistical Office Statline, 2014)⁹

In an exploratory study by Beerthuisen and Wartna (2013) on whether suspended prison sentences have substituted short-term imprisonment, as is aimed for in the Judicial Conditions programme, the researchers suggest that the absolute decrease in the imposition of (un)suspended sentences can be related to the number of cases judges have ruled on over the years. This has decreased from 133,000 in 2005 to 96,000 in 2012 (Brouwers & Eggen, 2012). Yet, a relative increase in the imposition

⁹ Although suspended sentences were introduced in 1915, no reliable statistics on its imposition exist from before 1946. In addition, in the period from 1946 to 1996, the Dutch Central Statistical Office differentiated between fully suspended sentences and fully suspended sentences combined with a fine. After 1996, these two sanctions were combined. To avoid confusion, the statistics of fully suspended prison sentences presented in Figure 1.2 also include the statistics of fully suspended prison sentences with fines. Statistics for all sentences in 1974 are unknown and no statistics on the imposition of community service exist from before 1994.

of (fully and partly) suspended prison sentences can be observed, approximately ten per cent in the period from 2002 to 2011. Suspended prison sentences to which special conditions were attached have increased in this period from 22 per cent to 36 per cent. Whether suspended sentences have substituted unsuspended prison sentences is difficult to conclude based on these results. However, the general trend is that in the period from 2002 to 2011, unsuspended prison sentences have been imposed less often, while suspended prison sentences with special conditions have been imposed more often.

1.6 Three research areas

This thesis examines three research areas relevant to suspended sentences: (1) public support, (2) (short-term) compliance, and (3) recidivism. A brief overview of the research done in these areas is given, followed by the research questions central in this thesis and the methodology used to examine the research questions.

1.6.1 Public support

In the Netherlands and in most Western countries, research has consistently found that the public has little knowledge of crime rates and criminal justice processes (Armstrong et al., 2013; Elffers, De Keijser, Van Koppen & Van Haeringen, 2007; Roberts, 1992). There is even less awareness about the existence and aims of non-custodial sanctions (Hough & Roberts, 1998), such as suspended sentences (Armstrong et al., 2013). The public tends to be rather punitive in the debate on the severity of sentencing (Barber & Doob, 2004; De Keijser & Elffers, 2009; Hutton, 2005; Roberts & Hough, 2002). Many agree with the statement that sentences for crimes are too lenient. Yet, this does not mean that the public is opposed to non-custodial sanctions or, more specifically, to suspended sentences. Various studies have shown that people are more likely to support these sentences when they are provided with concrete cases (e.g. Cullen, Fisher & Applegate, 2000), or presented with specific alternatives to imprisonment (e.g. Ruiter, Tolsma, De Hoon, Elffers & Van Der Laan, 2011). Research that has specifically focused on suspended sentences has shown that they are more likely to receive support if the public is provided with more information about the goals of suspended sentences (Van Gelder et al., 2011), if they understand the motivation for imposing this sentence, and that punitive elements accompanying suspended sentences have ‘the same penal “value” as a term of custody’ (Sanders & Roberts, 2000: 206).

Besides knowledge, three other factors are expected to influence public support for suspended sentences. The first factor concerns public penal attitudes. The

punitive turn in sentencing has often been associated with the public discontent towards the type of sentences imposed (Hutton, 2005). Public opinion polls have consistently shown that the public is particularly concerned with the severity of the sentences imposed (Hutton, 2005). Most feel that sentences are too lenient (Barber & Doob, 2004; De Keijser & Elffers, 2009; Hough & Roberts, 1998). There is little public understanding and hence support for suspended sentences (Armstrong et al., 2013). Suspended sentences are seen as a 'let off' or a 'slap on the wrist' by the public, as the offender generally avoids punishment (Freiberg & Moore, 2009). If the public is indeed punitive and suspended sentences are seen as sparing the rod, it can be expected that this sanction does not receive much support in the Netherlands.

