

**Racism and Extremism Monitor
Eight Report**

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About the Racism & Extremism Monitor project

1 Introduction

Jaap van Donselaar and Peter R. Rodrigues

Pim Fortuyn's famous slogan "I say what I think" has gained wide currency in recent years, but it has also led to fierce discussions about the limits of freedom of speech. In early 2006, during the worldwide uproar over the Danish "Mohammed cartoons," MP Ayaan Hirsi Ali of the VVD (People's Party for Freedom and Democracy) came out in favour of "the right to offend."¹ One of the Danish cartoons showed the prophet Mohammed wearing a turban in the shape of a bomb with a lit fuse. This cartoon was prominently featured in Geert Wilders's 2008 film *Fitna*, which also led to heated discussions about where to draw the line when it comes to freedom of speech. It is obvious that those boundaries have shifted and that there is much more room to speak one's mind than there used to be. A striking case in point is the commotion caused by the May 2008 police raid on the Dutch cartoonist "Gregorius Nekschot," who has been taking aim at Islam for several years. The arrest of the cartoonist, who was suspected of violating the discrimination prohibitions, aroused great public and political indignation. Political cartoons should be permitted, it was widely argued, regardless of their content. The question of where the borders of free speech ought to be drawn was relegated to the background. However, the argument that freedom of speech ends where inciting violence begins has been put forward more frequently in debates these past years. But others argue that a great deal of harm can be done even without inciting to violence, since a more liberal freedom of speech and expression influences the prevalence of intolerance and discrimination. Those who hold this view cite a relatively high level of anti-Islamic sentiment in the Netherlands. Polls also show that more than half the Dutch, non-Islamic, school-going population between the ages of fourteen and sixteen have a negative attitude towards Muslims.² One of the causes, according to this research, is the fostering of negative images: "negative stereotypes of Muslims and negative platitudes about Islam, negative comments about Muslims and Islam from parents or best friends, and the conviction that Muslims pose a threat to security all have a significant effect on this attitude." To what extent does a negative perception actually lead to discrimination? Although there are many scientific pitfalls involved in answering this question, we find it revealing that the complaints of discrimination lodged by Moroccans in particular are remarkably numerous, and that many researchers also explain this by pointing to negative perceptions.³ In addition, our own research conducted in conjunction with the

¹ During a speech in Berlin on 9 February 2006, Hirsi Ali said, "I am here to defend the right to offend. It is my conviction that the vulnerable enterprise called democracy cannot exist without free expression, particularly in the media. Journalists must not forgo the obligation of free speech, which people in other hemispheres are denied. I am of the opinion that it was correct to publish the cartoons of Muhammad in *Jyllands Posten* and it was right to re-publish them in other papers across Europe."

² H. Dekker, J. van der Noll & T. Capelos, *Islamofobie onder jongeren en de achtergronden daarvan* (Islamophobia among young people and the underlying background). Leiden: Leiden University 2007.

³ I. Boog, M. Coenders & W. Dinsbach, *Kerncijfers 2007. Jaaroverzicht discriminatieklachten bij anti-discriminatie bureaus en meldpunten in Nederland* (Key figures for 2007: Annual review of complaints of discrimination reported to anti-discrimination agencies and hotlines in the Netherlands). Rotterdam: Art.1, de landelijke vereniging ter voorkoming en bestrijding van discriminatie 2007 (National Association against Discrimination), p. 40.

Monitor project shows that the frequency with which Muslims are found to be the victims of racial violence is relatively high.

The debates and issues briefly outlined above set the stage for this eighth report of the *Racism & Extremism Monitor*. As in earlier editions, our aim here is to investigate various forms of racism and extremism, and responses to these phenomena, and to report on them periodically, as well as on the aforementioned trends. First we will look at the phenomena themselves: How do racism and extremism manifest themselves in Dutch society? Here we can review different manifestations, such as politically organised racism, and forms of exclusion, such as discrimination in nightclubs. Some phenomena by their very nature are not limited to the territory of the Netherlands, such as hate speech on the internet. In these cases the extraterritorial context is also taken into account. One consistent aspect of Monitor research is the attempt to identify the various types of victims and perpetrators. They may be native Dutch as well as immigrants, with the latter being subdivided into the several ethnic minority groups. The responses to racism and extremism cover a wide spectrum, from educational to legal. Usually the nature of the response depends on the type of discrimination, the category of the victims and the background of the perpetrators. In addition, different responses can function in tandem or can even reinforce each other. The recurrent investigation of the phenomena, the victims, the perpetrators and the response serves several objectives. First, it is an attempt to contribute to a deeper understanding in the fight against racism, extremism and anti-Semitism. In addition, the fixed methodology and the periodicity of the research results in an accumulation of knowledge. Finally, it provides us with a picture of trends over the long term, and solutions for the future can be suggested based on experiences from the past.

Twelve years ago, the Racism & Extremism Monitor research project was launched at Leiden University. The first report was published in 1997, and since then – as of December 2008 – eight general, comprehensive reports have been published. In addition, six "cahiers" have also been issued: smaller research reports on specific topics. All reports can be found on our website: www.monitorracisme.nl. As of the fourth report (2001), the Monitor project has been carried out jointly by Leiden University and the Anne Frank House.⁴

In the current – eighth – Monitor, special attention is paid to:

- Racial and right-wing extremist violence in 2007.
- Right-wing extremist groups.
- Grey Wolves in the Netherlands.
- Demonstrations by right-wing extremist groups in the Netherlands and Germany.
- Counterterrorism and radicalisation policy.
- Response to extremism in the Rotterdam region.
- The extreme right and the discriminatory identity of the PVV.
- Investigation and prosecution in 2007.
- Case law on racism and extremism in 2007.

⁴ The Monitor project is also supported by the Ministry of Health, Welfare and Sports.

- Deradicalisation of right-wing radicals and Islamic radicals.

The Monitor project employs a broad working definition of racism, comprising anti-Semitism, extremism, xenophobia and Islamophobia. Discrimination on the grounds of nationality is also included, as is discrimination on the grounds of religion insofar as there is evidence of an ethnic component. This occurs, for example, in the case of personal spot checks carried out on the basis of an 'Islamic appearance'. Extremism is included in our research domain only if there is a connection with racism or interethnic relations.

The *Racism & Extremism Monitor* is partly based on our own research. It also depends to a certain extent on data collected and analysed by others. Unfortunately, statistical data are not available across the entire expanse of the research field. The area of Islamic extremism is particularly subject to serious gaps.

Several different authors, both inside and outside the Anne Frank House, have contributed to this eighth Monitor. We are particularly grateful to the contributions made by Bob de Graaff (professor of terrorism and counterterrorism, Leiden University), Sara Grunenberg (researcher for RADAR, the Rotterdam Anti-Discrimination Action Council), Jan-Peter Loof (assistant professor, Leiden University), Rita Schriemer (researcher for RADAR), Marieke Sloopman (research fellow at the University of Amsterdam) and Jean Tillie (professor of Electoral Politics, University of Amsterdam). Frank Buijs, research fellow at the University of Amsterdam, took part in one of the substudies; sadly Frank passed away quite suddenly in 2007.

Monitoring work implies a high level of cooperation. The eighth report came about thanks to cooperation with a broad network of experts and organisations, both governmental and non-governmental. They are listed here in random order: the General Intelligence and Security Service (Algemene Inlichtingen en Veiligheidsdienst; AIVD), the National Police Services Agency (Korps Landelijke Politie Diensten; KLPD), the National Expertise Centre for Discrimination of the Public Prosecution Service (Landelijk Expertise Centrum Discriminatie van het Openbaar Ministerie; LECD), the National Expertise Centre for Diversity of the Police (Landelijk Expertise Centrum Diversiteit; LECDiv), the Equal Treatment Commission (Commissie Gelijke Behandeling; CGB), the National Ombudsman, Statistics Netherlands (Centraal Bureau voor de Statistiek; CBS), the Centre for Information and Documentation on Israel (Centrum Informatie en Documentatie Israël; CIDI), the Kafka research group, the Discrimination on the Internet Reporting Centre (Meldpunt Discriminatie Internet; MDI), the Magenta Foundation, Art. 1: the National Association against Discrimination, FORUM, the Institute for Multicultural Development, the Rotterdam Anti-Discrimination Action Council (Rotterdamse Anti-Discriminatie Actie Raad; RADAR), the Amsterdam Anti-discrimination Agency, The Hague Anti-discrimination Agency and fellow researchers.

The publication of the eighth report of the *Racism & Extremism Monitor* would not have been possible without the persons, organisations and agencies mentioned here and their willingness to collaborate. Naturally, the ultimate responsibility for the text is ours alone.

Amsterdam, October 2008

2 Racial and right-wing extremist violence in 2007

Willem Wagenaar en Jaap van Donselaar

He does want to set the record straight on one point, however. While it is true that he told the police that he approved of Hitler's persecution of the Jews, on reflection that is not entirely correct. He does not approve of it, but he does understand Hitler's drive. Because he did it for his country.

The person being referred to is a twenty-year-old Almere resident who was on trial for arson in 2007. The arson was clearly based on racist and right-wing extremist motives. People wondered where this violence has come from so suddenly. Apparently the local authorities had been completely oblivious to the activities of the group of young people to which the perpetrator belonged, as well as to other information about right-wing extremist violence in the region.

Since the mid-1990s, systematic attempts have been made to learn more about the problem of racial and right-wing extremist violence, especially via the *Racism & Extremism Monitor* research project.¹ The last general report – the seventh, published in December 2006 – investigated the violent incidents that occurred in 2005. Then in 2007 a digital publication appeared with the violence statistics for 2006.² In the current report, the eighth, the focus moves on to racial and right-wing extremist violence from the year 2007. It will present an overview of statistics and trends based on the collected data.

2.1 Definition and scope

Producing statistical data on racial and right-wing extremist violence is a process of making choices. Many of these choices have to do with definitions and scope, and they are rarely simple. When it comes to answering the question what constitutes racial violence, and what constitutes right-wing extremist violence, opinions differ sharply. For this reason, addressing racial and right-wing extremist violence often involves problems of definition and scope, since violent incidents have so many different discernible aspects. Thus one person may see a case of racist graffiti as a threat, while another prefers to see it as a form of vandalism. And someone else may be of the opinion that the incident in question is not even worth reporting. The question is: Who decides how the incident is to be defined and interpreted? Since in many cases the perpetrators remain unknown and information about an incident is minimal, it is difficult to evaluate their motives and background. In addition, because the perpetrator is unknown, one person may take an incident more seriously than another. It is not unusual to hear people wonder whether a particular incident was really a racist attack or just a mischievous prank.

¹ See <<http://www.monitorracisme.nl>>

² See: J. van Donselaar & W. Wagenaar, *Monitor Racisme & Extremisme; racistisch en extreemrechts geweld in 2006* (Racism & Extremism Monitor: racial and right-wing extremist violence in 2006), Amsterdam: Anne Frank House / Leiden University 2007.
<<http://www.monitorracisme.nl/content.asp?pid=206&lid=1>> (07 August 2008).

In 2007, the Research and Documentation Centre (Wetenschappelijk Onderzoeks- en Documentatiecentrum; WODC) of the Ministry of Justice published a study of criminal discrimination conducted by the Willem Pompe Institute for Criminal Law.³ This study attempts to shed light on the nature and extent of general criminal offences (such as violence) aggravated by discriminatory behaviour. The researchers involved looked at the data from the publications of the *Racism & Extremism Monitor*, among other sources, but concluded that they were not suitable for use in their research. They also said that the definitions and terminology we used were not sufficiently in line with the legal definitions, terminology and parameters of racism and violence. It was argued that using legal definitions and terminology in Monitor reports would provide greater clarity. There is plenty to object to in this position. Adopting this suggestion would not solve the problems of definition and scope. Certain forms of violence are punishable under different articles of the criminal code, for example. In those cases, too, choices will have to be made. Our Monitor research includes a category of violence called "confrontation." This refers to fights involving large groups of people that can differ dramatically in size and ferocity. In addition, such confrontations are often characterised by great uncertainty regarding the position of the perpetrators and the victims, the immediate cause and the chronology of events. A confrontation is a well-defined, recognisable and frequently occurring form of violence. In terms of criminal law, however, it could constitute an array of offences, depending on the exact events (threats, assault, overt use of force). In addition, articles of the criminal code are often phrased in general terms, making it difficult to clarify important differences. A swastika daubed on the wall of a synagogue and a swastika daubed inside a public washroom are both cases of vandalism in the context of criminal law. But because of the context, the perception of the two actions is entirely different. In our violence statistics, one example is included (as targeted graffiti) and the other is not.

Because of such diverse perspectives – known in sociological jargon as the different "definitions of the situation" – we believe that a broad working definition of racial violence is recommended.⁴

In this regard, violence is understood as:⁵

behaviour in which one party deliberately harms another party, or threatens to do so, and in which this behaviour is mainly aimed at physical damage to objects and/or persons.

Following on this, racial violence can be understood as:⁶

³ C. Brants, R. Kool & A. Ringnalda, *Strafbare discriminatie* (Criminal discrimination). Utrecht: Willem Pompe Instituut voor Strafrechtswetenschappen Universiteit Utrecht 2007, pp. 149-151.

⁴ For a more detailed treatment see F.J. Buijs and J. van Donselaar, *Extreem rechts: aanhang, geweld en onderzoek* (The extreme right: adherents, violence and research). Leiden: LISWO 1994, pp. 55-64.

⁵ F.J. Buijs and J. van Donselaar, *Extreem rechts: aanhang, geweld en onderzoek*, p. 57.

⁶ Ibid.

that form of violence in which the victims or targets are chosen on the basis of their ethnic, racial, ethnic-religious, cultural or national origins.

Racial violence can have diverse interethnic dimensions:

- native Dutch versus ethnic minority, or "white against black;"
- the opposite: ethnic minority versus native Dutch, or "black against white;"
- ethnic minority versus ethnic minority from another ethnic group, such as a confrontation between a group of Antilleans and a group of Moroccans.

In recent years the picture has become more differentiated: when we speak of racial violence we should no longer think of native Dutch perpetrators alone but also of ethnic minority perpetrators, while the victim can be either ethnic minority or native Dutch.

Right-wing extremist violence can be racist by nature, but not necessarily. Right-wing extremist groups traditionally maintain a two-pronged enemy stereotype as a rule.⁷ There is opposition to elements that are either "alien" or "hostile to the nation," to use right-wing extremist jargon. In National Socialism from before and during the Second World War, Jews and "gypsies" were regarded as "alien to the nation." Since 1945, "alien to the nation" has been extended in right-wing extremist ideology to include ethnic minorities in general. "Hostile to the nation" – from the right-wing extremist perspective – refers to the political opponents of the extreme right. These may be anti-fascistic activists and demonstrators, but they may also be politicians and government officials who have taken action against the extreme right or in favour of ethnic minorities. In short, right-wing extremist violence may be racist, but it may also be aimed at people regarded as opponents.

Another important point in addition to these problems of definition and scope has to do with the sufficiency of data. The statistical data on racial and right-wing extremist violence, insofar as these are available, often give rise to discussions because of the problem of "underreporting:" many incidents are not reported to the police (or anywhere else) and are known only within a small circle, sometimes no larger than the perpetrator and the victim only. Just a small portion of the phenomenon is visible while a larger part remains hidden.

The study of discrimination experiences that was carried out in conjunction with the *2005 Racial Discrimination Monitor* provides us with a few results that are of interest here.⁸ A survey conducted among 348 respondents gave us a picture of discrimination experiences that occurred in 2004 and 2005 among Turks, Moroccans, Antilleans and Surinamers. According to the results, between 7% and 10% of the respondents had had an experience of racial violence during this period. Extrapolating this to the entire population group would result in tens of thousands of experiences of racial violence. Extrapolation should be used with caution because it is based on the presumption that

⁷ See chapter 3, "Right-wing extremist groups," for a more detailed discussion of right-wing extremist ideology.

⁸ See J. van Donselaar, "Racistisch en extreemrechts geweld" (Racial violence and right-wing extremist violence), in: Igor Boog et al. (eds.), *Monitor Rassendiscriminatie 2005* (2005 Racial Discrimination Monitor). Rotterdam: Landelijk Bureau ter Bestrijding van Rassendiscriminatie [etc.] 2006, p. 128.

the research is representative and on statements made by the respondents. The percentages found, however, as well as their extrapolations, are indications of the proverbial tip of the iceberg and of the iceberg itself. The inventory approach (registration) to estimating the scale of racial violence has resulted in numbers that run into the hundreds, while research indicates in reality the numbers run into the *thousands*.

2.2 Brief historical sketch

In the period after the Second World War, racial and right-wing extremist violence in the Netherlands was an incidental phenomenon for decades. In the early 1970s the pattern changed. Fights broke out between Dutch people and ethnic minorities. There were race riots in Rotterdam (1972) and Schiedam (1976). In 1977 the first fatality occurred: a Turkish man was deliberately thrown into a canal, and he drowned because he could not swim. In the early 1980s the number of violent incidents increased, and there were also indications that attitudes were becoming more callous. This was manifested in threats, racist graffiti, vandalism, arson, confrontations, assaults and bombings. Here and there, evidence could be seen of obvious right-wing extremist involvement.

In the early 1990s there was a sharp increase in racial and right-wing extremist violence.⁹ The year 1992 in particular stands out as a year in which people became aware of the increasing violence, similar to what happened in Germany decades before. At the beginning of that year, The Hague was the scene of a series of violent incidents: bombings, arson, bomb scares, vandalism and assaults. An attack on a mosque in Amersfoort was the first of twenty violent actions aimed at mosques.

The increase in racial and right-wing extremist violence continued through the mid-1990s, as can be seen in the first *Racism & Extremism Monitors*.¹⁰ During the same period we also saw mounting protest against the establishment of asylum seeker centres in various parts of the country. Some of this protest went hand in hand with violent incidents, as in the Frisian village of Kollum. In the years 1999 and 2000, the period covered by the fourth Monitor, the significance of anti-Semitic violence increased noticeably. In a number of cases a connection could be made with the *Intifada* (Uprising), or to be more precise: between a series of anti-Semitic incidents and protests against Israel in response to the conflict in the Middle East between Israelis and Palestinians. During some of these protest actions, and in response to them, expressions of anti-Israel sentiment flared into anti-Semitic incidents. The fact that anti-Israel sentiments can lead to manifestations of anti-Semitism is not new in itself, but the scale and intensity with which it occurred in 1999 and 2000 in the Netherlands – and in surrounding countries – was unprecedented.

⁹ See F.J. Buijs & J. van Donselaar, *Extreemrechts: aanhang, geweld en onderzoek* (The extreme right: adherents, violence and research).

¹⁰ J. van Donselaar, *Monitor racisme en extreem-rechts; derde rapportage* (Monitoring racism and the extreme right: third report). Leiden: Department of Public Administration, Leiden University 2000. J. van Donselaar & P. R. Rodrigues, *Monitor racisme en extreem-rechts; vierde rapportage* (Monitoring racism and the extreme right: fourth report). Amsterdam: Anne Frank House / Leiden University 2001. For these and all other reports, see: <www.monitorracisme.nl> (7 August 2008).

The fifth Monitor covered racial and right-wing extremist violence in the year 2001, the year of the terrorist attacks of 11 September in the US.¹¹ These attacks were followed immediately in the Netherlands by a series of anti-Islamic incidents, some of them violent. Another series of incidents took place – in response to 9/11 – in "reverse" order: ethnic minorities against native Dutch. There were a number of serious acts of violence with a (presumed) anti-native basis – or anti-Christian, if you will. In a few places churches were set on fire or attempts were made to vandalise them. The series of violent incidents that took place shortly after 9/11 had subsided for the most part by early December 2001. The anti-Islamic reactions to the attacks of 9/11 were of considerable statistical significance for the entire year: approximately 60% of the total number of violent incidents that we reviewed in 2001 took place after 11 September.

Nonetheless, the total number of incidents covered by our review for 2001 turned out to be lower than in the previous year, and this decrease continued into the year 2002.¹² One important incident that year was the assassination of Pim Fortuyn on 6 May 2002. This serious act of violence was immediately followed by a large number of hostile incidents, especially threats. Initially – in the first hours after the murder – these were mainly of a racist nature. When it became clear that the perpetrator was a native Dutchman, with roots in the world of political activism, the hostilities turned more towards left-wing political parties and their representatives, members of the government, the environmental movement, left-wing action groups and the squatters' movement. The number of threats was exceptionally large by Dutch standards.

In 2003, the period covered by the sixth Monitor, the total number of violent incidents was about the same as in 2002.¹³ One striking feature, however, was the sharp increase in the number of confrontations. This could be seen as a reflection of the problem of the so-called *Lonsdale youth*. The involvement of the extreme right in any form in acts of violence in 2003 was double that of the previous year (10% and 5% of the total respectively).

Most striking for 2004 was the wave of violence in November following the assassination of Theo van Gogh.¹⁴ The series of violent incidents that occurred immediately after the murder on 2 November was reminiscent of those after the terrorist attacks in the US on 11 September 2001. The number of incidents was approximately the same, but they took place within a more concentrated period after Van Gogh's death. Most of the incidents had to do with violence against Muslims and Islamic property. Just as in 2001

¹¹ See J. van Donselaar & P. R. Rodrigues, *Monitor racism en extreem-rechts; vijfde rapportage* (Monitoring racism and the extreme right: fifth report). Amsterdam: Anne Frank House / Leiden University 2002.

¹² J. van Donselaar & P. R. Rodrigues, *Monitor Racisme & Extremisme; racistisch en extreemrechts geweld in 2002* (Racism & extremism monitor: Racial violence and right-wing extremist violence in 2002). Amsterdam: Anne Frank House / Leiden University 2003.

¹³ J. van Donselaar & P. R. Rodrigues, *Monitor Racisme & Extremisme; zesde rapportage* (Racism & extremism monitor: sixth report). Amsterdam: Anne Frank House / Leiden University 2004.

¹⁴ J. van Donselaar & P. R. Rodrigues, *Monitor Racisme & Extremisme; zesde rapportage. Annex: Over ontwikkelingen na de moord op Van Gogh* (Racism & extremism monitor: sixth report. Annex: On developments after the murder of Van Gogh). Amsterdam: Anne Frank House / Leiden University 2004.

the incidence of arson was strikingly high. There were a strikingly large number of cases of arson. Due to insufficient data for the year 2004, comparisons with earlier years could not be made.

The series of violent reactions to the murder of Van Gogh continued for a time into 2005, resulting in an increase in the number of violent incidents.¹⁵

After this series had come to an end, the number of incidents dropped from 296 in 2005 to 265 in 2006. Against this background, it was curious that two trends from the previous years persisted: the proportion of right-wing extremist perpetrators kept on growing and the number of confrontations did as well. The growth in the proportion of right-wing extremist perpetrators is a striking feature of the past years. In 2002 there were only 12 incidents involving right-wing extremism. In 2005 that was 38 incidents, and in 2006 the number had grown to 67.¹⁶

2.3 Data collection

Collecting data on racial violence is not regarded as a primary responsibility of the government in the Netherlands, as it is in many other countries. Consequently, there is no central government database of racial violence in the Netherlands. The data on which this chapter is based are taken from several complementary sources and differ considerably in form and quality. In order to explain how we work with this material, we need first to discuss our approach to data collection and analysis.

Our data come from three different data providers. The most important provider is the National Police Services Agency (Korps Landelijke Politiediensten; KLPD), in particular the National Information Hub (Nationaal Informatie Knooppunt; NIK) of the National Criminal Intelligence Service (Dienst Nationale Recherche Informatie; DNRI). Data are also obtained from the annual reports of the National Federation of Anti-Discrimination Agencies and Hotlines (Landelijke Vereniging van Anti-Discriminatie Bureaus en Meldpunten; LVADB – now part of Art. 1, the national association against discrimination on all grounds) and the Kafka Anti-Fascist Research Group (Antifascistische Onderzoeksgroep Kafka). This broad approach provides a more comprehensive picture than data from the police registries alone. These police data constitute about 55% of the incident registrations known to us.

Until two years ago we also made use of data on anti-Semitic violence from the Centre for Information and Documentation on Israel (Centrum Informatie en Documentatie Israël; CIDI). But since 2007 the publication of the CIDI statistics has been held up, so they can no longer be included in our research. This may affect of the number of violent incidents with an anti-Semitic character registered in the context of this Monitor report.

When the Monitor project was developed in the mid-1990s, these data were provided by the National Intelligence Service (Binnenlandse Veiligheidsdienst; BVD), now the

¹⁵ J. van Donselaar & P. R. Rodrigues, *Monitor Racisme & Extremisme; zevende rapportage* (Racism & extremism monitor: seventh report). Amsterdam: Anne Frank House / Leiden University 2006.

¹⁶ J. van Donselaar & W. Wagenaar, *Monitor Racisme & Extremisme; racistisch en extreemrechts geweld in 2006* (Racism & extremism monitor: racial and right-wing extremist violence in 2006).

General Intelligence and Security Service (Algemene Inlichtingen- en Veiligheidsdienst; AIVD). The AIVD asked the 25 police regions to gather data on racial and right-wing extremist violence based on a particular framework. The AIVD stored these data in a central database. The *format* of this database was developed as part of the *Racism & Extremism Monitor* project. Then the data were processed and analysed. A few years ago, the AIVD indicated its desire to terminate its role in the incident inventory. The agency had decided that working on the inventory was not a high enough priority; the fact that the inventory itself did not function very well also contributed to its decision. The *Racism & Extremism Monitor* project urged that the AIVD continue its involvement until another agency could be found to take up the task. An unavoidable result of this problem was that no data on violent incidents registered by the police were provided for 2004. Finally the transfer was made and since November 2004 the task has been carried out by the KLPD (National Police Services Agency).

The KLPD gathers the data from the various police systems. This involves data searches using a number of relevant keywords. The raw data are then handed over. After an initial inventory and selection of incidents for the Monitor study, details are obtained of relevant incidents (insofar as they are known). In most cases this provides a clear picture of the incidents. Almost exactly the same process takes place with data from other providers. Selections are made on the basis of raw data, and additional information is retrieved where necessary.

After this selection, all available data are processed in a database. During the processing, each incident is coded based on the available information. These codes have to do with the type of incident, the location and details about perpetrators and victims. It should be noted that one event can comprise several incidents. If a synagogue is smeared with graffiti and then set on fire, we register this as one case of targeted graffiti and one case of arson. Or if windows are smashed in the same mosque on two different days, we regard this as two cases of vandalism. Selection, assessment and classification is done by us, Monitor project researchers – that is, without the involvement of the data providers.

Data processing involves using data that are highly varied in terms of volume and quality. In addition, assessing the perpetrator's motives is open to a great deal of discussion, since in most cases the perpetrators are unknown. In our classifications we take a conservative approach. When there is doubt about the racist or right-wing extremist motives behind a particular incident, the incident is not included, even if it was delivered to us as such. The dataset thus assembled is checked for duplications and overlaps to prevent any distortion of the overall picture. The result is an integrated database for the year in question. Based on this database, a wide range of operations can be carried out and annual statistics can be obtained.

We now know from experience that data from several different sources have relatively few overlaps. This "proves" the value and desirability of an integrated database that is based on several sources and not exclusively on data from the government. It follows that a file based only on police data, which is the practice in many other countries, would be highly incomplete. There have been some frowns of disapproval from the European

Union regarding the absence of official statistics on racial violence in the Netherlands – statistical material generated by the government. We cannot agree on this point; we find that an integrated database based on several sources is better than a government dataset based only on government sources. In any case, we note once again that any database based on inventories involving underreporting is an inaccurate representation of reality.

2.4 Nature and scope of incidents in 2007

In 2007 a total of 223 violent incidents of a racist or right-wing extremist character were registered. In table 2.1 these incidents are divided into various categories of violence. The statistics from 2007 are placed alongside the figures from the preceding five years. As noted earlier, we could not compile statistics for 2004.

Since 2005 we have also been registering incidents involving illegal possession of firearms. In our two previous publications on racial and right-wing extremist violence we included those statistics in the table of violent incidents.¹⁷

This choice was criticised in the aforementioned study by the Willem Pompe Institute for Criminal Law.¹⁸ They claimed that, according our own definition, possession of firearms should not be regarded as violence. There is much to be said in response to this criticism. But since possession of firearms by right-wing extremists is an important and relevant fact, we will turn our attention to it later on in the chapter.

Table 2.1 Racial and extreme right-wing violence, by category, 2002–2007¹⁹

Category	2002	2003	2004	2005	2006	2007
Targeted graffiti	41	52	-	54	59	32
Threats	83	73	-	73	56	49
Bomb scares	7	1	-	2	0	3
Confrontations	10	28	-	37	41	36
Vandalism	38	35	-	42	31	34
Arson	10	10	-	13	11	11
Assault	75	60	-	70	60	57
Bombings	0	1	-	0	0	0
Manslaughter	0	0	-	0	1	1
Total	264	260	-	291	259	223

¹⁷ See: J. van Donselaar & P. R. Rodrigues, *Monitor Racisme & Extremisme; zesde rapportage* (Racism & extremism monitor: sixth report). J. van Donselaar & W. Wagenaar, *Monitor Racisme & Extremisme; racistisch en extreemrechts geweld in 2006* (Racism & extremism monitor: racial and right-wing extremist violence in 2006).

¹⁸ C. Brants, R. Kool & A. Ringnalda, *Strafbare discriminatie* (Criminal discrimination). Utrecht: Willem Pompe Instituut voor Strafrechtswetenschappen Universiteit Utrecht 2007, p. 150, note 27.

¹⁹ The totals from 2005 and 2006 differ from the totals in the previous Monitor reports. This is because possession of firearms was included in those reports and is not any longer.

Targeted graffiti

Targeted graffiti is vandalism directed towards an object. It can involve anything from drawing a swastika on the wall of a public washroom with a felt-tip pen to large-scale racist graffiti on a war monument. Graffiti, especially in the form of minor vandalism, is an expression of violence that is relatively common. In this study only the more serious cases will be discussed: "targeted graffiti." These include acts with an explicit target and large-scale graffiti.²⁰

In 2007, 32 cases of targeted graffiti were registered. This is a sharp drop from the 59 registered cases of targeted graffiti in 2006. Here are a few examples:

- In Elburg during the afternoon before the commemoration of Remembrance Day, swastikas were painted on trees around the war monument. Later that evening the flags and wreaths on the monument were stolen.
- In Nieuwe Pekela, a house for asylum seekers was smeared with racist slogans.
- In Haarlem, two mosques were smeared with racist slogans and swastikas.

Threats

Threats are a common form of racist and extremist violence. After a sharp increase in the number of registered threats following 2001, a decline has occurred since 2005. The 49 registered threats in 2007 are a continuation of this trend. It may be that the strict prosecution policy with regard to threats that has been carried out by prominent politicians has had a preventive effect.

A few examples:

- A "gabber" was accosted in the street by a Moroccan youth because of his outfit: garments bearing the "Lonsdale" label. The Moroccan youth told him that wearing such clothing was forbidden. The gabber walked away, whereupon the Moroccan youth stood right in front of him and let him see the barrel of a pistol hidden in his sleeve. He said, "What are you wearing those clothes for? You want me to shoot you? I have a gun and I'm not afraid to use it."
- A man wrote on the website of Amsterdam alderman Lodewijk Asscher of the PvdA (Labour Party), "I think the filthy bloodsucking Amsterdam Jew Asscher should be beheaded. Come on down to Rotterdam, you dog."
- In March a group of Moroccan youths from Rotterdam went to Morocco to build a butterfly garden. After Geert Wilders and the Liveable Rotterdam party criticised this trip, the organisers were threatened by telephone calls and e-mail.

Bomb scares

A bomb scare is a specific form of threat with varying degrees of gravity. The possible preventive effect of criminal law that we suggested may have been responsible for the decrease in the number of threats did not extend to bomb scares.

²⁰ The Supreme Court of the Netherlands also regards such targeted graffiti as "violence." See Supreme Court 16 September 1996, E.R. van Eck et al., (eds.), *Rechtspraak rassendiscriminatie 1995-2000* (Case law on racial discrimination 1995-2000). Rotterdam: Landelijk Bureau ter bestrijding van Rassendiscriminatie, no. 408. This had to do with large-scale targeted graffiti in a military cemetery.

- A man called in a bomb scare on behalf of Osama bin Laden during a visit by the English queen. The police suspect a right-wing extremist.
- An Islamic primary school in Eindhoven received a bomb scare.
- A bomb scare was called in to the Central Railway Station in Leiden with the words "Bomb Leiden Central. Bomb Leiden Central. Dirty, filthy Jews."

Confrontations

A confrontation is often spontaneous, but sometimes it consists of organised street violence of a more or less racist or right-wing extremist character. These can often be described as "race riots." Several parties are involved, often young people who get into fights at school or during an evening out. It is often difficult to tell the difference between the perpetrators and the victims. In recent years there has been a steady increase in the number of confrontations we have registered. In 2007 there was a decline, the first in years. The 36 confrontations reported are five less than in 2006.

- In Almere a black youth was assaulted by a group who shouted "White Power" as they beat him. Friends of the victim responded by beating up one of the perpetrators and his girlfriend.
This led to various confrontations between the two groups in which they threatened each other with clubs. There were also serious back-and-forth threats to individual members.
- In Rotterdam, the right-wing extremist party the National Alliance (Nationale Alliantie; NA) organised a demonstration. A neo-Nazi organisation, Youth Storm Netherlands (Jeugdstorm Nederland), whose members despise the NA, descended on the demonstration with the intention of using force on the demonstrators. The police who were present prevented this and sent the group away. A little while later the same group from Youth Storm encountered a group of Feyenoord football supporters who were planning on taking action against the presence of right-wing extremists in their city. This resulted in a brief but fierce fight in which at least one person was wounded. Afterwards the Youth Stormers were arrested.
- A young man in Utrecht was assaulted after he had gone public with his right-wing extremist ideas and had made the Nazi salute. In response he drummed up a group of friends to get even with the perpetrators. When several groups of youths gathered, the police came and managed to prevent further escalation.

Vandalism

Vandalism is the deliberate infliction of damage with a racist or right-wing extremist motive. In 2007 we registered 34 cases of vandalism, a slight increase.

- In Utrecht a window in a mosque was smashed. The perpetrator said he hated Moroccans.
- A group of drunken neo-Nazis were walking through the city of Brummen. A witness later reported that when they passed a Jewish monument they pulled it from its pedestal. The group were then arrested. The perpetrator said it was an accident and that he did not know it was a Jewish monument. The other members of the group said they had not noticed the vandalism at all.

- In Grijpskerk the hedge around the house of a Lebanese family was vandalised. The police later arrested four perpetrators, who were given a HALT punishment (out-of-court settlement offered by the Public Prosecution Service to juvenile offenders involving community service or training order). The family had long been the target of harassment in the village.

Arson

Arson is a special form of vandalism. The number of registered cases of arson in 2007 was 11, the same as the number of registrations in 2006.

- The Moroccan mosque in Edam was set on fire by a few Lonsdale youth using a Molotov cocktail.
- A group of right-wing extremists burst into a squat in Almere. They chased the residents out of the building and set the building on fire. The building burned to the ground.
- During the celebration of the Islamic festival of sacrifice at a school, one of the pupils, who was known for his right-wing extremist ideas, started a fire in the washrooms.

Assault

In 2007, 57 cases of assault of a racist or right-wing extremist character were reported, a slight drop from 2006.

- A few right-wing extremist skinheads in Naaldwijk were waiting in front of the school of a friend. There they began to quarrel with an ethnic minority pupil after having made racist insults about him. The tension gradually mounted and one of the skinheads followed the victim into the school. There the skinhead picked up a pair of scissors and began stabbing the youth wildly until others pulled him away. The perpetrator was later arrested and finally sentenced to prison plus detention under a hospital order.
- In Noord-Holland, three youths were verbally abused ("f*** Muslims") and then badly beaten and kicked. The three unknown perpetrators looked like Lonsdale youth.
- Three teenagers at a bus shelter insulted a woman wearing a headscarf. They all got on the same bus and followed the woman after she left the bus. They made racist remarks, grabbed her, pushed her against a wall and twisted her arm and hand.

Bombings

By "bombing" we do not mean throwing heavy fireworks or Molotov cocktails, but using explosives in order to cause a serious explosion. Bombings with racist or right-wing extremist motives are rare in the Netherlands. One such incident occurred in 2003. In 2004 there were two bombings after the murder of Van Gogh and another that was prevented by the police. Since 2005 we have registered no bombings.

Manslaughter

Racist or right-wing extremist violence with fatal results is so far a rare phenomenon in the Netherlands. In 2007 there was one incident that we believe should be placed in this category.

- In early June 2007 in Rotterdam a quarrel arose over a stolen bicycle. A small group of Turkish youth accused a Surinamese youth of bicycle theft. After the Surinamese youth gave back the bicycle, however, the quarrel continued. Finally one of the Turkish youths was stabbed, with fatal results.

During the incident, the perpetrator was called a "f*** nigger" by the group of attackers and was told never to think that a Surinamese could get away with stealing a bicycle from a Turk without being punished for it.

In this case the incident was one of interethnic confrontation in which the perpetrator of the stabbing had been harassed with racist insults. Since the provocation and the question of perpetrator and victim constitute a grey area, the incident qualifies as a confrontation. Because the fatal results seem to be directly linked to the racist attitude of the fatal victim, it was decided to record this incident as manslaughter with racist motives.

2.5 Trends in 2007

In the section on "trends" included in each Monitor report we take a closer look at the violence statistics to review the most salient developments.

2.5.1 Drop in violence

The most outstanding trend in 2007 was the steep drop in the number of violent incidents with racist or right-wing extremist motives. In 2006 the number of incidents had already dropped by 10%, and that trend continued into 2007. The number of incidents decreased from 259 to 223. This brings us to the lowest number of violent incidents in the last ten years.

This drop in the number of incidents occurs in all our violence categories. Only the number of assaults and bomb scares rose slightly. The most striking decline is the number of cases of targeted graffiti, from 59 to 32. We have no immediate explanation for this.

2.5.2 Confrontations

The significant rise in the number of confrontations in past years (from 10 in 2002 to 41 incidents in 2006) did not continue into 2007. For the first time since 2002 the number of confrontations dropped slightly to 36 incidents.

In the period 2002-2005 we could attribute the increase to the emerging Lonsdale youth phenomenon.²¹ Lonsdale youth were involved in many of the confrontations we registered. In 2006 this was no longer the case, despite a rise in the number of

²¹ See chapter 3, "Right-wing extremist groups," section 3.3, for an explanation of the concept of "Lonsdale youth."

confrontations: the registered involvement of Lonsdale youth declined. We gave two possible explanations for this. First, a development was underway in which Lonsdale youth were being further radicalised into "full-fledged" neo-Nazis, thereby leaving their Lonsdale identity behind. That is one possible explanation for the decrease. Second, we noted that the Lonsdale label was undergoing an inflationary process. In the media and among the police and the courts the label was no longer being used in incidents involving Lonsdale youth. That might also explain the decline.

The first explanation was supported by the statistics, at least this year. Of the 36 confrontations in 2007, 14 involved Lonsdale youth. In 2006 that was 13 out of 41. At the same time we saw an increase in the involvement of the extreme right in confrontations. In 2005 there were 3 such incidents, in 2006 there were 13 and in 2007 there were 18. This development has two possible causes. First, it is to be expected that Lonsdale youth who become neo-Nazis will be up to the same tricks. That is, even if they change their identity they will still be active in confrontations. Second, a number of right-wing extremist groups seek confrontations with opponents and with the government as part of a clear-cut strategy. A neo-Nazi organisation like National Socialist Action (Nationaal Socialistische Aktie; NSA) grew out of the Lonsdale scene. This organisation has already made a few attempts to disrupt the activities of political opponents. In addition, the organisation recently voiced its opposition to the government and the police but also acted it out in the form of demonstrations. Activists from the NSA became involved in a confrontation with police at a demonstration in the city of Oss in 2007.

2.5.3 *Victims and targets*

"Victimhood" is a collective term in which finer distinctions can be useful. So it is relevant to distinguish between violence aimed at things and violence aimed at people.

Violence aimed at things can include government buildings and objects that serve as political symbols, such as monuments and war cemeteries. It can also involve abstract concepts such as "the police" and "the city." "Ethnic minority" objects include houses and commercial property owned or occupied by ethnic minorities, mosques and places of prayer, ethnic minority organisations, and accommodations for asylum seekers and refugees.

Targeting "neutral" objects involves applying racist messages or symbols to "neutral" places such as walls, fences, paved road surfaces, bus shelters or public washrooms. Violence aimed at persons concerns people who are chosen as victims because of their ethnic, "racial," national or religious background. Examples might include residents of foreign origin or native Dutch residents, refugees, Muslims and persons with a Jewish background. Right-wing extremist actions are also sometimes aimed at native "public persons." In this case such persons are chosen as targets because of their function, office, activities or attitude, such as mayors, city councillors and politicians.

Table 2.2 Violence towards persons and objects, 2006-2007

	2006	2007
Towards objects	106	74
Towards persons	142	138
Mixed or unspecified	11	11
Total	259	223

For many years, the inventories carried out by the *Racism & Extremism Monitor* kept finding more violence against objects than against persons. Then in 2002 the scale appeared to have tipped and more violence was observed towards persons in absolute numbers than towards objects. This development grew stronger in 2007. Almost the entire decline in violence in 2007 is in violence towards objects. The amount of violence towards persons is virtually unchanged.

Table 2.3 Racial violence in 2006 and 2007, according to ‘ethnic direction’ and categories of incidents

Category	Anti-Jewish		Anti-islam		Anti-refugee		Anti-"White"	
	2006	2007	2006	2007	2006	2007	2006	2007
Targeted graffiti	15	13	18	15	0	1	1	0
Threats	8	4	10	16	1	2	1	3
Bomb scares	0	1	0	1	0	0	0	0
Confrontations	0	0	7	6	1	2	1	1
Vandalism	8	1	12	17	0	1	0	0
Arson	2	0	6	9	0	0	0	0
Assault	2	2	9	18	1	1	3	3
Bombings	0	0	0	0	0	0	0	0
Manslaughter	0	0	0	0	0	0	0	0
Total	35	21	62	82	3	7	6	7

It is relevant to ask what the "ethnic direction" of racial violence might be called. Two developments stand out with regard to the "ethnic direction" of racial violence. The first is the steep drop in the number of violent acts with an anti-Semitic motive in the inventory. This trend was already evident in 2006, when anti-Semitic violence had already dropped from 41 to 35 incidents. This year the drop is much greater, however. This undoubtedly has to do with the absence of violence figures from CIDI. For a number of years, CIDI provided us with an overview of violent anti-Semitic incidents, which we processed into our database. Since last year, however, we have no longer received the CIDI figures, which accounts for part of the drop in 2006 and 2007. The drop in 2007 is so large, however, that it would be wrong to attribute it to the absent CIDI figures alone.

The second development that stands out is the continued steep increase in the violence towards Muslims: from 62 to 82 incidents. We had already noted this growth in 2006, but now it is continuing. This is all the more striking in view of the fact that racial violence is undergoing a general decline.

2.5.4 Perpetrators

Writing about the perpetrators of racial violence is a complicated business, since the vast majority of cases of racial and right-wing extremist violence are never solved. This conclusion has repeatedly been drawn in the context of the *Racism & Extremism Monitor* project.

The clear-up rate has been stable for a number of years. In 2003 and 2005 it was 11%, and in 2006 and 2007 it was 12%. The national clear-up rate for all offences was 22% in 2007, and for criminal discrimination prohibitions it was 43%.²²

This coincides with a more established pattern. Apparently the chance of being caught is extremely low in these kinds of offences. We suspect that the chance of apprehension would be considerably higher if more investigative capacity were made available. Our "well-reasoned" suspicion is based on our own observations, notes and on a number of cases that we have reviewed over the years. We suspect that any specific investigation of individual cases will bear out our conviction that if the police make a serious effort the results will usually be positive.

There is one important comment that must be made at this point. It is our impression that several changes have been made in the investigation of right-wing extremist violence. In 2007 a few major cases were solved that ultimately resulted in stiff sentences. A series of cases of arson by right-wing extremists was solved, for example, and the weapons arsenal of an active neo-Nazi was discovered. Two suppliers of these weapons were also arrested. This suggests that more investigative capacity has been made available for solving crimes of right-wing extremist violence. Possibly this will result in a higher clear-up rate in the future.

The clear-up rate is related to establishing the identity of the perpetrator. Additional information about the offender(s) can be distilled from the registration of an incident. A victim of an assault, for example, will be able to supply a lot of information about the offender without necessarily resulting in such a clear identification that investigation and arrest are possible. So the notion of "known perpetrator" is rather elastic, in a certain sense. This means that even unsolved cases often have a great deal to tell us about the role of the perpetrator.

One urgent question that comes up in the discussion of racial violence is whether the perpetrator had extreme right-wing sympathies that may have played a role.

The total number of violent incidents in 2007 for which right-wing extremist involvement has been established was 53. That is a decrease from the previous year, when right-wing extremist involvement was identified in 64 cases.²³

This puts an end to the upward trend of right-wing extremist involvement, which had been in evidence since 2002. The relative amount of right-wing extremist involvement is still high, however, with only 12 cases in 2002.

"Right-wing extremist involvement" is a complex phenomenon. That is why we think it is useful to make a few more general, explanatory comments. Many people believe the perpetrators of racial violence can be found in circles of right-wing extremist activists and their organisations. There is evidence of what might be called large-scale "symbolic involvement." This reaction reflects the tendency to look first at those who are known for their racist views. This elementary reaction, which is understandable in itself, is far from consistent with the facts. Because many cases are not solved, we can only speculate on the role of right-wing extremist organisations. One thing is clear, however: in only a

²² See chapter 9, "Investigation and prosecution in 2007."

²³ The number deviates somewhat from the amount reported for 2006 (64 instead of 67) in view of the fact that possession of firearms is not included; see next section.

fraction of the cases can a link be made between the committing of racist acts and the extreme right. The demonstrable relationship is usually indirect: while the offence cannot be attributed to any particular organisation, it can be attributed to persons who make up that organisation in a variety of ways. There is no consensus as to what extent right-wing extremist groups are involved in racial violence. It is all a matter of how it is viewed and defined. Are we looking at individual perpetrators? At the motives? At the impact? At ideological ties? At the degree of organisation? Or are we looking at what the victims perceive?

In short, the involvement of right-wing extremist organisations in the phenomenon of racial violence is a complicated affair, and that is not only true of the Netherlands. But the (supposed) involvement of the extreme right is a factor that can make feelings run high. When the extreme right is actually involved in violence, it is striking that in only a few cases is there a clearly demonstrable, direct (organised) relationship with known right-wing extremist groups. As a rule the links are indirect, such as the involvement of adherents.

Racial and right-wing extremist violence can overlap, but not necessarily. A distinction can be made between racial violence with right-wing extremist motives and right-wing extremist violence that is not racist. As far as the latter is concerned, 36 such cases were registered in 2007, a sharp increase from the 15 incidents in 2006.

These might be threats to an anti-racist organisation, vandalism to a building occupied by a left-wing party or threats made to a homosexual by a right-wing extremist. With the exception of these cases, the violence in 2007 can be qualified as racist. This brings the number of cases of racial violence in 2007 to 187.

Another important factor in addition to the political background of the perpetrator is his or her ethnicity. Racial violence can be committed by native people as well as by ethnic minorities. In the 2007 inventory, sufficient information was available in 103 cases to narrow the identity of the (presumed) perpetrators down to native Dutch or ethnic minority: in 86 cases the perpetrators were native Dutch and in 17 cases they were ethnic minorities. Last year, native Dutch perpetrators were identified in 93 cases and ethnic minorities in 26. As far as anti-Semitic violence was concerned, we found 3 cases with ethnic minority perpetrators.

2.5.5 Possession of weapons

Since 2005 we have also been registering possession of weapons in the right-wing extremist context. Initially we included this in our overview of right-wing extremist and racial violence. Because possession of weapons does not have both a perpetrator *and* a victim, however, this category does not fit into our definition of violence and we decided to remove it from our overview.

But because possession of weapons is an important topic among right-wing extremists, with a number of striking cases in recent years, we will continue to focus some attention on it. The importance of doing so is also supported by our statistical material. In 2006 the number of cases of illegal possession of weapons among the extreme right that we registered still showed an increase from 5 to 6. In 2007 we registered 15 cases.

A few examples:

- While searching the house of a right-wing extremist, the police found various air pistols, nunchakus, a ninja star, a cudgel, shuriken, a whip and a crossbow.
- A weapons arsenal was found in the home of a well-known neo-Nazi in Spijkenisse. It included an automatic weapons and homemade nail bombs. During the trial it was also revealed that the perpetrator had tried to buy a bazooka.
- A group of young right-wing extremists descended on a music festival in Enschede. They began harassing the young people in attendance for their left-wing appearance. One well-known right-wing extremists began spraying with pepper spray.

We also registered four cases of weapons possession in cases of racial violence with no right-wing extremist involvement.

2.6 Conclusion

In the year 2007 we saw the continuation of a few trends that had had their start in 2006. The most striking of these was the decline in the number of violent racist and right-wing extremist offences.

In 2007 we saw a drop of more than 13%. This decline has been repeated in almost all the other categories of violence. We began noticing this drop in racist and right-wing extremist violence back in 2001. It was interrupted, however, by a wave of racist and right-wing extremist violence following the assassination of Theo van Gogh. But now that the decline has resumed, the wave seems to be over.

As far as the *victims* of racial and right-wing extremist violence are concerned, there has been a sharp rise in the number of incidents with an anti-Muslim character. They increased by one-third in the face of the declining trend.

On the other hand there has been a notable decline in the number of violent anti-Semitic incidents.

When we look at the *perpetrators* of racial and right-wing extremist violence, the most striking feature is the involvement of right-wing extremist perpetrators. The number of incidents in which right-wing extremist perpetrators were probably involved has dropped slightly but remains high in comparison with previous years. What is also striking is the strong shift in direction that the violence has taken. Right-wing extremist violence that is non-racist in character, such as violence against political opponents, police or government, always accounted for a relatively modest number of incidents. The increase in the number of such incidents to 36 in 2007 is very striking, to say the least. This may have to do with the tendency of a number of neo-Nazi groups to take a stronger stand against the government and against their own political opponents.²⁴

²⁴ See chapter 3, "Right-wing extremist groups."

3 Right-wing extremist groups

Willem Wagenaar and Jaap van Donselaar

Right-wing extremist groups have been an uninterrupted presence in the Netherlands since the 1930s. For the first five decades after the Second World War, this presence faced constant opposition from the government and society at large. After the "revolt" initiated by the right-wing politician Pim Fortuyn, a change occurred. There was greater tolerance for expressing controversial opinions – "saying what you think" – and the multicultural society became the focus of political and social debate. This seemed to create the kind of space from which right-wing extremist groups could profit, an option that was strengthened when the Fortuyn movement split up and was finally decimated. As was often said, for the extreme right the sky was the limit.

Whether the right-wing extremist groups could have profited from this space is debatable. The "classic" right-wing extremist political parties have more or less disappeared. At the same time, a new party with right-wing extremist features has been formed: the Party for Freedom (Partij voor de Vrijheid; PVV), led by Geert Wilders. The PVV is not being discussed in this chapter, however, but elsewhere in this Monitor report.¹ In addition to the emergence of the PVV we are also seeing the continued growth of right-wing extremist street activism.

In this chapter we turn our attention to recent developments within the right-wing extremist groups in the Netherlands. We will begin by taking a bird's-eye view of the developments that have occurred since the publication of the last Monitor.² Then three themes that we believe have played a particularly prominent role during this Monitor period will be explored: the growth of right-wing extremist street activism, the current situation regarding the so-called "Lonsdale problem" and the demise of the classical right-wing extremist parties.

3.1 Overview of 2007-2008

In addition to the three themes mentioned above, other events have also taken place during this reporting period that should be noted. These will be discussed here.

Death of widow Rost van Tonningen

The "black widow" Florentine Rost van Tonningen-Heubel (1914-2007) had been the figurehead of the extreme right since the 1980s and was greatly respected within that network. She was the widow of Meinoud Rost van Tonningen, a prominent National Socialist who collaborated during the Second World War. He died in prison a few weeks after Liberation.

¹ See chapter 8, "The extreme right and the discriminatory identity of the PVV."

² See J. van Donselaar & P. R. Rodrigues, *Monitor Racisme & Extremisme; zevende rapportage* (Racism & Extremism Monitor: seventh report). Amsterdam: Anne Frank House / Leiden University 2006.

After devoting herself to raising her three children, Florentine Rost van Tonningen resumed overt political activism in the 1970s.³ Her efforts were not all that successful among the right-wing extremist parties, but she did develop a broad network of like-minded people who got together regularly at gatherings in her home and garden. This network was given the name "Consortium de Levensboom" (The Tree of Life Consortium). She also lent a helping hand in the form of modest financial support and by giving lectures, writing articles and putting different people from her network in touch with each other. During her latter years, the aged Rost van Tonningen understandably curtailed the number and scale of these activities. She died on 24 March 2007 at age 92. The widow had already worked out the plans for her funeral long before her death. In 1997 she purchased a grave in Rheden and designed a gravestone engraved with the words "Waarheid maakt Vrij" (Truth sets us free). She also said that she wanted a funeral attended by sympathisers from the National Socialist movement. In the end few of these plans were realised. There were financial problems, and supporters were not prepared or able to muster up the necessary costs. In the end, Rost van Tonningen was buried privately with only family members present. But that was not the end of the story. The Netherlands People's Union (Nederlandse Volks-Unie; NVU) organised a funeral march as a way of commemorating the deceased within their own circle. On 2 June 2007, a procession of old and new Nazis made their way through Rheden. This march led to internal quarrels because the NVU claimed the commemoration for itself. Several others, including former NVU chairman Glimmerveen, distanced themselves from the initiative. This rekindled an old disagreement between Glimmerveen and the present NVU chairman, Kusters, and the conflict was fought out in public on the internet.⁴ The death of Florentine Rost van Tonningen should not be seen as the loss of someone who was of great organisational importance to the extreme right, since that was never the case. She was the central figure of a vast network, however, and a "cultural emblem" of the extreme right in the Netherlands during the post-war years.