Secondly, suspended sentences 'have the power to undermine public respect for the law in general and in particular, the institution of the judiciary' (Roberts, 1997: 196). Public confidence in the criminal justice system is essential for the legitimacy of this system (Maruna & King, 2004). In other words, confidence in criminal justice is necessary for the public to accept and comply with the law (Tyler, 2006). Since suspended sentences are more and more frequently imposed (Beerthuisen & Wartna, 2013), the question arises whether the increased imposition influences the public's confidence in the criminal justice system and hence its support for suspended sentences. Although the relationship between confidence in and support for suspended sentences has not been examined empirically, it can be expected that the perceived leniency of suspended sentences lowers the public's level of confidence in the criminal justice system, which lowers their support for these sentences.

Thirdly, politicians can mobilize public opinion for advocating specific policies (Roberts, 1992). With re-election and politicians being chosen by the public, they are most likely to recommend and implement penal policies they perceive to be in line with public attitudes toward punishment (Durham, 1993; Roberts, 1992). Given a general dissatisfaction with the criminal justice system and punitive attitudes towards sentencing, politicians are less likely to advocate non-custodial sanctions that are often considered 'soft on crime' (Flanagan, 1996) and more likely to toughen up their policies. The Netherlands has witnessed many changes in its political landscape over the past years (Van Der Meer, Lubbe, Van Elsas, Elff & Van Der Brug, 2012), with (far-)right conservative political parties making their debut by successfully appealing to a dissatisfied public on a number of grounds, including criminality (Wansink, 2007). Now that suspended sentences are gaining more popularity amongst the judiciary, there seems to be a gap between what the criminal justice system offers and what the public, and hence politicians, want. While suspended sentences are perceived to be a soft reaction to crime by the

public (Freiberg & Moore, 2009), it can be expected that people with a more right-wing political orientation are less supportive of suspended sentences compared to their counterparts leaning more to the left.

This study contributes to the existing literature on public support for suspended sentences in different ways. Firstly, it is important to examine public support for a specific sanction, as its success as a sanction depends at least in part on public approval (Maruna & King, 2004; Roberts, 2002). Secondly, while much research has examined public perceptions of non-custodial sanctions in general (e.g. Cullen et al., 2000; Maruna & King, 2004; Roberts, 2002), only a limited number of studies has focused on suspended sentences (Freiberg & Moore, 2009; Sanders & Roberts, 2000; Van Gelder et al., 2011). By examining suspended sentences a better understanding of the nuances in public opinion regarding sanctioning is gained. While previous research has found knowledge (Van Gelder et al., 2011) and stressing the punitive elements of suspended sentences (Sanders & Roberts, 2000) to be related to support, we extend this research by examining to what extent punitive penal attitudes, confidence in the criminal justice system and political orientation can increase support for suspended sentences. The following research question is central in this thesis:

To what extent do punitive penal attitudes, confidence in the criminal justice system and political orientation predict public support for suspended sentences?

Method

To examine public support for suspended sentences, data were gathered by CentERdata through the Longitudinal Studies for the Social Sciences (LISS) panel. This online panel consists of approximately 8,000 people in 5,000 households and is a representative panel – in terms of gender, age, ethnicity, educational level, income, province and other demographics – of the Dutch-speaking population residing in the Netherlands. The sample of households was drawn from the population register by the Dutch Central Statistical Office. CentERdata provided households that were otherwise unable to participate because they had no computer or Internet access with equipment and Internet. Respondents aged 16 and older can take part in the LISS panel. Panel members receive monetary compensation for each survey they fill out (CentERdata, 2013).

In our survey, respondents were asked to answer statements about their attitudes towards suspended sentences, confidence in the criminal justice system and political orientation. Using regression analyses, we examined the relationship between a) punitive penal attitudes, b) confidence in the criminal justice system and c) political orientation and general support for suspended sentences (see Table 1.1).

1.6.2 (Short-term) compliance

Bottoms (2001) distinguishes two types of compliance. The first type is termed 'short-term compliance': it refers to offenders who complete their community sentence without breaching the legal requirements of that sentence. Bottoms termed the second type 'longer-term compliance', pertaining to offenders who do not re-offend within a specified time period. Since longer-term compliance is to be discussed at length in the next section, this section focuses only on short-term compliance.