Developments on the internet

Most right-wing extremist groups have their own websites that are often linked to web forums. Besides such organisational initiatives there are also independent web forums with right-wing extremist features: Stormfront, Holland Hardcore and Polinco. Two internet shops were also formed during this Monitor period as well as a right-wing extremist digital radio station.

The Stormfront forum is an international web forum with a Dutch language subsection for the Netherlands and Flanders. In recent years this subsection has been a gathering place for right-wing extremists of every variety, from dyed-in-the-wool neo-Nazis to

³ Jaap van Donselaar, *Fout na de oorlog; fascistische en racistische organisaties in Nederland 1950-1990* (On the wrong side after the war: Fascist and racist organisations in the Netherlands, 1950-1990). Amsterdam: Bert Bakker 1991, pp. 201-208, p. 245. For a portrait of Rost van Tonningen also see *Kroniek extreemrechts 1945-2003* (Chronicle of the extreme right, 1945-2003), <<http://www.monitorracisme.nl/content.asp?pid=202&lid=1>>.

⁴ See <<http://www.stormfront.org/forum/showthread.php/kusters-als-oliedomme-en-schaamteloze-392274.html>> (20 September 2008) and <<http://www.nvu.info/schart/22.html>> (20 September 2008).

interested Lonsdale youth.⁵ The broad range of messages they post on Stormfront – without letup – are extreme and often racist and anti-Semitic, and they almost always use pseudonyms. The participants usually imagine that they are "all by themselves," anonymous and therefore safe from judicial intervention. The forum servers were in the United States, and in past years the Dutch courts showed little interest in taking action against hate speech made on the internet.⁶ If the participants thought that the use of pseudonyms and the physical location of the server in the United States put them outside the jurisdiction of the Netherlands, they were mistaken.

After questions were asked about Stormfront in the Dutch House of Representatives, a police inquiry was launched.⁷ In March 2007 searches were carried out in the homes of two moderators who were responsible for day-to-day operations on the Dutch subsection of the forum. The police confiscated the computers. Later two related arrests were made on the grounds of posting criminal material.⁸ Even though the first raids were made in March 2007, no summons has yet been issued.⁹

Holland Hardcore was also faced with legal action. Holland Hardcore is a forum that emerged from the Lonsdale culture.¹⁰ Since then, the forum has developed into a place that is still primarily aimed at Lonsdale youth but tries to interest them in right-wing extremist themes. Participants are actively recruited for right-wing extremist organisations and activities. On this forum, too, participants imagined they were safe from judicial interference. At the end of 2007, however, word got around that a criminal investigation of Holland Hardcore's goings on was underway.¹¹ After this became known, moderation of the forum did become stricter, but racist statements continued to be posted. In early 2008 the police raided the home of Holland Hardcore's manager and confiscated his computer. Whether this will result in prosecution is so far unclear.

A third major forum was Polinco.¹² This forum was set up in 2000 as a digital refuge for a group of internet posters with right-wing extremist views. Many people were antagonised by the owner of the forum, however, which left a small crowd of right-wing extremists who had a hatred of Jews and a preference for conspiracy theories. As a result of the small number of participants and incessant internal conflicts, the manager shut down the public forum in April 2007. In the meantime, the courts had also become interested in this forum. One regular forum participant, who was known for his anti-

⁵ "Stormfront Nederland en Vlaanderen" (Stormfront Netherlands and Flanders), *Kafka* 2005. See: <<http://www.kafka.antifa.net/stormfrontforum.htm>> (26 August 2008).

⁶ J. van Donselaar & P. R. Rodrigues, *Monitor Racisme & Extremisme; zevende rapportage* (Racism & Extremism Monitor: seventh report), pp. 129-131.

⁷ *Aanhangsel Handelingen II* (Appendix to the Official Acts of the Lower House of the States General) 2004/05, 2128.

⁸ "Woningen doorzocht wegens racisme op website" (Homes searched on account of racism on website), *De Telegraaf* 19 September 2007.

⁹ Our investigation was concluded in September 2008.

¹⁰ "Holland Hardcore. Hoe een website voor gabbers toegang biedt tot extreemrechtse politiek" (Holland Hardcore: How a website for gabbers offers access to extreme right-wing politics), *Kafka* 2006. See: <<http://www.kafka.antifa.net/holhard.htm>> (26 August 2008).

¹¹ "Justitie maakt ernst met aanpak 'haatsites'" (Judicial authorities get serious about dealing with "hate sites"), *NRC Handelsblad* 25 August 2007.

¹² The name Polinco is a contraction of "politically incorrect."

Semitism (as unrelenting as it was coarse), became the target of a police raid during which his computer was confiscated. In April 2008 he was ordered to appear in court. In the ruling, the court typified his contribution to the forum as "unmistakably homophobic, racist, Islamophobic and anti-Semitic," but acquitted him nevertheless. The motivation behind this decision was that the Polinco forum did not actively seek publicity and that only like-minded individuals were involved in it. According to the court, the remarks made by the participants were not public enough to make them punishable. In addition, the court described the forum as semi-public because outsiders were not able to find it without going to great lengths to do so.¹³ The grounds named in the ruling surprised us: the contested postings took place *before* the public part of the forum was closed, *not after*. At the time of those particular postings, anyone who wanted to could visit the forum without having to register.

A relatively new phenomenon in the Netherlands are right-wing extremist web shops. In 2008 Landstorm Records was set up, a web shop that offered a wide variety of neo-Nazi products (music, clothing and Nazi paraphernalia).¹⁴ After the media began to show interest¹⁵ as well as the courts, things began to get difficult for the web shop. And when the manager was found guilty of fraud within his own circle, the web shop disappeared.

A second initiative was the Fenris mail order house. Fenris sells a broad assortment of products mainly of a right-wing extremist nature (books, CDs, DVDs, clothing, flags, jewellery, et cetera) and focuses on the youth cultures within which the extreme right is active: "gabbers," skinheads and fans of Black Metal and Neofolk.¹⁶ The assortment is monitored so that no potentially incriminating material is included. Fenris uses the money it earns to finance political activities, such as a radio station that broadcasts every week on the internet, Radio Rapaille.¹⁷ Radio Rapaille broadcasts a mix of ordinary and right-wing extremist music as well as information, appeals, interviews and reports of right-wing extremist activities.

Nationalistic People's Movement

The Nationalistic People's Movement (Nationalistische Volks Beweging; NVB) was established in 2006 by a number of former activists of the National Alliance. The movement is racist, is devoted to reunification with Flanders and parades around with symbols from the NSB (a prominent Dutch branch of the National Socialist movement from the Second World War).¹⁸ Although it has roots in a political party, the NVB does not present itself as a group with an interest in electoral participation. It is not a straightforward political party.

¹³ Amsterdam District Court 2 June 2008, LJN BD2977.

¹⁴ <<http://landstorm-records.org/shop/index.html>> (22 June 2008).

¹⁵ "Vrij spel voor neonazi's op internet" (Open field for neo-Nazis on the internet), *de Volkskrant* 24 June 2008.

¹⁶ <<http://www.fenris-postorder.com>> (28 August 2008).

¹⁷ <<http://www.radiorapaille.com>> (26 August 2008).

¹⁸ "Nationalistische Volks Beweging," *Kafka* 2006. See: <<http://www.kafka.antifa.net/nvbe.htm>> (20 August 2008).

In early 2007 the NVB organised a gathering in Uitgeest. A group of political opponents also arrived to demonstrate against the gathering. The NVB had anticipated this and had asked Blood & Honour to serve as marshals. Blood & Honour were stationed outside the hall where the meeting was being held and were itching for a fight. This resulted in a violent confrontation. Some people were wounded, all the members of Blood & Honour present were arrested and a number of them were ordered to appear in court. Those responsible for the violence were sentenced to imprisonment and community service.¹⁹ A number of these criminal cases had not yet been settled in September 2008.

In the autumn of 2007 the NVB had plans to demonstrate in Amsterdam against the decision to move a war monument in order to accommodate the building of a mosque. Disturbing a war monument had not been the most obvious solution to the problem and was sharply criticised by other right-wing extremists as well. Nevertheless, the organisers went ahead with their plans. After the demonstrators had gathered they were attacked by football hooligans and political opponents, and the demonstration was terminated by order of the mayor.²⁰ Two months later, the NVB requested permission to demonstrate in Amsterdam again. For security reasons the movement was only given permission to demonstrate on a remote square. The organisers rejected this proposal and called off the demonstration. Shortly thereafter the party secretary, who was the driving force behind the movement, died suddenly. Since then nothing has been heard from the NVB.

3.2 Emergence of right-wing extremist street activism

There are several networks of right-wing extremist activists in the Netherlands. In most cases these are out-and-out neo-Nazis. We discussed the emergence of such activist groups in an earlier report.²¹ They had grown in size and there were signs of increased involvement in violent incidents and violent propaganda and rhetoric. These developments continued throughout the past Monitor period.

Netherlands People's Union

Right-wing extremist activism is not a new phenomenon. But a great deal has changed in recent years, especially when it comes to demonstrations.²² This is mainly due to the work of the Netherlands People's Union (NVU). In 2001 this party managed to obtain permission from the administrative courts to organise a legal demonstration. From that moment on, organising demonstrations has been core business for the party. Since 2001 the NVU has further expanded the latitude given to demonstrate by means of new

¹⁹ Haarlem District Court 16 January 2008, case nos. 23/000385/08, 23/000397/08, 23/000396/08, 23/000384/08. We do not know the exact details of this case since the Haarlem District Court would not provide us with a copy of the rulings.

²⁰ See <http://amsterdam.nl/algemene_onderdelen/indexen/nieuws/nieuwsarchief_2007_0?ActItnIdt=81183> (20 August 2008).

²¹ J. van Donselaar & W. Wagenaar, *Monitor racisme & extremisme. Racistisch en extreemrechts geweld in 2006* (Racism & Extremism Monitor: Racial and right-wing extremist violence in 2006). Amsterdam: Anne Frank House / Leiden University 2007. See: <<http://www.monitorracisme.nl/content.asp?pid=206&lid=1>> (21 August 2008).

²² See chapter 5, "Demonstrations by right-wing extremist groups in the Netherlands and Germany."

procedures in the administrative courts. Local authorities may not place any limitations on the scheduled time or the route, which defeat the purpose of a public demonstration.²³ This means that today the NVU can demonstrate in the centre of a city during the busy hours of the day. Naturally that applies not only to the NVU but also to other right-wing extremist organisations, which also make grateful use of this liberalisation of the free speech principle brought about by the NVU.

National-Socialist Action, Racial Volunteer Force

In 2005 some of the Lonsdale (white power) youth in Zoetermeer formed a right-wing extremist group that quickly became radicalised. This group originally took the name Soetermeer Skinhead Front but later christened itself Youth Storm Netherlands (Jeugdstorm Nederland). Today it is known as National-Socialist Action (Nationaal-Socialistische Aktie; NSA).²⁴

During its first two years this group's adherents were involved in serious acts of violence, with several members often operating together. That led to arrests and criminal convictions. In 2007 the Haaglanden police announced that they had started a so-called stalking project against these young people in Zoetermeer.²⁵ As a result of this project, the problems caused by the group were greatly reduced and part of the hard core left Zoetermeer. At first some of the problems shifted to The Hague. The group still exists but the public nuisance has subsided.

Initially the ideology of the organisation did not seem much different from that of the "Lonsdale youth:" xenophobic ideas that leaned towards neo-Nazism. All that changed as soon as the leaders of the group came in contact with a small radical action group, the Racial Volunteer Force (RVF). The group began to develop a radical neo-Nazism with a heavy emphasis on extreme anti-Semitism. This hatred of the Jews is so extreme that the group identifies with radical Muslims in the belief that they are bound together by their common anti-Semitism.

Recently the group found a new source of inspiration in the Autonomous National Socialists (Autonome Nationale Sozialisten) of Germany. These mostly young neo-Nazis were in turn inspired by militant left-wing action groups ("autonomists") from the 1980s. They use not only the slogans and symbolism but also the ideas about socio-cultural construction that were generated by a political movement of their left-wing opponents. Successfully mobilising young people for the political struggle would go hand in hand with creating an independent youth culture. This youth culture is reflected in a separate dress code, music, concerts and meeting places. The new group also thinks differently about the use of violence. Up until recently, German neo-Nazis hardly ever used violence at their public demonstrations, if at all, to keep from alienating "the common man" from their ideas. Recently a change has taken place. "Autonomous Nationalists"

²³ Zutphen District Court 26 January 2007, LJN AZ7212 and Arnhem District Court 13 May 2005, LJN AT5504 (LJN = National Case Law Number; the number under which judgments of Dutch courts are published on the website www.rechtspraak.nl).

²⁴ "Jeugd Storm Nederland," *Kafka* 2008. See: <<http://kafka.antifa.net/nsa.js.htm>> (24 August 2008).

²⁵ "Politie 'stalkt' extreem-rechts Zoetermeer uit" (Police "stalk" right-wing extremists out of Zoetermeer), *Brabants Dagblad* 15 August 2007.

are more and more apt to use violence against the police and political opponents at their demonstrations. By drawing on these sources of inspiration, the NSA has developed into a strongly ideological and radicalised group of neo-Nazis.

At the same time there has been much less spontaneous violence by NSA activists. It has been replaced by rhetoric consisting of violent propaganda that is mainly aimed at the government, the police, international "Jewry" and political opponents. In practice this mainly means seeking confrontations with political opponents (chiefly anti-fascist organisations). In one case an attempt was made to attack a demonstration of squatters, but the police managed to prevent it.²⁶ In other cases violent action was taken against individuals or buildings.

Besides these actions, the NSA was mainly getting involved in right-wing extremist demonstrations. Activists from the NSA are almost always present at demonstrations organised by the NVU. At first they deferred to the NVU's leadership role: that is, to the themes and slogans that the NVU had devised. But recently they have been projecting their "own" image. NSA members invariably stick together, with banners separating them from the rest of the demonstration. They also shout their own slogans, especially against the Jews, the state and the police, despite the official NVU theme and instructions. By taking this approach, the NSA has driven off a large number of the original NVU adherents and has become a fairly dominant feature at NVU demonstrations. The NSA has also organised a few demonstrations on its own.

At the moment – autumn 2008 – the group is still strongly oriented towards the Zoetermeer-Haaglanden region, although there are adherents throughout the entire country. Some of these are veteran neo-Nazis who see this group as an opportunity to recruit new blood for their ideas. The NSA also manages to pilfer young people from other organisations, especially the NVU and Blood & Honour. Finally, the NSA is apparently capable of recruiting new young people from the Lonsdale circuit, albeit on a limited scale.

Blood & Honour

Blood & Honour is an organisation of skinheads with neo-Nazi views. The organisation was established at the end of the 1980s in England and now has divisions in many Western countries. The organisation is banned in Germany and Spain. In the Netherlands the degree of organisation for Blood & Honour is low. There are a few different networks that toss the name of Blood & Honour about. In terms of political ambitions, Blood & Honour aims much lower than the NSA. Blood & Honour members are more accurately characterised as political hooligans. They appeal mainly to their skinhead identity. As a result, a great deal of emphasis is placed on group identity, group events, pub gatherings and concerts, alcohol consumption and spontaneous street violence.

²⁶ "Zeventien rechts-extremisten opgepakt" (Seventeen right-wing extremists arrested), *Algemeen Dagblad/Den Haag* 12 January 2008 and "De tegenslag van de nsa/ans in Den Haag" (A setback for the NSA/ANS in The Hague) (NSA's own report), on: <<http://erwache.freeforums.org/de-tegenslag-van-de-nsa-ans-in-den-haag-t129.html>> (28 February 2008).

In early 2007 Blood & Honour still had some kind of national organisation. Then in the spring of 2007 a group of Blood & Honour activists were arrested. They were present at a gathering of the National People's Movement (as cited earlier in this chapter). When a group of anti-fascist counter-demonstrators arrived, the Blood & Honour group attacked them. Arrests were made, and among those arrested were members of the national executive. This did the organisation little good.

A short time later, Blood & Honour Netherlands organised a commemoration of the Dutch and Flemish SS volunteers. This commemoration, an openly Nazi tribute at a cemetery in Lommel, Flanders, caused a great deal of commotion in both Belgium and the Netherlands.

Reports of the events in Uitgeest and Lommel reached the Dutch House of Representatives and led to questions about the possibility of putting Blood & Honour under a ban.²⁷ In response to these questions the Minister of Justice said that there was still insufficient information available about the organisation to outlaw it, but he did not rule out the possibility of discussing things at a later date.

Because of the prosecution of the Blood & Honour executive staff in the Uitgeest case, as well as all the negative publicity, the national structure of the organisation came under pressure and seems to have disappeared for now.

A few regional groups have attempted to start up again. In Aalten, for instance, the local group tried to organise a Hitler commemoration. That attempt ran aground, however, after the mayor issued a preventive ban.

Besides this national structure, a Dutch branch of a radical Blood & Honour splinter group was also active: Combat 18. This group was concentrated mainly in a small group of violent skinheads in the Rijnmond region. In 2007 the group was given negative press when police raided the home of a prominent member and found a weapons arsenal that included an automatic weapon. During the court session, indications of an even more serious offence were found: an attempt to acquire a rocket launcher. The accused was finally sentenced to two years' imprisonment, six months of which were suspended.²⁸ This case, too, seems to have had some impact on internal relations: the group appears to have more or less vanished.

Voorpost

The "Whole-Netherlandish" organisation Voorpost (Outpost) is of Flemish origin and has had a Dutch section since the 1970s.²⁹ Voorpost tries to influence public opinion on right-wing extremist themes by training its own grassroots supporters and by means of high-profile actions.

Since acquiring a new, motivated campaign leader in 2004, Voorpost Netherlands has been enjoying a period of success. The organisation recently made the news when members of the newly established Flevoland division were arrested after having tried several times to set fire to two squats, an Islamic shop and a synagogue.³⁰ The

²⁷ *Aanhangsel Handelingen II* 2007/08, 148.

²⁸ Rotterdam District Court 27 August 2007, case no. 10/711039-07.

²⁹ "Voorpost Nederland," *Kafka* 2007. See: <<http://www.kafka.antifa.net/Voorpost-flevoland.html>> (22 August 2008).

³⁰ The Flevoland division of Voorpost had its first meeting on 27 January 2007, see: <http://www.holland-hardcore.com/component/option,com_fireboard/Itemid,70/func,view/catid,41/id,18770/> (20 August 2008).

perpetrators were given nonsuspended prison sentences.³¹ Voorpost did whatever was necessary to distance itself from these actions and made it known that only two of those arrested were Voorpost members. It also expelled those members as a result of the actions.³² However, during the trial one of the founders of Voorpost-Flevoland said that contrary to any prior statements, most of the group consisted of Voorpost members.

Despite this incident, the Voorpost executive staff managed to expand the organisation in a number of areas and to attract attention – mostly regionally – by means of actions conducted at regular intervals. Voorpost generated national attention with an action against Wijnand Duyvendak, prominent member of the Green Left (GroenLinks), whose position had been compromised because of his activist past. During the presentation of Duyvendak's latest book, Voorpost activists threw a pie in his face.

Right-wing extremist street activism: a review

Right-wing extremist *action groups* have become more prominent. This can be seen first of all in the increasing number of demonstrations they hold. Since the NVU managed to actually win the right to demonstrate through the administrative courts, the number of demonstrations has steadily risen. The year 2004 was a peak year due to a number of demonstrations held after the murder of Theo van Gogh. The year 2008 (until September), however, showed an increase in the number of right-wing extremist demonstrations.

Table 3.1 Number of extreme right-wing demonstrations in the Netherlands 2001 to September 2008

Year	Number of right-wing extremist demonstrations
2001	2
2002	3
2003	8
2004	12
2005	7
2006	8
2007	12
2008 (until September)	18

Secondly, the actions are more provocative and mediagenic, which contributes to their public recognition. When Geert Wilders finally launched his film *Fitna* after months of

The arson committed by the group took place between October 2006 and February 2007. After the last case of arson on 20 February 2007 the entire group was arrested.

³¹ Zwolle District Court 4 September 2007, LJN BB2830, BB2832, BB2833, BB2836, BB2838, case nos.: 07/607095-07, 07/607104-07, -7/607107-07, 07/607094-07,07/607093-07, 07/607089-07.

³² "Kennissegeving omtrent vermeende betrokkenheid bij gewelddadigheden Almeerse jongeren" (Announcement concerning alleged involvement in violent actions by Almere youth), see: <<http://www.voorpost.org/nieuw%20nl/20070821.htm>> (20 August 2008).

building tension, the country remained calm. The media and police who had gathered around the Binnenhof (the parliament building) in The Hague saw only one action: a demonstration by the NSA against the "Zionist" Wilders. The Duyvendak "pie incident" managed to generate an unprecedented level of attention for Voorpost.

Thirdly, the number of followers attracted to these action groups has skyrocketed in recent years. In 2004 we estimated the neo-Nazi following at about forty persons and the same number for the Voorpost following.³³ In 2006 we reported a growth in neo-Nazi connections, with a hard core of 55 persons and a following of 290 persons. For Voorpost we estimated a hard core of ten persons and a following of thirty.³⁴ In the 2007 annual report, the General Intelligence and Security Service (Algemene Inlichtingen en Veiligheidsdienst; AIVD) wrote that about 400 persons were active in the Dutch neo-Nazi spectrum,³⁵ an estimate that we second. A calculated estimate of the Voorpost membership suggests that the group is increasing. The active core increased to around forty persons, with an estimated present membership of around 200.

3.3 The "Lonsdale problem"

Lonsdale youth have gained notoriety in recent years as a problematic youth group that is often associated with violent acts and racist ideas. As we reported in earlier publications, we are not entirely happy with the name "Lonsdale youth." We decided to use the name, however, because it is a concept with strong social resonance. When we talk about "Lonsdale youth," we mean (white power oriented) right-wing extremist young people from the "gabber culture."

In 2005 we published a special study on this phenomenon as part of our Monitor project.³⁶ We concluded that racism and right-wing extremism do play a role for some "gabbers." How much of a role could not be established, however, because there are significant differences between and even within the groups of "gabbers" themselves. A calculated estimate of the number of "gabbers" who espouse any form of right-wing extremist or racist ideology comes to about 125 groups, with between 5 and 50 individuals each. No well-informed statement can be made concerning the present size of the phenomenon without new research. We see no reason, however, to suppose that the number will have risen or dropped dramatically.

Three years after the publication of this report neither the phenomenon nor the problem has gone away, although the public's reading of the situation has changed for the most part. In 2005 the word "Lonsdaler" was still among the top 10 new words in the Van Dale

³³ J. van Donselaar & P. R. Rodrigues, *Monitor Racisme & Extremisme; zesde rapportage* (Racism & Extremism Monitor: sixth report). Amsterdam: Anne Frank House / Leiden University 2004.

³⁴ J. van Donselaar & P. R. Rodrigues, *Monitor Racisme & Extremisme; zevende rapportage* (Racism & Extremism Monitor: seventh report).

³⁵ *Jaarverslag AIVD 2007* (AIVD Annual Report for 2007). The Hague: Algemene Inlichtingen- en Veiligheidsdienst, 2008.

³⁶ Jaap van Donselaar (final editing), *Monitor Racisme & Extremisme. Het Lonsdalevraagstuk* (Racism & Extremism Monitor: The Lonsdale Problem), Amsterdam: Anne Frank House / Leiden University 2005.

dictionary of the Dutch language.³⁷ Earlier we observed that the "Lonsdale" label was showing signs of wear.³⁸ In 2005 when Lonsdale youth were featured in the media and in other reports, they were almost always tagged with the "Lonsdale" label. But recently we have noticed that such reports frequently leave the label unmentioned or use the descriptive term "skinheads" when referring to these young people. There has also been evidence that Lonsdale youth are being radicalised and are moving on to neo-Nazi groups (see previous section). This alters our image of the Lonsdale problem. Whether the changed image squares with actual developments, however, is another question. According to the intelligence service AIVD there is little to worry about. "Some youth cultures base their identity on right-wing symbolism," the service explains. "The verbal style and the appearance that these young people adopt are usually seen as right-wing extremists, but in fact that is not the case. Only a small core become radicalised and go on to join existing right-wing extremist groups or to form a group of their own."³⁹ We believe that this view is predicated on the restrictive definitions of racism and right-wing extremism used by the AIVD. Racism is defined as actions that are based on rational ideas about biological inferiority.⁴⁰ And to be a right-wing extremist, one must (in line with the above statement) be a member of a group. In the attempt to define racism and right-wing extremism, debates have been going on for decades concerning the extent to which the term "racism" should be reserved exclusively for biological arguments, in which one "race" – usually one's own – is rated more highly than the others. Some support this view, others do not. In our opinion, the definition chosen by the AIVD does little to acknowledge (a) the possibility that relatively moderate views can be based on thoroughly radical ideas and (b) the many other perceptions that are relevant to interethnic tensions. When a euphemism is used ("Full=Full") to tell someone that he must leave the country because of his ethnicity, many – including the victim at the very least – will understand it as a racist remark. Not only among ethnic minorities but within a much broader circle as well, notions of what should and should not be regarded as racist are different than those of the AIVD. A broader approach would also take into account the reaction patterns that can be triggered by such actions and remarks. Finally, there is also a legal reason: the criminal discrimination prohibitions and case law. In order to speak of "race" in the *legal* sense we are not compelled to use the *linguistic* word "race," since the legal notion of "race" is broader than the notion used in common parlance.⁴¹

For these reasons we feel more affinity for a less restrictive definition of racism that does greater justice to the different assessments sketched above – in sociological jargon:

³⁷ T. den Boon, *Taal van het jaar vijf. Kroniek van het Nederlands in 2005* (Language of the year five: Chronicle of the Dutch language in 2005). Utrecht: Van Dale Lexicografie 2005.

³⁸ J. van Donselaar & W. Wagenaar, *Monitor Racisme & Extremisme. Racistisch en extreemrechts geweld in 2006* (Racism & Extremism Monitor: Racial and extreme right-wing violence in 2006).

³⁹ *Jaarverslag* (Annual Report) AIVD 2007.

⁴⁰ "Lonsdale-jongeren" in *Nederland: feiten en fictie van een vermeende rechts-extremistische subcultuur* ("Lonsdale youth" in the Netherlands: Facts and fiction concerning an alleged right-wing extremist subculture). The Hague: Algemene Inlichtingen- en Veiligheidsdienst 2005. See <<https://www.aivd.nl/contents/pages/43317/lonsdalenotavorburgemeestersgeregistreerd.pdf>> (24 August 2008).

⁴¹ For a more detailed explanation see chapter 8, "The extreme right and the discriminatory content of the PVV," section 8.3.2.

different definitions of the situation – which simply express a social reality. Such a definition would also avert the danger of "defining away" part of the problem. Worse still, there is the fear that if broad segments of society – those of the victim at least – sense the presence of racism in the way things are being done, a restrictive definition would contribute little to solving the problem and could even complicate it. People might reason that the government, on which they depend for protection, is denying the problem.

A number of incidents in 2007 and 2008 show that the Lonsdale problem is still with us. The most notorious incident took place in the village of Waspik in West-Brabant. There a Liberian refugee family was harassed for a year by a group of Lonsdale youth. The family reported the incidents to the local authorities. Despite these reports, the town and the police took no action against the group of Lonsdalers. Finally the family felt forced to leave the village and look for a home elsewhere. After an interview with the family, the forced departure became national news.⁴² The town council responded by commissioning an independent investigation of the events in order to avoid a repetition of the affair. This investigation concluded that the local government was guilty of gross failure,⁴³ which ultimately resulted in the collapse of the executive council. In the meantime, the law also stepped in. The police arrested several members from the Lonsdale group. In the end, eleven youths were put on trial and sentenced to training orders and community punishment orders.⁴⁴

Problems with right-wing extremist Lonsdale youth were observed in other places as well.

A few examples:

- In a report from the Kennemerland Bureau for Discrimination it was concluded that the situation is very serious in one village in the area (Zwanenburg) and alarming in three other villages. In Zwanenburg, according to the report, there are two racist groups of juveniles who have created a public nuisance and have been involved in violence.⁴⁵ The Zwanenburg village council said the conclusions were exaggerated.
- In Dokkum in early 2007 there were several violent incidents involving a Lonsdale group.⁴⁶ The incidents included confrontations, cases of assault and serious vandalism.
- In Edam, Lonsdale youths set fire to a mosque. One of them had committed vandalism in a Jewish cemetery earlier on. These youths were arrested and

⁴² "Oorlog duurt voort voor Liberianen" (War continues for Liberians), *Brabants Dagblad* 29 September 2007.

⁴³ *Racistische overlast in Waspik* (Racist behaviour in Waspik), Utrecht: FORUM 2008.

⁴⁴ Breda District Court 24 April 2008, LJN BD2544, case nos. 02/629464-07, 02/629220-07, 02/801222-07, 02/801221-07, 02/629217-07, 02/629219-07, 02/629218-07, 02/629221-07, 02/801243-07, 02/801239-07.

⁴⁵ Bureau Discriminatiezaken Kennemerland, *Rechts, rechtser, extreemrechts?* (Right-wing, more right-wing, extreme right-wing?), Bureau Discriminatiezaken Kennemerland 2007 (confidential report).

⁴⁶ "Dokkumer hangjeugd: Geef ons een caravan" (Dokkum street youths: Give us a caravan), *Leeuwarder Courant* 16 January 2007.

sentenced to a few months' imprisonment and additional community punishment orders.⁴⁷

This picture of a continuing problem with Lonsdale youth is also confirmed by the annual report of the Education Inspectorate: "Schools seldom have to deal with religious extremism, but they do have a problem with 'white' extremism [...] and with conflicts between native Dutch pupils and ethnic minority pupils." The Education Inspectorate defines white extremism as "Lonsdale and White Power." The figures from the annual report show that "white extremism" at schools is a problem of considerable proportions.

Table 3.2 Percentage of schools per sector that had problems with white extremism in 2006-2007

Primary education		Secondary education			Special education	
Primary schools	Special primary schools	Vocational schools for special needs pupils	VMBO (secondary vocational schools)	HAVO-VWO (general secondary and pre-university)	Special schools	Special secondary schools
2%	1%	27%	20%	9%	3%	13%

Source: Education Inspectorate⁴⁸

These percentages may indicate a rather large numbers of incidents – larger at least than what can be deduced from studies based on inventories of incidents, such as "Racial and right-wing extremist violence," "Response to extremism in Rotterdam" and "Investigation and prosecution" in this volume.⁴⁹ Does this mean that "white extremism" is therefore not reflected in incidents at schools? We cannot rule that out entirely, but we do think it more likely that schools are reluctant to report incidents openly out of fear of adverse consequences, such as acquiring a bad name. If anonymity is assured, as it is here with the study of the Education Inspectorate, schools will be more inclined to report the kinds of problems they are being confronted with. Our suspicions are borne out, at least for now, by the contacts we have had in this field or with the municipalities. Initiating specific research on this problem could provide greater clarity (and is therefore desirable).

There have also been developments in the responses to the Lonsdale problem during the past Monitor period. In Hendrik-Ido-Ambacht a project was carried out with a group of troublesome Lonsdale youth that has proven to be both innovative and effective.⁵⁰

⁴⁷ Haarlem District Court 25 May 2007, LJN BA6136 & BA6137. Haarlem District Court 17 August 2007, case no. 15/740110-07.

⁴⁸ Inspectie van het Onderwijs, *De staat van het onderwijs. Onderwijsverslag 2006 / 2007* (The state of our schools: Education report, 2006/2007). Den Haag: Inspectie van het Onderwijs 2008, p. 211.

⁴⁹ See chapters 2, 7 and 9 respectively.

⁵⁰ C. Behoekoe & F. Fernández, *Aan de slag met Lonsdalejongeren. Een curatieve groepsaanpak in Hendrik-Ido-Ambacht* (Getting to work with Lonsdale youth: A curative group approach in Hendrik-Ido-Ambacht). Utrecht: FORUM, 2008.

This involved a group of about 150 juveniles, 30 to 40 of whom had racist and neo-Nazi views. They were also a public nuisance. A number of the juveniles were active in right-wing extremist groups and were involved in interethnic confrontations. In response to these problems, youth workers decided to provide a place for the youngsters in the youth centre. By building trust, giving them responsibilities and starting discussions among them, the group slowly lost its closed, radical character and fell apart as a right-wing extremist entity.

Another initiative consists of two pilot projects aimed at deradicalisation. In Winschoten and Eindhoven, attempts are underway to see whether young people who are being radicalised can be extricated from the right-wing extremist circuit by means of an individual approach. The pilots are supervised by FORUM and are being investigated as part of the *Racism & Extremism Monitor*. The projects will be completed in 2009.

3.4 Decline of right-wing extremist parties

In the previous Monitor we discussed the development of right-wing extremism in the period 2005-2006, including four parties: the New National Party (Nieuwe Nationale Partij, or NNP; dissolved in 2005), New Right (Nieuw Rechts), the National Alliance (Nationale Alliantie) and the National People's Union (NVU).⁵¹ Things have not gone well for these parties in recent years. As already noted, the Party for Freedom is being discussed separately in another part of this Monitor.⁵²

New Right

New Right originally began as a breakaway faction of Liveable Rotterdam (Leefbaar Rotterdam). Michael Smit (1976) was elected to the Rotterdam city council in 2002. After a series of conflicts having to do with Smit's right-wing extremist orientation, Smit broke with Liveable Rotterdam and formed New Right. Expectations for the party were high, both within the party itself and among outsiders. It seemed stable, had a relatively large membership by right-wing extremist standards and, in this post-Fortuyn period, had everything going for it. Yet there were problems. By switching its orientation back and forth from the radical to the moderate wing of the extreme right, New Right made few friends in either group. This alternating orientation also gave rise to internal tension. Nevertheless, New Right seemed reasonably stable – until the municipal elections of 2006. In the run-up to the elections the party regarded its prospects as highly promising. It expected to win seats in many regions. But in the end the party participated in only four municipal elections and won only one seat. Even Smit's Rotterdam seat was lost. After this the party soon crumbled away. There appeared to be major financial problems. Members left, and the party structure also broke down.⁵³ In January 2007 the only

⁵¹ J. van Donselaar & P. R. Rodrigues, *Monitor Racisme & Extremisme; zevende rapportage* (Racism & Extremism Monitor: seventh report).

⁵² See chapter 8: "The extreme right and the discriminatory identity of the PVV."

⁵³ J. van Donselaar & P. R. Rodrigues, *Monitor Racisme & Extremisme; zevende rapportage* (Racism & Extremism Monitor: seventh report), pp. 119-121.

remaining city council member left the party after a quarrel about anti-Semitic remarks made by another party member.⁵⁴

New Right participated in two more elections during this Monitor period. In March 2007 it took part in the elections for the Provincial States of Zuid-Holland and Overijssel. New Right failed to win a single seat. When redivision elections were held in the town of Lansingerland at the end of 2006, New Right managed to win one seat. But problems arose there, too. In order to occupy the seat, Smit himself had to move to Lansingerland. This turned out to be no easy task. Finally Smit found an address and was installed in March 2007.⁵⁵ In August, however, the town reported that Smit did not live at that address and that he had stopped showing up at the town hall as well.⁵⁶ Shortly thereafter Smit withdrew as a councilman.⁵⁷

At the end of 2007, New Right announced on its website that the party itself was being dissolved, supposedly because it had received so many death threats and so much intimidation.⁵⁸ When interviewed about his withdrawal as a politician, however, Smit admitted that mounting debts had also played a role and that he had become convinced that his ambition to become a member of parliament was not realistic.⁵⁹

National Alliance

The National Alliance grew out of a breakaway faction of the New National Party in 2003. As the name suggests, the intention was to create a party that would unite all the right-wing movements. In the previous Monitor we reported that the initial growth of the party had flagged after a burst of rapid radicalisation, especially in the areas of anti-Semitism and violent engagement. Other factors also had a negative impact on the party. In 2006 the party participated in the Rotterdam city council elections, but it received very few votes and did not gain any seats. Finally it was internal conflicts that caused members to leave.⁶⁰

The party was already being ravaged by a sharply declining membership when chairman Teijn organised two demonstrations in early 2007. Both of them ended in failure, however, due to a lack of participants.⁶¹ Six persons walked in the last demonstration. A

⁵⁴ "Als dit niet anti-Joods is, wat dan wel?" (If this isn't anti-Jewish, then what is?), *Reformatorisch Dagblad* 26 January 2007.

⁵⁵ Report of the public meeting of the Lansingerland town council, held on 29 March 2007 in the Bleiswijk administrative centre. See: <<http://www.lansingerland.nl/document.php?fileid=3068&m=1&f=81ccbab3ed65929553b69a138183ceff&attachment=0&c=2926>> (14 August 2008).

⁵⁶ "Smit moet zetel teruggeven" (Smith has to return his seat), *Algemeen Dagblad* 12 September 2007.

⁵⁷ "Terugtreeden raadslid Lansingerland" (Lansingerland councilman withdraws), <<http://www.nieuwrechts.eu/cms/>> (13 September 2007).

⁵⁸ <<http://www.nieuwrechts.eu/cms/index.html>> (17 December 2007).

⁵⁹ "Ik had genuanceerder moeten zijn" ("I should have been more nuanced"), *Algemeen Dagblad* 19 September 2007.

⁶⁰ J. van Donselaar & P. R. Rodrigues, *Monitor Racisme & Extremisme; zevende rapportage* (Racism & Extremism Monitor: seventh report), pp. 116-119.

⁶¹ "Nationale Alliantie demonstreert: Niets is wat het lijkt" (National Alliance demonstrates: Nothing is what it seems), *Alert!* 1-2007.

few weeks later the party's problems increased even further. The Public Prosecution Service in Rotterdam carried out searches in the homes of the three board members that were provoked by criminal statements made on the party's web forum. During the searches, child pornography was found in the home of party chairman Teijn.⁶² In July the executive board decided to dissolve the party. There were twenty members left at the time.⁶³

Netherlands People's Union

The Netherlands People's Union (Nederlandse Volks-Unie; NVU), founded in 1971, developed into an openly National Socialist party during the 1970s. As noted earlier, the NVU has been fighting for the right to demonstrate legally since 2001. Since then, demonstrating has become the party's most important activity. For a long time these demonstrations were more or less identical. The NVU managed to mobilise between fifty and eighty of its own supporters to serve as demonstrators. In addition there was always a small group from the more radical circuits, such as RVF activists.

The NSA/RVF group of activists has been growing recently, and as a result the NVU demonstrations are gradually being taken over. At a demonstration of about eighty demonstrators, around seventy will be from these groups and the remaining small minority from the classical NVU following. This affects the way the NVU functions. Because of the outspoken anti-Semitism of the NSA, even the NVU leadership is abandoning the cautious direction it has taken on this theme and is being more openly negative in its remarks about Jews. So external radicals seem to be undermining the NVU at this point. During the past Monitor period, the NVU participated in the Provincial States elections in Gelderland and did not gain a single seat. The significance of the NVU as a political party is slight, but in terms of right-wing extremist street activism the NVU is an actor of quite some significance.

3.5 Conclusion

The extreme right in the Netherlands has been going through a transitionial period recently. The most important observation is that the extreme right has become much more eager to engage in direct action. This is evident in the increasing number of demonstrations, the number of high-profile actions and the expanding membership in action-oriented organisations. The number of neo-Nazi activists has also shot up within a relatively brief span of time: from 40 activists in 2004 to 400 in 2008.

We see this most clearly reflected in nonviolent actions. In contrast to the last Monitor period, the spontaneous violence of these groups seems to have disappeared for the most part. There has been an increase in rhetoric that glorifies violence, however. In neo-Nazi circles in particular, violence is proclaimed as a political tool to be used against the international Jewish conspiracy, against the government, against the police and intelligence services and against political opponents. Occasionally this leads to more or less organised actions, mainly against political opponents (anti-fascists).

⁶² "Teijn durft de deur niet meer uit" (Teijn doesn't dare show his face), *Algemeen Dagblad* 15 August 2007.

⁶³ <<http://www.nationalealliantie.com>> (21 July 2007).

For the time being there has been little government response to the public preaching of violence combined with expressions of radical anti-Semitism and a call to return to a National Socialist form of government.

All that remains of the "classical" political parties of the extreme right in 2008 is the NVU. This party seems to be in a transitional stage at the moment. Under pressure from allied radical neo-Nazis, the old NVU core seems to be disappearing. At the same time, the NVU leadership is being forced to adopt the radical themes of these neo-Nazis. The rest of the right-wing extremist parties have disappeared in recent years. When the parties dissolve, the finger is usually pointed at the lack of political elbow room provided by public administration, political opponents and the judicial system. There is certainly something to this. Both the New Right and the National Alliance were had to contend with criminal proceedings for crimes of expression and with actions taken by political opponents. The political elbow room was also increasingly limited due to the radical views taken by Geert Wilders. At the same time, however, the parties seem incapable of avoiding internal problems, quarrels and splits. The combination of external pressure and the lack of internal stability proved fatal.

The transformation of organised political movements to right-wing extremist action groups, some with an agenda aimed at verbal violence, is a development that demands attention. In addition, there are still a large number – possibly thousands – of more or less racist Lonsdale youth in several regions who are involved in violent incidents and interethnic confrontations. The signals that are presently being detected with regard to the Lonsdale youth are diverse. Serious situations are being reported in some regions. Schools are having to deal with the expected problems, but unfortunately specific information about the nature and scale of those problems is lacking. At the same time, the intelligence service AIVD declares that the situation is not very serious because there is hardly any evidence of further radicalisation. This does not seem to be a matter of perceiving the facts of the events differently. Rather, the difference in assessing those events probably has more to do with just how serious they are, what is being seen, and – to be more exact – whether extremism is involved at all. The AIVD uses restrictive definitions that are not reflected in the other reports cited. The fact that there still is a Lonsdale problem seems to be beyond doubt, but assessments differ as to the nature, seriousness and scale of the problem.

At the same time there have been new, interesting developments in terms of government response. Criminal remarks made on four right-wing extremist web forums have been challenged by the courts. In addition, experimental approaches have been attempted in a number of regions to address the problems related to juvenile right-wing extremists and signs of radicalisation. Whether these new forms of response will succeed in solving the problems of extremism is a question that will require quite some attention in the coming period.

4 Grey Wolves in the Netherlands

Jaap Tanja

Grey Wolves is the name used since the end of the 1960s for the paramilitary youth movement of the MHP (Nationalistic Action Party), Turkey's extreme nationalistic political party. In Turkey the MHP has now become the third largest party in the country in terms of electoral support, and it also has an organised following among Turks in the Netherlands. At the end of the 1990s there was a fierce discussion in the Dutch media concerning to what extent the Grey Wolves here form an obstacle to the integration of Turkish migrants in Dutch society. Since then the commotion caused by this topic has subsided somewhat. This chapter will deal with the supposed extremist and racist character of the Grey Wolves. Its central question is: To what extent does the Grey Wolf phenomenon exist today in the Netherlands?

4.1 Introduction

Research conducted at Amsterdam schools in 2005 shows that not only Moroccan young people but also Turkish youth in the Netherlands (be it to a lesser degree) are expressing anti-Western ideas more often now than in the past.¹ Over a year later, the National Coordinator for Counterterrorism (Nationaal Coördinator Terrorismebestrijding; NCTB) spoke of his concern about the radicalisation of Turkish young people in the Netherlands in particular.² This raises the question whether such a strong anti-Western attitude among Turkish youth, and the religious radicalisation that has been observed among some of them, coincide with growing support for Turkish nationalistic views. Or is there an increasing tendency among Turkish-Dutch youth to allow their Turkish identity to be replaced by an identity with the Islamic community?

The last time Turkish nationalism received extensive news coverage in the Netherlands was in 1997 with the publication of the controversial book *Grijze Wolven* (Grey Wolves) by the authors Stella Braam and Mehmet Ülger.³ Since then little has been heard on the topic, although at certain opportune moments so-called Grey Wolves do reappear, mainly in the written news media. In the publications of the *Onderzoeksgroep Turks extreem-rechts* (Turkish Extreme-Right Research Group), Grey Wolves are linked almost without exception to both extremism and racism. Several times in recent years, questions have been raised in the Lower House of parliament about possible misconduct by Grey Wolves, and slogans and signs of Grey Wolves have been spotted at recent Turkish protest marches in the Netherlands against the Kurdish PKK.

¹ Study by the City of Amsterdam / Eva Klooster, *Interculturele verhoudingen op Amsterdamse scholen in het voortgezet onderwijs en middelbaar beroepsonderwijs* (Intercultural relations at Amsterdam secondary schools), Amsterdam, 25 May 2005. Discussed in *NRC Handelsblad* 2 July 2005.

² Samenvatting Dreigingsbeeld Terrorisme (Summary of the Terrorist Threat Assessment Netherlands) September 2006, *Kamerstukken II* (Official Reports of the House of Representatives of the States General) 2006/07, 29 754, no. 87.

³ S. Braam & M. Ülger, *Grijze Wolven: een zoektocht naar Turks extreem-rechts* (Grey Wolves: a search for the Turkish extreme right). Amsterdam: Nijgh & Van Ditmar 1997. A fifth, expanded reprint was published in 2004.

The following research is basically an inventory that looks at the problem in general terms. By studying the available literature, supplemented by other sources (especially reports in daily and weekly news publications and magazines) as well as a few conversations with experts,⁴ we will address the following research questions: Who are the Grey Wolves? How are they organised? In what ways and in connection with what kinds of incidents has attention been paid to the Grey Wolves in the Netherlands in the news media in recent years (2003-August 2008)? To what extent can the activities and the ideology of the Grey Wolves be characterised as extremist and racist? In order to answer these questions, a brief historical introduction and a short look at the situation in Turkey are in order.

4.2 History and ideology in a nutshell

One of the problems involved in reporting on and researching the Grey Wolves is that it is not entirely clear who this name refers to. Their origin is perhaps the least problematic: the name Grey Wolves was given to paramilitary youth groups at the end of the 1960s who were allied with the ultranationalistic *Milliyetçi Hareket Partisi* (MHP, or the Nationalistic Action Party). Grey Wolves refer to an animal that occupies a prominent place in ancient Turkish mythology as the mother, guardian and saviour of the Turkish people. The first leader of the MHP, who took charge after the party was founded in 1969, was a former Turkish army colonel, Alparslan Türkeş – "the great leader" according to many of his followers. Türkeş was the spokesman of the group of soldiers who staged a coup in 1960 and governed Turkey for 15 months. Besides being a fierce defender of the grandeur of the Turkish nation, Türkeş was also an outspoken anti-communist. By the end of the 1970s Turkey had become extremely politicised, with widespread political unrest and street violence that resulted in thousands of deaths. Groups of armed Grey Wolves marched and demonstrated through the streets and clashed with left-wing opponents. There were bombings, bank robberies and kidnappings.⁵ Political opponents portrayed the MHP as a fascist party, something that the party itself has always sharply denied. Although the party did not maintain any official ties with the Grey Wolves, it did sponsor summer camps for them at which sports and commando training (and firearms, according to opponents) were available. Indoctrination into the ideology of the party by Türkeş and other MHP heavyweights was also on the programme. Besides the street-fighting youth militias there were also other groups responsible for the political violence in Turkey during those years: the so-called *Idealists* (*ülcücüler* in Turkish),⁶ who were allied with the MHP and organised in diverse cultural and social organisations, as well as extreme nationalistic trade unions. In 1980 the street violence resulted in a military coup. All political parties were forbidden and the activities of the Grey Wolves and other militias decreased noticeably.

⁴ Conversations have been carried out with three persons: Miriam Geerse (Free University, Amsterdam), Harm van Zuthem (Inspraak Orgaan Turken, or Turkish Forum) and Ahmet Azdural (idem).

⁵ For an impression of the turbulent political situation in Turkey after the Second World War, see E.J. Zürcher, *Turkey, a modern history*. London: Tauris & Co 1998.

⁶ The ultimate ideal (*ülkü*), which "can only be nourished by blood, heroism, sacrifice and national hatred," is the unification of all the Turkish peoples in the land of the ancestors.

In the ideology of the MHP, nationalism and Pan-Turkism play a prominent role. Pan-Turkism strives for the cultural and political solidarity of all peoples of Turkish lineage.⁷ According to some, the "Turkish world" covers an area that extends from the eastern Mediterranean Sea region to Xinjiang, China, and from the Volga in Russia to southern Anatolia. Pan-Turkism, which emerged in the late eighteenth and early nineteenth centuries in the Turkish diaspora, can be seen as a reaction to the collapse of the Ottoman empire in the first decades of the previous century. Commentators and historians of Pan-Turkism have shown that the ideology accommodates a high measure of diversity and expresses itself in a whole range of forms: from aggressive nationalism and the struggle for political unity to the mutual involvement of the "Turkish" peoples socially, culturally and economically.⁸ Writers and schools of thought can be found within Pan-Turkism which link the reputed common origin of all "Turkish peoples" to a superiority of the Turkish race, yet in Turkey such racial or racist ideas are not limited to Pan-Turkish ideology.⁹ Landau states that in the 1970s, Türkeş had distanced himself from racial theorists in the world of Pan-Turkism.¹⁰ Partly due to the influence of the MHP, Pan-Turkish ideals (although in a more moderate form) have become a permanent aspect of the foreign policy of the Turkish republic. Pan-Turkists today are mainly interested in strengthening cultural and economic ties between Turkey and new "Turkish" states such as Turkmenistan, Uzbekistan, Tadjikistan, Kazakhstan and Kyrgyzstan in Central Asia and Azerbaijan in the Caucasus.

Under the leadership of Türkeş, the MHP was a small, radical, but also influential party. When the parliamentary elections were held in the 1970s, the MHP won only a few percent of the votes,¹¹ but after re-establishment,¹² mainly in the 1990s, electoral support grew. In 1995 the party won 8% of the votes, still under the 10% electoral threshold. In the 1999 elections the party won 18%. Until 2002 the MHP was part of a coalition government under the leadership of the social-democrat Bülent Ecevit. The sharp contrasts between the radical left and the radical right in Turkish politics and society were then superseded for the most part. In the 2007 parliamentary elections the MHP won 14.3% of the votes, making it the third largest party in the Turkish parliament after the governing AK party (the moderate Islamic Party for Justice and Development of

⁷ See J.M. Landau, *Pan-Turkism in Turkey: a study of irredentism*. London: Hurst & Company 1981. For a detailed discussion of pan-Turkism in Dutch: M.T. Geerse, *Turkse idealen op Nederlandse bodem: een kwalitatief onderzoek onder ülkücü's ('idealisten') in Nederland* (Turkish ideals on Dutch soil: a qualitative investigation of ülkücüler ("idealists") in the Netherlands). Doctoral dissertation, Department of Cultural Anthropology, Faculty of Social Sciences, Utrecht University 1998. See chapter 5 in particular.

⁸ Besides Geerse, *Turkse idealen op Nederlandse bodem*, also see J.M. Landau, *Pan-Turkism in Turkey*, and J.M. Landau, *Exploring Ottoman and Turkish history*. London: Hurst & Company 2004. Part 1 of the latter book ("Ideologies") contains many interesting comments about pan-Turkism.

⁹ In recent years in Turkey there has been a noticeable increase in the number of articles and speeches with an anti-Semitic and racist flavour, especially within the religious / Islamic media. See for instance: <<http://www.memri.org/bin/articles.cgi?Page=countries&Area=turkey&ID=SP90005>>.

¹⁰ J.M. Landau, "Atsız and Türkeş: a note on the history of Pan-Turkism in Turkey," in: J.M. Landau, *Exploring Ottoman and Turkish history*, p. 60.

¹¹ In the 1973 elections the MHP won 3.4% of the votes, and in the 1976 parliamentary elections it won 6.4%.

¹² In 1983 the party was re-established under the name Muhafazakar Parti (Conservative Party). In 1985 the name was changed to Milliyetçi Çalışma Partisi (MCP, Nationalistic Unity Party) and in 1992 it was given its old name again, MHP.

Prime Minister Erdogan, which has the absolute majority in parliament) and the CHP (the Republican People's Party, the party that represents the secular and republican establishment). After the death of Türkeş in 1997, the MHP fell under the leadership of Devlet Bahçeli, who has a more moderate image than his predecessor. In a biographical essay, Landau describes Türkeş as a radical politician who was realist enough to learn from past mistakes, and as an outspoken and fierce nationalist who managed to keep "his" party within the democratic system during the second half of the eighties and the nineties without departing from his own principles.¹³ Foreign journalists in Turkey today characterise the present MHP anywhere from centre-right to ultranationalistic. In terms of nationalistic or patriotic rhetoric, other political parties in Turkey have little to learn from the MHP. But for many observers, as well as for many Turkish citizens, the MHP is still a party with a violent and therefore contaminated past, a past from which the party leadership has never officially distanced itself.

4.3 Organisational formation in the Netherlands

Since the early 1970s there have been organisations and societies of Turkish migrants in the Netherlands that have also called themselves *ülkücüler*. On 16 December 1995 in The Hague, the inaugural meeting was held of the *Hollanda Türk Federasyon*, the "Turkish Federation of the Netherlands" (TFN), otherwise known as the Turkish Federation. With a broad, neutral-sounding set of objectives, the Federation presented itself at that point as a new and independent organisation. For observers, however, it was a continuation of an older federation of Turkish-nationalistic *ülküçü* societies, the Federation of Turkish Societies in the Netherlands (HTDF – *Hollanda Türk Dernekleri Federasyonu*), which had collapsed in the 1980s.¹⁴ Since it was founded, the TFN has organised the occasional congress or youth congress at which MHP heavyweights from Turkey put in an appearance and give a speech. The late Alparslan Türkeş, former leader of the MHP, is known to have visited the Netherlands four or five times. At the seventh TFN congress, held on 20 May 2007 in De Vechtsebanen in Utrecht, MHP chairman Devlet Bahçeli was the guest of honour. According to observers, a few hundred visitors were present at that gathering.¹⁵ Officially there are a few dozen local organisations affiliated with the TFN, from cultural centres and youth clubs to coffee houses and a few mosques, spread out across the whole country. From conversations with my informants, however, I have the impression that behind these affiliated organisations there are quite a few "sleeping organisations." The postal address and national headquarters of the TFN is in Amsterdam-Zeeburg, in a complex where other Turkish organisations are housed. In her study, Geerse has shown that *ülküçüler* see themselves, and label themselves, as Turk, Turkist or Grey Wolf as well as *ülküçü*, including the ideals bound up with this term. They will not promote themselves as Grey Wolves in public because that designation has had a bad reputation in the Netherlands

¹³ J.M. Landau, "Alparslan Türkeş, a colonel turned politician," in: J.M. Landau, *Exploring Ottoman and Turkish history*, pp. 189-208.

¹⁴ See M.T. Geerse, "Grijze Wolven in Nederland: het verplaatste nationalisme van een Turkse diasporagemeenschap" (Grey Wolves in the Netherlands: The displaced nationalism of a Turkish diaspora community), *Migrantenstudies* 1999, pp. 191-207.

¹⁵ See the press release from the Research Group on the Turkish Extreme Right at: <<http://www.xs4all.nl/~afa/comite/artikel/artikel149.html>>.

since the 1990s. Much of the confusion about the existence of Grey Wolves in the Netherlands has to do with this attitude. What is regarded as a proud, revolutionary nickname behind closed doors or backstage by ülkücüler – and perhaps by nationalistic Turks in general – is denied or refuted frontstage or in public. There one presents oneself as "politically neutral."¹⁶ The confusion also works the other way round: only a fraction of all the members of organisations affiliated with the TFN will be confirmed "idealists" or followers of the MHP. But by being members of or associating with those organisations, they run the risk of being called Grey Wolves.

4.4 Public perception

It is striking how differently the Grey Wolves are written about in the sparse Dutch literature in which they are discussed. The most consistent as well as the most detailed descriptions are the articles, brochures and internet publications issued by the Research Group on the Turkish Extreme Right.¹⁷ There the TFN is invariably described as an "umbrella organisation" of the extremely nationalistic MHP in Turkey, and Grey Wolves are referred to unambiguously as extremists. In older publications of the Research Group, Grey Wolves are often held responsible for confrontations that took place in the Netherlands during the 1980s and 1990s among Turks themselves, confrontations at which a number of people were killed or wounded.¹⁸ A letter that the Research Group sent to the executive council of the city of Beverwijk dated 11 February 2008, in response to an alleged gathering of Grey Wolves, provides a typical example of the Research Group's more recent approach. "The Grey Wolves of the MHP," writes the Research Group in its letter:

"are an extremely nationalistic movement with fascist tendencies that has open connections with the criminal element in Turkey and Europe. Because of their nationalistic views, Grey Wolves are strongly opposed to the integration of Dutch people of Turkish origin and Turkish migrants, since they see this as an unacceptable undermining of their Turkish identity. In addition, these Turkish nationalists have a very intolerant attitude towards anyone who disagrees with them and towards ethnic and religious minority groups from Turkey. Such people are to be opposed (sometimes with violent means) because in the eyes of the Grey Wolves they pose a serious danger to the unity of the Turkish people."

So claims the Research Group, which in recent years has mainly been calling attention to municipal subsidies being paid to Grey Wolf organisations and to gatherings at which reputed Grey Wolf musicians perform. Since April 2008 the Research Group has suspended most of its other activities. "The reason for limiting and later terminating our work," writes the Research Group in a press release, "is the sense that it [the Research

¹⁶ See for example the Declaration of the Turkish Federation of the Netherlands in the book by Braam and Ülger, *Grijze Wolven* (Grey Wolves), appendix 2.

¹⁷ Almost all the publications of the Research Group on the Turkish Extreme Right can be found at <www.xs4all.nl/~afa/comite/index.html>.

¹⁸ See for example the brochures *Stop de Grijze Wolven!* (Stop the Grey Wolves!) and *De Hollandse Leeuw en de Grijze Wolf* (The Dutch Lion and the Grey Wolf), issued by the Research Group in 1997 and 2000. To what extent this had to do with political violence, criminal violence or violence of some other kind cannot be established without further investigation.

Group] has investigated all the facets of extreme Turkish nationalism in the Netherlands – as far as it is able – and has also published exhaustively on this subject."¹⁹

Other literature about Grey Wolves in the Netherlands – besides reports from daily and weekly news sources – is somewhat older. In a richly illustrated history of Turkey published in 2002, which includes a chapter on Turks in the Low Countries, reference is made to the recent facelift that Grey Wolves have undergone.²⁰ Although the MHP for many years has been a strong supporter of a secular form of government in Turkey, the great leader Türkeş expressly incorporated Islam into the party's ideology in the last decade before his death. Because of this, many Grey Wolves in Western Europe have ended up in religious organisations, according to the authors. Geerse also shows that religiosity is not at odds with sympathy for the ülkücü ideology. She concludes: '(Turkish) young people who grow up in the Netherlands often mention their faith and the faith of their parents in the same breath with their sympathy for the ülkücü ideology.'²¹ Geerse's anthropological study of a Grey Wolf organisation in Utrecht is the only academic treatment of this movement I know of in the Dutch language. By holding interviews and attending meetings, she managed to shed light on the world of ülkücüler. Geerse attempted to avoid "stigmatising terms such as fascism and extremism," and she describes the ülkücü movement as a transnational network. Ülkücüler constitute a minority of a minority in the Netherlands; they do not focus their attention on the Netherlands but on Turkey and the Turkish nation. The ülkücü way of thinking involves displaced nationalism, "long-distance nationalism."²² Like observers of Turkey and Turkish domestic politics, Geerse has found that the nationalistic character of the ülkücüler is most evident in their view on the position of the Kurds, yet in this respect their standpoint has a great deal in common with that of many other (non-Kurdish) Turks. They oppose every form of Kurdish separatism and do this by consistently emphasising that Kurds do not have their own culture and are no different from Turks in terms of ethnicity and race. "After talking back and forth a bit about the Kurds, they make statements like 'They just want a piece of Turkey, and of course we'd never permit that' and 'We were here first, it's that simple, and we're not going to give Turkey up'."²³

Two other books about the Grey Wolves in the Netherlands, also somewhat older, are less reflective and caused quite a stir at the time of publication. The first is the investigative report *Grijze Wolven*²⁴ (Grey Wolves), by Stella Braam and Mehmet Ülger, which does not differ sharply in terms of tone and content from the publications of the Research Group on the Turkish Extreme Right. Braam and Ülger see the Grey Wolves primarily as a group that strongly opposes the integration of Turks in Dutch society, a group that "is working behind the scenes to establish a 'Turkish state'

¹⁹ See: <<http://www.xs4all.nl/~afa/comite/artikel/print/artikel153.html>>

²⁰ René Bakker, Luc Vervloet & Antoon Gailly, *Geschiedenis van Turkije* (History of Turkey). Amsterdam: Bulaaq 2002, chapter 10, "Turken in de Lage Landen" (Turks in the Low Countries).

²¹ M.T. Geerse, *Turkse idealen op Nederlandse bodem* (Turkish ideals on Dutch soil).

²² A term coined by Benedict Anderson. See: B. Anderson, *Long-distance nationalism: world capitalism and the rise of identity politics*. Wertheim lecture, Amsterdam, Centre for Asian Studies 1992.

²³ M.T. Geerse, *Turkse idealen op Nederlandse bodem* (Turkish ideals on Dutch soil), chapter 9.7, summary, p.126.

²⁴ S. Braam & M. Ülger, *Grijze Wolven*.

within the Netherlands. "The report attracted a great deal of attention when it was published in 1997 because the authors felt compelled to go into hiding for several weeks after having received threats, which may or may not have been serious. Especially the "suggestive tone" of the book and the "flimsy basis for the charges" gave rise to the requisite criticism.²⁵ The book did result in a political investigation and search warrants for the offices of the TFN (in the year 2000). The Amsterdam municipal district of Zeeburg broke all ties with the TFN and with the neighbourhood organisations that were affiliated with the federation.²⁶

The Grey Wolves also occupy a prominent place in the book *De maffia van Turkije*²⁷ (The Turkish Mafia), by criminologists Frank Bovenkerk and Yücel Yeşilgöz. The authors describe the interrelationship between politics and crime in Turkey and try, following the report of the *Enquêtecommissie Opsporingsmethoden*²⁸ (Parliamentary Investigative Committee on Investigation Methods), to expose Turkish-Dutch organised crime as part of a European network. In Amsterdam in particular (according to the authors) there are *ülkücüler* working in cooperation with a Turkish underworld (whereas in Arnhem the heroine trade is said Kurdish migrants are more in control). In hotels, restaurants and cafés in Amsterdam's Mercatorbuurt, which were frequented by *ülkücüler*, a thriving drug trade was said to have taken place in the 1980s and the early 1990s.

Less alarming than these two books are the annual reports of the General Intelligence and Security Service (Algemene Inlichtingen en Veiligheidsdienst; AIVD). These reports pay little attention to the supposed threat of the Grey Wolves in the Netherlands. Only the AIVD annual report of 2003 mentions the fact that the TFN initiated few activities, if any, due to lack of money.²⁹ In the AIVD annual reports for 2004 through 2007, Grey Wolves and the TFN are no longer mentioned and only radical Islamic networks within the Turkish and Kurdish Turkish communities in the Netherlands are discussed.

4.5 Grey Wolves in the news media, 2003-2008

This section will focus on the ways in which Grey Wolves caught the attention of the Dutch news media from 2003 through August 2008, and on what kinds of incidents were involved. An inventory was taken of the digital clipping archive of the Anne Frank House, an archive that contains news reports in the daily and weekly printed news media on racism, discrimination and related topics. The inventory resulted in a few dozen reports that are being grouped here for the sake of clarity.

²⁵ Criticism of the book by Braam and Ülger can be found in Mohamed el-Fers and Chris Nibbering, *Hoe gevaarlijk zijn de Turken: onderzocht en besproken* (How dangerous are the Turks: researched and discussed). Amsterdam: Türkebi 1998.

²⁶ See the article "Linkse organisatie Doorbraak beschuldigt Turkse clubs" (Left-wing organisation "Breakthrough" accuses Turkish clubs), *Het Parool* 3 March 2008.

²⁷ F. Bovenkerk & Y. Yeşilgöz, *De maffia van Turkije* (The Turkish Mafia). Amsterdam: Meulenhoff 1998.

²⁸ Enquêtecommissie Opsporingsmethoden: Autochtone, allochtone en buitenlandse criminele groepen (bijlage VIII) (Parliamentary Investigative Committee on Investigation Methods, Appendix VIII, Native Dutch, ethnic minority and foreign criminal groups). *Kamerstukken II* 1995/96, 24 072, no. 17, pp. 106-109.

²⁹ *Jaarverslag AIVD 2003* (AIVD Annual Report for 2003). Den Haag: Algemene Inlichtingen- en Veiligheidsdienst 2004, p. 54.

4.5.1 Threats

The number of threats or perceived threats involving Grey Wolves that are reported in the daily and weekly printed media was small for the researched period and can be counted on the fingers of one hand. On 16 March 2006 at Erasmus University in Rotterdam an academic congress on the Armenian genocide was disrupted.³⁰ About 400 people took part in the congress. Twelve young hecklers, who according to the newspaper were "shaved bald, with long moustaches and dressed in black jackets," interrupted the gathering by shouting, screaming, handing out pamphlets and making Grey Wolf gestures³¹ with their fists. In 2008 the National Expertise Centre for Discrimination (Landelijk Expertise Centrum Discriminatie; LECD) of the Public Prosecution Service studied the possible discriminatory content of these gestures. Just making the gesture is not punishable, according to the LECD. Witnesses at the aforementioned incident reported that two of the youths had firearms. Police officers in bullet-proof vests had to put an end to the uproar at the Rotterdam university. The Grey Wolf sign and Grey Wolf flags³² were also spotted by the media at a few demonstrations, especially demonstrations against the PKK, the Kurdish separatist movement, in the second half of October 2007. The struggle between the Turkish army and the PKK had flared up earlier that month on the border between Turkey and Iraq, which had repercussions in the Netherlands in the form of tension and scuffles between Turks and Kurds. A survey article in *NRC Handelsblad* on this issue (31 October 2007) makes reference to fights in Doetinchem between about ten Turks and Kurds, and two attempts to set fire to the building of the Arnhem Kurdish Association. Windows in the buildings of Kurdish clubs in The Hague were also smashed.³³ In The Hague, the banner of an advertising plane was confiscated on which the Grey Wolf slogan was written in Turkish, which translates as: "Martyrs never die. Indivisible fatherland." In Deventer, Utrecht, Amsterdam, Haarlem and Dordrecht, a few hundred Turkish-Dutch people took part in anti-PKK demonstrations. The largest demonstration was on 28 October 2007 in Utrecht and drew an estimated 1,000 - 1,500 participants. Whether all the incidents mentioned above were organised by TFN-affiliated organisations or persons is unclear, and perhaps even improbable. When it comes to antagonism between the Kurds and the Turks, approximately 80% of the Turks in the Netherlands are strongly opposed to any form of Kurdish separatism.

4.5.2 Meetings

Grey Wolf meetings are regularly covered in local and regional newspapers, in most cases in response to counter-protests that are usually started by the Research Group on the Turkish Extreme Right mentioned earlier. For the period under investigation here, the Turkish Federation organised two congresses, in 2004 and 2007. At both gatherings MHP leader Bahçeli was present as a guest of honour and speaker. In 2005 a 'youth encounter' was organised in Utrecht. Other than this, the TFN has not organised any

³⁰ Reported in *AD/Rotterdams Dagblad* 23 March 2006.

³¹ Thumb, ring finger and middle finger touching at the tips, index finger and little finger raised, creating a wolf's head. In the LECD Newsletter (no. 2008-2) there was a discussion of the extent to which making this gesture should be punishable.

³² A red flag with not one half moon and star, like the Turkish flag, but three half moons with stars.

³³ See the article "Turkse nationalisten roeren zich" (Turkish nationalists rise in revolt), *De Fabel van de illegaal* 2008, no. 89/90, pp. 89-90.

visibly political events. In recent years the Research Group has also protested a number of times annually against cultural events at which Grey Wolf musicians from Germany and Turkey were said to have performed. This included folkloric minstrel music as well as pop, rap and marching music by Turkish-speaking bands who weave a nationalistic message into the text of several of their numbers.³⁴ Some gatherings are popular and attract a great many young visitors: a so-called Nevruz gathering on 23 March 2008 at the Aladdin party centre in Beverwijk, where a number of popular bands and singers performed, attracted almost two thousand visitors. The lyrics sung by the singers and bands that performed there are more distinctly nationalistic than racist in character: the Turkish nation, identity and flag are glorified, the late great leader Alparslan Türkeş is honoured ("overcome by smouldering grief"), war is declared on Kurdish separatism, et cetera. Usually the Research Group's protest against such gatherings is ignored by hall owners or local authorities, giving them a high ritual content. A letter is sent to the municipal executive of the city in which the event is to take place, asking that action be taken to prevent criminal displays and remarks during the gathering. The organisers stress that this is not a Grey Wolf event but a "cultural gathering." Questions are sometimes asked at city council meetings, and an article may appear in the local newspaper. Almost without exception no other steps are taken. It has never been established that expressions in violation of the criminal prohibitions on hate speech were observed at any of the political or cultural-political gatherings of the Grey Wolves.

4.5.3 *The question of subsidies*

A third subject in which Grey Wolves have been featured more than once in the news is the subsidising of their organisations. As reported earlier, in 2000 the Amsterdam municipal district of Zeeburg broke all financial ties with the TFN and the other Turkish organisations housed in the complex on the Zeeburgerdijk. But in 2006 the district did give the organisations that manage the building a financial guarantee intended to safeguard the facilities in the complex, which are used by many local Turkish residents. The Amsterdam newspaper *Het Parool* reported that otherwise the complex would have to be put up for sale because of mismanagement.³⁵ Moreover, the Turkish Social Cultural Centre, also housed in the building, received another loan from the district of 35,000 euros in 2006, for which representatives of the district were later questioned. Over the past five years, Amsterdam has not been the only city in which the subsidising of Grey Wolf organisations has led to questions being raised in the city council. In 2004 the Minister for Immigration and Integration was even interrogated on the subject by the CDA.³⁶ The minister replied that it is up to the municipal authorities to see that municipal subsidies are spent lawfully and appropriately. However, she did say that cities with questions about the nature of a particular organisation wishing to be considered for a subsidy can obtain information from the AIVD. I have not been able to discover whether any cities have taken advantage of this offer.

³⁴ In the brochure entitled *Nationalisme en Turkse muziek* (Nationalism and Turkish music) *Alert*, March 2007, the Research Group on the Turkish Extreme Right provides an overview of known Turkish nationalistic musicians.

³⁵ See *Het Parool* 3 April 2008.

³⁶ This concerned questions from MP Sterk (CDA), *Aanhangsel Handelingen II* 2003/04, no. 1710.

4.5.4 Controversy over the Armenian genocide

In 2006 Grey Wolves became a general topic of discussion in scores of articles on the debate raging in the Netherlands over the Armenian genocide of 1915. In the run-up to the elections for the Lower House of parliament, two candidate MPs of Turkish origin, one from the CDA and the other from the PvdA, were removed from the candidate lists because they refused to acknowledge that this genocide had taken place. This denial, which also represents the official position of the Turkish government and is endorsed by the vast majority of Turks in the Netherlands, is fiercely defended and professed in Turkish nationalistic circles. Because they thought the two candidates had been silenced, a few dozen nationalistic Turkish students with tape over their mouths protested at the party offices of the PvdA and the CDA in Amsterdam and The Hague. It would take us too far afield to summarise the content of the political debate in the Netherlands as reported in the media. One noteworthy fact, however, is that in one of the articles on this subject, the newspaper *Trouw* mentioned an earlier visit by Prime Minister Balkenende to a Grey Wolf organisation in The Hague.³⁷ This concerned a visit to the Turkish Islamic Cultural Foundation of The Hague, an organisation affiliated with the TFN in the Schilderswijk district.³⁸ The author of the article suggested that the CDA, more than any other political party, seeks electoral support from among nationalistic Turks. Interestingly, in the same newspaper, Coskun Çörüz, a CDA MP of Turkish descent, clearly and unambiguously acknowledged the Armenian genocide of 1915. Çörüz, who has been linked with the activities of pan-Turkish organisations several times in the past,³⁹ is eager to discuss this topic within the Turkish community.

4.5.5 Participating in elections

One more category of reports in the media involving Grey Wolves has to do with the participation of alleged Grey Wolf candidates in elections. These are Turkish politicians on lists of candidates of Dutch political parties who are somehow connected (or can be connected) with the Turkish Federation or one of their affiliated organisations. According to the Research Group on the Turkish Extreme Right, which has tried to bring reports of this practice to the attention of the news media, albeit with little success, there were ten candidates in the city council elections of 7 March 2006 "who maintain ties with the Grey Wolves." So-called Grey Wolf candidates were elected in two Amsterdam submunicipal councils; for this reason the Research Group speaks of "feeble results" for the Grey Wolves in the elections. One might question the Research Group's way of working: some candidates have the appellation "Grey Wolf" thrust upon them with little hesitation because they are or once were members of an organisation allied with the Turkish Federation. In any case, this manner of reasoning is based on the premise that all the TFN affiliated organisations and persons are equally "infected." The suggestion is also implied that Grey Wolves "infiltrate" and can never change their views.

³⁷ *Trouw* 28 October 2006.

³⁸ Also see a brief report of this visit in *Trouw* 4 June 2004.

³⁹ See for instance the article *SOTA en Coskun Çörüz* (SOTA and Coskun Çörüz) in the brochure *Pan-Turkisme in de polder: grijze Wolven in Nederland 2000-2004* (Pan-Turkism in the polder: Grey Wolves in the Netherlands, 2000-2004). Utrecht / Amsterdam: Fok / Alert 2004, p. 12 ff.

4.5.6 Criminality

Finally, Grey Wolves also crop up in a number of newspaper reports on criminal or punishable offences. A few examples: a stabbing that had taken place on De Brink, a public square in Deventer, on 14 October 2006, was, according to media coverage a few months later of the trial in Zwolle, a "confrontation between followers of the PKK and Grey Wolves."⁴⁰ *Vrij Nederland*, a weekly news magazine, reported in 2008 in a story about a new crown witness in the case against Willem Holleeder, a Dutch criminal, that an Amsterdam police interpreter was allegedly corrupt. The suspect was "the son of a Turk who was maintaining ties with the Grey Wolves," the weekly explained.⁴¹ In view of the commotion that was caused ten years ago by Bovenkerk and Yeşilgöz with their aforementioned book on the Turkish mafia, it is perhaps striking that there have not been more reports of this kind.

4.6 A few observations

After looking more closely at the reporting on Grey Wolves in the Dutch newspapers over the last five years, a number of cautious comments can be made. First of all, the number of reports is strikingly small. Grey Wolves look more and more like a ghost from the past. The electoral successes of the MHP in Turkey have not resulted in more Turkish Federation activities. Just the opposite. There are indications that the Turkish Federation is not in good financial shape, and interest in the TFN congresses that are organised at regular intervals has declined noticeably in recent years. One cause might be that Turks in the Netherlands are less oriented towards politics in Turkey than they once were. Another might be that the MHP in Turkey (and by extension the TFN in the Netherlands) play less of a central role in the political differences in that country. The big debate in Turkish politics today has to do with whether Turkey should remain a strict secular state. The moderate Islamic AK party of Prime Minister Erdogan, which now has an absolute majority in parliament, is tinkering with the roots of this secular state, according to opponents. In this debate on Turkish identity, the MHP is taking a moderate position without wanting to let go of the secular state idea. Furthermore, after the death of its great leader Türkeş in 1997 and the imprisonment of PKK leader Abdullah Öcalan in 1999, the MHP is sailing in less radical waters. The new "great leader" Bahçeli is much more moderate than his predecessor.

None of this alters the fact that, in all probability, there is a rich breeding ground among Turkish young people in the Netherlands for virulent nationalistic ideas or pan-Turkish ideals (the two are not always the same, by the way; pan-Turkism can also focus on international cooperation). Conversations with informants⁴² confirm me in my opinion that Turkish nationalism among young Turkish Dutch people and Dutch Turks is certainly not dead and may even have quite a future. At universities and colleges, at Dutch-Turkish sites where Turkish is used as language and in chat boxes on the internet, thoroughly radical ideas are being spotted, ideas that are not only religiously inspired but also nationalistic in tone. No proper study of this phenomenon has been done,

⁴⁰ *De Stentor* 12 January 2007.

⁴¹ *Vrij Nederland* 14 April 2008.

⁴² See note 4.

however.⁴³ A report in *NRC Handelsblad* of 3 October 2006 mentions a nationalistic Turkish group known as Ayyildiz (named after the Turkish flag) that hijacks Dutch and Kurdish-Dutch websites.

The striking thing is that neither the TFN nor Grey Wolves are serving as the vehicle of rising nationalism among the Turkish youth of the Netherlands. In the few incidents summarised in section 4.5.1, in which newspaper journalists claimed to have detected Grey Wolf involvement, there are even questions as to whether these were really Grey Wolves in the sense of MHP or TFN followers. The chance is considerable that interrupting an academic congress at Erasmus University in 2006, for example, was the work of an independent group of nationalistic Turkish students rather than the work of Grey Wolves, persons who are somehow connected with the Turkish Federation. Nevertheless, the fact that they make use of Grey Wolf symbols in their demonstrations may only mean that they are well aware of the power of the symbol. An anonymous spokesperson from the organisation mentioned in the previous paragraph, Ayyildiz, told the newspaper that "naturally they are nationalistic," but that they maintain no ties with the Grey Wolves or the Turkish secret service.⁴⁴

One last comment: Grey Wolves are politically less leprous than they were a decade ago. Ten years ago, when Braam and Ülger published their book *Grijze Wolven*, half of the Netherlands saw Turkish youth slipping en masse into "total non-integration," as the authors called it on the back flap of their book. Today, Grey Wolves are receiving visitors from even the highest level in the person of the Prime Minister. Such a visit is at least a striking signal, even if its only aim was to send the unambiguous message that political tension and nightmares are very fashion-sensitive.

4.7 Conclusion

In this chapter an attempt was made to come to grips with a number of questions. Who are the Grey Wolves? How are they organised? How do they come to the attention of the media. To what extent can the activities and ideology of Grey Wolves be called extremist and racist? In the past, answering the first question always led to misunderstandings, not least of all because followers of the MHP in Turkey and the affiliated Turkish Federation in the Netherlands always went to a great deal of trouble to avoid being labelled as such in public. As noted, in the past the Turkish Federation often presented itself as politically neutral, although in fact it maintained close ties with the MHP, and invariably invited representatives of this party to its congresses as guests of honour. Since the end of the seventies, "ülküçüler" and "Grey Wolves" have become general appellations for followers of the MHP's extreme nationalistic ideology – with the added note that within the last decade the MHP has adapted and revised some aspects

⁴³ The only study of the political preferences of Turkish students that I am aware of is by Ahmet Bulut, student of Policy, Communication and organisation at Amsterdam's Free University. By means of an online questionnaire (not very reliable), he gauged the political preferences of Dutch students (vocational schools, higher professional schools and universities) with a Turkish background. This questionnaire revealed that the MHP has a relatively large following among them (18.5%). See: <http://www.academicrepublic.com/dissertations/nederlandse_students_van_turkse_afkomst_kort.pdf>

⁴⁴ See *NRC Handelsblad* 3 October 2006.

of its radical image. Research has indicated that the Dutch media have shown less interest in Grey Wolves during the last five years. That may mean that extreme nationalistic ideas are not as popular among Turks as they were before. It may also mean, however, that the Turkish Federation and the organisations affiliated with it are not quite the vehicle for radical nationalistic ideas among Turks in the Netherlands that they had been in the past. There are signs that the latter possibility is indeed the case, but no research has yet been carried out. For this reason further investigation into the extent to which Turkish nationalistic views prevail among Turkish young people in the Netherlands is certainly desirable. Finally, the Grey Wolf ideology can best be characterised as nationalistic or – certainly by Dutch standards – extreme-nationalistic. But once again: it is less extreme than it used to be. It is much more difficult to substantiate the accusation that the ideology of the Grey Wolves incites racial hatred. In the past, Grey Wolves were often accused of intimidating, fighting with and threatening Kurds, Alevis and left-wing political opponents – in the Netherlands as well. Today such incidents occur only sporadically, and there are no indications that racism is involved.

5 Demonstrations by right-wing extremist groups in the Netherlands and Germany

Jan-Peter Loof

The last time specific attention was paid to demonstrations by extremist groups – especially right-wing extremist groups – in the context of these Monitor reports was in the first report of 1997. The period covered in that report marked a reversal in the way local authorities in the Netherlands were reacting to demonstrations proposed by the extreme right. It was a reversal that may have been inspired by a few court rulings in which decisions to put demonstrations under a preventive prohibition were quashed (although these were not demonstrations by right-wing extremist groups). Mainly, though it was the result of a change in attitude on the part of a few mayors with regard to allowing demonstrations by the extreme right. In this chapter, the more recent developments in the Netherlands will be analysed and compared with the situation in Germany.¹

5.1 Introduction

The protection of the freedom to demonstrate, as provided by art. 9 of the Constitution of the Netherlands and art. 11 of the European Convention on Human Rights (ECHR), which the Netherlands has also ratified, requires the government to exert a considerable amount of effort to enable groups – including groups that hold offensive or provocative views – to exercise their freedom to demonstrate. For mayors and police, demonstrations are an occasion for multitasking. These officials must maintain public order and safety (including traffic safety) in and around a demonstration (keeping mind that the mayor can impose restrictions on a demonstration, if necessary), and they must protect the demonstrators from hostile reactions from the public or from opponents. The police have a third task in addition to these: investigating punishable offences (under the direction of the public prosecutor). After all, insulting or discriminatory statements that qualify for prosecution do sometimes occur at demonstrations. These tasks of maintaining order, protecting people and investigating offences sometimes clash with each other. For instance, arresting certain demonstrators on suspicion of making punishable statements may lead their fellow demonstrators to cause public disturbances. In sections 5.2 and 5.3 the actual incidents and legal developments that have taken place in the Netherlands in this area in recent years (roughly the period after 2000) will be discussed.

The aforementioned obligation to do everything possible to protect the freedom to demonstrate also applies to authorities in Germany. The German constitution guarantees the freedom to demonstrate as well (art. 8). Moreover, Germany is also bound by art. 11 of the ECHR. Nevertheless, there are important differences between

¹ This chapter was made possible in part by the use of the internal report *Strijd om de straat: een vergelijkend onderzoek naar de betogingsvrijheid voor extreemrechts in Nederland en Duitsland* (Battle for the streets: A comparative study of the freedom to demonstrate for the extreme right in the Netherlands and Germany), Amsterdam 30 June 2006, written by Peter Paul Ekker, trainee with the Anne Frank House.

the Dutch and the German situation in terms of the number and size of demonstrations as well as the legal regulations: in 2005 an important amendment to the German law on demonstrations was passed that was especially meant to address demonstrations by extreme right-wing groups. The incidents and legal developments that gave rise to this amendment will be discussed in section 5.3. Section 5.4 will wrap up the chapter with a few concluding and comparative remarks.

5.2 Freedom to demonstrate: the legal framework in the Netherlands

5.2.1 Article 9 of the Constitution and the Public Assemblies Act

Since the constitutional revision of 1983, the freedom of assembly and of demonstration have been protected by art. 9 of the Constitution.

This article went into effect in 1988 and reads as follows:

1. The right of assembly and demonstration shall be recognised, without prejudice to the responsibility of everyone under the law.
2. Rules to protect health, in the interest of traffic and to combat or prevent disorders may be laid down by Act of Parliament.

When this article was being developed, the meaning of the right to demonstrate was discussed on several occasions.² The government saw a demonstration "as the means to give public expression to feelings or demands at the social and political level, preferably involving as many people as possible."³

In accordance with the words "without prejudice to the responsibility of everyone under the law" in the first paragraph of art. 9, the authority to penalise certain forms of assembly or demonstration or to declare them unlawful is vested in the national legislature (Acts of Parliament). In that sense, the freedom of assembly and of demonstration is limited by the provisions in the Criminal Code that penalise crimes against the public order, crimes that endanger the general safety of property or persons and the various crimes of expression.

The use of the phrase "lay down rules" in the second paragraph of art. 9 of the Constitution suggests that the power to intervene in the freedom to demonstrate may be delegated to lower bodies. This is only permitted, however, insofar as intervention is being used for the protection of health, in the interest of traffic or for controlling or preventing disorder. Article 9 of the Constitution does not allow a lower body to prohibit or oppose a meeting or demonstration because this body deems the gathering undesirable on account of its content or goal, or the content of the slogans being carried. Moreover, the delegation of the power to restrict the freedom to demonstrate is to be contained in a special law that pertains to the regulation of the freedom to demonstrate.

² For an overview, see: T. Gerbranda and M. Kroes, *Grondrechten Evaluatie-Onderzoek: Documentatierapport* (Evaluation of basic rights), vol. 3, pp. 9-2 to 9-4 and A.E. Schilder, *Het recht tot vergadering en betoging: een vergelijkende studie naar het Nederlandse en Westduitse recht* (The right of assembly and the right to demonstrate: a comparative study of Dutch and West German law) (dissertation Leiden University). Arnhem: Gouda Quint 1989, pp. 24-57.

³ *Kamerstukken II* (Official Reports of the House of Representatives of the States General) 1975/76, 13 872, no. 3, pp. 38-39.

And that special law has been passed: the Public Assemblies Act of 1988 (Wet openbare manifestaties, hereafter referred to as WOM). This law makes use of the constitutional option to delegate. Authority is delegated to the city council and the mayor to impose restrictions on the exercise of the freedom to demonstrate. Article 2 of the WOM repeats that these restrictions may only concern the objectives already mentioned in art. 9 § 2 of the Constitution. According to art. 4 of the WOM, the city council may stipulate when prior notification (to the mayor) is required for demonstrations. This means that the council can insert provisions into its municipal ordinance (Algemene Plaatselijke Verordening; APV) regarding the procedure that must be followed when notifying the mayor, the information that must be provided and the periods of time involved. No additional grounds for prohibiting or otherwise restricting demonstrations may be inserted in the APV. Many municipalities have a provision in their APV demanding that in the case of a demonstration as meant in art. 4 of the WOM, the mayor must be notified at least 24 or 48 hours in advance.⁴ The reasoning behind this notification deadline is the fact that the mayor and police need time to determine how much police presence will be required to provide the demonstration with adequate supervision and to maintain order in the immediate vicinity, and to determine whether it might be necessary to impose regulations or restrictions on the demonstration or to prohibit it entirely. The mayor derives the authority to assign those restrictive regulations or to issue a preventive prohibition from art. 5 of the WOM. When deciding on a possible preventive prohibition or restrictive regulations – which may have to do with the time, duration or the route of the demonstration – the contents of the demonstration slogans or statements must be left aside. In this regard, art. 3 § 4 of the WOM forbids the mayor, upon being notified about a demonstration, from seeking information concerning the content of the messages to be made public during that demonstration.

Once a demonstration is underway, the law does provide possibilities for the mayor to intervene. On the grounds of art. 6 of the WOM he can impose instructions with which the demonstration participations must comply. Article 7 of the WOM gives the mayor the power to order that a demonstration be ended immediately. Such an order can be issued if the required prior notification to the mayor was not made, or if a prohibition was placed on the demonstration in conjunction with that notification; if demonstrators act contrary to a regulation, restriction or instruction; or if one of the interests mentioned in art. 2 of the WOM is thereby being promoted. Article 11 of the WOM stipulates that holding or participating in a demonstration in which the required prior notification was not made or

⁴ In The Hague, which is a prime example of a Dutch demonstration city, the notification deadline is 4 x 24 hours. In the legal literature it is argued that requiring prior notification for each demonstration, regardless of whether public disturbances, obstruction to traffic or danger to public health are expected – and then so far in advance – amounts to an unjustified restriction of the freedom to demonstrate (W.N. Ferdinandusse, "De strafbaarheid van een grondrecht. De Wet openbare manifestaties en het grondrechtelijk karakter van de betoging" [The punishability of a basic right: The Public Assemblies Act and the legality of demonstrations], *Nederlands Juristenblad (NJB)* 2001, pp. 615-619). On 17 October 2006, however, the Supreme Court ruled that this is not the case. See *Nederlandse Jurisprudentie* 2007, 207, with case note by Alkema and *Administratiefrechtelijke Beslissingen (AB)* 2007, 23, with case note by Brouwer & Schilder.

on which a prohibition was issued, or violating restrictive regulations or instructions, constitutes a punishable offence with a maximum sentence of two months' imprisonment or a fine of €3,350. Decisions made by the mayor on the basis of the WOM can be appealed through the administrative courts on the grounds of the General Administrative Law Act (*Algemene wet bestuursrecht*).

5.2.2 *The mayor's public order powers provided in the Municipalities Act*

Mayors also take action against demonstrations by extremist groups based on powers set down in art. 172 of the Municipalities Act and then granted to them. The enactment of an emergency order under art. 176 of the Municipalities Act occurs with quite some regularity. The power to enact an emergency order can be used if there is evidence of rebellious activity or any other serious disorder, or of serious fear that such will arise. In an emergency order the mayor can issue general rules for maintaining public order or for avoiding danger.

In case law it is generally accepted that in situations in which the possibilities offered by the WOM for avoiding serious disorderliness are inadequate, the mayor's emergency powers under art. 175 (emergency order) and 176 (emergency regulation) of the Municipalities Act can form an adequate basis for preventive intervention in a particular demonstration.⁵ The cases in which this has been accepted by the court, however, usually have had to do with meetings open to the public that are held in non-public locations. For these kind of meetings the WOM does not offer the option of a preventive prohibition.⁶ In recent years, action against these kinds of gatherings at non-public locations has been taken quite often, with the help of emergency regulations. Usually these are cases in which a neo-Nazi group, under the pretext of a concert or party, hires a hall for a gathering somewhere in the countryside. In the rural town of Aalten in May 2008, such a gathering was banned by means of an emergency regulation, while the owner of the hall (when he learned that Blood & Honour was involved) refused entrance to the hall and dissolved the contract.⁷ In February 2007 the mayor of Uitgeest issued an emergency regulation in connection with a gathering of the Nationalistic People's Movement (*Nationalistische Volksbeweging*; NVB) in a small local hall, after it became known that a group of about 80 AFA followers⁸ were on the way with the intention of holding a counter-action. The emergency regulation included a prohibition on wearing masks or hoods, but no demonstration prohibition was issued. When the AFA demonstrators neared the hall in question – most of them wearing balaclavas or shawls around their faces – fights broke out with the NVB members. After a few minutes (although it was reported in a couple of newspapers that almost half an hour had

⁵ See C.W. van der Pot, D.J. Elzinga & R. de Lange, *Handboek van het Nederlandse staatsrecht* (Handbook of Dutch Constitutional Law). Deventer: Kluwer 2006, p. 363. This was also the view of the government when the WOM was being developed, see *Kamerstukken II* 1985/86, 19 427, no. 3, p. 10.

⁶ ARRS 30 December 1993, *AB* 1994, 242, esp. Van Male.

⁷ "Concert neonazi's verboden" (Neo-Nazi concert banned), *Brabants Dagblad* 5 May 2008; "Aalten verbiedt concert neonazi's" (Aalten bans neo-Nazi concert), *De Gelderlander* 5 May 2008; "Neo-nazi's de deur gewezen" (Neo-Nazis shown the door), *De Gelderlander* 10 May 2008.

⁸ AFA stands for Anti-Fascistic Action (*Anti-Fascistische Aktie*). This is a Dutch network of local left-wing or extreme left-wing groups and persons. The AFA was formed in 1992 as part of the squatters' movement.

passed), the fights were quashed by the anti-riot squad; 25 NVB members who had committed violent acts were arrested,⁹ the AFA demonstrators were told to leave the village immediately on the grounds of the emergency regulation.¹⁰

As noted in the previous section, the WOM does provide adequate authority to maintain order (active as well as preventive) during demonstrations at public locations. In the legal literature, the general view is that even at the present moment there is still very little room – as well as little need – for creating a supplementary role for the emergency powers contained in the Municipalities Act.¹¹ Nevertheless, according to media reports and statements made by mayors, issuing emergency regulations to deal with demonstrations, especially those involving extreme right-wing groups, is an option that has been seized with quite some regularity in recent years. Interestingly, those emergency regulations often contain orders that might be taken – and therefore must be taken – on the basis of the WOM. An example is the NVU demonstration and the preceding counter-demonstration by the "Comité Artikel 1" (an anti-fascist group) on 30 May 2008 in the city of Oss.¹² Given the fact that an NVU demonstration held in Oss the year before had got out of hand, the mayor issued an emergency regulation. According to press reports, it contained orders having to do with the duration and the route of the counter-demonstration. An emergency regulation is not necessary to issue such orders, since they can be based on art. 5 of the WOM. When the 58 demonstrators from the "Comité Artikel 1" failed to stick to the fixed route during their "noise demonstration" they were arrested en masse, giving rise to skirmishes with the police. Two days later, the Public Prosecution Service announced that "after studying the dossiers" they had found insufficient proof of violation of the emergency regulation.¹³

⁹ In January 2008 one of them was sentenced to three months' in prison; several others were given community punishment orders. See L. van der Storm, "Cel voor rechtsextremist" (Jail for right-wing extremist), *de Volkskrant* 17 January 2008.

¹⁰ "Rol politie bij NVB-rel roept veel vragen op" (Role of police in NVB riot raises many questions), *Noordhollands Dagblad* 18 January 2008.

¹¹ See J.P. Loof, "De burgemeester en de demonstratievrijheid. Over beginselen van behoorlijke besluitvorming inzake betogingen" (The mayor and the freedom to demonstrate: On the principles of adequate decision-making with regard to demonstrations), *Gemeentestem* 2007, pp. 467-481 and C.W. van der Pot, D.J. Elzinga & R. de Lange, *Handboek van het Nederlandse staatsrecht*, p. 363. This view coincides with the opinion voiced by the lawmakers when the 1992 Municipalities Act was being formed with regard to the power to issue orders provided by art. 172 paragraph 3 of the Municipalities Act. It was said, in so many words, that this power cannot be used with regard to public demonstrations in the WOM sense. See *Kamerstukken I* (Official Reports of the Senate of the States General) 1990/91, 19 403, no. 64b, p. 16 ff.

¹² Other examples are the NVU demonstration and the AFA counter-demonstration held in Rotterdam on 26 January 2002 (emergency regulations with routing orders for both demonstrations so they would take place in different parts of the city and would remain separated); the demonstration of the "Platform tegen de nieuwe oorlog" (Platform against the new war) in the town of Uden on 17 January 2003, in which the Volkel air base, the target of the demonstration, was declared off-limits for the demonstrators; the NVU demonstration in Apeldoorn on 17 May 2003 (emergency regulations containing a ban on counter-demonstrations); the NVU demonstration and AFA counter-demonstration on 5 June 2004 in The Hague (emergency regulation with ban to deviate from the fixed demonstration route); the New Right demonstration, planned for 13 April 2005 (emergency regulation in which the demonstration was banned).

¹³ "Geen straf voor linkse tegendemonstranten Oss" (No penalties for left-wing counter-demonstrators in Oss), ANP press release of 3 June 2008.

So it is not unusual for restrictive measures having to do with demonstrations to be taken on an incorrect legal basis. In addition, there is always the possibility that measures referred to as emergency regulations by the media and by the mayors themselves are in fact measures that are taken on the basis of the WOM and therefore do have a correct legal basis. However, the fact that municipal administrators themselves toss the term "emergency regulation" around so carelessly when it comes to demonstrations confirms the picture that also emerges from case law: mayors do not always act with legal meticulousness when taking measures having to do with demonstrations by extremists.¹⁴

Sometimes an emergency regulation is issued for demonstrations organised by extremist groups in order to ban certain activities that have nothing to do directly with the demonstration itself and that therefore cannot be based on the WOM. An emergency regulation was applied to the NVU demonstration held on 1 March 2008 in Bergen op Zoom, for example, which stipulated that precautionary frisking could take place in the demonstration area.¹⁵ At the demonstration organised by the "Comité Kusters/Malcoci" on 18 May 2002 in Harderwijk, an emergency regulation was used to temporarily close outdoor cafés along the demonstration route. The emergency regulation is also regularly used to prohibit the wearing of masks, hoods or devices whereby a person's face is disguised during demonstrations.¹⁶

5.2.3 Article 11 of the ECHR

In addition to the Constitution and the WOM, the freedom of assembly and of demonstration is also guaranteed in art. 11 ECHR.

This article reads as follows:

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

¹⁴ See J.P. Loof, "De burgemeester en de demonstratievrijheid" (The mayors and the freedom to demonstrate) and J.P. Loof, 'Demonstreren op de Laan voor de Mensenrechten: over zorgvuldige voorbereiding en motivering van demonstratiebeperkingen' (Demonstrating on the Laan voor de Mensenrechten: On carefully preparing and finding a legal basis for demonstration restrictions), *NJCM-Bulletin* 2007, pp. 467-475.

¹⁵ "Polman: 'negeer mars NVU'" (Polman: 'Ignore the NVU march), *BN/De Stem* 29 February 2008.

¹⁶ This occurred, among other things, at the NVU march to the grave of the widow Rost van Tonningen in Rheden on 2 June 2007. See H. van der Ploeg, "Kerkhof Rost op slot bij NVU-mars" (Rost cemetery closed during NVU march), *De Gelderlander* 1 June 2007.

In the case law of the European Court of Human Rights (ECtHR) pertaining to this article, various important principles have been formulated that are also of great importance to Dutch case law and practice with regard to demonstrations. The ECtHR assumes that the freedom of assembly is closely linked to the freedom of expression and should be interpreted in that light.¹⁷ The ECtHR also assumes that the right to peaceful assembly (and demonstration) should be regarded as one of the foundations of a democratic society and for this reason should not be interpreted restrictively. The protection of art. 11 ECHR is limited to *peaceful* meetings or gatherings. So far, however, an explicit definition of the notion "peaceful" has never been given. It is clear, though, that the simple fact that the public order is being disturbed or threatened because a demonstration is evoking reactions from the public or from counter-demonstrators does not mean that the demonstration no longer falls under the protection of the right to peaceful assembly.¹⁸ In this regard, the ECtHR has rightly ruled that art. 11 of the ECHR not only imposes restraint on the government but also entails positive obligations so that the freedom to demonstrate is actually possible for certain groups of people. The government should take reasonable and appropriate measures to ensure that lawful demonstrations proceed peacefully, and in this connection to deploy adequate police presence to protect the demonstrators from any hostile reactions.¹⁹

As for the individual demonstrator, if sporadic violence or other punishable acts are committed by others during the demonstration, the protection provided by art. 11 ECHR does not cease as long as he himself remains peaceful in his intentions and behaviour.²⁰ If the organisers of and participants in a demonstration do have violent intentions, however, the gathering is not protected by art. 11 of the ECHR.²¹ It is relevant to note that in a judgment from 2007, the ECtHR ruled that terminating a demonstration simply because the authorities had not been notified is not acceptable if circumstances do not allow for timely notification and there is no evidence of violence or disturbance of the peace. If the demonstration is a spontaneous reaction to a sudden political event, then termination because of the absence of notification, without any illegal behaviour on the part of the demonstrators, is a disproportionate infringement on the freedom to demonstrate, according to the Court.

5.3 A few practical questions and case law from recent years

In the beginning of the 1980s, even before art. 9 of the Constitution and the WOM had come into effect, the decision to forbid demonstrations was rejected on several

¹⁷ See ECtHR 26 April 1991, NJ 1992, 455, with case note by Dommering (Ezelin v. France). In § 37 of this judgment the ECHR describes the relationship between articles 10 and 11 ECHR as follows: "Notwithstanding its autonomous role and particular sphere of application, Article 11 must (...) also be considered in the light of Article 10 (...). The protection of personal opinion, secured by Article 10, is one of the objectives of freedom of peaceful assembly as enshrined in Article 11."

¹⁸ EComHR, 16 July 1980, appl. no. 8440/78 *Decisions & Reports* vol. 21, p. 148 (Christians against Racism and Fascism v. VK).

¹⁹ ECtHR 21 June 1988, NJ 1991, 641 (Plattform Ärzte für das Leben); ECtHR 26 June 2006, *European Human Rights Cases* (ECHR) 2006, 107 (Öllinger v. Austria), with case note by Gerards.

²⁰ ECtHR 26 April 1991, NJ 1992, 455, with case note by Dommering (Ezelin v. France).

²¹ ECtHR 2 October 2001, *Reports of Judgments and Decisions of the European Court of Human Rights* 2001-IX (Stankov and United Macedonian Organisation Ilinden v. Bulgaria).

occasions by the courts. These were not demonstrations by right-wing extremist groups, however.²² Until the early 1990s, preventive prohibitions on demonstrations by the extreme right could count on considerable sympathy, even though the judicial rulings were often criticised by legal commentators.²³ With reference to the position taken by the government in the formation of the WOM and the case law of the ECtHR with regard to art. 11 of the ECHR (especially the concept of positive obligations), it is argued that a preventive prohibition is only permitted as a last resort in a situation of administrative force majeure. Such a situation of administrative force majeure can be said to exist if the mayor, in view of the local circumstances and having marshalled all the available resources, cannot reasonably be considered capable of providing the demonstration with the necessary protection. In brief: issuing preventive prohibitions on demonstrations by right-wing extremist groups because of a fear that the public order will be disturbed, especially by reactions from spectators or counter-demonstrators, ought not to be easily accepted by the courts.²⁴ During the years 1995-1996, a few mayors, perhaps in response to the criticism of legal scholars, decided to allow four demonstrations by right-wing extremist groups to proceed: in The Hague, Rotterdam, Zwolle and Leerdam.²⁵ In the years that followed, preventive prohibitions were issued for a number of demonstrations without these decisions being laid before the court.

If we look at the period from 2000 on, we notice that there has been an increase in the number of legal proceedings concerning decisions made by mayors with regard to demonstrations. First of all, this increase seems to be the result of the fact that more demonstrations are being organised by right-wing extremist groups (and with more counter-demonstrations by anti-fascists in response).²⁶ In addition, the idea that demonstrations by extremist groups may be banned only in exceptional cases began to gain ground, among mayors as well as within the legal system. Some mayors accepted this idea with the utmost reluctance, however. So they searched for other measures

²² The classical examples for the Netherlands are: Vz. ARRS, 27 May 1982, AB 1983, 62, with case note by Van der Veen (Pink Front) and Vz. ARRS, 30 May 1983, AB 1984, 85, esp. Boon (Afcent goodbye party).

²³ See, among others, the criticism levelled by annotator Schilder at Vz. ARRS, 1 June 1989, AB 1989, 499 (demonstration by the Centre Democrats) and A.E. Schilder, "Dan demonstreren ze maar niet.' Demonstratieverbod tegen extreem-rechts: de openbare orde als smoesje?" ("Then they just won't demonstrate." Demonstration ban against the extreme right: Public order as excuse?), *NJB* 1995, pp. 950-955.

²⁴ The situation of administrative force majeure has already been spelled out in the parliamentary discussion of the WOM, *Handelingen II* (Official Acts of the House of Representatives of the States General) 1987/88, vol. 41, p. 2236. This is repeated in a letter from the Minister of Foreign Affairs to the House of Representatives in June 1996 (*Kamerstukken II* 1995/96, 24 400 VII, no. 45).

²⁵ See Jaap van Donselaar, *Monitor racisme en extreem-rechts; eerste rapportage* (Monitoring racism and the extreme right: First report). Leiden: LISWO 1997. Also see A.J.T. Woltjer, "De demonstratie van extreem-rechts in Zwolle: een brug te ver?" (The demonstration of the extreme right in Zwolle: A bridge too far?), *Migrantenrecht* 1996, no. 4, pp. 75-83 and A.J. Nieuwenhuis "Vrijheid van betoging voor extreem-rechts?" (Freedom to demonstrate for the extreme right?), *Tijdschrift voor Bestuurswetenschappen en Publiekrecht* 1996, pp. 668-672.

²⁶ Earlier Monitor reports have already noted that in the period 1998-2001 only a handful of demonstrations were organised by right-wing extremists, mainly in the context of the Rudolf Hess commemoration. This small number was chiefly attributed to practical causes. With the collapse of the Centre Democrats and the ban on CP '86, there were no organisers to take the initiative and put a demonstration together.

besides a preventive prohibition to curb demonstrations as much as possible. In recent years, legal proceedings have been instituted on several occasions to challenge the lawfulness of those measures, especially by the NVU. And in many cases the NVU succeeded. The most important developments since 2000 will be discussed thematically below.

5.3.1 *Providing information when giving notification of a demonstration*

When the mayor is being notified of an impending demonstration, article 4, paragraph 3 of the WOM forbids him from demanding information about the contents of the ideas or sentiments that will be made public. The practice that was sketched out in 2001 in the magazine *Binnenlands Bestuur*²⁷ – holding extensive prior consultation on the contents of the slogans with the people who had announced the demonstration – is therefore not permitted and is against the law. This practice has also been altered. It is clear, however, that information about the aim or subject of the demonstration, and of course about the organising group and the expected number of demonstrators, can be relevant and necessary for determining the possibility of counter-reactions and thus for planning a police presence large enough to maintain public order. Requiring such information when notification of a demonstration is given is therefore logical and permissible. In contacts with the organisers of a demonstration, the police usually point out that legal action will be taken against any remarks or displays that are discriminatory, that stir up hatred or that are otherwise insulting, as soon as they take place. Although the organisers may very well wonder whether the police have a right to ask these questions in the light of art. 4 WOM, legally this is not a problem.²⁸ When the government makes such statements, it should be regarded as information on the enforcement of the criminal statutes that demonstrators may have to deal with.²⁹

5.3.2 *Further ramifications of the criterion of "administrative force majeure"*

On 24 March 2001, NVU supporters wanted to hold a march with German right-wing extremists in the neighbouring towns of Herzogenrath and Kerkrade on the German-Dutch border. The theme was "Against the criminalisation of Dutch and German nationalists" and was a reaction to the arrest of a few NVU followers during a folder distribution campaign in connection with the elections for the Dutch House of Representatives a month and a half earlier. Anti-fascists announced a counter-demonstration. The demonstrations were banned by the mayors on both sides of the border. For the first time since 1989, the group of right-wing extremists that were

²⁷ *Binnenlands Bestuur* 19 October 2001, pp. 31-35.

²⁸ No legal proceedings have yet been conducted on this question, but in conversations with officials from the civil service of the city of The Hague and with the Haaglanden police it was made clear to me that extreme right-wing groups in particular are quick to regard this kind of information as intimidating and in breach of the WOM.

²⁹ Also see National Ombudsman, report 2007-290: *Demonstreren staat vrij* (Demonstration is permitted), p. 19. There it is explained that the Haaglanden police use a standard formula for consultations with the organisers of demonstrations. This includes the statement "The banners will not involve the use of heavy sticks and the text on the banners will not be discriminatory, insulting or inflammatory." Although the Ombudsman recognises that such "agreements" have a great deal in common with the imposition of unilateral, restrictive conditions, he does not regard the practice of making such agreements as improper or unlawful.

organising the event, the "Comité Kusters/Malcoci," took the matter to court.³⁰ The mayor of Kerkrade had based the prohibition on the expectation that there would be massive participation in the demonstration 'which would far exceed the expected number mentioned in the notification' and would constitute a "large, uncontrollable, confrontational, concentrated mass of demonstrators." However, the president of the Maastricht court ruled that a prohibition is only applicable if, first of all, it is certain that the presence of the regular police force, augmented by the contingent that are available for "normal" high-risk events (such as certain professional football matches), cannot adequately guarantee public safety and maintain order. The president also said that competent authorities must make a plausible case that deploying extra police is not possible. The fact that the German co-organiser Christian Malcoci had been indirectly involved in irregularities during demonstrations in Germany was also no reason to fear disturbances of such proportions that a prohibition would be appropriate, according to the president. The president did recognise that the town could not be expected to mobilise an enormous police presence to safeguard the demonstration, but he found the argument that at least 2,000 police officers would be needed to keep the whole thing under control to be insufficiently substantiated.³¹

Less than a year later, the NVU announced plans to hold another demonstration, this time on 26 February 2002 in Rotterdam. At first the mayor issued a prohibition, arguing that because of the large numbers of counter-demonstrators that were expected, disorder could only be avoided with a disproportionately large police presence, i.e. a police presence comparable to that deployed during the EC football finals of 2000. This prohibition was also contested by the NVU, and the Rotterdam court ruled that the police presence that had been deemed necessary should not be regarded as disproportionately burdensome for the city because "exercising a basic right may require greater efforts on the part of the defendant than holding an event like a high-risk match of one of the local football clubs."³² The court also demanded that fear of disorderliness be substantiated by concrete facts, including facts gleaned from experience, in a report from the police force. This report should also present a well-founded explanation of why less severe measures would not be sufficient.