In the Netherlands, short-term compliance with the legal requirements of suspended sentences entails complying with the general and in some cases special conditions attached to the sentence. Bartels (2007) and Bagaric (1999) argue that the general condition can be considered a paradox of suspended sentences, as the requirement to refrain from offending during their probation period hangs like a sword of Damocles over all our heads, not solely over that of the offenders given these sentences. Special conditions, on the other hand, are considered by policymakers the cornerstones of influencing the offender's behaviour, as they focus on the offence, the societal risk and the (psychiatric) problems of the offender (Bleichrodt, 2009; TK 2007/08, 24 587, no. 299). It is expected that when offenders comply with these special conditions, behavioural changes take place, which in turn makes them less prone to criminal behaviour. Complying with the special conditions involves, for example, offenders successfully finishing their therapy or behavioural intervention, or not breaching their restraining order. Since 94 per cent of the offenders given suspended sentences with special conditions are supervised by the Dutch Probation Service (Jacobs et al., 2006), the remaining section focuses on probation supervision compliance.

According to the Dutch Probation Service, probation supervision involves monitoring the compliance with the imposed (special) conditions, signalling impending breaches and stimulating and motivating the offender to comply with the special conditions. Probation officers help offenders to understand their behaviour while at the same time engaging these offenders in a process of change (Reclassering, 2014). Probation supervision has the following two objectives that emphasize offender compliance: guidance and control. This last objective has received considerable empirical attention. Face-to-face contact is considered one of the most important aspects of probation supervision, since external control will strengthen offender compliance (Taxman, 2002). In a review by Andrews and Dowden (2006), much support was found for the relationship between matching the number of contacts to the offender's risk to recidivate and actual recidivism rates (i.e. the risk principle). Increasing control while not taking the offender's

recidivism risk and some form of treatment into account, as is the case in intensive supervision, is found to be ineffective (e.g. MacKenzie, 2000; Sherman et al., 1998). Technical violations were detected more often, resulting in an increase in offenders' return to prison for violating the conditions of their supervision (Petersilia, 1998; Petersilia & Turner, 1993).

Other studies on probation supervision compliance have found numerous individual- and crime-related characteristics to be associated with probation supervision success or failure. The following characteristics were identified as significant predictors of probation failure: young probationers, males and probationers with lower levels of education. In addition, those without any form of employment and offenders with a criminal history were more likely to fail their probation than older probationers, females, probationers with a higher education, employed probationers and first offenders were (e.g. Clarke, Lin & Wallace, 1988; Gray, Fields & Maxwell, 2001; Lamet et al., 2013; Morgan, 1994; Olson & Lurigio, 2000; Roundtree, Edwards & Parker, 1984; Sims & Jones, 1997). Research is less consistent with respect to ethnicity. Morgan (1994) found no significant relationship between ethnicity and probation supervision failure, while Sims and Jones (1997) found probationers from ethnic minorities to have a higher risk of failure. The relationship between marital status and probation failure is also somewhat ambiguous. Some researchers concluded that unmarried probationers had a significantly higher chance of probation failure (Morgan, 1994; Sims & Jones, 1997) while Roundtree et al. (1984) found no significant relationship.

While numerous studies have been undertaken to understand probation supervision compliance, theoretical progress is limited (Taxman, 2002). This thesis extends previous research by examining three theories that can help explain why probationers comply with the conditions of their probation supervision. The first theory is deterrence theory. According to this theory, individuals obey the law as the benefits of compliance outweigh the costs (i.e. punishment) (Paternoster, 2010). Maxwell and Gray (2000) found that perceived certainty increased the likelihood that probationers complied with the conditions of their probation supervision. In line with this instrumental perspective and previous research, it can be expected that probationers' compliance with the conditions of their probation supervision is likely to outweigh the prison sentence hanging over their heads. The normative perspective, however, suggests that individuals' compliance is linked to their views on justice and injustice. According to Tyler (2006), procedural justice plays an important role in people's decisions to comply with the rules and decisions of legal authorities. If they are treated with respect and fairness, they ascribe more legitimacy to the law and legal authorities and are more likely to obey decisions made by these authorities. Although no research has examined the role of the judge in a

probation supervision setting, it can be expected that probationers who are treated with fairness and respect by the court are more likely to accept their suspended sentence and comply with the conditions of their probation supervision. The third theory focuses on the role of the probation officer in increasing compliance. The probation officer and the probationer develop a relationship during the probation supervision. This relationship, or alliance, is found in psychotherapy to be one of the most important predictors of a successful treatment outcome (Gaston, 1990) and more recently, its importance has found support in a probation supervision setting. Previous research found that probationers who viewed their relationship with their probation officer as positive (i.e. caring, empathic and supportive) were less likely to fail their probation supervision (Dowden & Andrews, 2004; Kennealy, Skeem, Manchak & Eno Loudon, 2012). According to this theory and in line with previous research, we can expect that if probationers perceive their relationship with their probation officers as positive, they are more likely to comply with the conditions of their probation supervision. The following research question is central in this thesis:

To what extent do a) deterrence, b) a procedurally just treatment by the judge, and c) the alliance with their probation officer predict probation supervision compliance?

Method

To examine compliance, we approached adult male offenders under probation supervision by the Dutch Probation Foundation [*Reclassering Nederland*] in the court districts of Amsterdam and The Hague. We only approached probationers who just started their probation supervision. We e-mailed the probation officers of each probationer to determine the date of the probationer's next appointment(s) with their probation officer. The rationale for contacting the probation officers is that they see their probationers at least once a month; we expected a higher response rate if we spoke to the probationers immediately after that meeting, rather than arranging a new session with us at another time and place.

After their appointment with their probation officer, we talked with the probationer alone to avoid possible influence from the probation officer and/or possible socially desirable answers from the probationer. We provided a brief description of the study and a flyer to take home. If they agreed to participate, the probationers were asked to sign a consent form.

Participants filled in the first questionnaire within one month after their first meeting with their probation officer (T_1). About six months after completion of the first questionnaire, we contacted probationers again through their probation officers to schedule a second questionnaire (T_2). This second questionnaire was

filled in about 7 months after T_1 . At both times, probationers were given the same questionnaire to fill in. Each questionnaire took about thirty minutes to complete. For each filled in questionnaire, the probationer received monetary compensation.

Using regression analysis, we examined to what extent a) the perceived certainty of revocation, b) the severity of revocation, c) a procedurally just treatment by the judge, and d) the alliance with their probation officer predict probation supervision compliance, while controlling for a number of demographic and criminal characteristics. We used two different measures of compliance: attitudes towards compliance (whether offenders were willing to comply with their conditions) and registered compliance (whether offenders received warnings for not complying with their conditions) (see Table 1.1).

1.6.3 Recidivism

Recidivism studies are considered important studies in determining the effectiveness of specific sanctions (Brody, 1976; Friendship, Beech & Browne, 2002). With an increase in the popularity of community penalties, many of these studies focused on comparing rates of recidivism among those incarcerated and those who served some kind of community sanction. Villettaz, Killias and Zoder (2006) systematically reviewed the effects of custodial and non-custodial sentences on re-offending. They concluded that most studies showed lower recidivism rates for non-custodial sanctions than for custodial sanctions. However, these results can be considered biased, as many failed to control properly for variables related to sentencing and recidivism. In the same review, Villettaz et al. (2006) examined four randomised controlled studies and one natural experiment and found no difference in recidivism rates between the two sentences.

Studies on recidivism rates of suspended sentences can be categorized into two groups. The first group of studies only examined recidivism rates after suspended sentences; no control group was used (Cid, 2005; Searle, Paulin & Waldegrave, 1998; Soothill, 1981). Cid (2005) examined reconviction rates of 119 offenders who were given a suspended sentence in 1998-1999 and found that only a small number of these offenders were again incarcerated. However, Searle et al. (1998) and Soothill (1981) found less positive results: more than half of the offenders were reconvicted in the operational period of suspended sentences. Both concluded that suspended sentences would have little deterrent effect for future offending.

The second group of studies compared recidivism rates between suspended sentences and other sentences. These studies, too, were inconclusive regarding the effectiveness of suspended sentences. Cid (2009) compared reconviction rates of offenders sentenced to imprisonment to offenders given suspended prison

sentences in Spain. After controlling for a number of variables, such as gender, age, nationality, drug addiction offence and presence of a criminal record, he found that offenders given suspended prison sentences had lower reconviction rates than those sentenced to short-term imprisonment. Similar results have been found in other studies (Bartels, 2009; Raynor & Vanstone, 2001) and similar results were also found when reconviction rates were compared between suspended sentences and community service (Raynor & Vanstone, 2001). On the other hand, Walker, Farrington and Tucker (1981) found suspended sentences to have the highest reconviction rates compared to imprisonment, community service and probation. Other studies found no difference in recidivism rates between suspended sentences and other sanctions (Shoham & Sandberg, 1964; Weatherburn & Bartels, 2008; Weatherburn & Trimboli, 2008).