The line of the argument set out in these rulings was followed in several later legal judgements, including those made in response to decisions to ban NVU demonstrations in Harderwijk (on 18 May 2002)³³ and Apeldoorn (on 17 May 2003).³⁴ Guaranteeing the freedom to demonstrate can therefore require even more additional police enforcement than at a high-risk professional football match. And only if the fear of disorderliness is

³⁰ In 1989 it was the Centre Democrats who contested two demonstration bans, without success. See Vz. ARRS 21 March 1989, *AB* 1989, 498 and Vz. ARRS 1 June 1989, *AB* 1989, 499, with case note by Schilder.

³¹ Pres. Maastricht District Court 22 March 2001, *JB* 2001, 104, with case note by Schlössels.

³² Pres. Rotterdam District Court 24 January 2002, *KG* 2002, 42 and *NCJM-Bulletin* 2002, pp. 375-378, with case note by De Graaf. Also see A.J.T. Woltjer, "De vrijheid van meningsuiting gedemonstreerd" (Freedom of expression demonstrated), *Ars Aequi* 2002, p. 385 ff.

³³ Zutphen District Court 16 May 2002, *AB* 2002, 301.

³⁴ Zutphen District Court 13 May 2003, LJN AF8572 (LJN = National Case Law Number; the number under which judgments of Dutch courts are published on the website www.rechtspraak.nl).

based on concrete evidence and detailed risk analysis, and the police submit a report showing that there is no way that the necessary police presence can be provided on that particular day, can the mayor appeal to administrative force majeure and ban the demonstration.

This does not mean, however, that appealing to administrative force majeure is always doomed to failure in the courts. When the NVU announced a demonstration to be held in Doetinchem on 24 February 2007, and the "Comité Stop Extreem Rechts" organised a counter-demonstration, the latter was banned by the mayor. The judge upheld the prohibition because he thought the risk of large-scale disorder (partly in the light of earlier confrontations between both groups) was sufficiently substantiated, and he also deemed realistic the police's estimate that 200 police officers at the most would have to be available to keep everything under control.³⁵

5.3.3 *"Banishing" demonstrations to a remote part of the city*

The NVU demonstration held in Apeldoorn on 17 May 2003, mentioned above, was finally permitted after the initial prohibition was suspended by the court, but strict conditions were imposed regarding the duration and the location of the demonstration. The demonstration of about 80 NVU supporters lasted one hour and took place in a commercial district in Apeldoorn-Zuid that was cordoned off by three ranks of riot police and 400 police officers in order to maintain order. Afterwards, NVU leader Constant Kusters announced plans to negotiate a new demonstration at which the public *would* be present in order to hear the demonstrators' message.³⁶ This NVU demonstration, announced for 14 May 2005 in Arnhem, led to a first legal ruling concerning the "banishment" of NVU demonstrations to remote areas where the chance of disorderliness would be smaller but no public would be present to take notice of the event. Based on art. 5 of the WOM, the mayor had designated a dike along the outermost border of the city as a location for the demonstration, and 9 a.m. as the appointed time. Kusters appealed this decision in the Arnhem court, and the court ruled that designating this location and time was a disproportionate violation of the freedom to demonstrate, since hardly anyone would be present at such a location and time to take notice of what the demonstrators were saying.³⁷ The mayor's argument – that media attention for the demonstration could be expected at this location as well – did not change the court's mind.

This scenario was repeated in January 2007. The NVU gave notification of a demonstration to be held on 27 January with the theme "Close the borders to cheap East-European workers." This was to take place in the vicinity of the Apeldoorn railway station. The mayor decided to designate an alternate route for this demonstration far outside the centre of the city and to allow the demonstration to continue for only a short time (an hour and a half instead of four and a half hours). Although the route and time restriction did not go as far as the Arnhem decision, it was clear that here, too, the designated location would reduce the public's awareness of the demonstrators' point of view. In addition, because the location was difficult to reach by public transport, it would

³⁵ Zutphen District Court 23 February 2007, LJN AZ9730.

³⁶ *Apeldoornse Courant* 23 May 2003.

³⁷ Arnhem District Court 13 May 2005, LJN AT5504, AB 2005, 194.

also negatively influence the number of participants. The court found such a decision equivalent to a demonstration prohibition and, since there was insufficient reason to assume that another route (more through the centre of the city) would unavoidably lead to a situation of administrative force majeure, the court ruled that this restriction of the freedom to demonstration was unjustified.³⁸ The court also stated that carefully preparing for such a decision, and weighing the various interest, requires that a form of preliminary consultation take place with the organisers of the demonstration in order to better understand their interests in the desired location.

5.3.4 Arrest and prosecution of punishable remarks and displays at demonstrations

The most relevant provisions that place limits on what is said and displayed during a demonstration are art. 137c, 137d, 261 and 266 of the Criminal Code. Art. 261 and 266 penalise libel and deliberate defamation of individual persons. On the grounds of art. 137c, remarks made in public, orally, in writing or in images that are deliberately offensive to a group of people on account of their race, religion or other characteristics can be punished.³⁹ According to case law on this article, displaying a swastika in public with the intention of propagating National Socialist ideas is punishable.⁴⁰ Simply making the Nazi salute is not covered by this article, but making it in combination with words like "Sieg heil" is indeed punishable under this article.⁴¹

Article 137d prohibits publicly inciting hatred, violence or discrimination towards a population group on account of race, religion or other characteristics. On the basis of this article, the late Centre Democrat party leader Janmaat was convicted of shouting the words "We will abolish the multicultural society as soon as we have the chance and the power to do so" at a demonstration. This statement, in combination with the statements and displays made by others during the demonstration (such as "Full = full" and "Our own people first") were regarded as inciting to discrimination. Janmaat's conviction was upheld by the Supreme Court.⁴²

So far the increase in the number of demonstrations by right-wing extremist groups in recent years has not led to large numbers of arrests or prosecutions on the basis of the articles mentioned above. After the Rudolf Hess commemoration of 26 August 2000 in Echt, however, NVU demonstrators Kusters, Homan and Krommenhoek were convicted of inciting hatred. The occasion of the arrest was the distribution of pamphlets that included sentences such as "As any Dutch person can very well see, the composition of the Dutch population is becoming more coloured with every passing year. We are not allowed to say anything about that because that's discrimination according to the Dutch constitution" and "If the composition of the population goes on like this, the native Dutch people will disappear in no time at all." In the eyes of the district court and the court of appeals, distributing this pamphlets in the context of a demonstration at which signboards, banners and flags with neo-Nazi symbols and runic characters were carried, and at which slogans such as "Ausländer raus" were chanted, was evidence of

³⁸ Zutphen District Court 26 January 2007, LJN AZ7212. Also see J.P. Loof "De burgemeester en de demonstratievrijheid" (The mayor and the freedom to demonstrate).

³⁹ The text of these articles can be found in Appendix I of this report.

⁴⁰ Supreme Court 21 February 1995, *NJ* 1995, 452, with case note by Schalken.

⁴¹ Supreme Court 11 March 1986, *NJ* 1987, 462, with case note by Mulder.

⁴² Supreme Court 18 May 1999, *NJ* 1999, 634.

propagating Nazi ideology and therefore constituted punishable offences as referred to in art. 137c and 137d of the Criminal Code. Kusters was sentenced to six weeks' imprisonment⁴³ and the two others were given shorter prison sentences.

In 2007 Kusters was sentenced by the Arnhem police court to a community punishment order of fifty hours, a fine of €500 and a suspended sentence of one week. He was found guilty of libel on account of statements in his speech made at the NVU demonstration of 30 September 2006 in Arnhem. Here he had called the former chairman of the National Alliance, Jan Teijn, a "paedophile" and a "filthy pervert."⁴⁴ In September 2008 this charge was upheld by the Arnhem Court of Appeals.⁴⁵

Otherwise there has been no prosecution of crimes of expression committed during demonstrations. As already mentioned, before any demonstration is held, the organisers are usually told that legal action will be taken against any offensive or discriminatory statements or displays and against the carrying of Nazi symbols (swastika, Celtic cross, runic characters). In some cases this warning is even printed out and distributed to demonstration participants. Such was the case at the NVU demonstrations held on 11 November 2006 in Zoetermeer and on 24 February 2007 in Doetinchem.⁴⁶

Nevertheless, sometimes such symbols are displayed (as at the NVU demonstration in Rotterdam on 26 February 2002) without any legal action being taken – even though carrying them can be punishable in a particular context. At the NVU demonstration held in Oss on 7 April 2007 a few demonstrators were arrested. These included a German demonstrator who was wearing a swastika button. As far as we know, however, this demonstrator was not prosecuted for this action.

The practice of recent years has shown that at right-wing extremist demonstrations in the Netherlands, demonstrators from abroad (Belgium and especially Germany) usually march along as well. German demonstrators find it "attractive" that certain slogans and symbols that are prohibited in Germany do not by definition fall under the criminal statutes in The Netherlands.

One difficult problem is whether the slogans "Blut und Ehre" and "White Power," which are frequently seen on the black jackets of right-wing extremists, fall within the scope of the Dutch criminal statutes. At the NVU demonstration in Apeldoorn held on 27 January 2007, a few black American students who were unexpectedly confronted by the demonstration said they had been shocked by them.⁴⁷ An even greater legal problem is the use of otherwise neutral symbols such as the numbers 14, 18 and 88. These numbers are often used by neo-Nazis and refer to the position of letters in the alphabet. The number 18 stands for AH, the initials of Adolph Hitler. The number 88 stands for HH: Heil Hitler. The number 14 stands for a fourteen-word slogan: "We must secure the

⁴³ Den Bosch Court of Appeals 29 April 2003, LJN AF8340.

⁴⁴ "NVU-voorman hoort werkstraf eisen voor smaad" (NVU leader given community punishment order for libel), Elsevier no. 26 August 2008.

⁴⁵ Arnhem Court of Appeals 9 September 2008, LJN BF7596. The court set the fine at € 300 and sentenced Kusters to pay Teijn an additional € 300 in damages.

⁴⁶ "Horst Wessel-lied bij NVU-demonstratie" (Horst Wessel Song at NVU demonstration), *Dagblad Tubantia/Twentsche Courant* 23 March 2007.

⁴⁷ See "Demonstratie nvu verloopt rustig" (NVU demonstration proceeds calmly), *De Stentor* 27 January 2008. <<http://www.destentor.nl/apeldoorn/article1051850.ece>> (15 September 2008).

existence of our people and a future for white children." Up until now, displaying these numbers at a demonstration has never resulted in prosecution. At some demonstrations, however, banners and signs bearing these numbers have been seized by the police without being followed by legal proceedings.

There seems to be a certain reticence on the part of the police when it comes to making arrests for possible crimes of expression. This undoubtedly has to do with the fact that making such arrests during a demonstration could have a direct impact on maintaining law and order. At demonstrations, maintaining law and order is given the highest priority. Another cause may very well lie in the police's unfamiliarity with the meaning of certain slogans, symbols or numbers, although it must be said that police and the Public Prosecution Service do a great deal to keep abreast of such developments (partly by way of the National Expertise Centre for Discrimination). We do know that the police sometimes call upon demonstrators prior to the demonstration to tape over certain captions or symbols on their clothing or not to display them at all. As long as legislation or case law is not completely clear about whether these texts and symbols fall under Dutch criminal statutes, such practices by the police remain highly dubious.

5.3.5 Acts of violence at demonstrations

Since 2000 there has been a relatively small number of serious disturbances and acts of violence between different groups of demonstrators at right-wing extremist demonstrations. In most cases the police are very good at keeping everything under control. The most serious disturbances took place at the NVU demonstration held on 5 June 2004 in The Hague, when more than 500 AFA counter-demonstrators tried to break through a police cordon in order to spark a confrontation with the 50 demonstrating NVU supporters. As a result more than 300 anti-fascists were arrested and six people were wounded, including two police officers.⁴⁸ In the end, only eleven persons out of all those arrested were prosecuted for acts of violence in a public place.⁴⁹

5.3.6 Application of the proof of identity requirement

At the NVU demonstration of 15 May 2005 in Arnhem, about 300 AFA supporters held a counter-demonstration without notifying the mayor in advance; 32 anti-fascists were arrested, mainly because they were unable to show proof of identity when checked by the police.⁵⁰ On 30 September 2006 an NVU demonstration took place in Arnhem once more with another unannounced AFA counter-demonstration (this time involving only 50 participants). Strict identity checks were carried out again. Forty-seven persons were arrested for inability to show proof of identity.⁵¹

At a demonstration held by the Nationalistic People's Movement (Nationalistische Volks Beweging) on 11 November 2006 in Middelburg (against the establishment of a mosque), all the demonstrators were subjected to an identity check when they arrived at

⁴⁸ See, among others, L. Roggeveen, "Driehonderd arrestaties na links tegenprotest" (Three hundred arrests after left-wing counter-protest), *Haagsche Courant* 7 June 2004.

⁴⁹ L. Roggeveen, "Van 330 arrestanten elf vervolgd" (Eleven out of 330 detainees prosecuted), *Haagsche Courant* 12 February 2005.

⁵⁰ "Krikke naar rechter om nvu-demonstratie" (Krikke taken to court over NVU demonstration), *De Gelderlander* 17 May 2005.

⁵¹ "Aanhoudingen bij demonstratie Arnhem" (Arrests at Arnhem demonstration), *Reformatisch Dagblad* 2 October 2006.

the railway station; seven were arrested because they could not show proof of identity. As these examples show, the proof of identity requirement seems to have developed into an important additional instrument for maintaining law and order at demonstrations. Persons who are unable to show proof of identity can be detained for a maximum of six hours and subjected to measures to trace their identity.

A report from the National Ombudsman presented in 2007 revealed that subjecting groups of demonstrators to an identity check is a common procedure, at least among the Haaglanden police, and not only in connection with demonstrations by the extreme right.⁵² The use of the power to subject people to an identity check is a typical example of stretching a legal power to the edge of – or just over – its limit. When the Compulsory Identification Act (*Wet op de uitgebreide identificatieplicht*; WUID) went into effect in 2005, art. 8a of the Police Act was inserted. This stipulates that a police officer may demand to inspect a person for proof of identity insofar as it is reasonably necessary for the exercise of police duties. Failure to comply with the demand is a punishable offence (art. 447e of the Criminal Code).

The duties of the police entail maintaining law and order (art. 2 of the Police Act), which involves enforcing the law and at the same time preserving public order. This means that if demonstrators commit punishable offences (such as making excessive noise, committing crimes of expression or demonstrating without prior notification), the police are authorised in principle, on the grounds of article 8a of the Police Act, to demand proof of identity. In his report, the Ombudsman pointed out that this power can have an intimidating effect and may sometimes escalate. After all, refusing to identify oneself is also a punishable offence for which the police could draw up an official report, and they could make an arrest on that basis. That in fact would bring the demonstration to an end. The Ombudsman recommends that if the police are not planning to draw up an official report for a punishable offence, this demand for identification should be dropped. Although case law shows that an individual police officer has a certain latitude when assessing whether he or she has the authority to demand proof of identity in a specific case,⁵³ especially when it comes to maintaining law and order, subjecting demonstrators to an identity check as a "standard" procedure is going too far, certainly if there is no indication of a public disturbance. As a tool, the identity check is used to an excessive degree to obstruct the right to demonstrate rather than to maintain law and order. This is in violation of the prohibition on *détournement de pouvoir* (art. 3:3 General Administrative Law Act: Misuse of power). No judicial decisions have been made on this matter, however.⁵⁴

5.4 Demonstrations by right-wing extremist groups in Germany

Following the fairly detailed description of actual and legal developments having to do with demonstrations by right-wing extremist groups in the Netherlands since 2000, the

⁵² National Ombudsman, rapport 2007-290: *Demonstreren staat vrij*, pp. 29-31.

⁵³ The Hague Court of Appeals 4 July 2006, LJN AY0109.

⁵⁴ When the WUID was being formulated, the Minister of Justice said that the proof of identity requirement, when applied as part of the police task to maintain law and order, is intended for situations "in which the public order is disturbed or is in danger of being disturbed" (*Kamerstukken I 2003/04*, 29 218, C, p. 9).

next section is a brief discussion of a few developments in Germany. Special attention will be paid to some of the striking differences between the two countries.

5.4.1 *The legal framework*

Article 8 of the German constitution (*Grundgesetz* – GG) of 1949 guarantees the freedom to assemble and to demonstrate.

The article reads as follows:

- (1) All Germans shall have the right to assemble peacefully and unarmed without prior notification or permission.
- (2) In the case of outdoor assemblies, this right may be restricted by or pursuant to a law.

The first paragraph of this article grants the freedom of demonstration to "all Germans" alone; foreigners living in Germany cannot derive any rights from this article of the constitution. Since Germany has also ratified art. 11 of the ECHR, which makes no distinction between nationals and foreigners in the protection of the freedom to demonstrate, the European protection of the freedom to demonstrate also applies to foreigners in Germany. The first paragraph also clearly states that the protection only applies to peaceful and unarmed demonstrators. The German constitution does not provide protection to hostile, rebellious and armed gatherings. The second paragraph of art. 8 GG states that demonstrations in public areas can be subjected to restrictions under or pursuant to the law. The law that covers this is the *Versammlungsgesetz* of 1953.

A second relevant article from the constitution is art. 18 GG, in which the post-war idea of a strong and resilient democracy is expressed.

" Whoever abuses the freedom of expression, in particular [...] the freedom of assembly (Article 8) [...] in order to combat the free democratic basic order shall forfeit these basic rights. This forfeiture and its extent shall be declared by the Federal Constitutional Court."

Art. 2 of the Assemblies Act (*Versammlungsgesetz*) elaborates the concept of abuse of rights as it applies to the freedom to demonstrate. Anyone who has been deprived of his claim to basic rights by the Federal Constitutional Court (*Bundesverfassungsgericht*) loses his freedom to demonstrate. This also applies to political parties that can be banned under art. 21 § 2 GG on account of unconstitutional activities, and to organisations that can similarly be banned under art. 9 § 2 GG. Anyone planning to propagate the objectives of a banned party at a demonstration cannot claim protection under the freedom to demonstrate either. Art. 3 of the *Versammlungsgesetz* prohibits the wearing of uniforms (or parts of uniforms) at demonstrations, or of similar clothing that indicates a common political persuasion. The prohibition applies not only to real uniforms but also to the wearing of army boots, bomber jackets or clothing with the same sort of appearance. Art. 14 stipulates that the competent authorities must be notified of a

demonstration at least 48 hours in advance.⁵⁵ When a demonstration is announced, the leader or organiser of the demonstration must be made known. Art. 15 paragraph 1 indicates that a demonstration can be placed under a preventive prohibition or can be disbanded if there is an immediate threat to public safety or public order. Art. 17 contains a ban on carrying weapons in a demonstration and a prohibition on wearing any mask, hood or device whereby a person's face is disguised.⁵⁶

As for regulating the behaviour at demonstrations, it is also important to note that German criminal statutes penalise a number of specific expressions and explicitly forbid displaying various symbols and gestures in public. Article 130 of the Criminal Code (*Strafgesetzbuch*; STGB) makes punishable inciting hatred and violence against specific population groups (*Volksverhetzung*). This also includes singing certain songs that propagate hatred towards foreigners or Jews, or songs that glorify Hitler and the deeds of National Socialism. The slogan "Ausländer raus" is also punishable on the basis of this article. Impugning the honourable memory of people who have died, provided that it happens in a very offensive way, is punishable under art. 189 STGB (*Verunglimpfung des Andenkens Verstorbener*).⁵⁷ Denial of the Holocaust can also be punished under this article.

Articles 86 and 86a STGB prohibit the public display or distribution of certain symbols that can be seen as the propaganda of unconstitutional organisations. This includes the swastika, a number of runic characters and certain flags, uniforms and articles of clothing. Some symbols are not punishable in and of themselves but become punishable when displayed within the context of, say, a prohibited organisation. This might include the numbers 14, 18 and 88. The making of certain gestures and the uttering of certain songs and slogans also constitute punishable offences on the grounds of art. 86 and 86A STGB. This applies to the Nazi salute, the Widerstand salute (like the Nazi salute but with thumb, index and middle fingers spread out) and greetings like "Sieg Heil" and "Heil Hitler." National-socialist songs like the "Horst Wessel Song" and "Deutschland erwache," or original National Socialist songs with altered lyrics, are also punishable. Also included in this article are slogans such as "Unsere Ehre heißt Treue," "Blut und Ehre" and "Ein Volk, ein Reich, ein Führer."

5.4.2 *Demonstrations in Germany and the legal response*

In Germany in the 1970s and 1980s it was mainly demonstrations held by students, peace groups and environmental groups that tested the limits of the right to demonstrate. Since the mid-1990s, demonstrations by right-wing extremists have been

⁵⁵ On the basis of case law, the German Federal Constitutional Court can make an exception for "*Spontanversammlungen*." There are demonstrations that form spontaneously in response to a particular event, without anything having been organised. See Bundesverfassungsgericht (BVerfG) 14 May 1985, *Entscheidungen des Bundesverfassungsgerichts* (BVerfGE) 69, 315 (Brokdorf).

⁵⁶ It is forbidden to wear clothing or face paint that is makes it difficult to establish a person's identity –or, in the given circumstances, that is intended to make such identification difficult.

⁵⁷ R. Zippelius & T. Würtenberger, *Deutsches Staatsrecht*. Munich: Beck 2005 (31st printing), pp. 312-313.

chiefly responsible for raising legal questions with regard to making adjustments in the guarantee of the freedom to demonstrate.⁵⁸

In the first half of the 1990s, the German approach very closely resembled that taken in the Netherlands: with an appeal to the danger of disorderliness almost every demonstration by right-wing extremist groups was put under a preventive prohibition.⁵⁹ Until the mid-1990s, not a single demonstration was permitted.⁶⁰ In the years that followed, however, the number of demonstrations with an extreme right-wing stamp rose sharply. In 2001 there were more than 100, and in 2005 there were 145.⁶¹ The average number of participants in these demonstrations also skyrocketed, with up to a few thousand per demonstration. The sixty-year commemoration of the bombing of Dresden brought out an exceptionally high number: 6,000 people joined in an extreme right-wing demonstration at that time.⁶² During the first years of the twenty-first century, the "memorial services" held on the day the "martyr" Rudolf Hess died developed into international gatherings attended by 1,000 to 1,200 neo-Nazis from all over Europe.⁶³

The increase in the number of demonstrations by right-wing extremists in Germany since the mid-1990s coincides with a development in case law that can be compared with the same development in the Netherlands: a tendency of the courts to be less willing to accept preventive prohibitions on demonstrations. In the period 2001-2004 in particular there was a heated case law conflict between various lower administrative courts and the *Bundesverfassungsgericht* concerning the latitude that should be allowed for right-wing extremist demonstrations. According to the rulings made by several municipal administrations and administrative courts, demonstrative statements and displays with a Nazi content do not qualify for constitutional protection, ensuing from the resilient character of the post-war German constitution.⁶⁴ So these authorities regarded a prohibition on such demonstrations as acceptable by definition due to the threat to the public order in the sense of art. 15 paragraph 1 of the *Versammlungsgesetz*. The *Bundesverfassungsgericht*, however, consistently held that the constitutional protection of the freedom to demonstrate is politically neutral, and that the resilient character of the constitutional regulation is mainly expressed in making punishable Nazi utterances and symbols, but beyond this does not impose any extra limitations on the exercise of the

⁵⁸ O. Dörr, "Keine Versammlungsfreiheit für Neonazi's? Extremistische Demonstrationen als Herausforderung für das geltende Versammlungsrecht," *Verwaltungsarchiv* 2002, p. 485.

⁵⁹ See J. van Donselaar, *De staat paraat? De bestrijding van extreem-rechts in West Europa* (Is the state prepared? Combating the extreme right in Western Europe). Amsterdam: Babylon-De Geus 1995, p. 96.

⁶⁰ *Ibid.*, p. 98.

⁶¹ Bundesministerium des Innern, *Verfassungsschutzbericht 2007*. Berlin 2008, p. 50.

⁶² B. von Brause, "Der Kampf um die Straße. Extrem rechte Demonstrationenpolitik," *Lotta. Antifaschistische Zeitung aus Nord-Rhein-Westfalen* 2006-24, pp. 10-14.

⁶³ S. Kusicke, "Im Namen der Versammlungsfreiheit," *Frankfurter Allgemeine Zeitung* 21 August 2004, no. 194.

⁶⁴ For discussions of this constitutional quarrel, see: S. Beljin, "Neonazistische Demonstrationen in der aktuellen Rechtsprechung," *Deutsches Verwaltungsblatt* 2002, pp. 15-22; O. Dörr, "Keine Versammlungsfreiheit für Neonazi's? Extremistische Demonstrationen als Herausforderung für das geltende Versammlungsrecht," pp. 486 and 488-489, as well as W. Hoffmann-Riem, "Demonstrationsfreiheit auch für Rechtsextremisten?" *Neue Juristische Wochenschrift* 2004, pp. 2777-2782.

freedom to demonstrate for such groups.⁶⁵ Many demonstration prohibitions foundered on the *Bundesverfassungsgericht* because the authorities were not able to weigh the various interests in a verifiable ways and because of delays brought on by the authorities in coming to decisions about demonstrations. The *Bundesverfassungsgericht* indicated that in order to enable the exercising of the freedom of demonstration, the government is obliged to consult with the organisers so the planned demonstration can be steered in the right direction.

A few other important "rules" from the *Bundesverfassungsgericht* case law having to do with right-wing extremist demonstrations are:

- coming to a decision about a possible demonstration prohibition may not be postponed so long that it becomes impossible to invoke legal protection against it before the demonstration is to take place;
- the permitted duration of a demonstration may not be so severely restricted that the goal of the demonstration can no longer be reached, and the checking of demonstrators' identity cards may not take so long that there is little time left over to demonstrate;
- the route of a demonstration may not be set in such a way that the demonstration no longer has a chance of being observed by a large public;
- preventive demonstration prohibitions cannot simply be based on the character of the organising group and the expected content of the messages being communicated, but only on the threat to public safety caused by specific acts that are attributed to the participants in this demonstration (just referring to events at another random demonstration by right-wing extremists is insufficient; the fact that certain speakers at the demonstration were previously convicted of crimes of expression or other punishable offences is also insufficient);⁶⁶
- imposing restrictive measures on a particular demonstration is only permitted if those measures are aimed at discouraging specific demonstrable danger to public safety or the public order;
- the adequate measures aimed at protecting public safety or the public order must be taken by the authorities; this responsibility may not be shifted to the organisers of the demonstration by obliging them to guarantee that none of the demonstration participants will commit acts of violence;
- the danger of violence by counter-demonstrators can justify a prohibition on that counter-demonstration, but not a prohibition on the original demonstration, unless there is evidence of a so-called "*polizeilichen Notstand*;"

⁶⁵ See, among others, BVERFG 26 January 2001, 1 BvQ 9/01; BVERFG 18 August 2000, 1 BvQ 23/00; BVERFG 5 September 2003, 1 BvQ 32/03. All relevant rulings are discussed and analysed in detail in the articles mentioned in the previous footnote.

⁶⁶ As early as BVerfG 14 May 1985, BverfG 69, 315 (Brokdorf), the Court ruled that merely stating that the public order is in danger of being disturbed is insufficient grounds for a preventive demonstration ban. Also see U. Battis & K.J. Grigoleit, "Rechtsextremistische Demonstrationen und öffentliche Ordnung – Roma Locuta?," *Neue Juristische Wochenschrift* 2004, pp. 3459-3460.

- prohibitions or conditions having to do with the content of the messages being made public at a demonstration may go no further than the messages prohibited by criminal law.⁶⁷

These rules from *Bundesverfassungsgericht* case law do not mean that banning a demonstration by right-wing extremists is no longer feasible. They mean that such a prohibition cannot be based on the National Socialistic content of the demonstration alone. An immediate danger to the public order can arise if those contents are combined with "other special circumstances, such as provocative or aggressive elements, ensuing from the behaviour of the demonstrators, which directly influence coexistence with the public." With this wording, the *Bundesverfassungsgericht* hopes to put a stop to marches with a paramilitary or otherwise intimidating character and those processions that suggest that participants are prepared to use violence.⁶⁸

The most important organiser of right-wing extremist demonstrations in Germany is the Nationaldemokratische Partei Deutschlands (NPD). This party uses the demonstrations mainly "to reach the man in the street," to project an image and to protest against government policy, particularly the reform of the social system in Germany. In addition to its own following, the NDP can almost always count on an appearance from the so-called Freie Kameradschaften at its demonstrations. These are autonomous neo-Nazi groups that are not organised according to a system of laws, like a party or an association, and therefore are difficult to prohibit. The number of Freie Kameradschaften has risen in recent years to about 160 in 2007.⁶⁹ By organising large numbers of demonstrations each year, both groups (NPD and the Freie Kameradschaften) hope to give the impression that they are ready for action and thereby to appeal mostly to young people.⁷⁰ When choosing a time to demonstrate, the element of provocation also plays a part for the NPD. The Labour Day – 1 May – for example, is a day on which they particularly like to demonstrate. Since many organisations on the left of the political spectrum regard this as "their" day, "hijacking" this day always results in massive counter-demonstrations. Other favourite days for NPD demonstrations in recent years are those with special historical significance, such as the day of the capitulation of the Nazi regime, the annual Holocaust memorial on 27 January and the day Hitler came to power in 1933. As for locations, the preference is often for a 'sensitive' option such as the Brandenburger Tor, the place where the Holocaust monument is being planned in Berlin and the grave of Rudolf Hess in Wunsiedel. This choice of provocative dates and locations seems mainly to be aimed at provoking counter-demonstrations, the idea being that a disturbance will ensue and result in more media attention for the right-wing extremist message.⁷¹

⁶⁷ The summary of these rules is largely taken from W. Hoffmann-Riem, "Demonstrationsfreiheit auch für Rechtsextremisten?" *Neue Juristische Wochenschrift* 2004, pp. 2777-2782.

⁶⁸ S. Beljin, "Neonazistische Demonstrationen in der aktuellen Rechtsprechung," *Deutsches Verwaltungsblatt* 2002, p. 19.

⁶⁹ Bundesministerium des Innern, *Verfassungsschutzbericht 2007*. Berlin 2008, p. 52.

⁷⁰ *Ibid.*

⁷¹ In some cases, local administrators have called for massive counter-demonstrations to give them an excuse to prohibit the demonstration by right-wing extremists. Sometimes a city council will quickly organise a commemoration to take place exactly where and when the NPD was planning to demonstrate,

In response to a demonstration of approximately 600 NPD supporters on 29 January 2000 at the Brandenburger Tor in Berlin, protesting the construction of the new Holocaust monument, the German Minister of Justice began work on a bill to enable the prohibition of extreme right-wing demonstrations at sensitive locations. The minister was especially concerned about problems arising once the Holocaust monument would be finished.

The minister's initiative resulted in a new art. 15 paragraph 2 of the *Versammlungsgesetz*.

Eine Versammlung oder ein Aufzug kann insbesondere verboten oder von bestimmten Auflagen abhängig gemacht werden, wenn 1. Die Versammlung oder der Aufzug an einem Ort stattfindet, der als Gedenkstätte von historisch herausragender, überregionaler Bedeutung an die Opfer der menschenwürdigen Behandlung unter der nationalsozialistischen Gewalt- und Willkürherrschaft erinnert, und 2. Nach den zur Zeit des Erlasses der Verfügung konkret feststellbaren Umständen zu besorgen ist, dass durch die Versammlung oder den Aufzug die Würde der Opfer beeinträchtigt wird. Das Denkmal für die ermordeten Juden Europas in Berlin ist ein Ort nach Satz 1 nr. 1. Seine Abgrenzung ergibt sich aus der Anlage zu diesem Gesetz. Andere Orte nach Satz 1 Nr. 1 und deren Abgrenzung werden durch Landesgesetz bestimmt.

After a fairly turbulent social and parliamentary debate, the new Act came into effect on 1 April 2005. This made it possible for the area around the Holocaust monument, and other locations designated "sensitive" by law by the German states, to issue a preventive demonstration prohibition once again because of the extremism of the organising groups and the expected content of the messages being voiced and displayed at the demonstration, provided that that content is detrimental to the dignity of the victims of the Nazi regime.⁷² Now a few states have passed legislation in which other locations are designated 'no go areas' for demonstrations that are expected to be detrimental to the dignity of the victims. The state of Brandenburg, for instance, has ruled that demonstrations may not take place in the area around cemeteries, especially Waldfriedhof Halbe, the largest Germany military cemetery, without prior permission. This permission will not be given if the demonstration is of a National Socialist character.

The *Verfassungsschutzbericht* (Annual Report of the Office for the Protection of the Constitution) for 2006 and 2007, published by the German Ministry of the Interior, clearly states that as a result of amendments to the *Versammlungsgesetz* the number of right-wing terrorist demonstrations has already begun to decline. In the last two years it has fluctuated around 80. At certain locations it is easier now to impose a preventive prohibition. But the number of demonstration notifications is dropping as well, now that

so that the demonstration can be banned because it conflicts with another activity. See W. Hoffmann-Riem, "Demonstrationsfreiheit auch für Rechtsextremisten?," *Neue Juristische Wochenschrift* 2004, pp. 2779-2780.

⁷² A new provision in the STGB (article 130 paragraph 4) was also introduced at the same time. This stated that the glorification or justification of the National Socialist regime, done in a way to violate the memory of the victims, is now a punishable offence.

demonstration locations that are interesting from a provocative point of view have become off-limits.

5.5 Conclusion

After an administrative reversal began in the mid-1990s with regard to allowing demonstrations by right-wing extremists in the Netherlands – a reversal that was probably inspired by the reasoning undergirding the WOM, passed in the late 1980, and by legal criticism of earlier case law on demonstration prohibitions – the legal developments that took place after 2000 were mainly the result of legal rulings (usually by administrative judges in summary proceedings). There the requirements placed on decisions to prohibit or restrict a particular demonstration are made more explicit in terms of careful preparations for and substantiation of such decisions and in terms of the proof that the mayor must put forward in order to demonstrate that this is a situation of administrative force majeure that can justify a demonstration prohibition. Permitting an extremist demonstration can require a police presence comparable to that needed for a high-risk professional football match; banishing such a demonstration to a remote corner of the city is out of the question, as is the preventive checking of messages that might be communicated at the demonstration.

Since 2000 there has been an increase in the annual number of demonstrations by the extreme right. These have mainly been demonstrations by the NVU, often attended by participants from Germany and Belgium. At the same time, experience with demonstrations has shown that the police and the mayor are sometimes quite intrusive when providing "information" about action that will be taken against messages and displays that are deemed discriminatory or in any other way punishable. If, as a result, texts or symbols of questionable punishability are seized or required to be taped over, the authorities will find themselves on exceedingly thin ice with regard to the constitutional freedom of expression and freedom to demonstrate. The same goes for imposing compulsory identification on groups of demonstrators without any evidence or clear threat of punishable offences or disturbances.

Compared with the Netherlands, Germany has a more elaborate centralised arrangement with regard to the freedom to demonstrate – the *Versammlungsgesetz* – while the German penal code forbids carrying various National Socialist texts and symbols. In Germany (since the mid-1990s) there has also been an increase in the number of demonstrations by the extreme right, especially the NPD. In the period 2000-2004 a fierce case law debate raged between lower administrative courts and the *Bundesverfassungsgericht* concerning the constitutional space provided for right-wing extremist demonstrations in the "resilient" German constitutional structure. The *Bundesverfassungsgericht* has marked out clear lines in that debate that have a great deal in common with Dutch case law in terms of making it less easy to accept preventive demonstration prohibitions and in terms of preparing for and substantiating other decisions having to do with right-wing extremist demonstrations.

One important practical difference between the Netherlands and Germany has to do with the number of demonstrations by extremist groups and the number of persons attending these demonstrations. In the light of these numbers, and in the light of the special history of the country, it is not very surprising that legislative change is the instrument that has

been seized to introduce the possibility of a preventive prohibition based on the expected content of the messages to be aired during the demonstration, at least certain for very special sites in the country. In 2005 a provision was added to the *Versammlungsgesetz* that makes it possible to issue a preventive prohibition on demonstrations if they take place at locations that are of important historical significance in the light of inhumane treatment during the Nazi regime, and if they impugn the dignity of Nazi victims.

The Dutch WOM explicitly rules out a preventive check of the contents of the messages, but the ECHR does offer some room (under the ECHR, a restriction of the freedom to demonstrate to protect the rights of others can also take the form of a preventive check).⁷³ So I think that the new German legislation, although quite controversial in Germany, does not immediately have anything to fear from an ECHR perspective.

Extreme right-wing demonstrations in both countries often lead to great disorderliness, mainly as a result of violent counter-demonstrations. In 2004 the German professor and *Bundesverfassungsgericht* judge Hoffmann-Riem remarked in an article that of course citizens are free to express their displeasure with and aversion to right-wing extremist views, but when counter-actions get out of hand it only serves as grist for the NPD mill because it generates extra media attention. He pointed to another way to respond to right-wing extremist demonstrations. In 2001 a demonstration of right-wing extremists was treated to a shower of confetti and a chorus of laughing machines (from the toy shop), all under the motto "Leipzig lacht über den Karneval in Braun" (Leipzig laughs at the brown carnival).⁷⁴ This kind of reaction arouses media attention, too, but in my opinion it's at least a clearer and less controversial image of public aversion than violent actions.

⁷³ See the aforementioned A.E. Schilder, "Dan demonstreren ze maar niet" ('Then they just won't demonstrate').

⁷⁴ W. Hoffmann-Riem, "Demonstrationsfreiheit auch für Rechtsextremisten?," p. 2780.

6 How broad? A close look at counterterrorism and radicalisation policy

Bob de Graaff

In its fight against radicalisation¹ and terrorism,² the Dutch government prefers the comprehensive approach. This approach is aimed not only at small groups about to commit violent acts but also at much broader groups of people among whom radical ideology is present in principle. In this way, Dutch authorities are trying to nip radicalisation in the bud. These are people who do not use violence and do not even threaten to use it, but who think about whether the use of violence might be necessary for achieving their own – political – objectives. Radicalisation and terrorism are thus seen as one coherent continuum. The policy aimed at tackling it not only involves repressive anti-terrorism measures, but it also "puts an equal emphasis on prevention," according to the Deputy National Coordinator for Counterterrorism Lidewijde Ongering in a session of the Senate Committee on Homeland Security and Governmental Affairs in the summer of 2007.³ What this means, she says, is that the government must assume a pro-active position in determining whether individuals are isolating themselves from (Dutch) society or are turning against it.⁴ In the words of the former director of the democratic rule of law of the General Intelligence and Security Service (Algemene Inlichtingen- en Veiligheidsdienst; AIVD) E.S.M. Akerboom, who was recently appointed National Co-ordinator for Counterterrorism, combating radicalism and terrorism should therefore involve the use of "a varied set of instruments that comprise political, financial, penal and disruptive means which must be deployed individually or in combination."⁵ This approach is often characterised as soft because it avoids hard confrontation. On the other hand, by using this approach the government casts its nets far out over society, and one might wonder whether this way of operating is really so much softer than a much more specified policy that focuses on a relatively small part of the population.

¹ Here the term "radicalisation" is being used in the sense employed by the National Coordinator for Counterterrorism (NCTB): "A process of increasing willingness to use non-democratic instruments in order to impose political or religious views on others."

² There are many definitions of terrorism. Because the policy of the Dutch government is central here, use will be made of the NCTB definition: "Committing or threatening to commit violence aimed at human lives, or causing serious material damage that is socially disruptive. The goal is to bring about social change or to influence political decision-making."

³ Ongering statement. Also see E. van de Linde et al., *Quick scan of post 9/11 national counter-terrorism policymaking and implementation in selected European countries*. Leiden: RAND Europe 2002, p. 83 and p. 87. Besides the Netherlands, the United Kingdom is also noted for its early intervention to prevent radicalisation, R. Neve et al., *Eerste inventarisatie van het contraterorismebeleid* (First inventory of counterterrorism policy). The Hague: Ministerie van Justitie, Wetenschappelijk Onderzoek- en Documentatiecentrum 2006, p. 89.

⁴ Statement of Lidewijde Ongering before the Senate Committee on Homeland Security and Governmental Affairs, 27 June 2007.

⁵ E.S.M. Akerboom, "Contraterorisme in Nederland" (Counterterrorism in the Netherlands), <<http://www.minbzk.nl/onderwerpen/veiligheid/algemeen/publicaties/?ActImltd-1419>> (4 September 2008).

6.1 A question of ethics

What follows is a summary of a number of the dilemmas that accompany the broad approach. But first it should be noted that a broad approach like this seems logical for several quite different reasons. Terrorism can cause enormous damage. Not only is there the immediate damage and suffering caused by an attack but there is also the residual anxiety resulting from it, which by itself can inflict profound social damage such as the polarisation of society. Of course we want to eliminate terrorists from our midst, and if that is not possible we want to minimise the size of that group. For if the group of potential terrorists becomes very large and we want to keep them under constant observation, we must decide whether we want to put so many surveillance officers and teams of pursuers and observers on the street that we end up with a police state, or whether we ought to take conscious risks by temporarily losing sight of some potential terrorists. This question is currently being discussed in the United Kingdom, where the government is working with a basic list of two thousand people who could perpetrate an attack at any moment.⁶ The dilemma indicates that there are political and ethical aspects to the question of the effectiveness of counterterrorism and counter-radicalisation policy. Effectiveness at any price does not exist in a democratic constitutional state.

One important question in this regard is how terrorism is viewed, since terrorism has many different definitions.⁷ How this phenomenon is defined is relevant to the kind of policy that is chosen. If terrorism is seen as a form of warfare, then obviously the armed forces should be deployed. If it is seen as a crime, then action by the police and the courts seems more logical. If terrorism is primarily defined as a threat to the democratic rule of law or to national security, then the work goes to intelligence and security services. And if it is seen rather as a social problem, then housing, educational and employment policies are the proper instruments. There are even more possibilities in addition to these, such as security measures, financial investigations and psychological warfare. So each definition speaks to different policy instruments and government organs. In practice, counter-radicalisation and counterterrorism policies will comprise a combination of approaches. The fact that this mix does not always has a happy outcome is of no further relevance here.

What we can confirm in any case is that in comparison with the situation about 35 years ago in the Netherlands, when South Moluccan and left-wing ideological terrorism were particularly evident, today the intelligence and security services have been assigned a major role. Back then the central task was allotted mainly to the police.⁸ The difference

⁶ "Secret report: terror threat worst since 9/11," *Sunday Telegraph* 25 February 2007; "British PM says 2,000 terrorists presently living in UK," 18 June 2007, <<http://news.oneindia.mobi/2008/06/18/645136.html>> "MI5 watch 2,000 terror suspects," BBC News, 2 May 2007.

⁷ For an overview, see A.P. Schmid and A.J. Jongman, *Political terrorism: A new guide to actors, authors, concepts, data bases, theories and literature*. Amsterdam 1988: Transaction Publishers, rev. ed. 2005.

⁸ For overviews of the fight against terrorism in the Netherlands in the seventies, see: P. Abels, "'Je wilt niet geloven dat zoiets in Nederland kan!' Het Nederlandse contraterrorismebeleid sinds 1973" ('You don't want to believe that something like this can happen in the Netherlands!' Dutch counterterrorism policy since 1973), I. Duyvesteyn and B. de Graaf (eds.), *Terroristen en hun bestrijders vroeger en nu* (Terrorists and their opponents, then and now). Amsterdam: Boom 2007, pp. 121-128; S. Eikelenboom, *Niet bang om te sterven. Dertig jaar terrorisme in Nederland* (Not afraid to die: Thirty years of terrorism in the

has to do with the greater seriousness of possible attacks today. Many attacks in the seventies were bombings with only property damage, attacks on government functionaries (diplomats, British military) or hijackings and kidnappings with demands that could be negotiated. Especially since the attacks in the United States on 11 September 2001 there has been fear of an attack on large masses of people with hundreds or thousands of fatalities. Actually, in the past decade the number of victims has been much lower than it was in the 1970s: back then a dozen people were killed as a result of terrorist actions, while in the past decade there was only one or, if a broader definition of terrorism is used, two. Nevertheless, in the present situation people have a much stronger feeling that by the time the police and the courts enter the picture it is already too late. That is why counterterrorism today has set aside a central role for intelligence and security services, whose main responsibility is that of issuing an "early warning." The general public expects this of such services, as attested by the many voices heard after the murder of Theo van Gogh, insisting that the AIVD should have prevented the attack by keeping a closer watch on Mohammed B.⁹ This explains the tremendous personnel expansion that the Dutch intelligence and security services have gone through in recent years, and, since 2004, the creation of a National Coordinator of Counterterrorism, whose organisation entails just under one hundred people and who stands in direct contact with the government.

That call from the public for an almost all-knowing and all-seeing secret service is a remarkable historical turnaround, by the way. Not so long ago the generally accepted idea was that a secret service should know as little as possible.¹⁰ In the perception of the public at large, intelligence services develop from a necessary evil to a necessary good. The need to have the government observe and intervene at an early stage is not only reserved for combating political radicalisation. We have observed a need for prevention in many other areas, from the question of whether young people are going off the rails (soon every infant in the Netherlands will have an electronic child dossier in which 1,185 questions will have to be filled in over time) to whether they have had any breakfast in the morning before leaving for school. There is a great desire for intervention among ordinary Dutch people, even those from political movements in which such an attitude would have not have been expected up until recently.¹¹ It is

Netherlands). Amsterdam: Nieuw Amsterdam 2007; P. Klerks, *Terreurbestrijding in Nederland 1970-1988* (Counterterrorism in the Netherlands 1970-1988). Amsterdam: Nieuw Amsterdam 1989.

⁹ For example, see "AIVD blunderde in opsporing Mohammed B." (AIVD blundered in tracking Mohammed B.), 1 September 2005, <http://ayaanhirsiali.web-log.nl/ayaanhirsiali/mohammed_b/index.html> "Nieuw onderzoek rol AIVD rond moord op Van Gogh" (New investigation of the role of the AIVD in the murder of Van Gogh), *Algemeen Dagblad*, 18 January 2007. There are even suggestions that the AIVD had called Mohammed B. in as an informant: "Vrienden Theo van Gogh maken TV-programma over imaginaire rechtszaak" (Friends of Theo van Gogh making TV programme on imaginary court case), *NRC Handelsblad* 16 March 2007; "Mohammed B. legt verklaringen af" (Mohammed B. makes a statement), *de Volkskrant* 6 December 2005.

¹⁰ For an expression of that mentality, see R. van Meurs, *De BVD. Samenzwering tegen ambtenaren, studenten, journalisten, dominees, en andere democraten* (The BVD – National Security Service –: Conspiracy against civil servants, students, journalists, Protestant ministers and other democrats). Amsterdam: Van Gennep 1978.

¹¹ For example, see B. de Koning, *Alles onder controle. De overheid houdt u in de gaten* (Everything under control: The government has its eye on you). Amsterdam: Balans 2008; D.J. Nieuwboer, "Revolutie achter de voordeur" (Revolution in the living room), *De Pers* 27 August 2008; A. W. Duthier and H. Dupuis, "Je hebt één jaar borstvoeding gehad, begrijp ik? Gegevens in het elektronisch kinddossier schenden de

curious to observe that, after the idea of social engineering had been laid off in the late 1970s, a very central role has now been assigned to the government as a kind of therapist with regard to its citizens. These citizens are constantly under observation; their electronic dossiers are opened one by one and linked to all the other files that the government already has at its disposal in its administered world.¹² We are not far removed from interventions in the womb that are not purely medical, or the idea that for the sake of healthy growth into accepted citizenship, parents must be altered and perfected.

6.2 How far do we want to go?

And this brings us to the first dilemma I wanted to focus on in the matter of spotting radicalisation at an early stage. It was always assumed that people who were prepared to use violence for political ends were mainly between the ages of eighteen and thirty. Today we are seeing that more and more such people are outside this age category, including very young people from twelve to fourteen.¹³ If we want to undertake intelligence campaigns – by using an informer, for example – that person will also have to be about the same age. We cannot simply use an informer of eighteen to operate in a group of twelve or thirteen-year-olds. The question, however, is how ethical is it to entrust very young children with such tasks, and how ethical is it to use special investigative resources against the very young? We have a juvenile justice system in the Netherlands, but for intelligence work we have never agreed on a minimum age. Do we eliminate the phrase "sin of one's youth" from the dictionary when it comes to radicalisation? In any case, it is a radical break with a time in the not very distant past in the Netherlands when certain kinds of experimentation were accepted during the student years and were generally dismissed as mischief, or "boys will be boys." Speaking of mischief: uttering the name of, say, a politician (while under the influence or not) and at the same time making a throat-slitting gesture with the finger can now get someone into big trouble. Anyone who thinks that such matters cannot get out of hand easily is advised to read the book *De Colombo Tragedie* (The Colombo Tragedy) by J.C. Bijkerk, published in 1991. It is the story of three Dutch war pilots who, after the fall of the Dutch East Indies in 1942, were stationed in Australia. In 1943 they were convicted by a naval court martial to life imprisonment or twenty years because, while drunk, they had fantasised out loud about flying back to the East Indies to satisfy the obsessive longing one of them had to see his family again, who were imprisoned there. The plan

privacy van kinderen die bovendien niets mankeren" (You breastfed for one year, I see? Data in the electronic child dossier violate the privacy of children who don't have anything wrong with them), *NRC Handelsblad* 22 September 2008.

¹² The concept of "therapeutic state" is, originally with a more limited meaning, used by T. Sasz, "The therapeutic state: the tyranny of pharmacy," *The Independent Review* 2001, pp. 485-521. The expression "administered world" can be found in: S. Žižek, *Welcome to the desert of the real! Five essays on September 11 and related dates*. London/New York: Verso 2002, p. 96.

¹³ For example, see E. Umar, "'Natuurlijk ben ik geen Nederlander'" ("Of course I'm not Dutch"), *de Volkskrant* 10 May 2005; "12-jarige strottersnijder op video" (12-year-old throat-cutter on video), *de Telegraaf* 24 April 2007; R. Abels, "Radicalisering op het schoolplein" (Radicalisation on the playground), *Trouw* 28 October 2006; "Marokkaanse leerlingen antiwesterners" (Moroccan pupils are anti-Western), *NRC Handelsblad* 17 June 2005; P. Wierenga, "'Incidenten' op basisschool. Vooral pubers radicaliseren" ("Incidents" at primary school: Adolescents especially keen to radicalise), *De Pers* 25 April 2007.

was demonstrably unworkable since their plane could not fly the distance between Australia and the East Indies. Only in 1950 were they pardoned; by then the three men were broken for life. No matter how irresponsible it is to call the national emergency number (112) and suggest that a plane is going to be hijacked in order to keep your lover from taking the flight,¹⁴ we see here how the risk arises of an overreaction by the police or the courts in a particular social context.

The nets can easily be cast too wide, and the reason for this is that government agencies, for the sake of clarity, make use of socio-scientific templates. This happens when things like pyramid models for radicalisation are used by police and intelligence services.¹⁵ According to such models, which often resemble a pyramid lying on its side, people from a broad base area can end up in the narrowed top – where they actually do use violence – by passing through a series of phases. The fact that the graphic representation of the model becomes increasingly narrow indicates that there obviously are opportunities to get out or withdraw, and that not every case of incipient radicalisation has to result in the use of violence. The question, then, is this: how justifiable is it to focus attention on people in the "base area phase," where there is only a certain religious disposition or a strong sense of exclusion, most of whom will never "develop" into people who commit acts of violence? How do we prevent the government, in its need to prevent anything worse from happening, from assuming the role of thought police?

6.3 Lacking distinguishing capacity

Also important in these kinds of models are the radicalisation indicators that are used. Are they really appropriate; how strong is their distinguishing capacity? In other words: do not the criteria that are applied to radicalisation processes also apply to people who, in common parlance, cannot be described as radical, such as strong religious zeal, a disparaging attitude towards women, separation from a society regarded as sinful, et cetera? A case in point is the report *Radicale dawa in verandering, de opkomst van islamitisch neoradicalisme in Nederland* (Radical dawa in flux: the emergence of Islamic neo-radicalism in the Netherlands) from the AIVD, published in the autumn of 2007. Here we read that the so-called neo-radicals, estimated at approximately 2,500 of the 850,000 Muslims in the Netherlands, supposedly attired in traditional Arabic clothing; if they did not do so and wore Western clothes instead, their clothes were regarded as camouflage. It is an impossible situation that gives rise to an enemy stereotype which those involved can do nothing about. In fact, because the average Dutch person cannot follow the subtle distinction that the AIVD seems to be able to make between neo-radicals and other Muslims, this enemy stereotype is extended over the entire Muslim population – even though we keep emphasising that the struggle against radicalisation and terrorism is all about winning people's hearts and minds. But where exactly does the correct distinction lie? What does not make things any easier is that as the process of integration progresses, the perception of the remaining gap gets

¹⁴ *NRC Handelsblad* 29 August 2008. <http://www.nrc.nl/binnenland/article1966574.ece/Kaping_moest_liefje_in_Nederland_houden> (22 September 2008).

¹⁵ Cf. F.J. Buijs, F. Demant & A. Hamdi, *Strijders van eigen bodem: radicale en democratische moslims in Nederland* (Homegrown warriors: radical and democratic Muslims in the Netherlands). Amsterdam: Amsterdam University Press 2006, p. 240.

stronger and stronger, so the chance of radicalisation becomes correspondingly greater. This is called the integration paradox.¹⁶ People who do their very best by taking classes, getting jobs, et cetera, "in order to belong," often keep coming up against a glass ceiling that holds them back from one-hundred-percent-Dutch identity; they will never be "real" members of the club.¹⁷ That feeling of unattainable inclusion can lead to serious radicalisation. And partly because we know that, we keep using the term *allochtoon* (non-native ethnic minority).¹⁸ It is a vicious circle, and as a result people in the Netherlands still talk about third-generation Moroccans, et cetera, while in other countries the native - non-native distinction never even comes up.

And if something does go wrong, not only in the case of the murder of Theo van Gogh but also for example in the case of a fireworks disaster or a fire in a café, there is a strong inclination to point to the responsible governing authority. As a result, authorities aspire to an almost godlike infallibility, and they let their fantasies run away with them. Owing to the use of cameras, telephone taps and the registration of financial, telephone, travel and many other kinds of data, and to the practice of mining all that data, innocent citizens end up in the government dragnets. And as the British sociologist Frank Furedi writes, ultimately every citizen is a suspect in principle until the opposite can be proven.¹⁹ Philip B. Heymann, professor of law at Harvard University, warns of the emergence of "a culture of prevention" in which people become anxious about exhibiting unconventional behaviour.²⁰ Who dares to still pre-order a halal meal on a trans-Atlantic flight? And that's just the beginning. People may start deciding not to borrow certain books or not to purchase certain CDs by way of the internet, because Big Brother is watching you. Combine this with your fondness for reading Arabic poetry on the internet, and the two flights you took to Pakistan not so long ago, and you're just asking for trouble. Before too long, unmanned planes will start flying over Great Britain, following the example of what the Israeli government does over Palestinian territory to gather a continuous stream of images of what is happening on the ground below.²¹ And Big Brother is not just watching – he is listening, too. One method is by means of planes that circle the air space of the United States and the United Kingdom over certain cities. We really are not so very far from the "intelligence state" that Professor Heymann warns about.²²

The outcome of all this attention to possible risks is that in the long run many citizens will not feel any safer; they may even feel unsafe. It's a well-known problem that for many citizens, more police on the street increases their anxiety instead of allaying it. In this way harm is done to the public's social resilience.

¹⁶ Ibid., pp. 201-213.

¹⁷ This is not purely a Dutch phenomenon, by the way, but something that occurs in many of the countries of Western Europe. For a good description, see C. Power, "Breaking Through," *Time* 30 January 2008.

¹⁸ An appeal by Minister of Justice E. Hirsch Ballin to scrap the terms *allochtoon* and *autochtoon* (native Dutch) was met with resistance. "Hirsch Ballin wil term allochtoon schrappen" (Hirsch Ballin wants to scrap the term "allochtoon"), *Elsevier* 25 February 2008.

¹⁹ F. Furedi, *Invitation to terror: The expanding empire of the unknown*. London/New York: Continuum 2007, xiv, p. 5 and 77.

²⁰ P.B. Heymann, *Terrorism, freedom and security: Winning without war*. Cambridge, MA/London: The MIT Press 2003, pp. 135-139.

²¹ K. Sengupta, "Unmanned spy planes to police Britain," *The Independent* 6 August 2008.

²² P. B. Heymann, *Terrorism*, pp. 135-139.

In addition, it turns out that scanning data files of large groups of people for unconventional patterns or characteristics does not work. German authorities noticed this back in the 1970s when their *profiling* conducted against the Red Army Fraction proved unsuccessful. Recent experiences of MI5, the British intelligence service, show that profile recognition does not work because radical persons look more and more like ordinary people.²³ A new and more recent German attempt at *profiling* was not successful either and even led the German constitutional court to impose a ban on these kinds of "fishing expeditions."²⁴

For that matter, the citizen does not make it any easier for the government to form a clear idea of privacy and the protection of people's private lives. The same citizen who refuses to allow the government to have access to certain information is willing to let it all hang out on the internet, and allows that information, outdated or not, to lie around for years. It is entirely understandable when representatives of government agencies say all they do is act like supermarkets with discount cards. And yet under a rule of law this is not supposed to be something the government wants. Its *modus operandi* is different. But the main thing is that the legal consequences of actions by the government can be much more far-reaching than those of a grocer.

If the attempts at profile recognition and so forth do not work – because a certain terrorist does not order a halal meal on board, for example, but an innocent believer or a young wise guy does – what is the effect of such indicators and the subsequent actions? Probably a considerable amount of irritation regarding the actions taken by the government, feelings of discrimination and exclusion.²⁵ It is a recipe for radicalisation. Radicalisation does not necessarily have to do with Islamism alone, but that need hardly be mentioned in the context of this Monitor. Local authorities say they have to deal much more frequently with right-wing extremism. This is not the last word on this matter, because local authorities often have an incorrect understanding of the radicalisation problem in their midst. Radicalisation in the right-wing extremist sense is often dismissed as a problem of young people and their nightlife behaviour.²⁶ When it comes to Islamic radicalisation, local authorities are often surprised when it is pointed out to them, since "It is been going so well recently, hasn't it? They do not break into cars any more and they're back in school."

Nor is it easy to grasp the Islamic body of ideas from which radicalisation seems to emerge. It is about Salafism, a religious school of thought that is strongly promoted in, but not only, Saudi Arabia and that advocates a return to the religious practices from the

²³ A. Travis, "MI5 report challenges views on terrorism in Britain," *The Guardian* 21 August 2008; S. Knapp & D. Gardham, "MI5: Terrorists not frustrated religious loners," *Telegraph* 21 August 2008. Also see M. Nance, "How (not) to spot a terrorist," *Foreign Policy* (2008) 166, pp. 74-76.

²⁴ P. Schaar, *Das Ende der Privatsphäre: der Weg in die Überwachungsgesellschaft*. Munich: Bertelsmann 2007, pp. 128-131.

²⁵ Cf. J. Goldschmidt and P. R. Rodrigues, "Het gebruik van etnische of religieuze profielen bij het voorkomen en opsporen van strafbare feiten die een bedreiging vormen voor de openbare orde en veiligheid" (The use of ethnic or religious profiles in the prevention and detection of punishable offences that form a threat to the public order and safety), in: J. van Donselaar and P. R. Rodrigues, *Monitor Racisme & Extremisme; zevende rapportage* (Racism & Extremism Monitor: seventh report). Amsterdam: Anne Frank House / Leiden University 2006, pp. 40-67.

²⁶ Cf. J. van Donselaar (ed.), *Monitor Racisme & Extremisme, Het Lonsdalevraagstuk* (Racism & Extremism Monitor: The Lonsdale problem). Amsterdam: Anne Frank House / Leiden University 2005, pp. 67-71.

time of the prophet Mohammed. In Salafism there is a distinction between political and non-political Salafists. Among the political Salafists, there are those who do support armed struggle to spread their religion and those who do not. And among these so-called jihadist Salafists a distinction can be made between those who only want to defend the traditionally Islamic territories and those who believe that the struggle should also be fought in the West.²⁷ Salafism develops into a kind of lifestyle among some young people, like the Lonsdale clothing range among others. Salafism is "cool" in certain circles, but it is difficult to gauge how deep that attitude is. Is it just for show? Will it fade away in time, like so many other rages? Or is the lifestyle one step closer to a deeper mindset? And even if it is only about a lifestyle, does not the group that submits to it contain what Trotsky called "useful idiots"²⁸ who are put to work as dogsbodies by the more clever boys and girls? Add to this the fact that some Salafists have one socially accepted message for one place and another secret one for another – the well-known frontstage-backstage problem – and it does not get any easier. And add to *that* the fact that the AIVD draws attention to one new development per report (the last time it was the "neo-radicals;" what will it be the next time, post-neo-radicals?) and it becomes clear that we are dealing with a very complex religious content, some forms of which seem to be acceptable to the government and some not. If the government gets involved in that debate, it runs the risk of taking part in religious hair-splitting. And since government intervention never ends up being neutral, it will favour some parties to the detriment of others, but not necessarily in the way it had imagined. Whenever the government starts making use of what it sees as moderate Muslims, those persons soon become known as "collaborators" and "traitors" by groups that are susceptible to radicalisation. In addition, the government also runs the risk of irritating the non-Muslims in a polarised society by embracing certain representatives of Islam.²⁹

6.4 Effects

One point of concern that the AIVD also expressed in its report is the possibility that while anti-integration tendencies among radical Muslims do not necessarily lead to violence, they do lead to the creation of enclaves in which the so-called horizontal basic rights are pushed aside. In those enclaves, radical Muslims might impose their religious views on others, or women might be deprived of certain rights, not to mention homosexuals. It is a troublesome story in a society that, up until forty years ago, maintained a "pillar" system (a compartmentalised society divided along religious and political lines) imbued with forms of segregation, where people would only patronise the Catholic butcher or the Calvinist greengrocer, and where housing corporations built entire districts that were restricted to one confession. It is also a difficult story because in other cases, ethnic groups were sometimes expressly invited to live and be seen in separate districts, as in Chinatown in Amsterdam or the Hindus in The Hague. How can

²⁷ Cf. F.J. Buijs, F. Demant & A. Hamdi, *Strijders van eigen bodem* (Homegrown warriors). Amsterdam: Amsterdam University Press 2006, p. 240.

²⁸ This term, which is often attributed to Lenin, actually comes from Trotsky, who used it in his *Literature and revolution*, among other places. For a discussion of the use and origin of the term, see: M. De Coster, "Nuttige idioten" (Useful idiots), 18 August 2008, <<http://marcdecoster.blogspot.com/2008/08/nuttige-idioten.html>>

²⁹ Google the term "troetelturk" (pet Turk), for example.

something that is applauded as colourful on the one hand be repudiated as threatening on the other?

It would be helpful if the various authorities would try to reach more agreement on this point. And not just on this point. The relation between church and state is slowly beginning to get very muddled. Everyone comes out with his own idea of the concept of "separation of church and state." According to one person, an Iftar meal can be held in a building owned by the local district, while others disagree. In a characteristic move, a memo has now been issued by the mayor of Amsterdam about the relation between church (mosque) and state.³⁰ This testifies to a failure of the national government. It should also be possible to provide better guidance to teachers and youth workers in the task of identifying radicalisation tendencies. What can and cannot be expected from them in this regard? And does this square with the job requirements of their profession? What is ethically sound here, and what is not?³¹

On top of all this, the effects of the counter-radicalisation policies are not clear. For example, policy that is aimed at integration and better opportunities at school and work is naturally a very useful, emancipatory policy, but it would be incorrect to suppose that such a policy reduces the chances of radicalisation. Above we discussed the integration paradox. It may be that emancipation results in a (temporary) upturn in radicalisation tendencies. Moreover, the national policy cannot prevent internet messages from abroad from reaching people who, as a result, become further radicalised.³²

One important consequence of broad interest in radicalisation processes is the possibility that the government agencies involved will be exposed to an information overload. In the case against the AIVD interpreter who provided secret documents to persons who were the subject of the investigation, it was revealed that there are enormous backlogs at the AIVD, one of them being in the area of translation.³³

So even when it comes to fighting radicalisation, it is worthwhile to think about whether the government would not be better off keeping it lean and mean rather than maintaining a bureaucracy equipped with a panoply of powers that enable it, under the guise of a soft approach, to reach into the capillaries of society and penetrate into the living rooms of far too many groups of citizens in search of half-baked radical fantasies.

6.5 Conclusion

Usually, after a terrorist attack people are prepared to surrender many of their civil freedoms. In time the pendulum swings back.³⁴ There are indications that since the end

³⁰ "Notitie scheiding kerk en staat" (Memorandum on the separation of church and state), <<http://www.cda-amsterdam.nl/upload/Notitie%20Scheiding%20Kerk%20en%20Staat%20def.doc>> (4 September 2008).

³¹ Cf. *Eindrapportage Amsterdams Onderwijsadviespunt Radicalisering* (Final report of Amsterdam school advisory point on radicalisation). Amsterdam: Gemeente Amsterdam, DMO 2007; M. Zannoni, *De rol van eerstelijns werkers bij het tegengaan van polarisatie en radicalisering* (The role of frontline workers in fighting polarisation and radicalisation). Den Haag: COT 2008.

³² A literature study on foreign influences on so-called homegrown radicalisation is now taking place at the Centre for Terrorism and Counterterrorism at the Hague Campus of Leiden University.

³³ J. Meeus and J. Schoorl, "AIVD slordig met bewijs terrorisme," (AIVD careless with terrorism evidence), *de Volkskrant* 8/9 January 2005.

³⁴ R. Matthew & G. Shambaugh, "The pendulum effect: Explaining shifts in the democratic response to terrorism," *Analyses of Social Issues and Public Policy* 2005, pp. 223-233.

of 2007, the reaction of the Dutch population to the terrorist attacks of 9/11 and the murder of Theo van Gogh has ebbed away to a significant extent. The House of Representatives passed a motion, for example, in which the government was invited to consider ways in which an investigation of the Dutch counterterrorism policy could best be formulated, a call to discuss the effectiveness of that legislation.³⁵ The prime minister and his party took a position that was more sharp-edged than in past year against MP Wilders and his negative statements about Islam. The film *Fitna*, produced by the same MP in March 2008, which links terrorist practices with Islamic religious beliefs, did not cause the commotion that had been expected. The subject of "privacy," which had been taboo for years, re-emerged in the social debate, a sign that the population no longer has the feeling that it only wants to be protected by the government, but also that it wants to be protected *from* the government.

Without new attacks that are of immediate relevance to Dutch society, it is to be expected that – for the time being – no new counterterrorism legislation will be approved. This does not alter the fact that follow-up steps can be taken within the existing legal framework, however. Even without that legal framework, the government is gathering a large amount of data on citizens, particularly by electronic means.³⁶ Within the framework of that broad approach, the government is pursuing its attempts at early detection. Generally speaking, in these kinds of processes, the failure of profile or pattern recognition does not lead to the abandonment of those methods but to the idea that next time, if the data is new and more plentiful, they will succeed. As a result, the government stealthily penetrates further and further into the private lives of its citizens because radicalisation processes must be discovered that are not (or not only) outwardly perceptible, not even in terms of their ideas. This opens the way to people with an extremely keen and highly advanced distinguishing capacity who think they know what is good and what is not and who are enabled by the government to sharpen their knives and test them. Two examples by way of illustration: one from Amsterdam and one from Zeeland.

The Amsterdam example is taken from *Het Parool*.

"A Moroccan student returns after a holiday sporting a beard. He refuses to shake hands with his female teacher. The Koran won't allow it, he says. Is this student being radicalised?

'No,' says educator Abdelilah Boulal [director of the ICP Advies intercultural pedagogical advisory bureau], who gives courses to Amsterdam teachers on how to prevent radicalisation among students. 'He may also be searching for his identity, like so many other adolescents.'

During the lessons or in the schoolyard, the same student then shouts that Osama bin Laden is a great warrior. Moroccan fellow students who do not share his admiration are not real Muslims in his eyes. He also comments on students who do shake hands with the teacher, and he intimidates them.

³⁵ *Kamerstukken II* (Official Reports of the House of Representatives of the States General) 2007/2008, 31 200, VI, no. 79.

³⁶ *Data voor daadkracht. Gegevensbestanden voor veiligheid: observaties en analyse. Rapport van de Adviescommissie Informatiestromen Veiligheid* (Data for effectiveness. Data files for security: observation and analysis. Report of the Advisory Commission on Security Information Flows). Den Haag 2007.

'Now it is time to step in,' says Boula (...). The student is clearly becoming radicalised."³⁷

In Zeeland anyone who refused to shake hands would have run into problems much earlier on. In that province in early 2008, hundreds of civil servants were trained in spotting the signs of radicalisation that might end in terrorism. An example from the course: someone who regularly comes to the Social Services department in a particular town suddenly starts wearing traditional Arabic/Islamic attire and refuses to shake the hands of female civil servants. As the civil servants learn, anyone who notices this must report it to the police.³⁸

It is time we did more than simply mark time by accepting measures against radicalisation and terrorism whose usefulness is yet to be proven. It's also time we decided whether we want a society in which we are constantly searching out each other's deepest feelings, radical or not, setting up mental security gates and calling in the police for every form of non-conformism. If we do not do it soon, we could live to regret it.

³⁷ M. Couzy, "Herken de radicaliserende leerling" (Recognise radicalisation in your students), *Het Parool* 4 September 2008.

³⁸ M. Modde, "Ambtenaren getraind in de strijd tegen terrorisme" (Civil servants trained in the fight against terrorism), *Provinciale Zeeuwse Courant* 7 February 2008.

7 Response to extremism in the Rotterdam region

Sara Grunenberg and Rita Schriemer

If terrorists tend to strike logistical targets in Western societies, as a recent series of attacks seems to indicate, then Rotterdam also has good reason to be worried. The port and the petrochemical industry could form an attractive target for terrorists.¹ In addition, Rotterdam has a large Islamic community. The General Intelligence and Security Service (Algemene Inlichtingen- en Veiligheidsdienst; AIVD) states that "segments of the Islamic community are susceptible to radical and extremist ideas."² In late 2004, the Rotterdam city council concluded that the presence of possible logistical targets and a susceptible population profile require that specific measures be taken against extremism. In early 2005 the city of Rotterdam, backed by the Institute for Safety, Security and Crisis Management (Instituut voor Veiligheid- en Crisismanagement; COT), presented its action programme against radicalisation and in support of opportunities, *Meedoen of achterblijven* (Get involved or lag behind).

In this chapter, Rotterdam's response to Islamic and right-wing radicalisation will be discussed on the basis of three questions. The first question is: What detection mechanism is being used? Next, what preventive and repressive measures are being employed to combat radicalisation? After describing the situation with regard to radicalisation in Rotterdam, we will then look into how the approach to detecting and tackling radicalism accords with observed radicalisation tendencies.

In this chapter we are reporting on the period running from the end of 2004 to mid-2008. Desk research, open source analysis and interviews³ are the methods and instruments that were used to answer the research questions.

7.1 National government on radicalisation

In the *Policy document on radicalism and radicalisation (Nota radicalisme en radicalisering)*,⁴ the Minister of Justice drew attention to the fundamental tension that exists between the pluralism of Dutch society and the freedom to express this pluralism. This, he said, would require clarifying and then accepting where the border is to be

¹ Nationaal Coördinator Terrorismebestrijding, *Terrorismebestrijding op lokaal niveau* (Counterterrorism at the local level). Handreiking, 2006, p. 43.

² General Intelligence and Security Service, *Van Dawa tot Jihad: de diverse dreigingen van de radicale islam tegen de democratische rechtsorde* (From Dawa to Jihad: the various threats from radical Islam against the democratic rule of law). Den Haag: Algemene Inlichtingen- en Veiligheidsdienst 2004.

³ Respondents came from the following agencies: Anne Frank House; Jeugd, Onderwijs en Samenleving (Youth, Education and Society; JOS) from the city of Rotterdam; Informatie-SchakelPunt Radicalisering (Information SwitchPoint Radicalisation; ISPR); Platform Buitenlanders Rijnmond (Platform of Foreigners in Rijnmond; PBR); Rotterdam-Rijnmond Police; Samenwerkende Marokkaanse Organisaties Rotterdam (Rotterdam Association of Moroccan Organisations; SMOR); Stichting Onderneming Opbouwwerk Rotterdam (Rotterdam Community Work Foundation; SONOR); Stichting Platform Islamitische Organisaties Rotterdam (Platform for Islamic Associations in Rotterdam; SPIOR).

⁴ Ministry of Justice, *Nota Radicalisme en radicalisering* (Policy document on radicalism and radicalisation). Den Haag: Ministerie van Justitie 2005.

drawn between freedom and acceptable social pluralism on the one hand and unacceptable intolerant radicalism on the other.

In today's discourse on radicalisation, more and more attention is being paid to *polarisation*. Polarisation refers to the intensification of contrasts between groups, which can lead to tension between these groups and an increase in segregation along ethnic and religious lines. Polarisation can threaten social cohesion and may stimulate radicalisation.

In the *Polarisation and radicalisation action plan for 2007-2011 (Actieplan polarisatie en radicalisering 2007-2011)*, three objectives of the national government are laid out. First, to prevent or stall processes of isolation, polarisation and radicalisation by moving in on persons who are in danger of slipping away or withdrawing from Dutch society and the democratic rule of law, and pulling them back. The second objective is to receive timely alerts from governing authorities and professions, and to develop an adequate approach to the problem. The third is exclusion: to isolate people who clearly have overstepped the boundaries in order to limit their influence on others as much as possible. In tackling radicalisation, local and national governments need each other. The national government provides direction, cohesion and justification for the radicalisation policy without taking over the responsibilities of others. The role of coordinator is set aside for municipalities.

For the local government, tackling radicalisation is mainly aimed at prevention, detection and intervention. As an example, the municipality supports initiatives that increase a person's resilience and connection with society. It also stimulates governing authorities and professionals to become more skilled in their work with young people. If there is evidence of far-reaching radicalisation, a repressive approach comes into play. A person can be isolated, or his influence can be contained. If and when necessary, legal action can also be taken against radicals.

7.2 Spotting radicalisation: a job for the city and the police

Towns and cities may have to deal with terrorism or radicalisation if their residents are becoming radicalised or if there are possible terrorist targets within their borders. The National Coordinator for Counterterrorism (Nationaal Coördinator Terrorismebestrijding; NCTB) says that municipalities and the police are jointly responsible for the safety of their communities. They have the task of assessing the scale of the threat of radicalisation and determining what the threat means. They are expected to tackle, prevent and draw attention to any signs of radicalisation.⁵ The NCTB leaves it up to the municipalities themselves to decide how they are going to carry out these tasks – the role of coordinator mentioned above.

⁵ <<http://nederlandtegenterrorisme.nl/lokaalbestuur/faq-lokaal-bestuur>> (1 September 2008).

In 2005 the *Get involved or lag behind (Meedoen of achterblijven)* programme office began to carry out the action programme with the same name in the city of Rotterdam.⁶ The essence of this programme consists of offering opportunities and support to residents of Rotterdam who run up against impediments to full participation in society *and* of contending with residents who "don't want to get involved" by excluding them from various services, whenever possible. At the same time the city of Rotterdam is launching a central information point. The Information SwitchPoint Radicalisation (InformatieSchakelPunt Radicalisering; ISPR) collects alerts from municipal services, submunicipalities, government-related agencies and front line workers that point to radicalisation, extremism and terrorism. This ISPR is charged with making up for any information lags that may exist at that moment concerning possible radicalisation in the city. Signs of radicalism can also be reported directly to the ISPR.

With the formation of the ISPR and the two-track policy (inclusion and exclusion), the city of Rotterdam is following the directives of the national government.

The ISPR assesses each individual report and determines whether it lends itself to municipal intervention or whether it should be passed on to the police. Case management is a form of municipal intervention that is applied to "lighter" cases and is intended to promote social participation. In more serious cases, the police take over and repressive instruments are called into play, such as investigation and prosecution.

The police also gather information and intelligence on extremism and radicalisation in the region. In this capacity the police work with early warning signs. Within the police force there are front line workers involved in tackling the radicalisation problem as well as functionaries whose job description is aimed at radicalisation, terrorism and extremism. These specialists also work for the Regional Intelligence Service (Regionale Inlichtingen Dienst; RID) in the area of extremism, radicalisation and terrorism. In this context, the police in Rotterdam-Rijnmond focus special attention on people who are becoming radicalised. They are earmarked in the police system or are put down for what is called an adoption. A local police officer "adopts" someone by having conversations with him and keeping his eye on him.

Front line workers play a particularly important role within the police force by alerting the police to signs of radicalisation. Police employees with public contacts are therefore trained in the area of radicalisation. The trained employees were also kept informed of the police reporting procedure with regard to radicalisation.

To summarise: the Rotterdam-Rijnmond police and the city of Rotterdam have their own tasks and instruments for detecting and combating radicalisation. There are also two reporting systems for radicalisation in Rotterdam: the ISPR and the internal police reporting system. A mutual exchange of information is not done on a routine basis. The

⁶ Instituut voor Veiligheids- en Crisismanagement & Gemeente Rotterdam, *Meedoen of achterblijven: actieprogramma tegen radicalisering en voor kansen voor Rotterdammers* (Get involved or lag behind: action programme against radicalisation and for opportunities for Rotterdammers). Rotterdam: Gemeente Rotterdam 2005.

ISPR does pass relevant reports on to the police, but the police do not provide the ISPR with information about the individuals or objects that are in their sights as a result of this early warning. The police also do not provide any additional information to the ISPR on cases that the ISPR transferred to the police. Both parties intend to provide the ISPR with more information before too long on the relevant individuals known to the police in connection with the early warning. The two authorities also frequently share their experiences on dealing with and providing guidance to individuals who are radicalising.

7.3 Combating radicalisation

Municipalities and the police are responsible not only for spotting radicalisation but also for combating it. How can the responsible parties deal with radicalisation?

The city

Right now the city of Rotterdam has no specific administrative instrument for combating radicalisation, but an important change is likely to be made before too long. The bill entitled National Security Administrative Measures Act (Bestuurlijke maatregelen nationale veiligheid) is awaiting approval from the Senate of the Dutch Parliament. This instrument can be implemented against persons who have not yet done anything punishable, but who do create the impression that they want to carry out an attack. This measure can oblige them to report to the police station on a regular basis or can prohibit them from getting in the vicinity of certain persons or buildings.⁷

For the time being, the role being assigned to municipalities is mainly one of detecting, preparing and preventing. This might involve promoting social involvement among vulnerable groups, stimulating activities aimed at integration or encouraging dialogue between ethnic and religious groups. The annual "Day of Dialogue" and the series of "Islamic Debates" in Rotterdam are in line with this role.

The municipality can also tackle problems that impede the integration of vulnerable groups, including discrimination. In this regard, Rotterdam carried out a large-scale campaign in 2007 entitled "Discrimination? No way!" (Discriminatie? De groeten!). Fighting discrimination in the internship and labour markets is one of the priority areas.

The municipality is also able to "direct" organisations by means of subsidy relations.⁸ In this way, certain groups, activities or agencies can be provided with subsidies or the flow of funding can be withheld. The city of Rotterdam has utilised subsidy relations with the umbrella organisation for Islamic organisations in order to promote certain initiatives. The city official who was being interviewed talked about how the *Iftar* (fast-breaking meal) had been held in a public community area the previous year, "an example of stimulating people to be as open to their surroundings as possible – and to draw it in, as it were."

⁷ *Kamerstukken I* (Official Reports of the Senate of the States General) 2006/07, 30 566 no. A, p. 1-2.

⁸ <www.nederlandtegenterrorisme.nl/lokaalbestuur> (1 September 2008).

The city of Rotterdam also financed initiatives to stimulate the ability of vulnerable groups to stand up for themselves – by schooling them in democratic leadership, for example, or by informing them of available legal protection against discrimination. In Rotterdam, the Rotterdam Association of Moroccan Organisations (Samenwerkende Marokkaanse Organisaties Rotterdam; SMOR), Platform for Islamic Associations in Rotterdam (Stichting Platform Islamitische Organisaties Rotterdam; SPIOR) and the Platform of Foreigners in Rijnmond (Platform Buitenlanders Rijnmond; PBR) mounted a large-scale information campaign on the right to equal treatment and protection against discrimination among more than thirty Moroccan organisations and groups in the city. The information was provided by the Rotterdam Anti-Discrimination Council (RADAR). The migrant organisations also held separate activities, including a study weekend, to train people in leadership and to enable them to stand up to any obstacles that may get in their way. The umbrella organization for Islamic NGO's concentrated on teaching foreign imams about Dutch society, giving a course in life ethics to young people and holding various debates.

Police

The police can see early on in the radicalisation process that persons or groups are at risk of going astray. Accordingly, the police are also involved in setting such people on the right path before they commit any criminal acts. In carrying out this task, the police work with chain partners such as social services or other municipal bodies. Together they decide which strategies can best be carried out by the chain partners.

In the fight against radicalisation, the police also have the option of taking repressive action. Repressive measures are mainly applied after crimes have been committed. At that point the police can conduct a criminal investigation. These criminal acts do not have to be connected to radical motives. It is up to the courts to decide whether the perpetrator's ideological background should be taken into account in determining the severity of the punishment. Special legislation can also be applied, such as the laws in respect of aliens and counterterrorist legislation. The police and the courts have drawn up agreements on exchanging information so that police can keep an eye on perpetrators after their release, if desired.

In addition to conducting a criminal investigation, the police have other repressive options that can be applied to persons or groups involved in radicalisation. In Rotterdam the person-centred approach (persoonsgerichte aanpak; PGA) is being applied, following the recommendation of the national government.

The PGA has to do with "activities undertaken by the local police to prevent persons with a possible intention from carrying out a terrorist attack. A person who poses a potential terrorist threat is monitored to such a degree that both he and his surroundings clearly understand that he is the subject of government action."⁹ The mayor of Rotterdam exercises authority over the PGA being conducted by police in his region.

⁹ <www.nctb.nl/Diverse_vragen_en_antwoorden/persoonsgerichte_aanpak/vraag_1.aspx> (22 August 2008).

In Zoetermeer, the comparable group-centred approach proved effective in dealing with a group of skinheads who were exerting a great deal of influence on Lonsdale youth from the neighbouring municipalities. Rotterdam has plans to apply this group-centred approach to extreme right-wing groups in the near future. The Rotterdam-Rijnmond police force intends to coordinate the approach with associate districts, neighbourhoods, submunicipalities or municipalities in an attempt to prevent the kind of "waterbed effect" that took place in Zoetermeer, when groups were driven away to neighbouring towns and cities.

Community-based organisations

Almost all the respondents we spoke with for this study were motivated to fight radicalisation in Rotterdam with the help of preventive measures.

They say that radicalisation is an important theme among Muslims. By this they do not mean that Islamic radicalisation is taking place on a grand scale in Rotterdam. They do often experience an atmosphere of insinuation, or feel the need to defend themselves against the suggestion that a visible profession of religious faith is the same thing as having extremist intentions. They are also concerned that people searching for answers to life's questions may be drawn into the sphere of influence of radical preachers. They are looking for ways to strengthen the social ties between these people and mainstream society. Community workers do this by giving people a voice, involving them in neighbourhood activities and supporting their social participation.

The Islamic organisations do this by making people become more aware of the essence of their faith, and thereby arming them against the radical rhetoric that actually runs counter to the principles of peace, tolerance and respect. At the moment (autumn 2008), SPIOR is developing teaching material for Islamic young people to help them avoid radicalisation.

SMOR's aim in translating the report *Get involved or lag behind* (Meedoen of achterblijven) was to make its contents accessible to the Moroccan community because they were convinced that this group – the subject of this important report – should be given relevant information. At SMOR's invitation, the mayor explained the memorandum to the Moroccan community. Because those who were present were mainly interested in preventive measures, a major information session took place afterwards to inform people of their right to be protected from discrimination. They were also told what steps to take in cases of discrimination. Various SMOR member organisations have also initiated mentor projects to guide young people through the possible obstacles that they might encounter at school and work.

Schooling and assertiveness training are other preventive activities that have been developed by migrant organisations. Study weekends, discussion evenings for young people, network meetings, workshops and expert meetings on radicalisation have been organised on a regular basis over the past three years.

The activities developed by the city and by social organisations to fight radicalisation are mainly of a preventive nature. With the stimulation of activities like these – activities that encourage participation – only one of the factors that contribute to radicalisation is being combated.

7.4 A glance at radicalisation in Rotterdam

Little is known about radicalisation tendencies that were active in the city of Rotterdam prior to 2005. In the run-up to the *Get involved or lag behind* (Meedoen of achterblijven) action programme, the city became aware of an information gap. Apparently there was insufficient understanding at that time of the size and scale of radicalisation.

The assessments varied enormously, depending on how the individual respondents viewed radicalisation. It was also a relatively new subject, and few people could make the transition between the theories on radicalisation and what professionals thought they were observing in practice.

In retrospect, those assessments may have been based on external indicators. External characteristics may seem like an obvious choice, but they are problematic. Such a choice presumes that radical ideas are reflected in external characteristics. External characteristics often do indicate the degree of orthodoxy or ideology, but they do not by definition point to a commitment to fight violently for that orthodoxy or ideology. In addition, radicals sometimes avoid characteristics that can be observed from the outside to keep from arousing suspicion among the police and the courts. In short: appearances are always deceptive.

Radicalisation is a process: the growing willingness to strive for and support fundamental changes, or to spur others on to do things that are at odds with the democratic rule of law.¹⁰ Only a few will actually want to force the social changes being held up as a goal by fighting for them. Answering the question how many radical there are suggests a benchmark, a certain lower limit in that radicalisation process.

So a thorough analysis of radicalisation rests on more than an estimate based on external characteristics.¹¹ Knowledge and context are the key to identifying possible radicalisation in groups. Knowledge refers to academic theories on radicalisation and familiarity with the discourse and the symbolism that are used by radicals. Context has to do with the placement of persons in a social environment: who does he or she associate with, where does he or she gain information, does he or she play the role of leader or follower with respect to other sympathisers?

Reporting structure for radicalisation

For information on radicalisation, the ISPR depends on reports from front line workers. This involves two different challenges. The first is building and maintaining a position of trust. Front line workers are wary of sharing any suspicion of observed radicalisation with the ISPR. Respondents said that the fear of excessive interference and the

¹⁰ <https://www.aivd.nl/taken/begrippenlijst_0> (1 September 2008).

¹¹ VNG/Radar, *Radicalisme signaleren en aanpakken: vroegtijdige aanpak van radicaliserende jongeren Handreiking voor gemeenten* (Detecting and tackling radicalism among young people: nipping radicalisation in the bud). Den Haag: SDU 2006, pp. 25-30.

stigmatisation that Islamic groups have experienced are important considerations. This makes them reluctant to share their knowledge.

"I recently had contact with a certain girl, and when you hear those things it makes it difficult. Can I go to the Radicalisation Information Interface? Because I don't know what will happen as a result. I don't want a riot police bus to pull up later on, slap handcuffs on the girl and take her away. I don't want that. I want the possibility of being able to keep talking to someone like that."

The second challenge has to do with the observation skills of first line workers. Professionals have differing views of what radicalism entails. Whether the professional acquires more skill in spotting radicalism largely depends on his or her personal affinity. This range of assessments is also expressed in the quality of the reports that the ISPR receives from professionals.

So it's not surprising that the ISPR spends a great deal of its time involved in contact management and training for professionals. More than 2,600 professionals have completed ISPR training, including members of the fire brigade, social services and employment, the library, city management, sports and recreation, intervention teams, security guards and messenger services, and school attendance officers. Youth workers, schools, re-integration companies and contact officers from thirteen regional municipalities have also taken the training course.¹²

However, none of the respondents from the migrant organisations that are in direct contact with the target group have been involved in any training. In addition, many were suspicious about what they thought was the content of the training course. For them, trust in the information and working method of the ISPR could not be taken for granted.

7.4.1 Muslim radicalisation in Rotterdam

The city

In 2005 the city of Rotterdam estimated the number of young people of Moroccan origin in Rotterdam who would soon be susceptible to radicalisation at a minimum of 175-250 and a maximum of 350-400 persons.¹³

In the first ISPR report, *Radicalisation in Rotterdam* (Radicalising in Rotterdam), which came out in 2006, the number of radicals was a mere fraction of this amount. From April 2005 through January 2006 there appeared to be only 17 reports. In the spring of 2007 that number rose to 51 reports, and in April 2008 to 70 reports of Islamic radicalisation.

¹² InformatieSchakelPunt Radicalisering, *Radicalisering in Rotterdam III* (Radicalisation in Rotterdam III). Rotterdam: Gemeente Rotterdam 2008, p. 17.

¹³ Instituut voor Veiligheids- en Crisismanagement & Gemeente Rotterdam, *Meedoen of achterblijven*, p. 22.

Looking back, the estimate from 2005 was too high. There were various reasons for this. Orthodox attitudes were more frequently equated with radical thinking. In addition, certain signals proved to be unfounded because they had not been weighed separately. The relatively small number that followed could also be due to the lack of willingness on the part of front line workers to report to the ISPR. The ISPR has stated that the group on which the agency is supposed to focus is considerably smaller than the 2005 estimate.¹⁴

In view of the tendency of community-based organisations to shy away from reporting signs of radicalisation, we cannot expect existing registrations and reports to form a complete picture of existing trends. In addition, the radicalisation process is often hidden from view. This was also recognised by the ISPR:

"You have to be aware that a number of things cannot be seen. The process of radicalisation takes place in secret for the most part."

In 2007 the ISPR observed that young people are becoming increasingly active in searching for the support and guidance they need to profess their faith in Western society, and that this usually does not indicate a radicalisation process.¹⁵

Later this view would be slightly changed. In 2008 the ISPR stated that the national development of "neo-radicalism" was also occurring to a limited extent among Rotterdam Muslims. The group that the AIVD defines as neo-radicals are opposed to violence and struggle but embrace a clearly ideological message that is derived from "pure Islam." The message is particularly appealing to young people and is taught by preachers, along with *Salafist* interpretations of the Koran and the attendant way of life. Although the followers themselves are not violent, there is a risk (according to the AIVD) that they will adopt a disapproving attitude towards Dutch society, which is based on laws that are made by human beings and are not founded on Islamic principles.¹⁶

Rotterdam has no Salafist centres, although it has been noticed that young people have become more conformist in their religious attitudes.¹⁷ There has also been a positive response to the fact that the willingness to become involved in illegal activity has not increased among young Muslim Rotterdammers,¹⁸ despite the negative image emerging from the public debate and from other events, such as the film *Fitna* by controversial MP Geert Wilders.

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<<http://www.bds.rotterdam.nl/dsc?c=getobject&s=obj&!sessionid=1xdu@t5G78Ld!zmM!2Az1Flsdrhouicp3Q4aGxJl@Oukex@hW9pz8XH1!b8xG1ji&objectid=185945&!dsname=bsd2i&isapidir=/gvisapi/%20 p.2>> (1 September 2008).

¹⁵ InformatieSchakelPunt Radicalisering, *Radicalisering in Rotterdam II* (Radicalisation in Rotterdam II). Rotterdam: Gemeente Rotterdam 2007, p. 29

¹⁶ Algemene Inlichtingen- en Veiligheidsdienst, *Radicale dawa in verandering: de opkomst van islamitisch neoradicalisme in Nederland* (Radical dawa in flux: the emergence of Islamic neo-radicalism in the Netherlands). The Hague: Algemene Inlichtingen en Veiligheidsdienst 2007, p. 86.

¹⁷ InformatieSchakelPunt Radicalisering, *Radicalisering in Rotterdam III*, p. 13.

¹⁸ *Ibid.*, p. 14.

It is also striking that Moroccan young people account for a smaller portion of the registrations than might have been expected on the basis of the report *Get involved or lag behind*. Between April 2007 and April 2008, most reports had to do with Iraqis (n = 4). There were three reports each concerning Turks and Moroccans.

Police

In 2007 the police counted approximately ninety registrations related to Muslim radicalisation. Most of these were reports of changes in a person's appearance and behaviour, but a number had to do with more serious matters such as reports of recruitment or pamphlets were being distributed. According to the police, there are no hotbeds of radicalisation in Rotterdam similar to those spotted in other cities in the Netherlands. The police estimate the number of thoroughly radicalised Islamists in the Rotterdam-Rijnmond region at from fifteen to twenty.

Like the city, the police assume that Moroccan young people in Rotterdam are particularly susceptible to radicalisation. There is a group of unspecified size and consisting mainly Moroccan youths who find themselves in the initial phase of radicalisation, mostly out of frustration over their social circumstances. For this group, the motivation to seek refuge in something like Muslim extremism has nothing to do with religious convictions, so the chance that they will move closer to extremism or terrorism is quite small.

"These young people are more dissatisfied with their position in society. They are confronted – at least that is their feeling – with discrimination, with rejection, with living in an inferior environment. Often unemployed, hard to find a job."

The police also have their eye on a small group of young people who threaten to become radicalised because of psycho-social problems. Most of them have been institutionalised or treated for psychological problems. According to the police, a small portion of them have become further radicalised with a tendency towards extremist or terrorist behaviour, for which they are usually apprehended. The cause of their radicalisation is not to be found in religious convictions. The police have recommended that the public administration seek collaboration with the mental health care authorities (geestelijke gezondheidszorg; GGZ).

The police work with the assumption that Moroccans are more susceptible to radicalisation than other Islamic population groups, such as the Turks. But Somalis have also aroused the attention of the police in Rotterdam. According to the AIVD, this group may be susceptible to Muslim radicalisation as well. The Rotterdam-Rijnmond police have therefore had a quickscan performed on this group. The findings of the ISPR and the police are especially divergent when it comes to ethnic backgrounds. In our opinion, this difference is a result of the definition of radicalisation being used. The police work

closely with the AIVD, which sees the failure to integrate as a first step in the radicalisation process.¹⁹

Research shows that there is only a small difference between the willingness of Turkish and Moroccan young people to engage in illegal activities if Islam is at stake. Of the Moroccan young people, 6% would be ready to do so as opposed to 4% of the Turkish young people.²⁰

Community based organisations

Community based organisations differ in their estimate of the nature and scale of Muslim radicalisation. They all emphasise that only a small group is involved. The SPIOR respondent says that radicalisation stands the best chance of having an impact on Arabic-speaking Muslims, including Moroccans. His explanation for this is that Moroccan imams are more likely to have orthodox training, and by definition they are not interested in the social environment in which Dutch Muslims find themselves. They are educated in the Middle East and also have more contact with the spheres of influence there.

The respondent also says that recruitment and Islamic radicalisation were already taking place in the mid-eighties in Dutch mosques. That tendency has subsided today, partly because Muslims themselves are troubled by their radical co-religionists and are distancing themselves from them more unambiguously. The fact that security services are showing great interest in mosques has also contributed to the decrease in radical opinions.

"here's a bit less of it now, because we know that there are all kinds of people in the mosque – AIVD – so everything that is said is carefully translated and reported to all sorts of people. You can't even say what you think any more in the mosque. So the imams have become very cautious."

Rotterdam also has fewer *Salafis*, a subset of which is also regarded as susceptible to radicalisation.²¹ SPIOR and SMOR are of the opinion that the organisational level of Muslims in Rotterdam is high. People have contact with each other and with the public administration. Muslims can use this mutual support to discourage possible radicalisation by supporting religious attitudes and by providing mentors.

"One of the most important things is the policy with regard to Islamic organisations in Rotterdam. Examples are the formation of SPIOR with the support of the city. The creation of the Islamic university, the first Islamic primary school, is another example. And the creation of umbrella organisations where people can go with their questions. Because when young people start down the radical path, what are they missing? These are young people who are looking for information and who end up with the wrong

¹⁹ M.H. de Vries, *Radicalisme gelokaliseerd: onderzoek naar een effectieve aanpak van radicalisme en radicalisering door gemeenten in Nederland* (Radicalism localised: study of an effective approach to radicalism and radicalisation by town and cities in the Netherlands). Den Haag: SGBO 2006, p. 11.

²⁰ InformatieSchakelPunt Radicalisering, *Radicalisering in Rotterdam III*, p. 14.

²¹ Algemene Inlichtingen- en Veiligheidsdienst, *Radicale dawa in verandering*, p. 12.

information. I call this do-it-yourself Islam. What they need is expertise in order to read a passage from the Koran or to understand a traditional story about the Prophet. They get guidance from the mosques or from umbrella organisations like SPIOR, or from people."

The respondent also noted that radicalisation mainly takes place among young people. The respondent from SMOR estimates that 25 to 30 radicalised Muslims may be walking around Rotterdam. These people are not automatically terrorists, however. Of those individuals, perhaps a few may move on to engaging in activism, and then probably as a result of a personal loss or problem.

A few respondents made another interesting observation: a number of orthodox Muslims have left Rotterdam to settle in places like England. Supposedly people are freer there to profess their faith, both privately and in public.

"One family left for Birmingham last year. Much more freedom to dress the way you want. In the supermarket there are girls in veils behind the cash registers and in the shop. So that's one reason why the family went there. Lots more *halal* products and also much more for the children in terms of development. It's also very religious, and you can go your own way. There are more young people making this choice."

7.4.2 *Right-wing radicalisation in Rotterdam*

The city

In the report *Get involved or lag behind*²² there are no concrete indications of any right-wing extremist organisations or radical right-wing groups or individuals in Rotterdam. There may be two reasons for this. Either there was no knowledge of the radical right-wing landscape in Rotterdam at the time the report came out, or there was such knowledge but the resulting picture was not a cause for concern. Both seem unlikely, since Rotterdam has traditionally been home to a relatively large number of present and former staff members from extreme right-wing parties. When the report came out they were still living in the city and surroundings, having meetings, carrying out campaigns and having a magnetic effect on certain young people. In addition, other sources²³ suggest that right-wing radicals are less politically organised but are active in other kinds of groups. This may be less evident in Rotterdam than in other places, but it is a fact nevertheless. At that time, RADAR, the Rotterdam Anti-Discrimination Action Council, repeatedly urged that the ISPR also search for networks in an effort to gain information about right-wing radicalism.

The most likely reason is that the ISPR had to focus on whatever constituted the most serious reason for concern. And after the murder of Theo van Gogh, the danger seemed

²² Instituut voor Veiligheids- en Crisismanagement & Gemeente Rotterdam, *Meedoen of achterblijven*.

²³ See, among others, Jaap van Donselaar (final editing), *Monitor Racisme & Extremisme. Het Lonsdalevraagstuk* (Racism & Extremism Monitor: the Lonsdale problem). Amsterdam: Anne Frank House / Leiden University 2005. And: Kafka Anti-Fascist Research Group <<http://kafka.antifa.net>> (1 September 2008).

to come from radical Islamic groups and individuals. Some respondents felt that the perpetrator profile was being based on Mohammed B.: educated, youth worker and orthodox in his religious attitudes. Others pointed out that the action programme came from a motion proposed by Liveable Rotterdam (Leefbaar Rotterdam). At the time, this political party was sharply critical of what may have been abuses in ethnic minority and Islamic population groups. It is not inconceivable that in terms of administrative procedures right-wing radicalism was subordinated to Islamic radicalism.

Recently the ISPR has begun to pay more attention to right-wing extremist radicalisation. So far only two incidents of right-wing radicalisation have been reported. The ISPR states that right-wing extremism in Rotterdam is more poorly organised in the formal sense than Islamic networks, and that nationalism and right-wing radicals tend to operate in more fluid networks or groups than in formal associations. According to the ISPR, polarisation and nationalism are increasing in Rotterdam. In their latest report, the ISPR says that 5% of all native Dutch young people would be willing to undertake illegal action in the defence of Dutch national interests.²⁴

Police

The conclusion that the police have come to with regard to the presence of right-wing radicalisation is different than that of the ISPR. In 2007 the police counted about one hundred reports of right-wing radicalisation and right-wing extremism. These reports cover the entire Rotterdam-Rijnmond region, but most are from Rotterdam in terms of absolute numbers and relative to the number of residents.

Right-wing radicalism is expressed in many different ways. Most of the reports concern radical messages, such as graffiti or folder material. But there are also cases of discrimination and violence that are connected with right-wing radical persons, groups or organisations.

The police estimate that the number of thoroughly radicalised right-wing extremists is fifteen or sixteen. The police also have their eye on about 65 so-called Lonsdale youth. The group-centred approach mentioned earlier will soon be applied to these 80 right-wing radicals. The police are aware that the extreme right may constitute a danger in Rotterdam. Recently the police uncovered a weapons cache in the home of a well-known right-wing radical. According to our police contact, the increased attention being paid to right-wing radicalisation by the city of Rotterdam and the ISPR is partly due to the repeated reports and threat analysis on the extreme right being issued by the police.

According to a researcher from the Anne Frank House, there is evidence of various right-wing extremist groups in and around Rotterdam. Members of *National Socialist Action* (Nationaal Socialistische Aktie) are said to be active in Rotterdam (as well as other places), and it is thought that they are making their home available for meetings. According to him another important meeting place for right-wing radicals is located in a tattoo parlour a stone's throw from Rotterdam.

²⁴ InformatieSchakelPunt Radicalisering, *Radicalisering in Rotterdam III* (Radicalisation in Rotterdam III), p.16.

Observations of the extreme right therefore suggest that for the time being the ISPR has limited knowledge about right-wing radicalisation in Rotterdam. To our knowledge, they were not aware of any right-wing extremist groups in Rotterdam-Rijnmond. One explanation may be that this area of attention and intelligence work is more the responsibility of the police apparatus. The ISPR works from the assumption that Islamic radicalisation occurs more frequently in Rotterdam. Our contact told us: "Given the plurality of this city, it stands to reason that Islamic radicalism is more strongly represented, but that does not mean you have to ignore the others." The ISPR claims that it has invested in network building in order to stay better informed of right-wing radicalisation.

Community based organisations

By and large, community based organisations saw little reason to be concerned about right-wing radicalism in Rotterdam. Islamic and migrant organisations take note of occasional activities by right-wing radical groups, including vandalism to houses of prayer, protest actions against mosques or folder campaigns by right-wing radical groups. At the moment they find the situation in the city peaceful, with incidental upsurges of right-wing radical manifestations. Such manifestations were observed almost exclusively after "trigger events," such as 11 September 2001, the murder of Theo van Gogh and the bombings in Madrid and London. Usually people did not feel threatened by such episodes.

Interplay of right-wing radicalism and Islamic radicalism

In the discourse on radicalisation and extremism, more and more attention is being paid to polarisation. According to the AIVD, not only does ethnic or religious polarisation have a negative effect on social cohesion but it also creates a possible breeding ground for radicalism. This can be harmful to the way the different population groups and religious communities live together in the Netherlands. The ISPR follows these trends and is of the opinion that polarisation can lead to radicalisation and radicalisation can foster polarisation.²⁵

Most respondents agree with this picture. They believe it is quite likely that one reaction provokes a counter-reaction. They have experienced this in terms of the social tension that builds around the construction of a new mosque, for example, when right-wing radicals conduct folder campaigns and protest actions, and after the murder of Theo van Gogh, when windows in mosques were smashed. They also sense a growing distance between ethnic and religious groups.

"It's all about power, territory and making room for others. And I think that in the future, ethnic conflicts will be the main problem of the city, more than religious conflicts."

Occasionally, right-wing radicals try to connect with Islamic radicals. They find common ground in anti-Semitism and the perceived Israeli or Jewish conspiracy against the rest of the world. So in the past you would see right-wing radicals participating in radical

²⁵ InformatieSchakelPunt Radicalisering, *Radicalisering in Rotterdam III*, p.9.

Muslim demonstrations against Israel. Sometimes they take part in Islamic youth forums with a request for collaboration against the Jews, and they show solidarity with *Hamas*, *Jihad*, *Hezbollah* and *Al-Qaida*. Despite the occasional overture, there is insufficient basis for any far-reaching cooperation.

7.5 Striking a balance

Rotterdam was one of the first Dutch cities to develop a radicalisation action programme, and that programme is still in the process of development. The Rotterdam-Rijnmond police and the city of Rotterdam each have their own independent tasks and resources for spotting and combating radicalisation. Consequently, there are two radicalisation reporting systems in Rotterdam: the police's internal reporting system and the ISPR, which is administrative.

The city's structure for spotting radicalisation has become more professional over the years. Initially the structure seemed to be focused on gathering information by way of the heads of community services. But the most valuable information is often to be found at the source. Professionals who are in direct contact with vulnerable persons were trained to become aware of possible radicalisation. They were also given information about indicators that may point to radicalisation. A memory tool was devised to help them: the three I's and the six V's. The three I's refer to ideology, indications of behaviour and identity/external appearance (the words are very similar in Dutch), indicators of possible preparation for terrorism. The six V's refer (in Dutch) to *valuta*, *verblijf*, *voorbereiding*, *voorwerpen*, *vervoer* and *valse documenten* – currency, preparation, objects, transport and false documents. These indicators are also used nationally and are communicated to the police corps in writing by the Board of Chief Commissioners (2006).

Professionals who receive ISPR training find it easier to report on possible radicalisation among their clients, pupils or students. In addition, their reports are qualitatively better as a result of their training.

When it comes to reporting radicalism, the city is very dependent on the willingness of front line workers to pass on signals. This is why the city works to build up trust among the professionals. However, some of the professionals who are able to observe the signs of radicalisation at close range are distrustful of the reporting structure. This is true of the migrant organisations, among others. Even though they see signs of radicalisation within their own group, they do not report them to the ISPR. They prefer to handle the problem within their own ranks by means of mentors or religious guidance.

The police have a long tradition of spotting right-wing radicalisation. Now that task has been extended to include Islamic radicalism. Front line police workers play a particularly important role in this effort. They are trained in the area of radicalisation and they know the internal reporting procedure. The Regional Intelligence Service also follows developments in extremism, radicalisation and terrorism.

As for the overall picture of radicalisation in Rotterdam-Rijnmond, the two spotting systems of the police and the ISPR produce partially overlapping analyses. The estimate of the number of Islamic radicals is almost identical. The police observe about as many signs of Islamic radicalism as of right-wing radicalism. The reports being made to the ISPR deal almost exclusively with Muslim radicalisation. To arrive at a more complete picture of right-wing radicalisation, we believe the ISPR should undertake a more active search for information in this area. By paying more attention to polarisation and to the manifestation of right-wing radicalism, this gap will steadily be overcome.

Another difference between the observations can be seen in ISPR's conclusion that there is a greater variety of ethnic backgrounds among Islamic radicals, while the police mainly see Moroccan young people as the risk group. More intensive collaboration between the police and the ISPR will probably result in a more complete picture of radicalisation tendencies and a more complete range of possible interventions.

In combating radicalism, the city of Rotterdam – like the national government – follows a two-track policy of inclusion and exclusion. In Rotterdam, a great deal of attention is paid to the social participation of groups and to anti-discrimination policy. Activities that promote participation are stimulated by the city and carried out by community based organisations with the aid of subsidies. Yet the promotion of social participation alone is not enough to counteract radicalisation. That requires intervention just when a radicalisation process is advancing.