As the systematic review of Villetta et al. (2006) showed, methodology plays an important role in determining the effectiveness of sanctions. Studies on the effectiveness of suspended sentences have four important methodological limitations. In the first place, some studies lacked a control group, restricting any conclusions drawn about the possible causal effects of suspended sentences (e.g. Cid, 2005; Searle et al., 1998). Studies that did include a comparison group did not match on a number of key variables predicting re-offending (e.g. Bartels, 2009; Cid, 2009; Cocker, 2006; Shoham & Sandberg, 1964). In the second place, it is difficult in these studies to conclude whether observed differences between suspended sentences and their comparison group are the result of selection bias or an effect of the sanction itself. A third limitation is that most studies focused on comparing suspended sentences in general with other sentences. However, suspended sentences come in many different forms: they can be fully or partly suspended and conditions can be attached to these sentences. To our knowledge, only three studies have focused on recidivism rates after suspended sentences *per se* (Bartels, 2009; Weatherburn & Bartels, 2008; Weatherburn & Trimboli, 2008). A final limitation is that follow-up periods rarely go beyond two years (e.g. Bartels, 2009; Searle et al., 1998). A longer follow-up period provides more reliable and accurate conclusions regarding recidivism rates after suspended sentences.

Keeping these limitations in mind, in this thesis, we conduct two studies on the effects of suspended sentences. Firstly, we compare recidivism rates between suspended sentences and short-term imprisonment. Using propensity score matching (Rosenbaum & Rubin, 1983), we are able to control for selection bias by comparing recidivism rates between the two sentences that are similar on a number of observable variables (such as age, gender, ethnicity and criminal history). Secondly, we examine differences in reconviction rates between the different types of suspended sentences (i.e. fully versus partly and general versus

special conditions). In both studies, we examine official record data that have a follow-up period of approximately five years, which allows us to closely examine possible differences in recidivism rates between suspended sentences and short-term imprisonment and the different types of suspended sentences. The following research questions is central in this thesis:

1. *To what extent do recidivism rates after fully suspended sentences differ from those after short-term imprisonment and how is this different for first offenders and recidivists?*
2. *To what extent do recidivism rates differ between fully and partly suspended sentences with and without special conditions?*

Method

To examine recidivism rates, we have used data from the Research and Policy Database for Judicial Documentation (OBJD) of the Research and Documentation Centre (WODC) of the Ministry of Security and Justice in the Netherlands. The OBJD contains information on all natural and legal persons (suspects and convicts) who have come into contact with the Dutch criminal justice system. These ‘rap sheets’ contain information on every case, the verdict, date of commission and type of offence (for details see Wartna, Blom and Tollenaar, 2011).

We extracted two datasets from the OBJD. The first dataset contained criminal records of all adult offenders given *fully* suspended prison sentences or short-term imprisonment of at maximum six months in 2006. For the second dataset, we collected criminal records of all adult offenders convicted to a fully or partly suspended prison sentence with or without special conditions in 2006. We extracted both datasets from two of the largest court districts in the Netherlands, Amsterdam and The Hague.

In both datasets, recidivism is operationalized as the first offence that resulted in a new conviction either settled by the Public Prosecutor by means of dismissal or transaction, or guilty verdicts by the court. Acquittals, dismissal by reason of unlikelihood of conviction, clearance of charges by the court, minor offences and cases that had not yet been settled in court were excluded (for more information see Wartna et al., 2011). The datasets contained all new convictions until July 2011, resulting in a follow-up period of approximately five years. Days when offenders were imprisoned (pre-trial detention and custody after trial) were subtracted from the follow-up period. Using Cox proportional hazard models, we were able to examine whether the risk of recidivating differed between the suspended sentences and short-term imprisonment and between the different types of suspended sentences (see Table 1.1).