Case management is one of the ISPR's most important intervention strategies. Many of the reported persons are wrestling with psycho-social and financial problems. According to the ISPR, the radicalisation context fades away once these problems are effectively dealt with. So far this person- and problem-centred approach does seem to be bearing fruit, but according to the authors more attention could be paid to connections with other radical individuals and groups. The radicalisation process can accelerate rapidly as the group connection intensifies, at the expense of social ties outside the group. This may be entirely separate from any psycho-social problems.

In Rotterdam, reports of advanced radicalisation are turned over to the police. Repressive measures are taken if criminal acts have been committed. In addition to launching a criminal investigation, the police have other repressive options that can be applied to persons or groups who are being radicalised. The Rotterdam-Rijnmond police use the person-centred approach on individuals who are becoming radicalised, for example, and will soon be starting a group-centred approach for radical right-wing youth groups.

The police follow a preventive course for persons who have been identified as part of the early warning system. In cooperation with chain partners like the social services or municipal agencies, intervention strategies are sought outside the legal framework.

At the present moment – autumn 2008 – the range of interventions in Rotterdam depends to a great extent on the organisation being spotted. Because possible right-wing radicals end up on the police radar at an early stage, they are more often subject to

police intervention. When it comes to Muslim radicals, however, a community approach is more often used that may also lend itself to right-wing radicalisation. More of a balance can be sought in this regard.

7.6 Conclusion

In the national *Action plan on polarisation and radicalisation, 2007-2011* (Actieplan polarisatie en radicalisering 2007-2011), three objectives in the struggle against radicalisation are laid out. These consist of preventing radicalisation processes; a prompt and adequate approach to radicalisation, carried out by the local authorities; and excluding people who have overstepped the limits. In Rotterdam, too, radicalisation is fought with both a so-called "soft" and a "hard" approach. The "soft" approach refers to promoting social bonding. Repression is the basis of the 'hard' approach.

The cities of Rotterdam and Amsterdam play the role of pioneer in the formation of structures to combat radicalisation. The Rotterdam structure, which is aimed at spotting and suppressing radicalisation, has continued to develop in recent years. Other cities have shown a great deal of interest in the approach Rotterdam has taken and the results it has booked.

As suggested in the preceding sections, the municipal reporting structure is operating reasonably well. The quantity and quality of the reports of Islamic radicalism received by the ISPR is increasing. The attention being paid to right-wing radicalism by the ISPR has also been growing steadily in recent years but is not yet reflected in incoming reports. Threat analyses conducted by the ISPR and the police also correspond with regard to Islamic radicalism but differ considerably with regard to right-wing radicalism. Regional and national developments demand that the ISPR invest more attention in right-wing radicalism. The planned intensification of collaboration and information exchange between the ISPR and the police is desirable if not essential if both forms of radicalisation are to be effectively spotted and combated.

The view that groups susceptible to radicalisation must be made more resilient is widely endorsed by social organisations. Rotterdam migrant and Islamic organisations contribute to this by assisting people with their religious questions, for example, by telling them about the help that is available to protect them from discrimination, and by supporting individual young people who are at a risk of falling between the slats at school or in searching for jobs.

However, the same organisations are critical of the ability of citizens and public officials to spot signs of radicalisation, and they fear that all confessing Muslims will be made to look suspicious. They themselves are not inclined to report the few instances of radicalisation to the ISPR, and as a result the ISPR may be missing out on important information having to do with development trends and the approach to Islamic radicalism.

The preventive initiatives do not constitute a conclusive approach to radicalisation. There are other factors at work in the radicalisation process, including group ties, which

so far have been neglected. At the moment, ISPR's case management is making an important preliminary contribution. This also applies to the efforts being made by the police and their chain partners to counsel people caught in the radicalisation process, and to the mentor programme and religious support provided by Rotterdam migrant and Islamic organisations to keep vulnerable members outside the radical sphere of influence.

The police can also make use of repressive options to act against radicalisation after people have 'overstepped the limits'. In Rotterdam a persistent offender approach is applied in order to prevent attacks from taking place, for example, or to keep influence to a minimum. For right-wing radicals, the police are now – autumn 2008 – preparing a group-centred approach that has a lot in common with the approach that was successfully used in an adjacent police region.

8 The extreme right and discriminatory identity of the PVV

Marija Davidović, Jaap van Donselaar, Peter R. Rodrigues and Willem Wagenaar

The terrorist attacks of 11 September 2001 and the assassinations of Fortuyn and Van Gogh have changed the Netherlands profoundly. This often-heard statement may sound like a cliché, but that does not make it any less true. Terrorist threats and the danger of Islamic radicalism were catapulted to the top of the political agenda. The same is true of the multi-ethnic society as such. Indeed, it appears possible to say more about the Netherlands as a multi-ethnic society than it was in the past. Against this backdrop we saw the emergence of a political phenomenon that will be discussed in this chapter: the Party for Freedom (Partij voor de Vrijheid).

8.1 A close look at the PVV

In 1998 Geert Wilders became a member of parliament. He joined the parliamentary group of the VVD (People's Party for Freedom and Democracy – Volkspartij voor Vrijheid en Democratie; VVD – a free-market liberal party) in the Dutch House of Representatives, having served on the party staff since 1990. As a VVD MP he clearly was the party right-winger, which became evident in his attitude towards the aliens policy, among other issues. Not integration, he insisted, but assimilation.¹ In 2004 he became involved in a fierce conflict with the party over Turkey's admission as a full member of the European Union. This ended in a permanent split, and to the indignation of the VVD he refused to give up his parliamentary seat and continued as the Wilders Group (Groep Wilders). On 22 February 2006 he formed a new political party, the Party for Freedom (Partij voor de Vrijheid; PVV). In advance of the parliamentary elections of November 2006 he ran a campaign that focused mainly on the "Islamisation" of the Netherlands, drawing a parallel between "Islamisation" and a tsunami that became the ultimate attention-getter. Attempts to enter into broader political collaboration with leading "Fortuynists," such as Marco Pastors and Joost Eerdmans, ended in failure. They did not become allies, but rivals who were defeated in the elections of November 2006. The PVV won 6% of the votes and made its debut in the House of Representatives with nine seats.

The PVV continued to elaborate on the central theme of "Islamisation" and did so in a controversial way, quickly arousing considerable political and media interest. The party has remained in the spotlight ever since. In the opinion polls the position of the PVV was often, but not always, much stronger than the party's actual number of seats. The controversial character of the PVV had several consequences: Wilders received numerous threats, prompting permanent personal surveillance, and a series of complaints against the alleged criminal liability of his statements. In other words, Wilders was seen as both a victim and a perpetrator.

Several aspects of radicalism are present in the way the PVV manifests itself. We refer here not only to the party's anti-immigrants positions but also to the rest of its political

¹ Frans van Deijl, "Ik lust ze rauw" (Bring 'em on), *HP/De Tijd* 6 February 2004.

agenda. The PVV is an outspoken law-and-order party, for example. No more lax law enforcement, but a tough approach to crime and delinquency. In addition, the party's political style can be labelled radical. It came out with a no-holds-barred attack on Queen Beatrix after she had warned against 'rudeness in word and deed' in her 2007 Christmas address. Apparently convinced that this warning had been directed at him, Wilders argued that the head of state should be removed from the government. On another occasion the prime minister was accused of being a "professional coward." Other characterisations used by Wilders in the political arena include "stark raving mad," "bonkers" and "berserk." Regardless of what we may think of such labels, they are completely at odds with the common 'Hague' codes of conduct. In this light, too, the PVV is an opposition party, a party that is opposed to the established political order or, in PVV jargon, "the political elite."

In late 2007 it became known that Wilders was going to produce a film about the Koran, which led to months of unrest. The government warned of the disastrous consequences that such a film could have and got in touch with numerous institutions and organisations, warning them to be prepared for any number of disturbances that might occur after the film was released. Wilders and the PVV were constantly in the public eye.

Fitna premiered on the internet by the end of March 2008 but the situation in the Netherlands remained relatively peaceful, with a few exceptions. In The Hague a group of neo-Nazis took to the streets, in Utrecht there were minor disturbances, cars were burnt and anti-Wilders slogans daubed on walls. In Oldenzaal a Turkish boy was assaulted, while pro-Wilders slogans were shouted.

To what extent can the PVV be connected with right-wing extremism? And to what extent are statements made by the PVV discriminatory in character? These questions are not infrequently asked² and are inextricably connected with the position of the PVV in Dutch society. Even though the PVV did not emerge directly from a right-wing extremist tradition, these questions give us good reason for taking a closer look at the PVV.³

Our approach is based on that of two longitudinal Monitor sub-projects: (a) a mainly social scientific study of right-wing extremist groups, and (b) a study of the investigation and prosecution of discrimination, which is primarily judicial. So our study of the PVV is multi-disciplinary and consists of two parts. In the first part, the central question is: to what extent can the PVV be regarded as a right-wing extremist group? The second part concerns the relationship between the PVV and discrimination prohibitions.

8.2 The PVV as a right-wing extremist group

The fifth Monitor report (2002) contains a sub-study entitled *Het extreem-rechtse en racistische gehalte van de LPF/Leefbaar-stroming* (Inherent right-wing extremism and

² See for example Y. Buruma, "Wilders, Mussolini en de burgerlijke samenleving" (Wilders, Mussolini and civil society), *Nederlands Juristenblad* (NJB) 2007, p. 1949.

³ Geert Wilders did not lend us any assistance in this study, despite repeated requests.

racism in the LPF/Liveable political movement).⁴ This study attempted to determine the party's inherent right-wing extremism and racism based on three indicators: ideology, social genealogy and magnet function. Our study of the inherent right-wing extremism of the PVV was conducted along similar lines. First, the question is addressed if there was any evidence of right-wing extremist *ideology*. The second indicator, *social genealogy*, is based on the conclusion that extreme right-wing groups do not simply appear out of nowhere but usually emerge from other right-wing extremist groups.⁵ Quite often the founding members of right-wing extremist organisations include individuals who had previously been affiliated with other related right-wing extremist organisations. This continuity applies not only to the founding members but also to many of those who join the ranks of an organisation over time. The third indicator is the *magnet function*: the appeal that the party exercises on "radicals" – individuals who have exhibited outspoken right-wing extremist sympathies. The indicators *ideology* and *magnet function* will be discussed in the following paragraphs. As far as *social genealogy* is concerned, a few comments here will suffice.

Neither the founding members of the PVV nor the present parliamentary group in the House of Representatives includes persons with an right-wing extremist "career," at least as far as we were able to determine. The second question – concerning "known" right-wing extremists who have joined the organisation over time – cannot be answered because the PVV has not yet admitted any members. Because the PVV as a formal organisation has almost no staff, the *social genealogy* mentioned above does not apply.

8.2.1 *Right-wing extremist ideology in a nutshell*

On the face of it, the ideology of the extreme right in the Netherlands can be summed up in a few sentences. Followers are oriented towards *cultural Sameness* – a set of qualities or characteristics belonging to one's own culture – and an aversion to *cultural Otherness* – a set of qualities or characteristics belonging to other people's culture –, in other words, us versus them, to "foreigners" as well as political opponents and established politics in general; and they have a predilection for the authoritarian. There are substantial differences of opinion and sharp contrasts within extreme right-wing groups, however. An aversion to Otherness can be focused on non-Western immigrants in general, but in other cases it has primarily anti-Semitic overtones. This applies *mutatis mutandis* to being oriented towards Sameness: it may have to do with the political Netherlands, to a "Greater Netherlands" (including Belgian Flanders) or to the idea of a united "Germanic" folk in Europe, as Hitler envisioned. There may also be differences in the ideological content of particular organisations and individual right-wing extremists, varying from a highly developed ideological orientation to one that is based more on racist one-liners. And differences in terms of radicalism may also be apparent between individuals and between groups.

⁴ See J. van Donselaar & P. R. Rodrigues, *Monitor racism en extreem-rechts; vijfde rapportage* (Monitoring racism and the extreme right: fifth report). Amsterdam: Anne Frank House / Leiden University 2002, pp. 59-88.

⁵ Jaap van Donselaar, *Fout na de oorlog: fascistische en racistische organisaties in Nederland 1950-1990* (On the wrong side after the war: fascist and racist organisations in the Netherlands, 1950-1990). Amsterdam: Bert Bakker 1991.

The ideological elbow room is not unlimited but is restricted by legal regulations. Since the Second World War, the prohibition of organisations has been a real threat to the extreme right, while criminal discrimination prohibitions have played a significant role since the 1970s. Trends of radicalisation or moderation within the ranks of the extreme right have occurred both consecutively and simultaneously, with moderation being not uncommonly the result of government repression (or threats thereof). Within right-wing extremist circles there have always been a great many differences of opinion. These often result in mutual disputes and conflicts that are sometimes so severe that it seems like they are fighting each other. The factors underlying such conflicts can be quite diverse, with ideological factors being not the least important.

To gain a better understanding of the ideological lay of the land with regard to the extreme right in the Netherlands, it may be helpful to look at the distinction made in social science literature between certain basic ideological trends within the extreme right in Western Europe. Especially useful is Bjørgo's distinction between and analysis of the so-called "national democrats" and "racial revolutionaries."⁶

Bjørgo's distinction between "national democrats" and "racial revolutionaries" largely coincides with the distinction between "anti-immigration activists" and "neo-Nazis." The similarities between these two right-wing ways of thinking have already been noted above: positive orientation towards Sameness, aversion to Otherness, aversion to political opponents and the established political order, and an authoritarian attitude. There are also similarities in the political style: rigorous, authoritarian, rejection of existing political codes of conduct. But there are also dimensions in which no similarity is evident – not even on the surface – such as the attitude towards the Second World War and German National Socialism during the Second World War. The "racial revolutionaries," or neo-Nazis, embrace National Socialism and identify with Nazi Germany. The "national democrats," on the other hand, distance themselves from Nazi Germany and are even inclined to identify with the resistance to the Nazi occupation; they see themselves as heirs of the resistance to foreign domination.

Another dimension in which an important difference can be observed is the attitude towards parliamentary democracy. While the "national democrats" operate within parliamentary democracy and aspire to steer it in a direction of their own choosing, the "racial revolutionaries" believe that parliamentary democracy must be abolished. In neo-Nazi jargon: "the system has no faults; it is the system itself that is faulty." A third dimension in which a striking difference becomes evident has to do with the views on using violence to achieve political goals. While "racial revolutionaries" justify the use of violence, "national democrats" reject it – at least in principle, since sometimes even the "national democrats" regard certain forms of violence as self-defence and therefore see it as a necessary evil.

Although the positive orientation towards Sameness and aversion to Otherness are characteristic of both right-wing extremist trends, there are differences when it comes to definitions, markers and accents. For instance, there are different understandings of who

⁶ T. Bjørgo, *Racist and right-wing violence in Scandinavia: patterns, perpetrators, and responses*. Oslo: Tano Aschehoug 1997. See especially "dimensions of organisation and ideology" (p. 53 ff.) and "ideological dimension," pp. 63-64.

is to be defined as Other and who is to be regarded as Same. For the "racial revolutionaries," "race" is of decisive importance, but there are two different arguments. Firstly, "race" refers primarily to Jews and to people who do not belong to the "Aryan race" (non-Western immigrants). Jews are the ultimate enemy, since, as the reasoning goes, they are trying to rule the world and destroy the Aryan race. But non-Western immigrants are just as "alien to the nation," which means that skin colour is also an important criterion in practice. By this way of thinking, the population of surrounding countries (Germans, the English, the French) are not foreign. Sameness means "the Germanic peoples of Europe."

The second argument, more specific for the Netherlands, is slightly different in that "race" refers to the Dutch and the Flemish (who in fact are regarded as Dutch). This Greater Netherlands argument often assumes a "kinship" with white South Africans as well. Following this line of reasoning and looking at the history of South Africa, the British are seen as foreigners, as foreign oppressors even. The French, too, are regarded as foreign oppressors in view of "their" rule of the Southern Netherlands in the late eighteenth and early nineteenth centuries. But non-Western immigrants are regarded as even *more* Other than the white neighbouring countries, and it is not uncommon to see this Greater Netherlands understanding go hand in hand with anti-Semitism. For "national democrats," non-Western immigrants are the Other, and Sameness is much less based on "race," if at all. Here the stress is more on one's own nation, one's own people, the "fatherland," or simply "the Netherlands." There is opposition to the presence of "non-whites," which today primarily means Muslims. Muslims, so the argument goes, are inundating the country and are acting more and more like foreign oppressors. For the "national democrats" anti-Semitism is not emphasised, and sometimes it is almost, if not completely, absent.

The difference between "national democrats" and "racial revolutionaries" is a schematic one. The social reality is more complicated, with many gradations, shades of grey and accents.⁷ One important intervening variable is what Van Donselaar has called the *adaptation dilemma*.⁸ To put it briefly: the imposition of powerful taboos on taking the "wrong side" in the Second World War, National Socialism and involvement in political violence – and the legal sanctions attached to these taboos – has resulted in masking or concealment from the outside world. Behind the scenes, however, people are less likely to be guided by taboos. In other words: the adaptation dilemma creates differences between *frontstage* and *backstage performances*.⁹ The distance between frontstage and backstage characteristics is influenced mainly by the degree of government repression to which a group is exposed. The greater the repression (chance of prosecution, risk of being banned) the greater the distance between frontstage and backstage

⁷ As the British scholar of fascism, Billig, once let slip, "One cannot expect that the fringes of the extreme right should conform to the logical and ordered categories of the social scientist." M. Billig, *Fascists: a social psychological view of the National Front*. London: Academic Press 1978. p. 103.

⁸ Jaap van Donselaar, *Fout na de oorlog* (On the wrong side after the war), p 16 ff.; Jaap van Donselaar, *De staat paraat? De bestrijding van extreem-rechts in West-Europa* (Is the state prepared? Combating the extreme right in Western Europe). Amsterdam: Babylon-de Geus 1995, pp. 9-14; 192 ff.

⁹ The dramaturgical metaphor is taken from Goffman's classical analysis of processes of everyday interaction. E. Goffman, *The presentation of self in everyday life*. New York: Doubleday Anchor Book 1959.

characteristics. In order to formulate a correct image of the ideology of a particular group, one should take into account the possibility that certain elements are less discernible at first glance.

8.2.2 "Sameness" and "Otherness" in PVV ideology

Forcefully reiterating the "danger of Islamisation" has become a cornerstone of the ideology of Wilders and the PVV since the party was founded in 2006.¹⁰ In the early days (Spring 2006), the PVV also stressed other points: tax reduction, cutting the number of civil servants in half, taking a tougher stance on immigration and integration, imposing more severe punishments, introducing binding referendums, creating a closer connection between voters and MPs, electing mayors, the prime minister *and* police commissioners and judges by popular vote. The PVV also proposed that article 1 of the Dutch Constitution declare that the dominant culture in the Netherlands is the Judeo-Christian and humanistic tradition. As the parliamentary elections of November 2006 approached, the theme "danger of Islamisation" was further expanded: over the next five years, no immigrants from Morocco or Turkey would be admitted, and no new mosques or Islamic schools would be established. But what attracted the most attention was Wilders's now-famous tsunami metaphor.¹¹

"The Netherlands is on the threshold of a 'tsunami of Islamisation.' Dutch society is going to be inundated by Muslims, with crime and disorder everywhere – even in the countryside. Their intolerant, violent culture will impact Dutch society 'in its heart, in our identity.'"

After a new administration took office (Balkenende IV) in 2007, Wilders criticised the fact that two state secretaries (Nehabat Albayrak and Ahmed Aboutaleb) were dual nationals. The PVV introduced a vote of no-confidence. This vote received little political support, but it did lead to weeks of discussion on dual nationality in general – and to a compliment from the chairman of the Flemish Interests (Vlaams Belang) party, Filip Dewinter, who suggested that Wilders's resistance to dual nationality be imitated in Belgium.

In August 2007 the political programme of the PVV was expanded with an appeal to ban the Koran.

Wilders wrote an opinion piece in newspaper *de Volkskrant* that included the following:¹²

¹⁰ For the formation and development of the PVV, also see A.P.M. Lucardie, *Twee in, dertien uit: electoraal succes en falen van nieuwe partijen in 2006* (Two in, thirteen out: electoral successes and failures of new parties in 2006). Groningen: Documentatiecentrum Nederlandse Politieke Partijen 2008. <<http://dnpp.eldoc.ub.rug.nl/files/root/publicatie/Lucardie/artiekljb06/Lucardie.pdf>> (29 August 2008); Huib Pellikaan & Sebastiaan van der Lubben, *Ruimte op rechts?* (Room for the right?) 2006. <<http://www.waterlandstichting.nl/bestanden/ruimte%20op%20rechts2.pdf>> (29 August 2008).

¹¹ Sanne ten Hoove and Raoul du Pré, "Wilders vreest 'tsunami' moslims" (Wilders fears "tsunami" of Muslims), *de Volkskrant* 6 October 2006. <http://www.volkskrant.nl/binnenland/article356420.ece/Wilders_bang_voor_tsunami_van_islamisering> (23 August 2008).

¹² Geert Wilders, "Genoeg is genoeg: verbied de Koran" (Enough is enough: ban the Koran), *de Volkskrant* 8 Augustus 2007. <<http://www.volkskrant.nl/binnenland/article451338.ece>> (23 August 2008).

"Ban that dreadful book, the way we have banned Mein Kampf! Doing so would let everyone know [...] that the Koran may never, ever be used as an inspiration or excuse for violence. [...] I have had enough of Islam in the Netherlands: no more Muslim immigrants should be admitted. I have had enough of the worship of Allah and Mohammed in the Netherlands: no more mosques should be built. I have had enough of the Koran in the Netherlands: ban that fascist book."

The fight against Islam was given a powerful impulse in late 2007 when it became known that Wilders was planning to produce a film about the Koran – or rather, *against* the Koran. According to rumours, images of a burning Koran would be shown. But when *Fitna* was finally released in late March 2008, its ideological content was found to contain few novelties. No burning Koran, although the film did contain another powerful warning against Islamisation, this time made to a much broader audience than in previous years.

One catchphrase frequently used by Wilders is "Stop the Islamisation of the Netherlands." The foreign Other that the PVV opposes refers primarily, but not exclusively, to "Islamisation." The party jargon often speaks of "non-Western immigrants." In October 2007 the PVV immigration plan was issued: eighteen measures meant to really stem the tide.¹³

During the presentation, Wilders explained the plan as follows:¹⁴

"Immigrants continue to pour in. The largest group by far consists of people involved in family formation and family reunification. By the end of September of this year that number had already risen to 17,297. For all of 2006 it was 23,000. Imagine what that will mean in ten years' time. And on top of that there are the asylum seekers and other inflows. Plus the illegal aliens, who are literally beyond counting. Our open-door policy means that we are constantly getting a new 'first generation immigrants' – with all the problems that involves."

A few weeks later, Wilders elaborated on this in an interview with *De Pers*:¹⁵

"Native Dutch people do not reproduce as rapidly as immigrants. Now the immigrants, most of whom are Muslims, are mainly located in the big cities. In twenty years they'll be everywhere, from Apeldoorn to Emmen and from Weert to Middelburg."

¹³ *Website* PVV <http://www.pvv.nl/index.php?option=com_content&task=view&id=716> (22 August 2008).

¹⁴ *Website* PVV <http://www.pvv.nl/index.php?option=com_content&task=view&id=716&Itemid=120> (22 August 2008).

¹⁵ "Nederland wordt verkocht aan de duivel Mohammed" (The Netherlands is being sold to the devil Mohammed), *De Pers* 27 November 2007.

In April 2008 Wilders also announced that he is carrying on a struggle "against the Islamisation of the Netherlands and mass immigration."¹⁶

"I am not the only one who thinks this way. It seems that six out of ten Dutch people now see Islam as a threat and think that the mass immigration is the biggest mistake we have ever made in our history. This gives us hope for the future."

During the general debate in September 2008 it became clear that the PVV is gradually becoming more radical. Wilders referred to "Moroccans who are spoiling everything here" as "Muslim colonists. Because they have not come to integrate but to take over, to subjugate us." The metaphor of Muslims as colonists, foreign oppressors, has been in fashion in right-wing extremist circles for years. An example is the web forum Stormfront.org.

"Islamisation," "mass immigration" and "non-Western immigrants" are the principal elements of what the PVV perceives as a threat of Other influence and domination. Almost all right-wing extremist political parties and movements that place *Überfremdung* (superalienation) high on their political agendas also evince some form of anti-Semitism. Indeed, according to some right-wing extremist schools of thought Jews are among "the Others" that must be opposed (or even more radically: that must be disposed of). Sometimes anti-Semitism is a prominent and explicit feature among the extreme right, but more often it is shrouded in vague contours and is only visible in the background or behind closed doors. The latter – anti-Semitism backstage – usually has to do with the controversial character of anti-Semitism since the Second World War. Because of this, a party with an openly anti-Semitic profile can evoke strong resistance and repressive reactions from the government.¹⁷

There is no trace of anti-Semitism in the PVV. On the contrary, the PVV has a strong affinity with Israel and Judaism. "Jewish" is by no means equated with Otherness, but is seen as a component of Sameness. One way this is expressed is in the PVV appeal to embed the dominance of the "Judeo-Christian and humanistic tradition in the Netherlands" in article 1 of the Constitution. The affinity of the PVV with Israel and Judaism coincides with that of Wilders himself, or is perhaps a result of it. In his youth Wilders spent a couple of years in Israel. He visits that country regularly and has a large network of friends and acquaintances there. Wilders makes no secret of his "special feeling of solidarity" with Israel, which is repeatedly confirmed via the media. Because of this explicit affinity with Israel, and the disconnection from anti-Semitism that it implies, the PVV differs from most political parties that are opposed to mass immigration, non-Western immigrants and "Islamisation," such as the Front National in France, Flemish Interest in Belgium and the FPÖ in Austria.

¹⁶ Weblog Geert Wilders 11 April 2008.

<http://www.geertwilders.nl/index.php?option=com_content&task=blogsection&id=5&Itemid=103&limit=9&limitstart=9> (23 August 2008).

¹⁷ See Jaap van Donselaar, *De staat paraat?* (Is the state prepared?)

Definitely included among the Others are Aruba and the Netherlands Antilles. In March 2005 – before the PVV was formed, that is – Wilders presented his so-called *Declaration of Independence*.¹⁸ This includes the following:

"In view of the danger and the influx of drug-related crime, and given the vast corruption and administrative incompetence of the Antilles, the government must forcefully promote the separation of the Antilles from the Kingdom of the Netherlands."

Severing ties with the Antilles was later urged by the PVV on several occasions, with no effort to avoid strong language. In a speech in the House of Representatives in May 2008,¹⁹ Wilders said,

'Madam Speaker, the PVV is fed up, as are the citizens of the Netherlands. This largely corrupt pack of thieves – who for decades have lived off the pockets of hard-working Dutch people on account of their total bankruptcy – is being paid a cool 2.2 billion euros over a period of four years. In 2007, 410 million euros were reserved for the debt rescheduling of the Antilles. So Santa Claus is still able to find those islands of scoundrels. The view of the PVV is clear: invest that money in the Netherlands in areas such as health care, to keep the Netherlands from ending up with third-world level medical practices."

As mentioned, in the eyes of the PVV, Sameness is the "Judeo-Christian and humanistic tradition in the Netherlands." Other frequently mentioned elements are "the Dutch identity" and "our Western values." Recently, the PVV spoke out in favour of the unification of the Netherlands and Belgian Flanders.²⁰ This viewpoint is based on the political crisis in Belgium and the possibility that Belgium might finally break apart because of it, as well as on the alleged connection between the Netherlands and Flanders. As the argument goes, there is a shared history and a strong sense of solidarity; the "secession of Belgium, a political monstrosity, was a historical mistake" and the border between the Netherlands and Belgium is "artificial." In addition, unification would be attractive because the "reunited Seventeen Provinces" would be an "economic and political superpower," "a serious player on the world stage."

The PVV argument is remarkable in more than one sense. First of all, it is clear that the nationalism of the PVV does not coincide with the present political entity of the Netherlands. The present Netherlands is called into question in favour of a "Whole Netherlands:" a new structure based on a common language, culture and history. There is also talk of striving for a "Greater Netherlands" ("superpower," "serious player on the world stage"). The "Whole Netherlands" and "Greater Netherlands" ideas were strongly rooted in right-wing extremist movements that were active between the First and Second World war, such as the NSB and Zwart Front (Black Front). When the World War II

¹⁸ <http://www.pvv.nl/index.php?option=com_content&task=view&id=684> (30 August 2008).

¹⁹ <http://www.pvv.nl/index.php?option=com_content&task=view&id=1074> (30 August 2008).

²⁰ Geert Wilders and Martin Bosma, "Nederland en Vlaanderen horen bij elkaar" (The Netherlands and Flanders belong together), *NRC Handelsblad* 7 July 2008.

ended and these movements went into decline, striving for the unification of the Northern and Southern Netherlands became a marginal issue in the Netherlands. Since 1945 the idea has lived on among Dutch right-wing extremists.²¹ The reunification of the Netherlands and Flanders has largely been part of the political domain of the extreme right in the Netherlands for about seventy years, there is no question about that.²² The question is whether this makes the goal of reunification an exclusively right-wing extremist issue. In Belgium, striving for the independence of Flanders is less an issue of the extreme right, even though groups such as Flemish Interests are already among its most passionate political advocates. In reaction to the opinion piece by Wilders and Bosma, Flemish Interests issued a press release with the heading "Flemish Interests welcomes Wilders's outstretched hand."²³

With its points of view regarding Sameness and Otherness, the PVV has thrown in its lot with what Mudde has called the *right-wing extremist party family*.²⁴ This is a series of parties that have a common ideology, despite individual differences, in which a nationalistic orientation, xenophobia (aversion to strangers) and law-and-order thinking occupy an important place. But even if family ties do exist, the PVV steers clear of family *contacts*. Despite the "outstretched hand," the PVV firmly distances itself from Flemish Interests and does the same with respect to Le Pen's Front National of France and to other groups with an extreme right reputation.

Are there are differences between the PVV's ideology frontstage and backstage, a distinction made earlier in this chapter? Very little is known about the internal goings on of the PVV. The PVV is a small, closed group that, as far as we know, has managed to keep investigative reporters and researchers at a distance. Nor have there been any "dissidents" who have broken with the party and then decided to tell all. Whether statements are sometimes made behind closed doors that are more extreme than those made in public is a question we cannot answer.

8.2.3 Magnet effect

In determining the right-wing extremist identity of the PVV, the most important element after ideology is the magnet effect: the attraction that the party exercises on "radicals," persons with strong right-wing extremist sympathies. Back in the 1960s, clear expressions of sympathy were heard from members of the former SS and NSB for the

²¹ Starting in the mid-1970s, when right-wing extremist groups like the Netherlands People's Union (Nederlandse Volks-Unie) presented themselves to the public primarily as anti-immigrant parties, the unification of the Netherlands and Flanders was given less priority. But it has always received the full attention of the extreme right as a background theme, certainly as an internal issue, and that is true up to the present day. See C. Bouw, J. van Donselaar, C. Nelissen, *De Nederlandse Volks-Unie: portret van een racistische splinterpartij* (The Netherlands People's Union: portrait of a racist fringe party). Bussum: Wereldvenster 1981, p. 88.

²² One of the exceptional cases in which politicians who were not from the extreme right argued for the reunification of the Netherlands and Flanders was in 2001. Senators Jurgens (PvdA), Terlouw (D66) and Postma (CDA) called for the unification of the Flemish and the Dutch during the TV programme *Netwerk* of 7 August 2001. *De Telegraaf* and *Trouw* 8 August 2001.

²³ Press release issued by Vlaams Belang 8 July 2008. <<http://www.vlaamsbelang.be/1/684>> (24 August 2008).

²⁴ Cas Mudde, *The ideology of the extreme right*. Manchester: Manchester University Press 2000.

radical right Farmers' Party (Boerenpartij) and for the Netherlands People's Union during the 1970s.²⁵ Similarly, Hans Janmaat's Centre Party (Centrumpartij) was pleased to gain the sympathy of the widow of NSB leader Rost van Tonningen and her Nazi "Tree of Life Consortium" (Consortium de Levensboom).²⁶ A more recent example is the congratulations that Pim Fortuyn received from the Flemish Bloc (Vlaams Bloc) after the results of the municipal elections of 6 March 2002 were made known.²⁷

The *magnet effect* has different aspects:

- a) feeling drawn to a particular group, or *positive identification*;
- b) *personnel overlapping* between right-wing extremist groups as a result of positive identification.

By the latter we are referring to, say, person X, who had once had a political career with the Centre Democrats, the Netherlands People's Union or another right-wing extremist group and is now turning up in the PVV. Positive identification can lead to personnel overlapping, as the aforementioned example of the Flemish Bloc shows, but not necessarily. To carry this example a bit further: Flemish Interests (successor to the banned Flemish Bloc) has repeatedly shown signs of positive identification with the PVV. Two instances of this are the discussion Wilders started on dual nationality and his appeal for the reunification of the Netherlands and Flanders.²⁸

If a party desires to take part in parliamentary elections throughout the country, a number of conditions must be met. One of them is to gather at least thirty declarations of support for lists of candidates in each of the nineteen electoral districts.²⁹ A signatory must live in the electoral district in question and must be eligible to vote. When the PVV gathered declarations of support in order to participate in the elections of 2006, a few dozen signatures were from persons with known right-wing extremist backgrounds;³⁰ it also became known that a PVV staffer had attempted to recruit endorsements by way of an right-wing extremist and distinctly anti-Semitic web forum.³¹ According to a PVV spokesman attempts were made to exclude known right-wing extremists.³² So the number of signatories with a known right-wing extremist profile could have been higher.

²⁵ Jaap van Donselaar, *Fout na de oorlog* (On the wrong side after the war), p. 121 ff.

²⁶ *Ibid.*, p. 202 ff.

²⁷ See J. van Donselaar & P. R. Rodrigues, *Monitor racism en extreem-rechts; vijfde rapportage* (Monitoring racism and the extreme right: fifth report), p. 72.

²⁸ Flemish Interests has also regarded the PVV as too radical on occasion, as in the case of the ban on the Koran.

²⁹ The signature requirement applies only to parties that are not already represented in parliament and is meant to exclude nominations that are not serious.

³⁰ These backgrounds concerned the Centre Party, the Centre Democrats, Voorpost (Outpost), the Centre Party '86, Netherlands Bloc and New Right.

³¹ Joep Dohmen, "PVV riep steun van extreem-rechts in" (PVV enlists support from the extreme right), *NRC Handelsblad* 13 January 2007. This article is partly based on *Verkiezingsonderzoek* (Electoral research) by Kafka. See <http://kafka.antifa.net/>, articles, *Verkiezingsonderzoek* 11 November 2006.

³² The PVV staff person told the *NRC Handelsblad* of 13 January 2007: "We had six staffers. That was too few to act as a kind of detective bureau and to check everybody. So we tried to filter out people who might pose a danger. [...] There were discussions, and we googled some of the names. In this way we removed some of the people. I do not know how many. I know examples of people who turned out to have been from the Centre Democrats."

Expressions of positive identification are not rare on right-wing extremist web forums, but the opposite is also true: expressions of aversion to the PVV. On Stormfront.org, for example, a "topic thread" has been set up called *Are you for or against Wilders?* in which participants can vote one way or the other. While the votes pro and con balance each other out, the cons seem to be dominant in the threaded discussion.³³ An outspoken aversion can often be seen among neo-Nazis who find Wilders's sympathies for Israel and Judaism indigestible. But others praise the PVV or are especially charmed by the social unrest that the PVV is supposedly fostering and that might form a breeding ground for a National Socialist movement.

On the Holland Hardcore web forum the voices are also mixed, but there a positive identification is more prominent, especially from a few moderators who take a pro-Wilders position.³⁴ The range of views expressed on the forum of the Association of Dutch Nationalists (Vereniging van Nederlandse Nationalisten; VNN), both pro and con, is also broad.

To a significant extent, whether a group identifies positively with the PVV or not has to do with whether it coincides with the PVV's ideological profile. Those with a "national democratic" orientation will be far more likely to identify positively than those with a "racial revolutionary" profile. Among the latter type groups, such as the Netherlands People's Union and National Socialist Action (Nationaal-Socialistische Aktie; NSA), there is not a trace of positive identification to be detected. On the contrary, they are fiercely opposed to the PVV and especially to Wilders personally.³⁵ The evening that the film *Fitna* was first broadcast, about ten NSA supporters held a spontaneous anti-Wilders demonstration in The Hague ("Wilders is a filthy Zionist").

Then there is the second element of the magnet effect: *personnel overlapping*. We have already referred to the presence of known right-wing extremists among the electoral "supporters." "Minor slip-up" or not, it does indicate an interest in the PVV from the extreme right-wing, and this is confirmed by other expressions of positive identification, as described above. But to what extent the membership of the PVV includes persons with a right-wing extremist background is a question that cannot be answered: the party may be an association, but so far no members have been admitted. Wilders has almost complete control over the PVV. He has always been noncommittal when it comes to revealing the motives behind this decision,³⁶ so we have to make do with a few

³³ <<http://www.stormfront.org/forum/showthread.php?t=442453&highlight=geert+wilders>> (28 August 2008).

³⁴ See <http://www.holland-hardcore.com/component/option,com_fireboard/Itemid,70/func,view/id,55916/catid,8/> (26 August 2008); <http://www.hollandhardcore.com/component/option,com_fireboard/Itemid,70/func,view/id,57815/catid,39/> (26 August 2008).

³⁵ For example, see *Wilders en zijn zionistische wortels* (Wilders and his Zionist roots) on the NVU website. <<http://www.nvu.info/schart/23.html>> (25 August 2008).

³⁶ For example, he refused to provide any assistance in the writing of an article in the *NRC Handelsblad* on the party organisation of the PVV, despite repeated requests. See Joep Dohmen, "Alleen Wilders lid PVV" (Wilders the only member of the PVV), *NRC Handelsblad* 21 April 2007. <http://www.nrc.nl/binnenland/article1790538.ece/Alleen_Wilders_lid_pvv> (28 August 2008).

educated guesses: fear of an "LPF muddle," fear of rivals who want to take over the party and, after the endorsement affair, perhaps fear of right-wing extremists who want to discredit the party. Here, too – as with ideology – there is a possible contrast between a frontstage profile for the PVV and a more radical "personal" backstage profile beyond our field of vision.

A not unimportant consequence of the present organisational structure of the PVV is that the party does not retain any internal democracy, so the leadership boils down to a modern-day form of authoritarianism. The PVV's present party organisation is not in violation of the law, strictly speaking, but it does skim along the border. In choosing the association model as the required organisational form for electoral participation by a political party, the legislators did have a democratic principle in mind. This matter was discussed by professors Elzinga (constitutional law) and Andeweg (political science) in newspaper *NRC Handelsblad*.³⁷ There Elzinga noted, "You can say that labels such as 'authoritarian' and 'undemocratic' are applicable, but there is no problem from a legal point of view. An association must have two founding members and a minimum of one member. He meets these criteria." Andeweg sees "an autocratically led party under the guise of an association." According to Andeweg, Wilders has to bend over backwards in order to satisfy the association requirement.

8.3 The PVV and discrimination prohibitions

This section first addresses the extent to which the statements made by Wilders on behalf of the PVV are in violation of the prohibition on discriminatory defamation (art. 137c of the Criminal Code) and the prohibition on inciting hatred, discrimination or violence (art. 137d of the Criminal Code). In June 2008, the Public Prosecution Service (Openbaar Ministerie; OM) decided not to institute proceedings in response to a number of charges brought on account of these statements (dismissal). Then it is considered how case law, on the grounds of art. 137c and 137d of the Penal Code, relates to the decision taken by the OM not to prosecute (to dismiss charges).³⁸

8.3.1 Liable to prosecution under the discrimination laws?

It is important to first sketch out the assessment framework of art. 137c and 137d of the Criminal Code on the basis of judgements made by the Supreme Court.³⁹

Convictions mainly took place in conjunction with four types of manifestations, which can sometimes overlap slightly:

1. hate speech;⁴⁰

³⁷ Joep Dohmen, "Alleen Wilders lid PVV" (Wilders the only member of the PVV), *NRC Handelsblad* 21 April 2007.

³⁸ See chapter 9, "Investigation and prosecution in 2007," for the legal framework and explanation of the dismissal policy.

³⁹ Art. 147 of the Criminal Code is given to the protection of a religion and not of persons as laid down in the discrimination articles and falls outside the scope of this study.

⁴⁰ There is very little of this in the current study. One exception seems to be the reference to suspects in a stabbing in Almere, who were called "three animals of Surinamese origin." Geert Wilders, Column in *GeenStijl.nl* 28 July 2007.

2. establishing a causal relationship between an ethnic minority and criminal behaviour or profiteering;⁴¹
3. stating that these minorities are a danger to the "real" Netherlands; the Amsterdam Court of Appeals aptly applied the term "intrinsically discordant dichotomy" to such a rift;⁴²
4. withholding rights from minorities or advocating their removal from society.⁴³

In the case law related to art. 137c of the Criminal Code – prohibition on discriminatory defamation – there are three steps involved in assessing a statement. First, the question is asked whether discrimination is involved.⁴⁴ There must be evidence of defamation (injury to one's honour) that is connected with the protected grounds,⁴⁵ in a way that violates "the moral integrity of the group, or members of that group."

The assessment of the context in which the discriminatory statement was made, is effectively the second step. The statement may namely no longer be punishable if made within a certain context (the "public debate," for instance).

If the context does indeed offer indemnity from conviction, the judgement can proceed to the third step. If the wording of the statement is unnecessarily offensive, any possible indemnity that the context might have offered is invalidated.

In art. 137d of the Criminal Code – prohibition on inciting hatred, discrimination or violence – only the first step is different. This article has to do with public incitement to hatred or discrimination.⁴⁶ Hatred is not defined any further, but in the literature a connection is made with "hostility" and "contempt." This seems mainly to be present when a minority group is associated with a threat or crime. According to case law, inciting discrimination includes the withholding of rights from certain population groups.⁴⁷ Wilders's statements serve here to assess the outlook of the Dutch criminal courts on discrimination. In dealing with the selected statements by Wilders, the aforementioned steps are followed where possible.

8.3.2 *Actual parallels for a possible conviction*

On 30 June 2008 the OM decided to dismiss some of the charges that had been made with regard to statements in newspapers *De Pers* and *de Volkskrant* (more about this in the next section). The OM based these dismissals on the reasoning that Wilders was expressing criticism of a religion without including the followers of that religion. However, how solid is this reasoning, in fact? When Wilders says, "I have had enough of Islam in

⁴¹ Supreme Court 15 April 2003, *Nederlandse Jurisprudentie* (NJ) 2003, 334, grounds 3.4 and 3.5.

⁴² Taken from Supreme Court 2 April 2002, LJN AD8693 (LJN = National Case Law Number; the number under which judgments of Dutch courts are published on the website www.rechtspraak.nl).

⁴³ Supreme Court 18 May 1999, NJ 1999, 634, confirmed in a request for a review in Supreme Court 6 May 2003, LJN AF7895.

⁴⁴ A.L.J. Janssens & A.J. Nieuwenhuis, *Uitingsdelicten* (Crimes of expression). Kluwer: Deventer 2008, p. 155 ff. and W. Wedzinga, in: C.P.M. Cleiren, J.F. Nijboer (ed.), *Strafrecht: tekst & commentaar* (Criminal law: text & commentary), art. 137c ff., Deventer: Kluwer 2008 (7th printing), p. 765.

⁴⁵ The grounds included in art. 137c of the Penal Code are race, religion or personal beliefs, hetero- or homosexual orientation and physical, psychological or mental disability.

⁴⁶ Incitement to violence is also included, but this not relevant in our study of the PVV.

⁴⁷ Supreme Court 18 May 1999, NJ 1999, 634, confirmed in a request for review in Supreme Court 6 May 2003, LJN AF7895.

the Netherlands: no more Muslim immigrants should be allowed in,"⁴⁸ he appears to be referring to both Islam and its followers. All Muslims are accused of being "Muslim extremists" in advance, and measures should be taken⁴⁹ because there is no such thing as moderate Islam.⁵⁰ Apparently this extremism also includes violence: "In my eyes, Islam is a violent religion and the Koran is a violent book."⁵¹

He refers to that violence once again when asked about the connection between Islam and criminal behaviour.

"One out of every five *Moroccan* youths is registered with the police as a suspect. Their behaviour stems from their *religion* and their *culture*. You cannot separate the two. The pope was absolutely right recently when he said that *Islam is a violent religion*. [...] It is embedded in the *community* itself." [emphasis added]⁵²

In 2005 the Den Bosch Court of Appeals, following the Supreme Court decision of 2002,⁵³ found that political statements about the *religion* (in this case also Islam) the defendant thereby also comments on all people who belong to that religious community.⁵⁴ The question about the *defamatory* element involved in making a connection between Islam (and Muslims) and criminal behaviour does not arise in more recent case law. In 2003 the Supreme Court did hold that making an unnuanced connection between ethnic minorities and criminal behaviour was punishable on the grounds of art. 137c of the Criminal Code.⁵⁵

It is sometimes argued that politicians, in view of their function in the democracy, have more latitude in the public debate than others do. A judgement comparable to the one above was made by the Hague Court of Appeals when the chairman of the right-wing extremist New National Party (Nieuwe Nationale Partij) was convicted, but in his case for inciting hatred (137d) on the grounds of race as well as religion.⁵⁶ Apparently it is quite possible that in the case of statements made by MP Wilders, too, context does not diminish punishability. In addition, according to the Amsterdam Court of Appeals, statements should be essential to the debate that the defendant intends to engage in,

⁴⁸ Geert Wilders, "Genoeg is genoeg: verbied de Koran" (Enough is enough: ban the Koran), *de Volkskrant* 8 August 2007.

⁴⁹ Raoul du Pré, "Ik geef het land weer terug aan de burger" (I'm giving the country back to its citizens), *de Volkskrant* 14 March 2005.

⁵⁰ Sanne ten Hoove & Raoul du Pré, "De lijsttrekkers (3): Geert Wilders: 'De paus heeft gelijk'" (The party leaders (3): Geert Wilders: "The pope is right"), *de Volkskrant* 7 October 2006.

⁵¹ "Nederlandse cultuur duizend keer beter dan islam" (Dutch culture a thousand times better than Islam), *Spits* 9 November 2006.

⁵² Sanne ten Hoove & Raoul du Pré, "De lijsttrekkers (3): Geert Wilders: 'De paus heeft gelijk'" (The party leaders (3): Geert Wilders: "The pope is right"), *de Volkskrant* 7 October 2006; also see the interview in *Contrast*, March 2007.

⁵³ Supreme Court 2 April 2002, NJ 2002, 421. LJN AD8693

⁵⁴ Den Bosch Court of Appeals 10 November 2006, public prosecutor's office number 20-010210-05.

⁵⁵ Supreme Court 15 April 2003, NJ 2003, 334, grounds 3.4 and 3.5.

⁵⁶ The Hague Court of Appeals, 25 February 2003, public prosecutor's office number 1101005302.

also in the case of art. 137c.⁵⁷ Wilders says that the heart of the problem is "the fascist Islam, the sick ideology of Allah and Mohammed as contained in the Islamic *Mein Kampf*: the Koran."⁵⁸ The standard established by the Amsterdam Court of Appeals admits the possibility of deeming this remark unnecessarily offensive, which means it would still be punishable.

Besides making the connection between Muslims and criminal behaviour, Wilders also warns of "that tsunami of a culture that is so alien to us and is becoming more and more dominant. It should be brought to a halt."⁵⁹ In combination with the menacing rate of reproduction (reserved for people and not for religions) that Wilders refers to,⁶⁰ the above suggests once again that the threat of Islam can be seen in no other way than as a threat from the believers themselves. By making further comparisons with world wars,⁶¹ Wilders creates a picture of an clear and present danger created by Islam, and thereby by Muslims,⁶² which is exacerbated by the fact that Islam is supposedly intent on eliminating others.⁶³ A comparison with a natural disaster that took almost 300,000 lives in 2004 can also be deemed unnecessary in the context of art. 137c of the Criminal Code when it occurs within a public debate that addresses problems in certain areas in which ethnic minorities play a part. In 2005 the Den Bosch Court of Appeals argued that a single poster bearing the text "Stop the tumour known as Islam" suggests the presence of a harmful pathological process that demands intervention. The court ruled that this was transgressing "the socially accepted limits of a substantive discussion" to a "considerable degree."⁶⁴ Interestingly, this was a poster from the right-wing extremist National Alliance (Nationale Alliantie), a political party that was represented on the Rotterdam-Rijnmond urban district council at the time. In Wilders's appeal to stop the tsunami, the element of intervention comes more within reach of art. 137c of the Criminal Code. As far as art. 137d of the Criminal Code is concerned, the withholding of rights to certain population groups brings this article into focus.

"But in four years, you have got to be able to show that you did something against Islam, right?" "We are demanding enough. Close the borders, do not allow any more Muslims into the Netherlands, send a lot of Muslims out of the Netherlands, denaturalise Islamic criminals..."⁶⁵

⁵⁷ Amsterdam Court of Appeals 17 November 2006, LJN AZ3011.

⁵⁸ Geert Wilders, "Genoeg is genoeg: verbied de Koran" (Enough is enough: ban the Koran), *de Volkskrant* 8 August 2007.

⁵⁹ Sanne ten Hoove & Raoul du Pré, "De lijsttrekkers (3): Geert Wilders: 'De paus heeft gelijk'" (The party leaders (3): Geert Wilders: "The pope is right"), *de Volkskrant* 7 October 2006.

⁶⁰ Ibid.

⁶¹ "Wat drijft Geert Wilders" (What is driving Geert Wilders), interview in *De Pers* 13 February 2007.

⁶² Column on *GeenStijl.nl* 6 February 2007; also see Geert Wilders, "Genoeg is genoeg: verbied de Koran" (Enough is enough: ban the Koran), *de Volkskrant* 8 August 2007.

⁶³ Ibid., and in the complaint brought by G. Spong et al.

⁶⁴ Den Bosch Court of Appeals 10 November 2006, public prosecutor's office number 20-010210-05. The judgement has been challenged by an appeal in cassation.

⁶⁵ "Wat drijft Geert Wilders" (What is driving Geert Wilders?), *De Pers* 13 February 2007.

In light of the aforementioned theme of removal, two quotes also illustrate the connection between believers on the one hand – "I do think there should be fewer *Muslims* in the Netherlands"⁶⁶ – and religion on the other – "We should strive to reduce the presence of *Islam* in the Netherlands."⁶⁷ Withholding this group's civil rights on the basis of their religion can also satisfy the description of the offence contained in art. 137d of the Criminal Code because it incites discrimination.⁶⁸ Article 90quater of the Criminal Code provides the definition of discrimination, in which one of the criteria is excluding or limiting human rights and fundamental freedoms. Thus the proposed five-year moratorium on the building of new mosques and Islamic schools⁶⁹ is harmful to the freedom of religion and education. Non-Western immigrants, including those with the Dutch nationality, would have to "serve out their sentence in the country of origin," with Morocco and Turkey being designated the country of origin.⁷⁰ In addition to criminals and their families,⁷¹ Dutch people of another ethnicity who "still fail to learn the Dutch language" would be deported.⁷²

This deportation of those who fail to learn Dutch seems comparable to simplistic proposals to withhold the rights of ethnic minorities that had already been deemed punishable by the Supreme Court in 2001.⁷³ Discriminating against minorities came up for discussion more recently in 2007.⁷⁴ The defendant was found guilty of participating in incitement to discrimination. The Supreme Court limited itself to a legally technical judgement and did not touch the substantive findings of the Court of Appeals. In his conclusion, Advocate General Vellinga underscored the view of the lower court. "The public should be protected from statements made by others that arouse racial hatred and racial discrimination," and, with regard to the judgement of the lower court, "it is generally known that the words 'White' and 'White Power' (along with a White Power symbol painted on a right-of-way sign) represent the idea of 'power to the whites.'" If already such statements have the "distinct aim" to "discriminate against people who do not belong to the white race," then it will come as no surprise that an explicit political aim with a comparable message, may still be considered punishable.

In determining punishability on account of incitement, it is not relevant whether the PVV stirred up sentiments or whether it merely drew on prevailing sentiments. Nor is it relevant that there is a political objective to gain an electoral majority in order to realise

⁶⁶ Geert Wilders interviews in *Het Nieuwsblad* (Flemish) 9 February 2008.

⁶⁷ Italics added. Broadcasting time for political parties, PVV, 10 February 2008.

⁶⁸ A.L.J. Janssens & A.J. Nieuwenhuis, *Uitingsdelicten* (Crimes of expression), p. 158 ff. and W. Wedzinga, in: C.P.M. Cleiren & J.F. Nijboer (eds.), *Strafrecht: tekst & commentaar* (Criminal law: text & commentary), art. 137c ff., pp. 768, 653.

⁶⁹ Election pamphlet of the Party for Freedom (PVV) for the parliamentary elections of 22 November 2006; also see Joost Niemöller, "Wilders spreekt: Ik capituleer niet" (Wilders speaks: I will not surrender), interview with *HP/De Tijd* 12 December 2007.

⁷⁰ Column on *GeenStijl.nl* 24 July 2007.

⁷¹ Joost Niemöller, 'Wilders spreekt: Ik capituleer niet' (Wilders speaks: I will not capitulate), interview with *HP/De Tijd* 12 December 2007.

⁷² First reaction of the Wilders Group (Groep Wilders) to the Budget Memorandum on www.geertwilders.nl 21 September 2004.

⁷³ Supreme Court 29 May 2001, NJ 2001, 694 and see especially The Hague Court of Appeals 7 May 1999, E.R. van Eck et al., (eds.), *Rechtspraak rassendiscriminatie 1995-2000* (Racial discrimination case law 1995-2000). Rotterdam: Landelijk Bureau ter bestrijding van Rassendiscriminatie, no. 514 with case note by Van der Meij.

⁷⁴ Supreme Court 28 August 2007, LJV BA5618, also see Vellinga's conclusion.

the controversial plans (discrimination against Muslims). Even back in 1996, the Supreme Court ruled that such objectives have no impact on punishability under art. 137d of the Criminal Code.⁷⁵ It is therefore possible that here too, the context does not mitigate the punishability of the remarks.

To speak of "race" in the *legal* sense, it is not necessary to use the *linguistic* term "race." The legal notion of race is broader than the notion used in ordinary discourse. It can also refer to religious minorities. In this context, Wilders's expressions often refer to a combination of religion and race. The terms "migrant," "Islam," "Muslims" and, more specifically, "Turks" and "Moroccans" are interchangeable in many of his statements. Some of these statements link problems with a particular race and others with a particular religion. Wilders for example attributes social problems such as the infrastructure, traffic jams, housing problems and the welfare state directly to migrants,⁷⁶ while stating before that: "we [...] have a enormous problem with Muslims:" "it is getting entirely out of hand."⁷⁷ It apparently concerns the same problems being blamed on people's ethnicity and on their religion, after having noted already in this study that among Muslims, race and religion seamlessly intersect.⁷⁸ Wilders himself says that some matters "cannot be seen in isolation."⁷⁹

Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination stipulates that the race also refers to organisations that assume the superiority of a particular race. Wilders has repeatedly claimed that "our culture is better than that of many immigrants,"⁸⁰ and he has even called those cultures "backward."⁸¹ Any talk of unequal cultures⁸² has ethnic implications, which is different from criticism of a religion as such. The result is an inflammatory atmosphere of superiority with regard to the Dutch culture, which has the essential characteristic of being "really Dutch," the culture that "has shaped and sustained this order and these rules of the game."⁸³ Taking stock of Wilders's statements not only a picture emerges in which a religion and its followers are held accountable for all the same problems. One of the first things the PVV would do after gaining power would be to close the borders to all non-Western

⁷⁵ Supreme Court 16 April 1996, NJ 1996, 527.

⁷⁶ Interview with DPA, the German press bureau, 3 January 2008.

⁷⁷ Sanne ten Hoove & Raoul du Pré, "De lijsttrekkers (3): Geert Wilders: 'De paus heeft gelijk'" (The party leaders (3): Geert Wilders: "The pope is right"), *de Volkskrant* 7 October 2006.

⁷⁸ P.R. Rodrigues, "De meervoudigheid van moslimdiscriminatie" (The multiplicity of Muslim discrimination) in: Anita Böcker et al. (eds.), *Migratierecht en rechtssociologie. Liber Amicorum Kees Groenendijk* (Migration law and sociology of law. Liber Amicorum Kees Groenendijk). Wolf Legal Publishers: Nijmegen 2008, pp. 479-486 and chapter 10, "Case law on racism and extremism in 2007."

⁷⁹ Sanne ten Hoove & Raoul du Pré, "Wilders vreest 'tsunami' moslims" (Wilders fears "tsunami" of Muslims), *de Volkskrant* 7 October 2006; also see Patrick Pouw, "Onze cultuur is gewoon beter" (Our culture is simply better), *Contrast*, March 2007.

⁸⁰ Joost Niemöller, "Wilders spreekt: Ik capituleer niet" (Wilders speaks: I will not surrender), interview with *HP/De Tijd* 12 December 2007.

⁸¹ Frans van Deijl, "Ik lust ze rauw" (Bring 'em on), *HP/De Tijd* 6 February 2004; "backward" in: Dutch politician plans to air film criticizing the Koran, *Fox News Channel* 25 January 2008, <<http://www.youtube.com/watch?v=j0jUuzdfqfc>> op 00:48 min. (28 August 2008) and *AP Television News* 19 November 2004.

⁸² "Dutch politician plans to Air film criticizing the Koran," *Fox News Channel* 25 January 2008.

⁸³ Geert Wilders, *Klare Wijn* (In plain terms, manifesto by Geert Wilders), 31 March 2006.

immigrants,⁸⁴ by which it means Muslims, especially "from countries like Morocco or Turkey."⁸⁵ If we add his remarks about violent Moroccan youths,⁸⁶ it becomes clear that defamation as well as incitement to hatred in the legal sense on the grounds of both race and religion can be found in Wilders's remarks.⁸⁷

8.3.3 Prosecution policy of the Public Prosecution Service (OM)

Numerous criminal complaints have been made against Wilders since 2006. The estimated number is around 45. On 6 February 2006, for instance, the El Tahweed Mosque in The Hague lodged an official complaint against Wilders on account of the Danish political cartoon, which he had posted on his website.⁸⁸ The number of complaints was especially high after interviews in *De Pers* in 2007, in which Wilders said the borders should be closed to Muslims and that many Muslims should be deported from the country,⁸⁹ and in *de Volkskrant* in which he spoke of banning the Koran. After a year, the persons making the complaints were told that the complaints would be combined and that more time was needed because of the instructions involved in such a case. Finally, on 30 June 2008, the decision to dismiss the case was announced at a press conference.⁹⁰ A few of the complainants made it known that they were lodging a complaint with the Amsterdam Court of Appeals.⁹¹ In late September, one of them said that the court would examine the complaint before the end of 2008.⁹²

Three procedural points can be observed in the dismissals.⁹³ The first that stands out is the relatively long period of time between the date the complaints were lodged and the announcement of the decision whether or not to prosecute. Even the Minister of Justice agrees that these disposal times are too long on the whole.⁹⁴ In this regard it can be argued that clearly delineated time frames should be set for the decision to prosecute and for issuing the summons. The case of Wilders, however, is labelled a sensitive one,⁹⁵ as it involves the prosecution of an MP.⁹⁶ While an MP does enjoy immunity with

⁸⁴ Sanne ten Hoove & Raoul du Pré, "De lijsttrekkers (3): Geert Wilders: 'De paus heeft gelijk'" (The party leaders (3): Geert Wilders: "The pope is right"), *de Volkskrant* 7 October 2006.

⁸⁵ Geert Wilders, "Den Haag laf tegen islamitisch extremisme" (The Hague cowardly with regard to Islamic extremism), *NRC Handelsblad* 22 July 2005.

⁸⁶ Sanne ten Hoove & Raoul du Pré, "De lijsttrekkers (3): Geert Wilders: 'De paus heeft gelijk'" (The party leaders (3): Geert Wilders: "The pope is right"), *de Volkskrant* 7 October 2006; also see the interview in *Contrast*, March 2007.

⁸⁷ The Hague Court of Appeals 25 February 2003, public prosecutor's office number 1101005302.

⁸⁸ *Algemeen Dagblad* 7 February 2006.

⁸⁹ "Wat drijft Geert Wilders" (What is driving Geert Wilders?), *De Pers* 13 February 2007.

⁹⁰ See the press release:

<http://www.om.nl/algemene_onderdelen/uitgebreid_zoeken/@148328/wilders_niet/> (29 August 2008).

⁹¹ See "Onbegrip bij klagers over besluit OM" (Incomprehension among complainants concerning OM decision), *de Volkskrant* 1 July 2008 (Nederland Bekent Kleur – the Netherlands Acknowledges Colour – among others) and "Spong wil alsnog vervolging Wilders" (Spong still wants to prosecute Wilders), *Algemeen Dagblad* 30 June 2008 (Spong et al.). These concern the complaint lodged with the court concerning the decision not to prosecute, or not to continue the prosecution, in accordance with art. 12 of the Code of Criminal Procedure.

⁹² ANP report of 27 September 2008.

⁹³ It should be noted that some of the complaints have not yet been decided by the OM.

⁹⁴ *Kamerstukken II* 2007/08, 31 200 VI, no. 130, p. 6.

⁹⁵ Aanwijzing Discriminatie (Discrimination Instructions), *Staatscourant* 2007, 233.

regard to his statements in parliament, this does not apply outside parliament.⁹⁷ Sensitive cases are always submitted to the National Expertise Centre for Discrimination (Landelijk Expertise Centrum Discriminatie; LECD) of the OM for advice. In accordance with the *Discrimination Instructions*, the discrimination officer is supposed to offer the decision to prosecute, along with the advice from the LECD, for review to the Board of Procurators General. Such a case requires more caution, and therefore more time. In addition to the time frame, the second point that needs to be looked into is the communication between the OM and the complainants. Experience teaches that a complainant must exercise a great deal of patience. Most complainants against Wilders, after receiving a confirmation of receipt from the OM, had to wait for more than a year before they heard anything else, even though this kind of communication is very important in sensitive cases.

The third point deals with the general rule in the *Discrimination Instructions* regarding prosecution. When rules governing discrimination are violated, a response in terms of criminal law (summons or settlement penalty) is always supposed to be forthcoming if the case is demonstrable and if the accused is liable to punishment. According to the *Instruction*, the scope for proceeding to dismissal is limited, to which it should be added that in cases of discrimination, opportuneness is assumed beforehand. The decision to issue a discretionary dismissal should be taken with the utmost caution. Nevertheless, the OM believes that it should settle the case itself in this way. Naturally the OM should not take cases to court that it knows have no chance of success. In the Wilders case, however, this was not entirely evident. This follows from both the analysis of case law outlined in this study and the long time required to reach a decision regarding the official complaints. Within the Dutch legal profession, views on the prosecution procedure are divided, as can be seen in the attitudes expressed in one of the points of discussion at the annual meeting (2008) of the Netherlands Legal Association (Nederlandse Juristen Vereniging; NJV).⁹⁸ Other arguments that can be put forward to get this case into court are the public uproar with regard to Wilders's statements and the large number of official complaints lodged against them.

In the dismissals, it was said that due to the interest of the public debate, there could be no punishability in this case. Another reason why punishability was deemed irrelevant was because the statements were aimed at the religion and not at believers. In addition, according to the OM, no unnecessarily offensive phrasing was used.

As shown in the previous section, this calls for a counter argument. Does not a politician also have the responsibility to prevent discord in society? It was with that goal in mind that codes of conduct were formulated⁹⁹ and international recommendations made.¹⁰⁰

⁹⁶ Y. Buruma, 'Strafvervolgving van een Kamerlid' (Criminal prosecution of a Member of Parliament), NJB 2008, pp. 749-750.

⁹⁷ Art. 71 of the Constitution.

⁹⁸ NJV annual meeting of 13 June 2008, also see Ybo Buruma, 'Zonder grote woorden en zonder dubbele standaard, De Nederlandse Juristen-Vereniging over multiculturaliteit en recht' (Without big words and without a double standard, the Netherlands Bar Association on the multicultural society and law), NJB 2008, p. 1647. The text of discussion point 2 is included in NJB 2008, p. 1417.

⁹⁹ *The Charter for political parties for a non-racist society*. For the text, see: www.art1.nl/artikel/2017-Charter_of_European_Political_Parties_for_a_non-racist_society (8 August 2008).

¹⁰⁰ CERD-Comité 2004, *General Recommendation no. 30, Discrimination against Non-Citizens*, par. 12.

The European Court of Human Rights (ECtHR) has decided that insulting the Prophet can be punishable on account of the implied insult to all Muslims.¹⁰¹ In addition, it should be noted that Muslims are more than simply a group of believers. The concept also has ethnic overtones, and it concerns the Dutch-Moroccan community as well. Wilders makes the same connection, and he includes culture when he talks about the criminal behaviour of young Moroccans.¹⁰²

8.4 Conclusion

To what extent can the PVV be linked to right-wing extremism? And to what extent are statements from the PVV discriminatory in character? These questions were discussed in two sections in this chapter, and the main conclusions are presented below.

Wilders and the PVV do not regard themselves as right-wing extremists, and they want to distance themselves from the extreme right. The main features of the ideology of the extreme right – in the Netherlands – can be summarised as follows: a positive attitude towards Sameness – Dutch identity – and an aversion to Otherness, as well as to political opponents and established politics in general, and a predilection for authoritarianism. These elements can also be found within the PVV, despite the verbal distancing that the PVV takes from the extreme right. The PVV's positive attitude concerns the Netherlands, but not the present Kingdom of the Netherlands. The ideal Netherlands is free of the Antilles, while Flanders has been added to it. For the PVV, ethnic homogeneity is apparently more important than the present national borders.

The aversion to Otherness concerns an alleged "Islamisation," "non-Western immigrants," and is expressed in a series of strongly-worded phrases, several examples of which have been presented here: "tsunami," "rogue islands," "Muslim colonists." This is not an exhaustive list. If the right-wing extremist schools of thought are divided into "national democrats" and "racial revolutionaries," the PVV would be included in the first category and not in the second. The characteristics of the "racial revolutionaries," or neo-Nazism, are not apparent in the PVV. We did not find any trace of anti-Semitism in the PVV, or any positive identification with Nazi Germany. On the contrary, just the opposite is true.

The PVV does exercise a certain magnet effect: there are indications that right-wing extremists are attracted by the PVV, but not right-wing extremists with a neo-Nazi orientation, as far as we can tell. People in the latter circle are opposed to Wilders and the PVV, or even openly hostile. Wilders does not have a right-wing extremist background, and that applies to the other members of the PVV parliamentary group as well. The PVV did not emerge from a right-wing extremist tradition, as many right-wing extremist groups in the past have done. Seen in this light, the PVV is the odd man out.

¹⁰¹ Dirk Voorhoof, "Europees Hof tolereert geen beledigingen aan adres profeet" (European Court does not tolerate insults to the Prophet), *De Juristenkrant* 2005/115, 1; ECHR 13 September 2005 (I.A. vs. Turkey), 42571/98, and recently ECHR 10 July 2008 (Soulas vs. France), European Human Rights Cases 2008, 112 with case note by Gerards.

¹⁰² Sanne ten Hoove & Raoul du Pré, "De lijsttrekkers (3): Geert Wilders: 'De paus heeft gelijk'" (The party leaders (3): Geert Wilders: "The pope is right"), *de Volkskrant* 7 October 2006.

The PVV is highly hierarchical in its organisation. So far there are no members between the voters and the minuscule party leadership. Virtually all power is concentrated in the hands of Wilders. The PVV's party organisation is not democratic, and we do not find "authoritarian" to be a far-fetched way of describing it. Because the PVV admits no members, it is impossible to find anyone with a former right-wing extremist past in its ranks. The question, then, is what would happen if the PVV were to open its doors? We regard it as extremely likely that dozens of right-wing extremists, who are no more radical than the PVV itself, would try to sign up as members, not only because the PVV has great appeal to them but also because many right-wing extremists became homeless after the demise of a number of right-wing extremist parties in recent years, giving them enormous potential.

In this chapter we have also spent a great deal of time discussing the extent to which remarks by the PVV are discriminatory in character, in the context of the legal prohibitions on discrimination and according to the prosecution policy of the OM. There is no unambiguous answer, either in the legal literature or in case law. A great deal depends on the specific circumstances of the incident, and they demand a judgement by the court. We have tried to place Wilders's remarks in a broader context and to compare them with recent judgements. It is clear that even politicians are not above the law when they express their political ideals. This line of reasoning also occurs in the European Court of Human Rights.¹⁰³ Wilders also makes statements in which criminalisation, creating social division and denying rights are important themes. We have shown that these are the very themes that have led to criminal prosecution.

When the Public Prosecution Service (OM) was deciding whether to prosecute or not, the aspect of possible discrimination on the grounds of race was entirely ignored. It is our opinion that Wilders effortlessly draws a straight line from religion to culture. In fact, this plurality of discriminatory statements against Muslims is included in the recent judgements by the Supreme Court. All the more reason for a court to pronounce full judgement on the possible punishability of the remarks. In other words: judgement should not come from the OM but from an independent court.

The PVV is a relatively young party with a correspondingly brief history. Because of this, the margins for a balanced judgement are narrower than we would like. Researchers would prefer to follow the PVV for a somewhat longer period. How would the PVV do in a series of elections? What would party conferences be like? And how about the coming judicial process? Such questions still cannot be answered. Our research findings are based on a brief current history and for that reason can be regarded as an interim balance sheet. Indeed, it is quite probable that in the near future a more detailed systematic study of the PVV will be conducted. We hope that our findings will be of use in this effort.

¹⁰³ R. Lawson, "Wild, Wilder, Wildst, Over de ruimte die het EVRM laat voor de vervolging van kwetsende politici" (Wild, Wilder, Wildest, On the scope provided by the ECHR for the prosecution of offensive politicians), *NJCM-Bulletin* 2008, pp. 469-484.

9 Investigation and prosecution in 2007

Marija Davidović and Peter R. Rodrigues

Combating discrimination through the criminal courts has received a great deal of attention lately. The police and the Public Prosecution Service (Openbaar Ministerie; OM) have given explicit priority to grappling with this form of criminality. At the same time, voices in both the public and the political debate have been increasingly insistent that protection against discrimination should not result in an excessive curtailment of the freedom of expression. This chapter looks at the various instruments that are offered by criminal law to fight racial discrimination and at how these instruments are acquired. The preceding paragraph pays attention to the freedom of expression.

In analysing the investigation and prosecution of discriminatory acts punishable by law, use was made of data provided by the National Police Services Agency (Korps Landelijke Politiediensten; KLPD), Statistics Netherlands (Centraal Bureau voor de Statistiek; CBS) and the National Expertise Centre for Discrimination (Landelijk Expertise Centrum Discriminatie; LECD) for the Public Prosecution Service (OM). However, the data that have been provided are limited to discriminatory acts punishable by law, which means that data on criminal offences aggravated by discriminatory behaviour are not included.

9.1 Freedom of expression

According to an old English expression, "sticks and stones may break my bones, but words can never hurt me." This same idea explains the importance that the United States attaches to the right to free expression as laid down in the First Amendment to the Constitution of the United States of America. Yet in democratic societies countless exceptions are made to this basic right. In the context of the European measures against terrorism, for example, posting instructions on the internet on how to make explosives is a punishable offence.¹ Then there are the almost classical restrictions on freedom of expression, such as punishment for incitement, defamation, libel and insult.

In the Netherlands, discriminatory defamation has been punishable since 1934 (art. 137c of the Criminal Code).² Later this became an almost worldwide practice when the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) came into effect. This UN convention allows countries that follow different traditions with respect to the expression of opinion to insert an exclusion clause with regard to discriminatory defamation (art. 4 paragraph a ICERD).

In the Netherlands, the stipulations laid down in the ICERD were applied in full in 1971, and the Dutch criminal statutes were modified accordingly. This is not to say that free speech was thereby cast aside. On the contrary, the ICERD is a human rights convention and is geared to the other human rights conventions, such as the *European Convention of Human Rights* (ECHR). The right to free expression contained in art. 10 ECHR stipulates that this right can be subjected to certain formalities, conditions,

¹ *Kamerstukken II* (Official Reports of the House of Representatives of the States General) 2007/08, 28684, no. 133.

² Act of 19 July 1934, *Staatsblad* (Bulletin of Acts and Decrees) 1934, 405.

restrictions or sanctions that are provided for by law. The prohibition on discriminatory defamation is an exception,³ but by no means does it deal a death blow to freedom of expression. The same is true of inciting discrimination, hatred or violence (art. 137d of the Criminal Code). This hate-mongering is much less controversial than discriminatory defamation (art. 137c), as jurisprudence suggests in the objections to art. 137c raised by Rosier in 1997.⁴

Resistance against this penal provision has undergone a strong revival in political circles, especially by Pim Fortuyn in 2001. In the famous interview in *de Volkskrant* he proposed that art. 1 of the Constitution be eliminated because it supposedly prohibits discriminatory statements.⁵ In fact he proposed the elimination of art. 137c. His explicit views also led to a social debate on the relationship between freedom of expression and crimes of expression. That debate is still going on, and the question of whether Wilders is guilty of discrimination because of his statements and whether he should be prosecuted is discussed elsewhere in this Monitor.⁶

A public discussion of the legitimacy of certain legislation is always important. Law is not static, after all; it evolves according to time, place and changing circumstances. When a clash occurs between two basic rights, it is impossible to know ahead of time which right is going to come out the winner. The same is true of a clash between the right to free expression and the prohibition on discrimination. The European Court of Human Rights (ECtHR) has had to weigh these rights against each other in countless judgements. In doing so it applies a universally accepted principle of law: abuse of rights. This means that a person who is guilty of violating the ECHR can no longer rely on protection under the Convention.⁷ Nor does a particular social status give a person licence to say whatever he or she likes.⁸ Thus artistic expressions are sometimes prohibited by the ECtHR if they are in violation of the discrimination prohibition.⁹ Politicians may not shirk their social responsibility, either. They, too, are bound to keep their public statements within certain limits.¹⁰

In the Netherlands, the balance between the freedom of expression and crimes of expression is in a state of flux. Interestingly, when it comes to fighting terrorism, limitations to the freedom of expression are perceived as much less problematic. A counter movement is also taking place. Relatively new international legislative measures

³ ECtHR 23 September 1994, E.R. van Eck et al. (eds.), *Rechtspraak Rassendiscriminatie 1995-2000*. Rotterdam: Landelijk Bureau ter bestrijding van Rassendiscriminatie 2001, 355, esp. Dommering and esp. Knigge (Jersild).

⁴ Theo Rosier, *Vrijheid van meningsuiting en discriminatie in Nederland en Amerika* (Freedom of expression and discrimination in the Netherlands and America) (diss. Amsterdam VU). Ars Aequi Libri: Nijmegen 1997.

⁵ See *de Volkskrant* 9 February 2002.

⁶ On this topic see chapter 8, The extreme right and the discriminatory content of the PVV.

⁷ ECtHR 23 September 1998, A.C. Possel (ed.), *Rechtspraak rassendiscriminatie 1995* (Case law on racial discrimination). Utrecht: Landelijk Bureau Racismebestrijding [etc.] 1995, 490 (Lehideux).

⁸ C.M. Strengers, "Het EHRM en zijn angstvallige houding ten aanzien van de artistieke expressie" (The ECtHR and its scrupulous attitude towards artistic expression), *Nederlands Juristenblad* (NJB) 2008, pp. 878-882.

⁹ ECtHR 20 September 1994, *Nederlandse Jurisprudentie* (NJ) 1995, 366 (Das Liebeskonzil).

¹⁰ ECtHR 6 July 2006, *European Human Rights Cases* (ECHR) 2006/110 (Erbakan).

have been taken so that racist remarks can be dealt with more effectively. This legislation will be discussed in the next section.

9.2 Legislation

In 2007 a European-wide legal basis was created for criminal prohibitions on racism.¹¹ After six years of negotiation, the ministers of justice of the European Union reached an agreement on the wording of a *Framework decision on combating racism and xenophobia*.¹² This decision stipulates that inciting hatred or violence out of racist or xenophobic motives is punishable in all EU countries, along with the public whitewashing of genocide, crimes against humanity and war crimes.¹³ When it comes to "ordinary" crimes, racist or xenophobic motives should be regarded as aggravating circumstances in determining the penalty.

In 2008 the European Parliament delivered a positive opinion on the *Framework decision*. The next step will be to submit this opinion to the Council of Ministers for a decision. In preparation, the Minister of Justice has asked the Senate of the Dutch Parliament for their endorsement of the *Framework decision*.¹⁴ The provisions contained in the *Framework decision* will not have direct effect in the national legal system of the Netherlands. Member states whose national law does not penalise the behaviour in question have two years to do so after the proclamation of the decision.

An older decision, but likewise a decision that has yet to become operative in the Netherlands, is the first *Additional Protocol to the Convention on Cybercrime*. In this *Protocol*, distributing racist statements and making them available is made punishable.¹⁵ The *Additional Protocol* was signed by the Netherlands on 28 January 2003 and ought to be followed by a bill to approve the *Protocol*.¹⁶ As of the completion of this chapter, however, no such bill was forthcoming.

A few adjustments in existing legislation that are relevant to combating racial discrimination have been proposed recently in the Netherlands. On 15 September 2007 a revised *Police Act* went into effect.¹⁷ By using the new system, this act enables police ministers (the Minister of Justice and the Minister of the Interior and Kingdom Relations) to set long-term priorities for the police at the national level.¹⁸ We have already noted¹⁹ that the subject of discrimination is missing for the period 2008-2011.²⁰ In her response to questions on this matter from MP Dibi, the Minister of the Interior and Kingdom Relations indicated in her letter of 17 December 2007 that the government attaches

¹¹ Press release, Council of Ministers of the European Union, 19 April 2007.

¹² Official Journal of the European Union 2002, C 75 E/269.

¹³ For a brief explanation and provisional text, see *NJCM-Bulletin* 2007, 916-925.

¹⁴ *Kamerstukken II* 2007/08, 23 490, DC.

¹⁵ *Tractatenblad* (Treaty Series) 2003, 60; for the Dutch text see *Tractatenblad* 2005, 46.

¹⁶ *Kamerstukken II* 2004/05, 30 036 (R 1784), no. 3, p. 6.

¹⁷ For the act itself see *Staatsblad* 2007, 180; for the implementation decree see *Staatsblad* 2007, 326.

¹⁸ *Kamerstukken II* 2006/07, 29 628, no. 50.

¹⁹ M. Davidović & P.R. Rodrigues, *Monitor Racisme & Extremisme. Opsporing en vervolging in 2006* (Racism & Extremism Monitor. Investigation and prosecution in 2006). Amsterdam: Anne Frank House / Leiden University 2007.

²⁰ *Kamerstukken II* 2007/08, 29 628 and 28 824, no. 50.

great importance to combating discrimination.²¹ According to the Minister, combating discrimination is a priority for the cabinet, now and for the years to come. It was not deemed necessary to mention discrimination as a national priority for the police because the Coalition Agreement states that official reports of discrimination will always be followed up on. Otherwise, tackling discrimination remains high on the police agenda, according to the minister.

On 12 March 2008 the government proposed an amendment to the Criminal Code which, among other things, would make it possible to disqualify a person from his or her profession as an additional penalty for discrimination.²² If a perpetrator is found guilty of a discriminatory offence (art. 137c-g of the Criminal Code) and this offence was committed in the exercise of his or her profession, then he or she can be prevented from exercising that profession.

In the spring of 2008, the government submitted a proposal to modify the Media Act for the purpose of preventing extremists from sowing hatred in the media.²³ According to article 22 *bis* of the European television guidelines, member states must ensure that any trace of incitement to hatred on the basis of race, gender, religion or nationality be absent from television broadcasts. According to the government, this provision was implemented in the Netherlands by means of art. 137d of the Criminal Code.²⁴ The modifications in the Media Act ensure that in the event of violation, the possible responses include fines or temporary revocation of the broadcasting licence.

On 25 April 2008 a bill concerning the Municipal Anti-Discrimination Relief Act was submitted to the House of Representatives.²⁵ The government's aim with this bill was to make sure that citizens have full recourse to assistance in their immediate surroundings if they feel discriminated against. For this reason the bill requires that the municipal executive of every municipality grant their residents access to anti-discrimination relief (antidiscriminatievoorziening; ADV).²⁶ Anti-discrimination relief is a collective term that is used to denote the organisations charged with at least these two tasks: assistance and registration. This bill guarantees each citizen access to anti-discrimination relief, thereby creating a comprehensive chain of national and local facilities involved in combating discrimination.

The following criminal discrimination prohibitions were in force in 2008:

- article 90quater of the Criminal Code defines discrimination as pertaining to criminal law;
- article 137c of the Criminal Code prohibits discriminatory defamation;
- article 137d of the Criminal Code makes inciting hatred, discrimination or violence a punishable offence;
- article 137e of the Criminal Code prohibits the dissemination of discriminatory statements and displays;

²¹ *Kamerstukken II 2007/08, 2007-2008, 29 628, no. 66.*

²² *Kamerstukken II 2007/08, 31 386, nos. 1-3.*

²³ *Kamerstukken II 2007/08, 31 356, nos. 1-3.*

²⁴ Explanatory memorandum, p. 17.

²⁵ *Kamerstukken II 2007/08, 31 439, nos. 1-3.*

²⁶ This is the official new terminology for the Anti-Discrimination Agency (Anti-Discriminatie Bureau; ADB).

- article 137f of the Criminal Code prohibits providing support to discriminatory activities;
- article 137g of the Criminal Code prohibits discrimination on the ground of race in exercising an office, practising a profession or running a business;
- article 429quater of the Criminal Code prohibits the same offence as 137g of the Criminal Code, but without the requirement of intentionality and on more grounds than race. This is the so-called misdemeanour variant.

In 2004 the sentence for offences 137c, 137d, 137e and 137g of the Criminal Code were doubled if the crime is committed by two or more persons or by someone who makes the crime his profession or who commits it habitually. The complete text of the prohibitory provisions is included in the overview of criminal discrimination prohibitions (Appendix).

The application of criminal law is not the only instrument used to combat discrimination. Prevention and close cooperation between chain partners, including municipalities and anti-discrimination agencies, is just as important. To this end, the Minister of the Interior and Kingdom Relations and the Minister of Justice organised the Joint Approach to Discrimination conference on 7 June 2007.²⁷ The decision to work together more intensively in the area of discrimination will be further developed in the Joint Approach to Discrimination workgroup, which was launched in the summer of 2007. The members of government are planning on organising an annual meeting with chain partners to take stock of the current situation, coordinate policy and intensify efforts, if necessary.

9.3 Official instructions

Since the 1980s, the Board of Procurators General has issued instructions in order to guarantee the quality of investigation and prosecution in cases of discrimination. The most recent of these are the *Discrimination Instructions* of 30 November 2007.²⁸ They contain instructions and regulations for the police, and in principle they cannot be deviated from: they are mandatory, normative policy rules.²⁹

According to the *Instructions*, learning more about the nature and scope of the discrimination problem at the level of political regions is very important. An essential aspect of this is the registration of all discriminatory incidents by way of tips, reports and official signed police reports. All reports concerning discrimination must be recorded. The registration requirement applies to discrimination prohibitions and offences under general criminal law with a discriminatory dimension, such as use of force in a public place, theft and vandalism. The police are required to draw up a list periodically for the OM (Public Prosecution Service) based on this registration. In each police corps there is an officer at the strategic level who is charged with these duties and who holds the portfolio, and at the operational level there is a contact official for discrimination.

²⁷ For the results see <www.justitie.nl/discriminatie> (10 July 2008).

²⁸ *Staatscourant* (Government Gazette) 2007, 233.

²⁹ B.E.P. Meyer, "Gedragscode OM: frisse wind bij open deuren" (Code of conduct of the Public Prosecution Service: open doors let in fresh air), *Trema* 2001, pp. 245-252.

As far as the public prosecutor is concerned, all discriminatory offences, including offences under general law with a discriminatory dimension, must be registered in a separate data processing system. The main rule is that any violation of a statutory provision must always be followed by a criminal response, if the case is demonstrable and the suspect is liable to punishment. This is important not only because of the negative effect of inadequate enforcement but also because criminal prosecution serves as an example to others.

As for opportuneness the guiding principle that the OM follows when foregoing prosecution), the *Instructions* assume that it is inherent in cases of discrimination.³⁰ According to the *Instructions*, the decision to award a discretionary dismissal should be made "with great restraint."³¹ This is underscored by the directive that if there is evidence of a discriminatory offence, a summons should always be issued as a matter of principle. Only in minor cases can an on-the-spot fine be offered first. The instruction that public prosecutors are obliged to increase the penalty by 25% in cases of offences under general criminal law with a discriminatory dimension still applies in full. If there are no criminal proceedings (dismissal), the parties who made the report and any injured parties will be notified of the decision.

To facilitate the development of a uniform and effective policy among the police and the OM, and to settle these cases successfully, good mutual coordination is required. To this end, public prosecutors for cases of discrimination have been appointed in each of the eleven regional public prosecutors' offices. These prosecutors take on the actual settlement of cases of discrimination due to the specialist nature of the material. At the five public prosecutor's offices at the court of appeals, this is done by an Advocate General for cases of discrimination. On the Board of Procurators General, one Procurator General is charged with the discrimination portfolio.

9.4 National Expertise Centre for Diversity

Since 2005, the discrimination portfolio has had a permanent place in the National Expertise Centre for Diversity (Landelijk Expertise Centrum Diversiteit; LECDiv) of the Police Academy. The function of the LECDiv is to inspire and to advise, and it supports the various corps in their approach to discrimination. According to the LECDiv there is a clear-cut relationship between this approach to discrimination and the diversity policy of the police,³² while also co-determining the legitimacy of the police. For these reasons, the theme within the LECDiv is an integral part of the diversity policy.

The National Dutch Police Structural Plan for 2007 contains process agreements on discrimination.³³ The corps are required to inform the Public Prosecution Service, the local government and any relevant partners of the current situation with regard to discrimination and criminality. The corps are also required to implement the nine preconditions on combating discrimination as set down by the Board of Chief

³⁰ Other than on the grounds of technical legal considerations.

³¹ For an explanation of the term "discretionary dismissal" see section 9.6.2.1.

³² Landelijk Expertise Centrum Diversiteit, *Het jaar van het Multiculturele Vakmanschap, Jaarverslag 2007* (The year of multi-cultural craftsmanship, 2007 annual report), p. 30.

³³ See the 2007 Annual Report of the Dutch police, pp. 22-23, and the presentation letter *Kamerstukken II 2007/08*, 29 628 and 28 824, no. 90.

Commissioners on 14 January 2004. These preconditions have now been incorporated in the *Discrimination Instructions of 2007*.

During the intake process at the police station, it is essential that the staff person be able to recognise discrimination as a motive when a crime is reported. A professional attitude during the intake process ultimately increases the willingness of victims to report these crimes. So in January 2007 the Dutch Board of Chief Commissioners decided that structural attention should be paid to discrimination as an aspect of police training. The Police Academy has implemented this decision within the core assignment known as "Service & Intake" in initial and post-initial training.

For tackling a violent offence under general criminal law in which discrimination plays a role, the processing system used by the police needs to provide data by which the nature and scope of these crimes can be evaluated. To this end, in 2009 all regional police corps will be given the same data processing system. The system will include a code for "discrimination" so that offences under general criminal law with a discriminatory dimension can be registered. In January 2007 the Board of Chief Commissioners also ordered the LECDiv to develop a uniform format for the analysis of regional criminality (criminaliteitsbeeldanalyse; CBA) having to do with discrimination. To carry out this assignment, the LECDiv has begun using a uniform case review. The plan is that every police region will begin using the same case review in 2008. On the basis of the picture of regional criminality thus obtained, the police will produce a first national criminality survey on discrimination.³⁴

In 2008 the LECDiv and the regional police corps of Amsterdam and Gelderland-Zuid started the hate crimes project.³⁵ Hate crimes are felonies and misdemeanours that have a discriminatory basis. The willingness to report such incidents is also limited.³⁶ The essence of the project is to raise awareness within the police corps, to produce recognisable information folders and booklets that are specifically designed for a particular target group and to launch a website.³⁷ By these means, victims can call in tips or make reports anonymously if they choose to do so. The project was inspired by experiences in Britain and will be introduced nationally in 2011.³⁸

9.5 Police statistics

Since 2005 the National Police Services Agency has been compiling national figures on people suspected of committing criminal discriminatory offences, art. 137c-g of the Criminal Code. Statistics Netherlands also produces annual figures on how the charge of criminal discriminatory offences has been used and applied by the police. In this section we will examine this data, first from the KLPD and then from the CBS.

³⁴ See the Minister's response to parliamentary questions: *Aanhangsel Handelingen II*, 2007/08, 2490.

³⁵ See <www.lecd.nl> (10 July 2008).

³⁶ On the willingness to report, also see *Aanhangsel Handelingen II* (Appendix to the Official Acts of the House of Representatives of the States General) 2007/08, 2487.

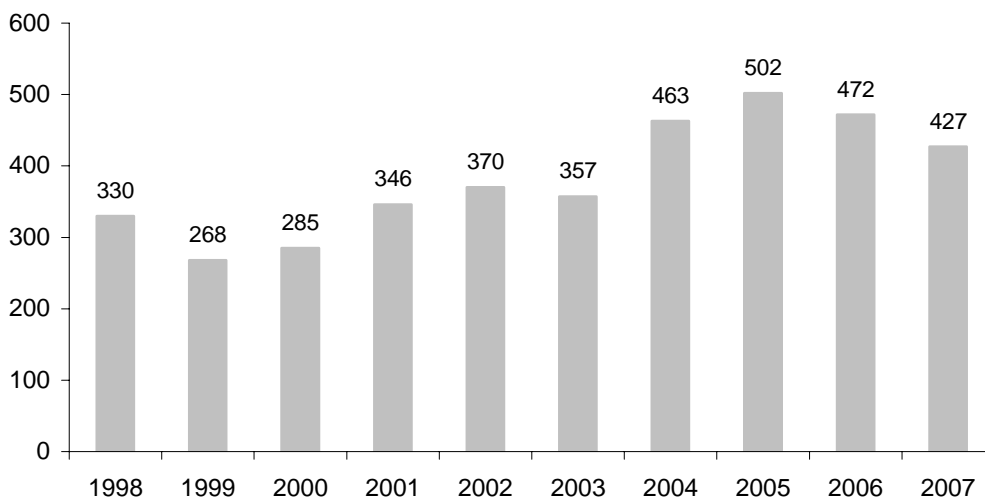
³⁷ See <www.hatecrimes.nl> (10 July 2008).

³⁸ *Kamerstukken II* 2007/08, 2007-2008, 29 628, no. 66.

9.5.1 National Police Services Agency (KLPD)

The KLPD uses a Recognition Service System (Herkenningdienst Systeem; HKS) for collecting data. In the period 2003-2007, this person-specific investigation system was used to search for arrested persons who had been suspected of violating at least one of the criminal prohibitions on discrimination. The HKS is concerned with felonies alone, so it provides no insight into people suspected of violating art. 429quater of the Criminal Code: discrimination without intentionality in the exercising of an office, practising of a profession or running of a business.

Figure 9.1 Number of arrested suspects of criminal prohibitions on discrimination per year



Source: KLPD

As far as the results for 2007 are concerned, there is one change that should be taken into account. The annual figures as first input into the system are provisional. After this the data is processed a second time to make up for backlogs among the regional corps. The 2007 figures have not yet been subjected to this second round of processing. For this reason the total for that year will probably end up being higher. As a result of this correction, the numbers from 2006 have been adjusted and definitely adopted.

If someone is suspected of several discriminatory felonies, each of these felonies is counted separately. This is why the table with suspects according to article of the law deviates from the overview of suspects per year.

Table 9.1 Number of arrested suspects of criminal prohibitions on discrimination per article of the law

	2003	2004	2005	2006	2007
Article of the law					
137c	213	254	274	224	165
137d	87	147	205	131	143
137e	36	54	91	68	47
137f	46	6	38	16	15
137g	25	73	75	110	98

Source: KLPD

Discriminatory defamation (art. 137c of the Criminal Code) and inciting hatred (art. 137d of the Criminal Code) are closer than ever in terms of numbers, with art. 137c showing a dip and 137d an increase. One explanation for this might be that the police are less quick to register an incident as discriminatory defamation and are more likely to regard the incident as inciting hatred, discrimination or violence.

The number of registrations of incidents concerning the prohibition on distribution (art. 137e of the Criminal Code) also decreased in 2007. Those concerned with providing support (art. 137f of the Criminal Code) remained at almost the same level as the previous reporting year, but that level is still relatively high in view of the fact that almost no legal proceedings involving this article were brought.³⁹ The number of registrations of incidents concerned with discrimination in exercising an office, practising a profession or running a business (art. 137g of the Criminal Code) is still quite high, despite a slight drop.

9.5.2 Statistics Netherlands (*Centraal Bureau voor de Statistiek; CBS*)

CBS publishes the police statistics that are part of the *Crime and law enforcement* longitudinal study.⁴⁰ These are data from the data processing systems of the regional police corps. Incidents that are registered as discriminatory felonies – art. 137c-g of the Criminal Code – are filtered out of these systems. As in the HKS, the misdemeanour version of art. 429quater of the Criminal Code is not included.

Table 9.2 Discriminatory felonies in which an official report was made

	CBS	HKS
2003	396	357
2004	507	463
2005	535	502
2006	525	472
2007	520	427

Source: CBS and KLPD

³⁹ See section 9.6.1.

⁴⁰ See <<http://statline.cbs.nl/>> (5 August 2008).

The CBS figures refer to the number of discriminatory offences for which official reports were made, while the HKS data from the KLPD are based on "suspected" persons. Because not all persons who are suspected of felonies are arrested, the number of official reports of discriminatory felonies is higher than the number of arrested suspects. The police statistics from the CBS also help clarify whether incidents of discrimination are registered as unofficial reports or as official signed reports in the various police regions.

Table 9.3 Registered unofficial reports and official signed reports in the 26 regional corps

	2006	2007
Registered unofficial reports	1009	897
Registered official signed reports	525	520

Source: CBS

In 2007 the proportion of unofficial reports to official signed reports improved slightly over 2006. Even so, it still seems that too many cases are registered as unofficial reports without official signed reports being made. These are probably cases in which persons report an incident that has no chance of conviction. If the police decide not to pursue the case any further, that decision must be communicated in writing to the person making the report and must be adequately substantiated, and the person making the report has a right to lodge a complaint on account of failure to prosecute.⁴¹

CBS also provides data on the clearing up of discriminatory felonies.

Table 9.4 Cleared up discriminatory felonies

	2003	2004	2005	2006	2007
Registered criminality	396	507	535	525	520
Cleared up felonies	169 (43%)	225 (44%)	225 (42%)	210 (40%)	225 (43%)

Source: CBS

The clear-up rate for discrimination is relatively high and amounts to approximately twice the average of all criminal offences. That average was 22.7% in 2007 and in recent years around 22%.⁴²

⁴¹ Art. 12 Code of Criminal Procedure.

⁴² See <<http://statline.cbs.nl/StatWeb/publication/?dm=sInl&pa=37932&D1=2-3-&D2=0,2-4&D3=0&D4=a&VW=T>> (5 August 2007).

9.6 National Expertise Centre for Discrimination

The National Expertise Centre for Diversity of the police, as discussed above, serves as the counterpart to the National Expertise Centre for Discrimination of the Public Prosecution Service (OM). These two knowledge centres are responsible for providing analyses of criminality in terms of figures on discrimination, for which the KLPD is responsible.

The OM's LECD is part of the Amsterdam District Public Prosecutor's Office, and its task is to promote effective criminal enforcement in cases of discrimination. Its activities include maintaining the central registry of discrimination cases as well as providing advice to the eleven regional public prosecutors' offices, each of which has its own discrimination officer.⁴³ Since cases of discrimination are relatively rare and are therefore vulnerable to knowledge loss, the LECD also sometimes coordinates current criminal investigations.

The working procedure of the LECD is largely determined by the registration method used by the public prosecutors' offices. They register data by means of COMPAS,⁴⁴ the OM's judicial data processing system that contains information on inflow and settlement. These data, however, are only accessible per region. So the discriminatory offences are filtered out of all the COMPAS data by way of the ICT department by searching for prohibitions on discrimination (art. 137c-g and 429quater of the Criminal Code). Discrimination enters criminal law in two forms, however. One is violation of the discrimination articles that have already been mentioned. Then there are criminal offences aggravated by discriminatory behaviour: violation of other articles of the Criminal Code in which discrimination is present as an underlying aspect. In spite of this, such offences are not included in the Public Prosecution Service figures on discrimination. If arson is committed to protest an asylum seeker centre, or if someone is assaulted because of his origins, these crimes are often only registered as offences under general criminal law: arson (art. 157 of the Criminal Code) or assault (art. 300 of the Criminal Code) respectively.⁴⁵ The *Discrimination Instructions* do require the registration of the discriminatory aspect. Failing to do so cannot be justified by appealing to the limitations of COMPAS, as shown in a successful experiment to register criminal offences aggravated by discriminatory behaviour in the Amsterdam public prosecutor's office in 2004.⁴⁶

Nationally, the Public Prosecution Service has developed a new registration system (GPS)⁴⁷ that is supposed to compensate for this omission, but turning it operational is a

⁴³ Previously the 19 district public prosecutors' offices, Public Prosecution Service, *Perspectief op 2010* (2010 in perspective). The Hague: Openbaar Ministerie 2006, p. 21.

⁴⁴ COMPAS stands for Communicatiesysteem Openbaar Ministerie – Parket Administratie Systeem (Communication System of the Public Prosecution Service – Administration System of the Public Prosecutors' Offices).

⁴⁵ Cf. C. Brants, R. Kool & A. Ringnalda, *Strafbare discriminatie*. Den Haag: Boom Juridische Uitgevers 2007 p. 22, <<http://www.wodc.nl/onderzoeksdatabase/strafmaat-discriminatiezaken.aspx>> (18 August 2008).

⁴⁶ P.R. Rodrigues, "Opsporing en vervolging" (Investigation and prosecution), in: J. van Donselaar & P. R. Rodrigues, *Monitor racisme & extreem-rechts, zesde rapportage* (Monitoring racism & the extreme right, sixth report). Amsterdam: Anne Frank House / Leiden University 2004, p. 188.

⁴⁷ GPS stands for Geïntegreerd Processysteem Strafrecht (Integrated Criminal Law Processing System).

slow process.⁴⁸ If the system becomes operational for discrimination throughout the country in 2009, no annual figures will be available until 2010.

In conclusion, one comment should be made about the method used by the LECD. It differs from the police method described in section 9.5.1, the Recognition Services System (HKS), which registers individual persons. The LECD method processes the figures by counting discriminatory *offences*. This is important since one case can consist of several offences, all of which are registered separately. In addition, only cases in the first instance are reviewed, which means that the courts of appeals and the Supreme Court fall outside the scope of this registration.

9.6.1 Inflow

There were 216 discriminatory offences in the year 2007, a drop of 12% with respect to 2006. One explanation for this is the slightly reduced (4%) number of suspects of discrimination supplied by the police, from 446 in 2006 to 427 in 2007.⁴⁹ None of the other criminal cases in the first instance show a similar decrease. They involve an increase of 3.2% in persons arrested by the police and of 1.7% in the cases flowing into the Public Prosecution Service.⁵⁰ Why cases of discrimination run counter to this trend is difficult to explain. The same phenomenon can be seen in offences under general criminal law with a discriminatory aspect. The percentage of all violent crimes rose by 7.5%,⁵¹ while the figures for racist and extreme right-wing violence dropped.⁵²

The underlying principle is that the police are obliged to pass on the official signed reports having anything to do with discrimination to the Public Prosecution Service. What is striking is the difference – in 2007 as well – with the number of persons registered by the police in HKS (427). One obvious reason why the police sometimes departed from this principle and decided not to pass on the report was because there was no known perpetrator. There are two other possible explanations as well.

First, because of context but also because of differences in insight, offences that are originally reported as discriminatory offences are regarded by the Public Prosecution Service as general criminal offences and therefore are not included in the count. In addition, some discriminatory offences are actually dealt with as dismissals by the police but are not treated as such: thus cases are set aside because there is no chance of a conviction. These are known as "plankzaken" – cases that are put on the shelf.⁵³

Despite these explanations, we have not been able to acquire enough information to explain the considerable difference between the figures provided by the police and those from the Public Prosecution Service.

⁴⁸ *Jaarbericht 2007. Openbaar Ministerie in Cijfers* (2007 Annual Report: Public Prosecution Service in Figures), p. 1, <<http://www.om.nl/publish/pages/93904/Jaarbericht%2007%20Cijfers.pdf>> (26 August 2008).

⁴⁹ See section 9.5.1, figure 9.1.

⁵⁰ *Jaarbericht 2007. Openbaar Ministerie in Cijfers*, p. 3.

⁵¹ In 2007 this concerned 58,600 offences, an increase of 7.5%, *Jaarbericht 2007. Openbaar Ministerie in Cijfers*, p. 5.

⁵² See chapter 2, "Racial and extreme right-wing violence in 2007."

⁵³ Also see section. 9.6.2.1.

Besides the general decline with respect to the previous year that is shown in table 9.5, there are several other striking matters concerning the inflow in 2007 for each article of the law. Art. 137c of the Criminal Code, discriminatory defamation, is still the clear front runner by three quarters and deviates from the new trend seen in the police figures. There art. 137d of the Criminal Code is on the rise.

Table 9.5 Inflow of discriminatory offences into the Public Prosecution Service per article of the law, 2003-2007

	2003	2004	2005	2006	2007
Article of the law					
137c	154	165	166	187	166
137d	18	29	46	18	27
137e	13	15	10	25	7
137f	1	0	2	1	0
137g	17	5	9	10	16
429quater	1	0	8	5	0
Total	204	214	241	246	216

Source: LECD

Article 137e of the Criminal Code, a prohibition on distributing discriminatory statements, accounted for an unusually large proportion of the offences: 10%. In 2007 it dropped to 7, the other extreme. There is no conclusive explanation for this, although possible explanations include changing interpretations of the various offences in attributing the discrimination articles, or a reduced inflow of this type of offence.

Art. 137g of the Criminal Code, intentional discrimination in exercising an office, practising a profession or running a business, measures up to the number for 2003 with more than 7% of the offences in 2007. The 16 crimes of exclusion contrast sharply with reports of discriminatory door policies at certain hotels, restaurants and cafés⁵⁴ and distinctions made in recruitment and selection by employers.⁵⁵

9.6.2 Settlements

After the police have tracked down the suspect, the official signed report is sent to the office of the public prosecutor, who can respond in three possible ways (settlements). A dismissal may be awarded, conditional or unconditional, which means the public prosecutor decides not to prosecute. Or the Public Prosecution Service might impose a financial penalty on the suspect in order to avoid prosecution (the settlement penalties from art. 74 of the Criminal Code). Finally, a summons can be served (judicial settlement). The *Discrimination Instructions* provide instructions for choosing one of

⁵⁴ I. Boog & M. Coenders. *Kerncijfers 2007. Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten* (Key figures for 2007. Annual survey of complaints of discrimination made to anti-discrimination agencies and reporting centres). Rotterdam: Landelijk Bureau Art.1 2008.

⁵⁵ *Discriminatie-monitor niet-westers allochtonen op de arbeidsmarkt 2007* (Discrimination monitor for non-Western ethnic minorities in the labour market). The Hague: SCP/Art.1 2007.

these three settlements. The basic assumption is the summons (expediency of prosecution). Only in less severe cases can a settlement penalty be offered first. This same expediency holds that dismissals must be made with great restraint. After all, the Board of Procurators General has already decided whether such cases should be prosecuted or not.

Table 9.6⁵⁶ Types of settlement of discriminatory offences by the Public Prosecution Service, 2003-2007

	2003	2004	2005	2006	2007
Summons	135	145	152	198	140
Settlement penalty	56	38	35	62	29
Conditional dismissal	9	4	4	4	4
Dismissal	35	36	49	38	28
Total	235	223	240	302	201

Source: LECD

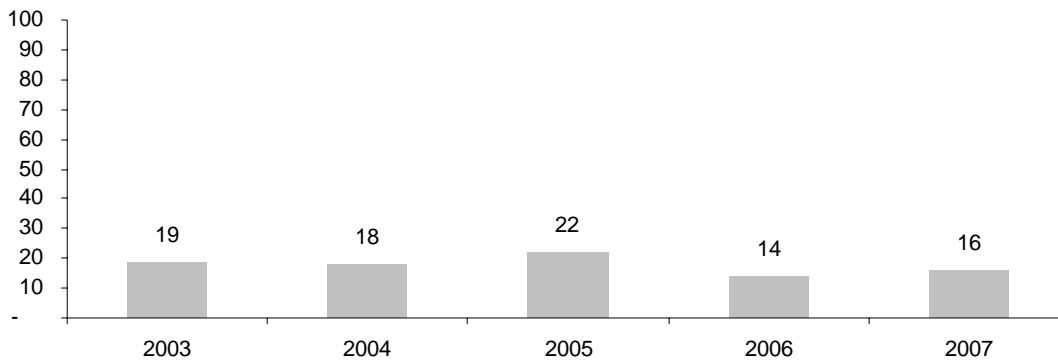
In 2006 there was a record number of 302 settlements. This picture changed drastically in 2007. There was a 33% decrease, in which 201 discriminatory offences were settled by the Public Prosecution Service, a difference of 101 offences over the previous year. Only in 2005 were there fewer settlements than inflow. Then the difference was 0.4%, whereas in 2007 the difference was 7%. On the plus side, the rising line in the proportion of summonses also continued into 2007, from 66% in 2006 to 70%.

9.6.2.1 *Dismissals*

There are two kinds of dismissals in criminal law. A technical dismissal is used if a case has technical defects and prosecution is pointless. Then there is the discretionary dismissal, which is linked to the expediency principle. The Public Prosecution Service can grant a discretionary dismissal if measures have been taken other than those pertaining to criminal law, if the interest of the nation is at stake or if the age or health of the suspect requires it. A discretionary dismissal can also be applied in three other situations: if the act is a petty offence, if the act is not deserving of punishment or if the suspect's participation in the act is slight. In the case of dismissals, the importance of restraint applies in particular to "petty offence" or "minimal punishability." In cases of discrimination, however, there is practically no room for the public prosecutor to make his own policy considerations. Finally, it should be mentioned that if an offence is old but not yet statute-barred, a dismissal can be granted on that ground.

⁵⁶ The figures in this table differ from those in table 9.5 (Inflow of discriminatory offences into the Public Prosecution Service per article of the law, 2003-2007) because transferred offences were not included.

Figure 9.2 Percentage of dismissals and conditional dismissals, 2003-2007



Source: LECD

In 2007 there was a drop in the number of dismissals from 42 to 32, but that number was also a somewhat larger proportion of the total (16%). Compared with the dismissal percentage for all offences in 2007 (13%),⁵⁷ this is not an aberrant picture. With new instructions from the *Discrimination Instructions* of 2007, the Public Prosecution Service was given a bit more elbow room to proceed to a dismissal. The fact that the dismissal option was seldom used in 2007 seems to accord with the results of the dismissal study of 2005.⁵⁸ The most important findings show that by and large the correct criteria are being applied and the dismissals are being granted with care. The recommendations of the study that the Board of Procurators General brought to the attention of the public prosecutors at the time are still just as important today. The Public Prosecution Service is performing good work by maintaining a proper and critical application of the Instructions for Grounds for Dismissal, but according to the recommendations it needs to be more watchful of the internal disposal time in cases of discrimination.

Dismissals are not registered if they are carried out by the so-called "Hopper," a combination of assistant prosecutor and public prosecutor's clerk at a police station. This functionary is part of the Public Prosecution Service, but his dismissals are not recorded in COMPAS. If they were – which would be conducive to transparency – it would result in a sharp rise in the number of dismissals.