Table 1.1 *Outline of the three research areas*

	Chapter 2: Public support	Chapter 3: Compliance	Chapter 4: Recidivism	Chapter 5: Recidivism
Research question	To what extent do punitive penal attitudes, confidence in the criminal justice system, and political orientation predict public support for suspended sentences?	To what extent does a) deterrence, b) a procedurally just treatment by the judge and c) the alliance with their probation officer predict offenders' probation supervision compliance?	To what extent do recidivism rates after fully suspended prison sentences differ from those after short-term imprisonment for: - The general sample? - First offenders? - Recidivists?	To what extent do recidivism rates differ between fully and partly suspended sentences with and without special conditions?
Independent variable(s)	<ul style="list-style-type: none"> ➤ Punitive penal attitudes ➤ Confidence in the criminal justice system ➤ Perceived punitiveness of suspended sentences ➤ Political orientation 	<ul style="list-style-type: none"> ➤ Perceived certainty of revocation (T_1) ➤ Severity of revocation (T_1) ➤ Procedural justice (T_1) ➤ Alliance with probation officer (T_1 & T_2) 	<ul style="list-style-type: none"> ➤ Suspended prison sentence ➤ First offenders ➤ Recidivists 	<ul style="list-style-type: none"> ➤ Type of suspended sentence (fully or partly) ➤ Type of conditions: <ul style="list-style-type: none"> - General or special conditions - Control-oriented special conditions or behaviour-oriented conditions
Dependent variable(s)	General attitude towards suspended sentences	<ul style="list-style-type: none"> ➤ Willingness to comply at T_2 ➤ Registered compliance at T_2 	First offence that resulted in a new conviction either settled by the Public Prosecutor or the judge	First offence that resulted in a new conviction either settled by the Public Prosecutor or the judge
Data	Sample of the Dutch population (from LISS panel)	Probationer panel data T_1 & T_2	Official record data (rap sheets)	Official record data (rap sheets)
Statistical technique(s)	Regression analysis	Regression analysis	<ul style="list-style-type: none"> ➤ Propensity score matching ➤ Cox proportional hazard models ➤ Rosenbaum bounds 	Cox proportional hazard models

1.7 Outline of the thesis

This thesis is a collection of four empirical papers examining public support for, compliance with, and recidivism rates after suspended sentences.

Chapter 2 first examines public support for suspended sentences. Using data from a sample of the Dutch population, we examine to what extent confidence in the criminal justice system, punitive penal attitudes and political orientation are related to public support regarding suspended sentences. We also describe to what extent the public's perceived punitiveness of suspended sentences can mediate the relationship between confidence in the criminal justice system and support for suspended sentences, as well as the relationship between punitive penal attitudes and support. In addition, we examine to what extent political orientation can moderate the relationship between perceived punitiveness of suspended sentences and support for these sentences.

Chapter 3 examines compliance with suspended sentences, specifically compliance with the special conditions attached to suspended sentences. Using longitudinal data from a group of probationers – given suspended sentences with special conditions – we followed during their probation period, we examine to what extent a) the perceived certainty of revocation, b) the severity of the suspended sentence, c) a procedurally just treatment by the judge, and d) an alliance with the probation officer predicts compliance.

Chapters 4 and 5 focus on the recidivism rates after suspended sentences. In chapter 4, we examine to what extent recidivism rates after fully suspended prison sentences differ from those after short-term imprisonment. After a comparison between the two sentences for the general sample, we further differentiate between first offenders and recidivists regarding recidivism rates after suspended sentences and short-term imprisonment.

Chapter 5 takes a closer look at the recidivism rates after different types of suspended sentences. More specifically, we examine recidivism rates of offenders who received fully or partly suspended prison sentences, with or without special conditions. Using Cox proportional hazard models, we present an explorative study to understand whether imprisonment (in the case of partly suspended sentences) or the threat of imprisonment (in the case of fully suspended sentences) affect recidivism rates, and whether special conditions are more likely to decrease recidivism rates compared to the general condition.

Chapter 6 summarizes and discuss the main findings presented in the previous chapters. In this chapter we elaborate on the relationship between our findings and the existing theoretical and empirical framework on suspended sentences and we address implications for both theory and practice. The discussion also reflects the

Chapter 1

methodological strengths and limitation of current research and suggestions for future research are provided. This is be followed by policy implications and the chapter ends with some concluding remarks on the findings of this thesis.