9.6.2.2 *Settlement penalties*

Back to table 9.6. The trend of a declining number of settlement penalties that began in 2003 appears to have turned in 2006 (21%) but was restored in 2007 (14%). The percentage of settlement penalties in case of discrimination – 14% – is considerably lower than the average of 27% for settlement penalties imposed in all the offences in 2007.⁵⁹ This means the Public Prosecution Service is staying well within the framework

⁵⁷ *Jaarbericht 2007. Openbaar Ministerie in cijfers*, p. 18.

⁵⁸ This study was carried out in response to a motion of the House of Representatives in 2001 on technical and discretionary dismissals in cases of discrimination and racism. *Kamerstukken II 2001/02*, 28 000 VI, no. 39.

⁵⁹ *Jaarbericht 2007. Openbaar Ministerie in Cijfers*, p. 18.

of the *Discrimination Instructions* by imposing settlement penalties only on rare occasions.

9.6.2.3 Summonses

In 2007 the percentage of *offences* for which summonses were issued was 70% (table 9.6), a proportion of the settlements never before reached. This 70% consists of 140 offences for which a summons was issued. As table 9.7 shows, the number of cases that went to court in 2007 is quite a bit lower: 107.

The reason for this difference has to do on the one hand with the method of registration. Unlike the previous tables, the terminology used in the courts is *cases of discrimination* (rather than *offences*). On the other hand, cases that the Public Prosecution Service brought before the court in 2007 were not settled by the court during in the same year. In 2007, however, the difference between the number of offences for which summonses were issued and the number of cases that were settled by the courts is 33, as opposed to an average of 12 for the previous years. The Public Prosecution Service attributes the drop in the number of cases brought before the courts to problems of coordination with the courts and to court-related capacity problems.⁶⁰ In addition, the courts settled fewer cases than expected, as the national figures for the settlement of all cases also show.⁶¹

Table 9.7 Cases settled by the courts, 2003-2007

	2003	2004	2005	2006	2007
Conviction	110	111	131	153	89
Acquittal	12	8	10	17	13
Summons invalidated	0	0	0	3	1
Prosecution barred	1	0	0	0	0
Discharge from further prosecution	0	0	0	0	0
Conviction without the imposition of penalty	1	1	1	4	1
Unknown	4	5	6	9	2
Total	128	125	148	186	107

Source: LECD

9.6.3 Background information on discriminatory offences

Besides the information on discrimination discussed so far that the LECD has collected from COMPAS, the expertise centre also received information by way of the Discrimination Registration Code (Discriminatie Registratie Code; DRC). This is a uniform list of question about who is discriminating (the suspect), who is being discriminated against (the victims) and where these incidents are taking place (location of the incident).

⁶⁰ Ibid., p. 11.

⁶¹ *Jaarverslag van de Raad voor de Rechtspraak* (Annual Report of the Council for the Judiciary), <http://www.rechtspraak.nl/nr/ronlyres/3F8F7719-8D39-4777-8AE3-A70CA383BB9F/0/RvRJaarverslag_2007_net.pdf> (1 August 2008).

9.6.3.1 Suspects

Information about who is discriminating can be of help in tackling the problem. More cases were categorised under "other" and "unknown" in 2006 because no data were available or could no longer be retrieved, but this phenomenon was practically eliminated in 2007. The split between private individual and investigating official as suspects, contributes to transparency and self-reflection among the government agencies involved. This positively contributes to the public's perception of the government's approach to discrimination.⁶²

Table 9.8 Suspects of discriminatory incidents, 2003-2007

	2003	2004	2005	2006	2007
Extreme right	23	19	30	51	26
Religion/personal beliefs	0	0	0	0	1
Political convictions	2	3	2	2	1
By investigating official	0	0	4	2	3
Private, Surinamese/Antillean	1	1	2	1	2
Private, Turkish/Moroccan	12	15	3	5	14
Other, non-white, private	4	3	2	7	2
White, private	110	149	185	144	152
Private (ethnic background unknown)	24	14	8	17	14
Other	9	6	3	8	1
Unknown	19	4	2	9	0
Total	204	214	241	246	216

Source: LECD

The "spillover" from "extreme right" to "white, private" is most striking in 2007. In 2006 the opposite was the case, and it is rather difficult to point to the reasons for this.⁶³ Furthermore, the drop in the proportion of extreme right-wing suspects does not coincide with the observation made in the study of racial and extreme right-wing violence.⁶⁴ This underscores the problem of underregistration of discriminatory offences, particularly in the "extreme right" category, because criminal offences aggravated by discriminatory behaviour are not included in the registry. The groups "white, private" and "extreme right" together are responsible for the vast majority of discriminatory offences (82% in 2007 as opposed to 80% in 2006).

Nine more suspects of discrimination were of Moroccan or Turkish origin than in 2006. One interesting question is how an unambiguous distinction is made between, say, the

⁶² Cf. B.A.M. van Stokkom, H.J.B. Sackers & J.-P. Wils, *Godslastering, discriminerende uitingen wegens godsdienst en haatuitingen* (Blasphemy, discriminatory remarks against religion and expressions of hatred). WODC, Meppel: Boom Juridische Uitgevers 2007, p. 138 <http://www.justitie.nl/images/wodc%20onderzoek%20godslastering.doc_tcm34-30812.pdf> (18 August 2008).

⁶³ Also see the explanation in C. Brants, R. Kool & A. Ringnalda, *Strafbare discriminatie* (Illegal discrimination). p. 110.

⁶⁴ See chapter 3, "Right-wing extremist groups."

group "private Turkish/Moroccan" and discrimination committed on the basis of religion (the group "religion/personal beliefs." The relevance of these difficulties is illustrated by the wave of attention for discrimination (and violence) against homosexuals that occurred in 2007 in particular. Figures from the Amsterdam police suggest that most violence against homosexuals is perpetrated by young Moroccans,⁶⁵ but this is not confirmed by figures from the Public Prosecution Service.

9.6.3.2 *Victims*

The grounds contained in the criminal discrimination prohibitions are exhaustive. Besides the six grounds mentioned in the Criminal Code – race, religion or personal beliefs, hetero- or homosexual orientation, disability and gender – the LECD also uses the categories "anti-Semitism" and "other grounds."⁶⁶ In recent years there have been changes in both the legislation and in registration by the LECD. It is not clear to what extent the differences between the years of change and the previous years were caused by the new methodology, but an overview of the changes does provide something of a reference point for studying the figures.

In 2005 the LECD did away with the category "multiple grounds." Since then discrimination has been registered per ground, even if in actual practice something like a torrent of abuse would concerns several grounds. Then in 2006 the ground "disability" was added because of the expansion of the legislation. Finally, the most recent change took place in 2007, and the grounds in the table were adjusted to keep them more in line with international reports. Before casting a glance at all the grounds and the relative proportion of each ground to all the discriminatory offences contained in table 9.10 (Grounds for discrimination per incident, 2003-2007), a detailed look is taken at the ground of race.

In 67% of the cases involving discrimination in 2007, the offence occurred on the ground of race. With respect to the previous year that is again an increase: after 9% in 2006, an increase of 12% in 2007. This consolidated the place held by the ground 'race' as the most common form of discrimination. A look at table 9.9 gives us a more detailed picture of registered racial discrimination.

⁶⁵ Gemeente Amsterdam, *Plan van aanpak discriminatie Amsterdam: problemen benoemen en grenzen stellen* (Amsterdam discrimination action plan: naming problems and drawing borders) (recommendation of April 2008), oov - pas - dmo, Unit Diversiteit & Integratie 2008
<<http://amsterdam.nl/aspx/download.aspx?file=/contents/pages/110785/20080509planvanaanpakdiscriminatiedubbelzijdigdef2.pdf>>; "Politie overweegt 'lokhomo's' in te zetten" (Police consider deploying "gay decoys"), *Nu.nl* 15 August 2007, <http://www.nu.nl/news/1195840/14/rss/Politie_overweegt_%27lokhomo%27s%27_in_te_zetten.html> (26 August 2008).

⁶⁶ The category "other grounds" is used when, on closer examination, it is decided that an offence registered as discrimination belongs not to race, for example, but to nationality. This is not a ground from the discrimination bans and the Public Prosecution Service registers it separately.

Table 9.9 Race as grounds for discrimination, 2003-2007

	2003	2004	2005	2006	2007
Skin colour	15%	21%	29%	27%	21%
- Negroid	15%	21%	29%	17%	14%
- Coloured (not negroid)				9%	6%
- White				2%	0%
National or ethnic origins	31%	22%	17%	28%	47%
- Surinamese/Antillians	10%	2%	3%	3%	5%
- Turks/Moroccans	21%	20%	15%	11%	20%
- Roma/Sinti				0%	0%
- Ethnic minorities/ foreigners				9%	15%
- Other national or ethnic origins				6%	6%
Total	47%	43%	46%	55%	67%

Source: LECD⁶⁷

National or ethnic origins, which rose sharply, accounted for half of all the cases of racial discrimination in 2007. Besides this there are two other increases worth mentioning. The first has to do with the group "Turks/Moroccans" (9%). The second has to do with a rise of 6% for the generic group "Ethnic minorities/foreigners," while under discrimination on the grounds of skin colour no discrimination of whites was registered.

The objection that has been raised to the terminology used in the table so far by the LECD, such as "blacks or coloureds"⁶⁸ and "negroids," which does seem rather awkward, is also deserving of attention this year. Perhaps inspiration for a solution can be gained from the Americans, who use more neutral terms such as "African-American" For an effective approach to discrimination, knowledge of the various manifestations and victims is naturally of great importance. So it should also be recommended that national or ethnic origins be provided per group. In addition to the pragmatic reasons – to gain better insight into the problem – it is incorrect to identify Surinamese and Antilleans or Turks and Moroccans as one single group. There are indications that Moroccans, for example, are considerably more discriminated against than Turks.⁶⁹

Besides racial discrimination there are other grounds for discrimination, and table 9.10 provides a picture of the relative amounts of the various grounds.

⁶⁷ This is a sub-table that only goes up to 67%, the percentage of all the discriminatory incidents accounted for by the ground of race.

⁶⁸ P. R. Rodrigues, "Opsporing en vervolging in 2005" (Investigation and prosecution in 2005), in: J. van Donselaar & P. R. Rodrigues (eds.), *Monitor Racisme & Extremisme, zevende rapportage* (Racism & Extremism Monitor, seventh report). Amsterdam: Anne Frank House / Leiden University 2006, p. 200.

⁶⁹ I. Boog & M. Coenders, *Kerncijfers 2007*.

Table 9.10 Grounds for discrimination per incident, 2003-2007

	2003	2004	2005	2006	2007
Race	47%	43%	46%	55%	67%
Antisemitism	25%	27%	23%	33%	19%
Religion/personal beliefs	4%	4%	6%	6%	7%
Homosexual orientation	1%	2%	3%	2%	4%
Gender	0%	0%	0%	0%	0%
Disability				0%	0%
Multiple grounds	12%	16%			
Other grounds	2%	5%	21%	0%	0%
Unknown	9%	2%	1%	3%	1%
Total	100%	100%	100%	100%	100%

Source: LECD

Cases of anti-Semitism have dropped sharply in line with the drop in extreme right-wing suspects (see table 9.8: Suspects of discriminatory incidents, 2003-2007). The tie between these groups of suspects-victims is difficult to determine, however, without a specific dossier study. Hatred of Muslims or anti-Islamism also qualifies for separate registration, as anti-Semitism already does, since discrimination may occur on the basis of religion as well as on the basis of ethnic origins (race).⁷⁰ In 2007, Islam also accounted for the entire 7% discrimination on the grounds of "religion/personal beliefs." This percentage for religion is comparable to the figures from the anti-discrimination agencies for 2006 and 2007, in which it is obvious that those who feel discriminated against on such grounds are mainly ethnic minorities, although their specific religion is not known.⁷¹

9.6.3.3 *Location of the incident*

In discussing the location of the crime, it should be noted that an investigating official can just as easily be a victim of discrimination. In a table dealing with locations, however, 'against investigating official' is still the odd man out. Investigating officials can be discriminated against on the basis of different grounds as well (think of female investigators, ethnic minorities, religious or homosexual investigators), as a result of which table 9.10 (Grounds for discrimination per incident, 2003-2007) may seem the more appropriate table for this category. In any case, table 9.11 shows a rising line for these incidents since 2005. The increase is 2% a year and seems indicative of the intention by the police to take stronger action when the rights of an investigating official are at issue.⁷²

⁷⁰ B.A.M. van Stokkom, H.J.B. Sackers & J.-P. Wils, *Godslastering, discriminerende uitingen wegens godsdienst en haatuitingen*, pp. 36-37 and 163; P.R. Rodrigues, "De meervoudigheid van moslimdiscriminatie" (The multiplicity of Muslim discrimination), in: Anita Böcker et al. (eds.), *Migratierecht en rechtssociologie. Liber Amicorum Kees Groenendijk*. (Migration law and sociology of law. Liber Amicorum Kees Groenendijk). Nijmegen: Radboud University 2008, p. 486.

⁷¹ I. Boog & M. Coenders, *Kerncijfers 2007*.

⁷² A. Vermaat, "Sluit café bij geweld tegen politie" (Close café in the event of violence against police), *Trouw* 11 July 2008,

Table 9.11 Location of the incident, 2003-2007

	2003	2004	2005	2006	2007
Against investigation official	14	11	9	14	18
Work	16	1	12	6	11
School/educational institution		9	7	7	6
Sports	18	21	5	10	3
Nightlife – admission refused		4	7	14	10
Nightlife – general	21	6	17	8	5
Living environment	17	30	32	47	32
Street/public facility	85	110	139	109	94
Internet	4	13	8	13	22
Press (media)	1	0	2	1	1
Other	9	3	1	7	12
Unknown	19	6	2	10	2
Total	204	214	241	246	216

Source: LECD

The two places where discrimination most frequently occurs have been stable for a couple of years now. The first ("street/public facility") and the second ("living environment") together account for 59%; in 2006 that was still 63%. On the basis of the figures from previous years, "internet" occupies a startling third place with 10% of the registered discriminatory offences. The number of these offences has almost doubled, but that should not be surprising considering the amount of discrimination on the internet.⁷³ Of the 22 internet offences, five alone are from the same case. Six offences were introduced by the Dutch Complaints Bureau for Discrimination on the Internet (Meldpunt Discriminatie Internet; MDI). Seven of the complaints bureau's reports were dismissed (some of them had been running for quite some time), and none of its cases was brought before court in 2007.⁷⁴

To begin a discussion of discrimination in the nightlife industry on a positive note, it seems that in 2007 no cases from this industry were registered as crimes of expression, but only as crimes of exclusion (in this case 10 of the 16 offences registered under art. 137g of the Criminal Code from table 9.5). In the figures from the Public Prosecution Service, exclusion at the door and general discrimination in nightlife establishments both dropped by 1%. While offences in this industry numbered 22 in 2006, that has now dropped to only 15. This is strange not only in the light of general practice in this scene,

<http://www.trouw.nl/hetnieuws/nederland/article1035214.ece/Sluit_cafe_bij_geweld_tegen_politie> (26 August 2008).

⁷³ *Jaarverslag 2007* (2007 Annual report), Meldpunt Discriminatie Internet, <http://www.meldpunt.nl/uploads/upload_documents/Jaarverslag%20MDI%202007.pdf> (26 August 2008).

⁷⁴ *Jaarverslag 2007*, Meldpunt Discriminatie Internet, p. 15.

where discrimination is frequent,⁷⁵ but also in the light of increased local efforts to induce young people to report such incidents.⁷⁶

9.7 Conclusion

One important comment is that many of the problem areas identified so far repeat themselves year after year, despite the fact that several solutions have been offered in the *Discrimination Instructions* for at least that long. The greatest challenge, it seems, is the proper and complete registration of violations of the discriminatory prohibitions, particularly criminal offences aggravated by discriminatory behaviour, which are now completely absent from the Public Prosecution Service registration. Almost inevitably the flow of figures has been less transparent and verifiable, as we see in the substantial difference between the figures from the police and those from the Public Prosecution Service. An integrated data file for cases of discrimination is therefore essential.⁷⁷

One difficulty in dealing with dismissals that came to light had to do with the disposal time of cases of discrimination. When a case is kept on hold for a long time, it can be disposed of by means of a discretionary dismissal for "old offences." This is not in line with the *Discrimination Instructions*. For this reason, it might be wise to consider setting deadlines before which a decision to institute proceedings and to serve a summons would have to be taken. The Public Prosecution Service might search for a link with deadlines that already exist in administrative law, which would benefit uniformity and recognisability for the public. Naturally the complexity of cases should be taken into account, with fixed deadlines adjusted accordingly.

Another striking point is that although there has been a steady inflow of suspects of discriminatory offences to the police, settlement by the Public Prosecution Service has dropped significantly. The decline in settlements by the courts is striking as well. At the same time, there is no clear reason for the stagnation of cases earlier in the police-to-judiciary chain, which is troubling in view of the fact that public trust is necessary for adequate investigation and prosecution. The idea behind the creation of the eleven new public prosecutors' offices was to make expertise on discrimination easier to organise and more available, but according to the decline in figures for 2007 this has not been a total success.

It is of crucial importance for the Public Prosecution Service as well as for the police that grounds for discrimination be dealt with in an efficient manner. This will require recognition of the fact that the ground of race, for example, is becoming more prevalent and should therefore be allotted more resources. At the same time, caution should be taken against excessive attention for a single ground by means of campaigns and media

⁷⁵ *Aanhangsel Handelingen II* 2006/07, no. 2635.

⁷⁶ City of Amsterdam, *Plan van aanpak discriminatie Amsterdam*; Roeland Franck, "Nog volop apartheid in Utrechtse horeca" (Still total apartheid in Utrecht's hospitality industry), Study by ROOD, the Socialist Party youth organisation, in: *Algemeen Dagblad* 16 March 2008 <http://www.ad.nl/utrecht/stad/2140570/rsquoNog_volop_apartheid_in_Utrechtse_horeca'squo_Onderzoek_SPjongeren_rood.html> (26 August 2008).

⁷⁷ Also see C. Brants, R. Kool & A. Ringnalda, *Strafbare discriminatie* (Illegal discrimination), p. 176.

policy. In discrimination against homosexuals, an undesired side effect of all the attention was that "gay bashing" had become a status-raising activity, according to discrimination reporting centres. In this regard, a balanced media policy by police and the judiciary, in addition to the satisfactory settlement of cases of discrimination commensurate with their manifestation in society, is indispensable. It would constitute a positive contribution to a self-sustaining effect: public perception would be improved, which in turn would benefit the flow of information to the policy and the judiciary.

10 Case law on racism and extremism in 2007

Peter R. Rodrigues

This chapter deals with cases of discrimination on which the courts have already given a ruling. There are relatively few of them. The structure of complaints of racial discrimination can be seen in terms of a pyramid. At the very bottom is *perceived* discrimination. Most victims let it go at that, while some report their complaint to family and friends. If the incident is experienced as serious *and* the victim does not want to let it pass, the complaint sometimes makes its way to a functionary (liaison officer) or, even higher in the pyramid, to an institution (complaints commission). Only a small number are reported to the police, and only a very small number of these reported complaints finally result in a court judgement. This court ruling is the top of the complaints pyramid. Studying the top of the pyramid is important for two reasons. First, court judgements have considerable influence on legislation. The police and the Public Prosecution Service (Openbaar Ministerie; OM) as well as the public and their legal counsel are guided by this case law in the actions they take. Second, these cases are important because there have been special circumstances – such as material injury – that have made ordinary citizens decide to press on to the top of the complaints pyramid, or basic cases that are significant to a larger number of people. The striking common feature of these cases is that they form the proverbial tip of the iceberg (or pyramid) that is indicative of the type of legal problems with which we as a society are being confronted. The purpose of this chapter is to examine that tip and to discuss the most important Dutch case law on racial discrimination from 2007.

10.1 Obstacles to lodging complaints

Almost no research has been done on the way people deal with complaints of racial discrimination in the Netherlands. What we do know is that when it comes to racial discrimination, the obstacles for victims are higher than for those who have complaints about other things (work, housing).¹ At first it seemed as if in addition to the well-known obstacles to lodging complaints (time, money and bother) there were other factors at play such as fear of "victimisation,"² shame and pride.³ Qualitative research conducted as part of the *2005 Racial Discrimination Monitor* shows, however, that in the case of racial discrimination, the most important reason for not reporting is the expectation that it will not help anyway (38%).⁴ In the end, according to the research, three quarters of those questioned took no further steps in response to the discrimination they

¹ Also see A. Böcker, "A pyramid of complaints: the handling of complaints about racial discrimination in the Netherlands," *New Community* 1991, p. 608.

² *Het jaar 2004, Jaarverslag CGB* (Annual report of the Equal Treatment Commission for the year 2004), Utrecht: Commissie Gelijke Behandeling 2005, p. 4.

³ M.A.J. Leenders, "Procesrecht en handhaving van de AWGB" (Procedural law and enforcement of the Equal Treatment Act), in: T. Loenen (ed.), *Gelijke behandeling: oordelen en commentaar 1999* (Equal treatment: judgements and comments). Deventer: Kluwer 2000, p. 69.

⁴ Harry van den Berg & Jeanine Evers, "Discriminatie-ervaringen 2005" (Experiences of discrimination in 2005), in: I. Boog (ed.), *Monitor Rassendiscriminatie 2005* (2005 Racial Discrimination Monitor). Rotterdam: Landelijk Bureau ter bestrijding van Rassendiscriminatie [etc.] 2006, pp. 15-47 and see p. 30.

experienced, and "only" 7% were afraid of the consequences of reporting the incident. Of all the individuals who feel discriminated against, 8% go to the police and only 4% to an anti-discrimination agency (antidiscriminatievoorziening; ADV).⁵ As an indication: 4,247 individuals went to an anti-discrimination agency in 2007, less than two thousand of whom had complaints of racial discrimination.⁶ In response to questions about the Annual Memorandum on Integration Policy, 2007-2011, the Minister of Housing, Communities and Integration answered that she wanted to achieve a doubling of the number of reports made to anti-discrimination agencies by 2011.⁷

In 2007, 107 court decisions concerning the criminal discrimination prohibitions (art. 137c – 137g of the Criminal Code and art. 429quater of the Criminal Code) were handed down.⁸ These also concerned cases (admittedly a minority) that were settled on grounds other than that of race. It is unknown how many court decisions on criminal offences aggravated by discriminatory behaviour (that is, "ordinary" offences such as assault and arson) with discriminatory aspects took place in 2007. These offences are not registered under the heading "discrimination" by the Public Prosecution Service, so they cannot be searched as such.⁹ We compiled 51 cases concerning "criminal offences aggravated by discriminatory behaviour" for the year 2007.¹⁰ In this study both types will be discussed.

The goal is not to see that all complaints on discrimination are brought to court. But it is important to know how large the entire iceberg is and what we can learn from the tip sticking out of the water.

10.2 Hate speech

The sections on hate speech are articles 137c - 137e of the Criminal Code. The choice of court decisions made here is based on cases that are indicative of legal problems that sometimes occur or cases that entail a continuation of an existing line of legal precedents. We also looked for cases that were regarded as important socially – because the incident received a great deal of media attention, for instance. In response to the WODC report on blasphemy,¹¹ the government concluded the following in October 2007:¹²

⁵ The percentages in the police region of Noord-Holland are even lower. *Discriminatieklimaat Noord-Holland Noord* (Climate of discrimination in Noord-Holland Noord), Art.1 Bureau Discriminatiezaken Noord-Holland Noord, June 2007.

⁶ I. Boog & M. Coenders, *Kerncijfers 2007. Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten* (Key figures for 2007: Annual summary of complaints of discrimination reported to anti-discrimination agencies and hotlines). Rotterdam: Landelijk Bureau Art.1 2008. The exact number was 1,986 persons.

⁷ *Kamerstukken II* (Official Reports of the House of Representatives of the States General) 2007/08, 31 268, no. 5, p. 36.

⁸ For the text of the articles see Appendix I.

⁹ See chapter 9, "Investigation and prosecution in 2007," section 9.6.

¹⁰ Case law on racism and extremism is compiled by the Documentation Centre of the Anne Frank House and stored in a database. The full text of the decisions stored in the database can be accessed through the Documentation Centre.

¹¹ B.A.S.M. van Stokkom (et al.), *Godslastering, discriminerende uitspraken wegens godsdienst en haatuitingen, een inventariserende studie* (Blasphemy, discriminatory remarks against religion and expressions of hatred, an inventory). WODC, Meppel: Boom Juridische Uitgevers 2007.

"Statements that are intended to incite hatred, to discriminate or seriously to harm other members of society must be strongly opposed. The policy of the Public Prosecution Service is expressly focused on this effort."

The examples given in the memorandum, however, suggest that the attention of the government is mainly centred on remarks having to do with jihadist radicalisation.

10.2.1 Expression of opinion

With the internet, access to information and opinions is virtually unlimited in the literal sense. But as far as other people are concerned there certainly are limits to the internet, such as those having to do with the *admissibility* of discriminatory statements. A case was brought against a twenty-year-old resident of Koewacht in Zeeland who acted as manager of a website. The approximately thirty-five young people ("Lonsdale youths") who had signed up for the site egged each other on by means of discriminatory comments to commit violence against "foreigners." The youths exchanged statements such as "foreigners should piss off, we have to show those Moroccans that we won't put up with any bullshit."¹³ The police court ruled that the manager of the site had incited discrimination and violence against people on account of their race (art. 137d of the Criminal Code).¹⁴ On these grounds a sentence of thirty hours' community service or fifteen days' imprisonment was handed down. The case is illustrative of the diversity of verbal discrimination on the internet against persons of Moroccan origin.¹⁵

In comparison with the number of punishable hate speech offences on the internet that the Public Prosecution Service registered in 2006 (13) and 2007 (22), this one court decision that surfaced in 2007 is a remarkably feeble score. A study of the settlement of internet cases in the period 2001-2004 shows that the percentage of cases on the internet that were not prosecuted (dismissals) was above average.¹⁶ Although there are no hard figures for recent years, this trend seems to be continuing. In 2007, for example, seven of the thirteen reports made to the Complaints Bureau for Discrimination on the Internet (Meldpunt Discriminatie Internet; MDI) were dismissed.¹⁷ So far the tougher approach that the judicial authorities were going to take seems to have yielded only one scant result in 2007.

In May 2006, a war monument in Klaaswaal was vandalised. Two underage youths – aged 14 and 16 – along with a 21-year-old man were arrested. They confessed to having daubed a swastika and the text "Wir sind zurück" (We are back) on the monument during the night of 4-5 May, the Dutch Days of Remembrance. The incident was one of a series of vandalistic attacks on wreaths and war monuments that occurred around the time of the 4 May commemoration in 2006. Although the incident in

¹² *Kamerstukken II 2007/08*, 31 200 VI, no. 8, p. 7.

¹³ *BN/De Stem* 7 February 2007.

¹⁴ Middelburg District Court, 6 February 2007, public prosecutor's office no. 12/706668-06.

¹⁵ Complaints Bureau for Discrimination on the Internet, *Jaarverslag 2007* (2007 Annual report), p. 8.

¹⁶ Speech by Rodrigues given at the ten-year anniversary of the MDI on 17 March 2008.

¹⁷ Complaints Bureau for Discrimination on the Internet, *Jaarverslag 2007*, p. 15.

Amsterdam-Osdorp received the most media attention, vandalism also occurred in Hoogeveen, Zandvoort, Renswoude, Lekkerkerk and, as noted, in Klaaswaal.¹⁸ The perpetrators in Klaaswaal were told by the city that the cost of cleaning the monument (4,000 euros) would be passed on to them. The police court judge found the 21-year-old perpetrator guilty of three separate anti-Semitic insults. He was sentenced to a sixteen days' imprisonment for one offence and to a suspended prison sentence of three months with a probation of two years for the other.¹⁹ A condition of his sentence is that he must submit to social rehabilitation. In addition, this perpetrator has to pay financial damages of almost 7,000 euros to the city. One of the minors in the Klaaswaal case was given a nine-day nonsuspended sentence by the juvenile court judge and a one-month suspended sentence in juvenile detention. The other minor was found to have more anti-Semitic offences on his record and was sentenced to sixteen days in youth detention, two months of which were suspended. Both youths were ordered to undergo social rehabilitation under supervision and to pay damages.²⁰ The two minors took the case to a higher court. The court of appeals increased the sentence of the district court by imposing 20 hours of a study order (*leerstraf*).²¹ The court took a serious view of the fact that the anti-Semitic vandalism had been committed at the time of Remembrance Day, and that the messages daubed on the monument were evidence of National Socialist sympathies, which is so threatening to people of the Jewish community. The issue of damages to the city was judged to be too complex and was dismissed on appeal in both cases.²² The anti-Semitism that is in evidence in these cases seems virtually timeless, and the glorification of National Socialism plays an important role. The figures from the Public Prosecution Service show that the number of registered punishable offences involving anti-Semitism decreased in 2007 (from 33% to 19%).²³ These grounds for discrimination always stood out because of a relatively high percentage of criminal registrations at the public prosecutor's office.

Views can also be expressed by means of demonstrations. The limits of this freedom to demonstrate that are imposed on extremists are discussed in detail by Loof in chapter 5 of this Monitor report.²⁴ In 2007 two judgements were given on the freedom to demonstrate that illustrate the current state of affairs. The established case law according to legal precedent now asserts that demonstrations cannot be simply prohibited beforehand, not even if it can be argued that they pose a threat to public order.

At the present time the main emphasis is on the limitations being imposed on demonstrators. They may have to do with the slogans and symbols to be carried, the songs to be sung or the route to be followed. It was the Netherlands People's Union

¹⁸ Meir Villegas Henriques, *Antisemitische incidenten in Nederland, overzicht over het jaar 2006 en de periode 1 januari – 5 mei 2007* (Anti-Semitic incidents in the Netherlands, overview of the year 2006 and the period 1 January – 5 May 2007). Den Haag: CIDI 2007.

¹⁹ Dordrecht District Court, 4 December 2006, public prosecutor's office no. 510206-6.

²⁰ Information derived from the judgements in appeal.

²¹ The Hague Court of Appeals, 13 July 2007, public prosecutor's office no. 11-500326-06.

²² The Hague Court of Appeals, 13 July 2007, public prosecutor's office no. 11-510207-06.

²³ See chapter 9, "Investigation and prosecution in 2007," section 9.6.3.2.

²⁴ See chapter 5, "Demonstrations by right-wing extremist groups in the Netherlands and Germany."

(Nederlandse Volks-Unie; NVU) in particular was successful in bringing legal action against restrictions on demonstration routes and schedules.²⁵ The NVU is not always given favourable judgements, and restrictions are imposed because of the disorderliness expected.²⁶ What is striking in this case is that the judge attached importance to the promise that the police would not take action against the wearing of the Celtic cross (this will be discussed further in the next section).

10.2.2 Symbolism

Of all the symbols used by extremists, the swastika is probably the most well-known. When Germany was chairman of the European Union, it campaigned in vain for a European prohibition on the swastika.²⁷ These efforts encountered a great deal of resistance from the Hindu community because in their tradition the swastika is a symbol of peace. In the Netherlands, established case law lays down that wearing a swastika with the intention of "propagating the ideology of National Socialism" is in itself an expression that is insulting to Jews "because of their race."²⁸ As Schalken states in his commentary on this judgement of the Supreme Court, the propagandistic nature of the circumstances under which the symbol is exhibited in public determines its discriminatory character. A man who wore a sticker with a swastika on his clothing that was conspicuously placed was convicted by the police judge of Den Bosch on 20 April 2007 on the grounds of art. 137c of the Criminal Code.²⁹ He was fined 500 euros. There is no doubt that the man's purpose was to propagate National Socialist ideology since he was part of a group that had walked through Eindhoven with swastikas on their clothing as well as pictures of Hitler, SS skulls and White Power symbols while chanting anti-Jewish insults.³⁰

The Celtic cross is not only less known than the swastika but it is also less controversial. This results in some ambiguous case law. For instance, a young man was convicted of vandalism because he spray-painted a Celtic cross on a bus shelter without adding any other marks.³¹ On the other hand there was no evidence of a racist insult because the symbol, according to the court, is still too unknown to be perceived as insulting by any group. The court ruled that if in the future the Celtic cross were to become known by the average spectator as a symbol of racist ideology, it could lead to a conviction. In my mind, this loses sight of the fact that even a single swastika, without further connotation, does not result in criminal liability in accordance with the aforementioned judgement of the Supreme Court. So the same would have to apply to the Celtic cross. In 2005 the district court in Den Bosch also convicted a young man on the basis of the prohibition on

²⁵ Zutphen District Court, 26 January 2007, LJV AZ7212 (LJV = National Case Law Number; the number under which judgments of Dutch courts are published on the website www.rechtspraak.nl).

²⁶ The Hague District Court, 30 August 2007, LJV BB2615.

²⁷ *NRC Handelsblad* 17 January 2007; Press releases, 29 January 2007

<http://www.eu2007.de/en/News/Press_Releases/January/0129bmJantiracism.html>.

²⁸ Supreme Court 21 February 1995, E.R. van Eck et al., (eds.), *Rechtspraak rassendiscriminatie 1995-2000* (Case law on racial discrimination, 1995-2000). Rotterdam: Landelijk Bureau ter bestrijding van Rassendiscriminatie, no. 359 esp. Schalken.

²⁹ Den Bosch District Court, 20 April 2007, public prosecutor's office no. 01/826775-06.

³⁰ Den Bosch District Court, 15 September 2006, public prosecutor's office no. 01/826774-06 and nine other identical judgements.

³¹ Rotterdam District Court, 30 May 2007, public prosecutor's office no. 10/612066-07.

distributing discriminatory messages (art. 137e of the Criminal Code); he had made a Celtic cross in the snow.³² That brought him a fine of 500 euros. So far, the Court of Appeals in The Hague is the highest court that has ruled on the meaning of this symbolism (2007). What precipitated the arrest was a skinhead who was on his way to Zoetermeer to an extreme right gathering. On his bomber jacket and on his rings he sported a great variety of right-wing extremist symbols, such as the swastika, White Power signs, an SS skull and a Celtic cross. He said that that day he wanted to demonstrate against "Muslim radicals." Both the district court and the court of appeals were of the opinion that in this case the symbols lacked any offensive character, so he was acquitted of violating art. 137c of the Criminal Code.³³ The appeal to the Supreme Court that has been brought against the judgement of the court of appeals is quite promising, in my estimation. Indeed, in the case of the skinhead various symbols were combined, so that together they unmistakably conveyed National Socialist ideology, along with the racist character that is part of such thinking. Or is such an act not offensive in this particular context, since the man said he only wanted to demonstrate against Muslim radicals? This argument is far from convincing, and according to the judgement of the Supreme Court what the man did is still insulting to Jews (and other victims of the Second World War and their relatives). *Prior* permission to wear Celtic crosses, as in the demonstration in The Hague mentioned above, seems premature in this case. Indeed, the context determines whether wearing these crosses is a discriminatory insult or not.

10.2.3 Islamic radicalism

The Monitor project also extends to fundamentalist extremism, provided that the extremism has aspects in common with racial discrimination or has a negative impact on interethnic relations. It should be noted that the dividing line between Muslims and "nonbelievers" is not only religious in nature. Earlier it was argued that Muslim identity also has a strong cultural-ethnic component.³⁴ On the grounds of these reflections, certain remarks or activities that are extreme fundamentalist in nature may fall within the scope of our research area. On the basis of these criteria, two lawsuits have been found that ought to be discussed.

The first case concerns a Muslim woman who, according to the Public Prosecution Service, entertains more than the normal interest in Jihadistic-Salafistic ideology. She also actively propagated this interest by way of the internet by posting various pieces there under her Islamic name, Fadoua. According to the district court, two short pieces she posted in this way were seditious (art. 132 of the Criminal Code).³⁵ The text "Poisoning the Ummah" is mainly a collection of statements made by Abdullah Azzam, with passages such as, "The sword is the only way to clear away the obstacles and to build up the Islamic state;" and:

³² Den Bosch District Court, 25 April 2005, public prosecutor's office no. 01/836092-05.

³³ The Hague Court of Appeals 24 May 2007, LJN BA5702.

³⁴ P.R. Rodrigues, "De meervoudigheid van moslimdiscriminatie" (The multiplicity of Muslim discrimination), in: Anita Böcker et al. (eds.) *Migratierecht en rechtssociologie. Liber Amicorum Kees Groenendijk* (Migration law and sociology of law. Liber Amicorum Kees Groenendijk). Nijmegen: Wolf Legal Publishers 2008, p. 486.

³⁵ Rotterdam District Court 30 October 2007, LJN BB7174.

"Terrorism is a duty in the religion of Allah, and Allah says, 'And bring together whatever power and battle steeds you can muster in order to terrorise the enemies of Allah and your own enemies'."

The text with the title "The dogs bark and the caravan moves on" is an excerpt from a document written by Sheik Abu Mohammed Al-Maqdisi, which contains the following passage:

"But for you, good Mujahideen, the best answer to those bad people is to ignore them and to continue engaging in Jihad, and to continue to kill and to fight every enemy of Allah. Ignore their point of view. The caravan moves on and the dogs bark."

The district court ruled that these passages were seditious because it is now clear enough that if those who are being addressed were to carry out this activity, it would result in punishable offences. It should also be noted that the same can be said of the web manager from Koewacht mentioned above. He was only sentenced to do community service, however, on the grounds of art. 137d of the Criminal Code. Fadoua had a clean criminal record, but nevertheless she was given a one-month nonsuspended prison sentence. The possible discriminatory aspect – that she was suspected of inciting hatred, discrimination or violence against nonbelievers (art. 137d of the Criminal Code) – was entirely overlooked in the district court, even though the Minister of Justice deems this provision of importance in dealing with "written material that glorifies violence."³⁶ An appeal was brought against the judgement.

This last question – concurrence with art. 137d of the Criminal Code – was expressly addressed in the appeal of the Hofstad Network (Hofstadgroep). The Court of Appeals of The Hague ruled that the Hofstad Network was not a criminal or terrorist organisation.³⁷ No sustained and structured collaboration could be found, nor a commonly shared ideology. The court also could find no evidence that the suspects as a group were intending to commit acts of violence or crimes of sedition. The court studied various writings in which the view was expressed that nonbelievers must be hated and that hostility must be shown towards them, without also inciting readers to commit punishable offences or to undertake violent action against public authorities. The court concluded from the writings that "the nonbelievers" included those who do not recognise Allah as the only sovereign power. In the opinion of the court, article 137d of the Criminal Code aims to protect certain minority groups on account of their vulnerability, including on account of their religion or personal beliefs. According to the court, "the nonbelievers" can scarcely be regarded as such a vulnerable group.

The judgement of the court of appeals stirred up a wide range of reactions, but Loof was the first to point out that the question was whether art. 137d of the Criminal Code did not protect majorities.³⁸ This article of the law was introduced in 1971 pursuant to the obligations to which the Netherlands had committed itself by ratifying the International

³⁶ *Kamerstukken II* 2007/08, 31 200 VI, no. 161.

³⁷ The Hague Court of Appeals, 23 January 2008, LJN BC2576.

³⁸ *NRC Handelsblad*, 26 January 2008.

Convention on the Elimination of All Forms of Racial Discrimination (ICERD). At the time, the point of departure was indeed the protection of minorities.³⁹ The grounds for discrimination, however, are all rather neutrally formulated (race and religion or personal beliefs), or are even explicitly two-sided such as gender and hetero- or homosexual orientation. Only the ground "disability," which was added to art. 137d of the Criminal Code in 2006, seems to lack this neutrality.

In practice, this neutral formulation means that in the case of inciting hatred on the ground of gender, both women and men can derive protection from this provision, and in the case of race, both ethnic minorities and native people can do so as well. In the practice of criminal law the latter rarely occurs.⁴⁰ Given the nature of the views expressed by the members of the Hofstad Network, the question is whether there is evidence of inciting hatred, discrimination or violence against people on account of their religion. There is such evidence if "religion" can be understood to include the absence of a (proper) religion. This is my opinion, and I believe that an atheist is also protected under these grounds for discrimination. In the literature, it is generally assumed that the criminal discrimination prohibitions also extend to majority groups.⁴¹ Van Noorloos shares this view, and in her analysis of the judgement of the Hofstad Network she argues that the appropriate grounds for discrimination might also include race. I think that religion is better geared to this case, however. This can be seen in the conclusion from the court of appeals, which is mainly based on the rights to freedom of expression and freedom of religion contained in the European Convention on Human Rights (ECHR). While the district court in the case of Fadoua was of the opinion that she was inciting people to engage in a punishable armed struggle (jihad), the court of appeals in the Hofstad case said that the anti-democratic and fundamentalist views of the group's members were within the limits of the criminal statutes.

10.2.4 *Insulting the police*

In recent years, the number of registered insults against investigating officers was not as high as it was in 2007: 18.⁴² Of these 18 registered incidents, few have made their way into case law: only one case from 2008. The police judge in The Hague ruled that the perpetrator verbally abused the officer with a racist insult in public.⁴³ The remark was insulting to white people because of their race and resulted in a suspended prison sentence of four weeks. This is the only known judgement in which the "white" *majority group* was given protection on the grounds of art. 137c of the Criminal Code. It is unknown what the exact insult was. It seems, however, that the police are quite capable of writing up a signed official report of discrimination if people add discriminating swearwords.

Sometimes there is a difference of opinion as to whether a single word or gesture can be regarded as insulting. The district court of Den Bosch, for instance, ruled that calling

³⁹ *Kamerstukken II 1969/70*, 9 724, p. 3.

⁴⁰ In 2006 there were three such cases, according to the figures of the Public Prosecution Service.

⁴¹ Marloes van Noorloos, "De 'Hofstadgroep' voor het Haagse hof: over de vrijheid van radicale uitingen in het publieke debat" (The "Hofstad Network" before the court of appeals of The Hague: on the freedom of radical statements in public debate), *Delikt & Delinkwent 2008*, pp. 490-492 with further source reference.

⁴² See chapter 9, "Investigation and prosecution in 2007," table 9.11.

⁴³ The Hague District Court, 14 August 2008, public prosecutor's office no. 09-535483.

someone a "homo" was not insulting.⁴⁴ Things are different, according to the district court, if the word "homo" is accompanied by negative adjectives or used in a series of negative statements. A few days after the ruling, the Assen district court arrived at a different judgement. There, insulting a police officer by calling him a homo resulted in a 220-euro fine.⁴⁵ Using the single word "Jew" as an insult against the police is an entirely different matter.

The Hague court of appeals rule in that regard as follows.⁴⁶

"In this case, the suspect screamed 'Jews' in public at a passing police van without any provocation and for no apparent purpose. It emerges that the suspect's earlier contacts with the police had been negative for him and he deeply dislikes the police. It can be deduced from the court's ruling that calling out 'Jews' was meant to humiliate and thus can be qualified as insulting under the present circumstances."

The underaged perpetrator was sentenced to a 100-euro fine. The convictions were not based on 137c of the Criminal Code, however, but on art. 267 of the Criminal Code (insulting an official while on the job). Verbally abusing a (white) policeman by calling him "kaaskop" (cheesehead) resulted in a "mere" fine of 300 euros on the basis of art. 267 of the Criminal Code, while no mention was made of discriminatory defamation.⁴⁷

10.3 Crimes of exclusion

In addition to the crimes of expression there is a second category of illegal discrimination prohibitions that ought to be discussed: crimes of exclusion. This has to do with discrimination in exercising an office, practising a profession or running a business. If such discrimination occurs intentionally it's a felony (art. 137g of the Criminal Code); without intention it's a misdemeanour (art. 429quater of the Criminal Code). The number of discriminatory offences that the Public Prosecution Services registers each year under this article of the law is modest. In 2007 there were 16 registrations under article 137g of the Criminal Code, and non under 429quater. Generally these are cases in which admission to an establishment in the nightlife and catering industry was refused and to a lesser degree discrimination during job interviews or on the job. In 2007 ten of the 16 registered discriminatory offences had to do with discrimination in the nightlife and catering industry, four with work, one with recreation and one with an investigating officer. Legal precedents, however, are almost nonexistent.

This is especially remarkable when it comes to discrimination in the nightlife industry because of the frequency with which this form of exclusion still occurs.⁴⁸ This can be seen in the complaints from 2007 lodged with the anti-discrimination agencies, where

⁴⁴ Den Bosch District Court, 21 August 2007, LJN BB2083.

⁴⁵ <www.nu.nl/news/1207235/15/Homo_roepen_tegen_agent_in_Meppel_wel_strafbaar.html>. (6 August 2008)

⁴⁶ The Hague Court of Appeals, 12 October 2007, LJN BB5880.

⁴⁷ Amsterdam Court of Appeals, 20 February 2007, public prosecutor's office no. 23-003679-06.

⁴⁸ Also see P.R. Rodrigues & S. van Walsum, "Ras en nationaliteit" (Race and nationality), in: J.H. Gerards (ed.), *Gelijke behandeling: oordelen en commentaar 2006* (Equal treatment: judgements and commentary, 2006). Nijmegen: Wolf Legal Publishers 2007, pp. 33-34.

"nightlife industry and entertainment" takes sixth place, with 4.6% of the complaints (195),⁴⁹ but also in the practical tests that are conducted somewhat regularly. A practical test in Amsterdam conducted by MP Dibi in the spring of 2007 resulted in a great deal of publicity⁵⁰ and parliamentary questions.⁵¹ In September 2006 the Den Bosch Court of Appeals sentenced a manager of a café on the grounds of art. 137g of the Criminal Code to a suspended fine of 500 euros, and the customer who had been turned away was granted damages of 250 euros.⁵² The perpetrator invoked necessity because he could only guarantee the safety of his public by refusing entrance to visitors of Moroccan origin. The court ruled that this measure – despite the serious incidents that had taken place – did not satisfy the principles of proportionality and subsidiarity. He could have asked for police assistance or closed the café. My view is that introducing an admission ticket system for every visitor would have been a more efficient way to keep out troublemakers.

On 15 June 2007 the police judge in Zutphen sentenced a doorman to 40 hours' community service and suspended imprisonment for deliberate racial discrimination against three persons.⁵³ In two cases, discriminatory comments were made when the persons were refused entrance to the club. In the third case, an asylum seeker's identity card (a so-called W-document) was rejected as insufficient ID, which cost the doorman 300 euros in damages.

Finally, a decision was rendered in the case about recreation. An customer of a fitness club was talked to by one of the gym instructors regarding his body odour, which the instructor related to his Surinamese origin. The customer had initially filed a criminal complaint on account of discrimination, but that was dismissed in May 2007. The complaint was rejected by the Den Bosch court of appeals in October 2007 because, according to the court, there was no intention to discriminate.⁵⁴ This raises the question why the court did not order prosecution on the grounds of art. 429quater of the Criminal Code, where no intention is required. In the end it was the Equal Treatment Commission (Commissie Gelijke Behandeling; CGB) that ruled that this behaviour constituted illegal racial discrimination, as did the subsequent denial of access to the fitness club.⁵⁵

10.4 Criminal offences aggravated by discriminatory behaviour

In the past, a study of sentencing for racial violence was conducted as part of this Monitor project.⁵⁶ The main conclusions from this study were that the public prosecutors

⁴⁹ I. Boog & M. Coenders, *Kerncijfers 2007. Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten*.

⁵⁰ *Het Parool* 29 May 2007.

⁵¹ *Aanhangsel Handelingen II* (Appendix to the Official Acts of the House of Representatives of the States General) 2006/07, 2635.

⁵² Den Bosch Court of Appeals, 22 September 2006, LJN AY8700.

⁵³ Actualiteiten Rechtspraak.nl: 15 June 2007.

⁵⁴ Den Bosch Court of Appeals, 30 October 2007, LJN BD6453.

⁵⁵ CGB 2007-46.

⁵⁶ W. Wagenaar & P.R. Rodrigues, "Strafmaat bij racistisch geweld" (Sentencing in cases of racial violence), in: J. van Donselaar & P.R. Rodrigues (eds.), *Monitor Racisme & Extremisme; zevende rapportage* (Racism & Extremism Monitor; seventh report), Amsterdam: Anne Frank House / Leiden University 2006, pp. 208-233.

evidently did not know how to deal with a suspect's extreme right-wing background, and that at the same time the obligatory 25% increase in sentences was seldom explicitly advocated.⁵⁷

The WODC study of illegal discrimination also looked into criminal offences aggravated by discriminatory behaviour.⁵⁸ This study shows that in many cases (two thirds) alcohol is involved, and that these offences are often committed in groups (40%). The perpetrators are usually young ethnic minority men between the ages of 18 and 35. In December 2007, in response to the study, the government announced that the instruction to increase penalties by 25% should be brought to the attention of the chief public prosecutor.⁵⁹ The government also demanded that the police and the Public Prosecution Service do a better job of registering criminal offences aggravated by discriminatory behaviour, a problem that the Monitor project has long been calling attention to.⁶⁰

Next we will discuss two categories of criminal offences aggravated by discriminatory behaviour: assault (art. 300 of the Criminal Code) and arson (art. 157 of the Criminal Code). And finally we will look at racism as an "aggravating circumstance" in these cases.

10.4.1 Assault

Three men assault an autistic ethnic minority man and throw him in a pond. One of the men – known as a right-wing extremist – takes his case to a higher court. The Den Bosch court of appeals rules that the man is guilty of being a joint principal.⁶¹ He lured the victim to the scene of the crime and called one of the other perpetrators. The three men had agreed earlier that the victim would be "given a good roughing up." In view of the severity of the punishment, the court also took the following into account:

- a. the fact that the suspect, according to the extract from the Criminal Records Register concerning him dated 22 January 2007, had already been convicted of criminal offences in this connection, in which – like the case in question – there were racist overtones;
- b. the fact that the suspect knew that the victim was disabled.

An interesting aspect of this case is that the court of appeals took into account the fact that there was evidence of a criminal offence aggravated by discriminatory behaviour and increased the severity of the sentence as a result. This rarely happens so explicitly.⁶² In addition, the fact that the victim was disabled also led the court to increase the sentence. In cases of discrimination on several grounds the concept of

⁵⁷ For more on the *Discrimination Instructions* see chapter 9, "Investigation and prosecution in 2007," section 9.3

⁵⁸ C. Brants, R. Kool & A. Ringnalda, *Strafbare discriminatie* (Illegal discrimination). Den Haag: Boom Juridische Uitgevers 2007, chapter 5.

⁵⁹ *Kamerstukken II* 2007/08, 31 200 VI, no. 97, p. 4.

⁶⁰ Also see Renée Kool & Mirjam Siesling, "Aandacht voor strafbare discriminatie" (Focus on criminal discrimination), *NJB* 2008, pp. 1152-1156.

⁶¹ Den Bosch Court of Appeals, 16 February 2007, LJJN BA1900.

⁶² Observed for the first time with regard to a racist attempted suicide, Dordrecht district court, 5 October 2006, LJJN AY9559.

"intersectionality" is sometimes evoked, which raises questions concerning the level of protection and sanctions.⁶³ In this case, the court explicitly considered this twofold discrimination in determining the severity of the punishment. The perpetrator is a recidivist, moreover, and was sentenced to four months' suspended imprisonment. He was also ordered to submit to social rehabilitation under supervision, was sentenced to 120 hours' community service and was forced to pay the victim 380 euros in damages.

A confrontation is often spontaneous, but sometimes organised street violence is also of a more or less racist or extreme right wing character. There are several parties involved, usually groups of youths, who get into fights at school, at places where they hang out or at a nightspot. Often perpetrators and victims are not easy to tell apart. In recent years there has been a steady increase in confrontations, which seem to have passed their apex in 2007.⁶⁴

A similar confrontation occurred between a group of about twenty skinheads and a group of mainly dark-skinned skaters in a sports park in Zoetermeer. The district court found one of the skinheads guilty of attempted grievous bodily harm.⁶⁵ The man and his companions were dressed as "Lonsdalers," according to the court,⁶⁶ with symbols applied to their clothing such as swastikas, SS symbols, Celtic crosses and White Power and Ku Klux Klan logos. The group got into a fight with a group of skaters and began to strike mainly the dark-skinned skaters with sticks. At the same time, several of the victims were kicked in the torso and head. According the judge, the fact that no one was seriously wounded was more luck than anything else. The court blamed the perpetrator for the fact that the victims were assaulted only because they were not white. In addition, the man had previously been found guilty of anti-Semitic defamation (art. 137c of the Criminal Code). This perpetrator, too, was a recidivist and was sentenced to 200 hours' community service and three months' imprisonment, three months of which were suspended.

The Education Inspectorate puts out an annual report on "the state of the educational system." The 2006-2007 report shows that discrimination and racism between pupils is a common phenomenon.⁶⁷ The schools indicated whether they had had to deal with certain problems in the form of a few incidents per year. The results for discrimination and racism varied from 54% at the upper secondary levels to 70% at the level of vocational training.⁶⁸ Schools rarely have to deal with religious extremism, whereas

⁶³ See, among others, Sandra Fredman, "Double trouble: multiple discrimination and EU law," *European Anti-Discrimination Law Review*, 2005, no. 2, pp. 13-18 and Sarah Hannett, "Equality at the intersections: the legislative and judicial failure to tackle multiple discrimination," *Oxford Journal of Legal Studies* 2003, pp. 65-86.

⁶⁴ For more on confrontations see chapter 2, "Racial and right-wing extremist violence in 2007," table 2.1 and section 2.4.

⁶⁵ The Hague District Court, 23 August 2007, LJN BB2246.

⁶⁶ Also see Jaap van Donselaar (final ed.), *Monitor Racisme & Extremisme. Het Lonsdalevraagstuk* (Racism & Extremism Monitor. The Lonsdale problem). Amsterdam: Anne Frank House / Leiden University 2005.

⁶⁷ 'De staat van het onderwijs 2006-2007' (The state of the educational system, 2006-2007). See <www.onderwijsinspectie.nl>. Also see G. Mohebbi, *Allochtonia – Autochtonia. Twee werelden apart* (Aliens and natives. Two worlds apart). Zoetermeer: Betelgeuze 2008.

⁶⁸ *Ibid.*, p. 206.

"white" extremism is more problematic. This varies from 9% at the upper secondary levels to 27% at the level of vocational training.⁶⁹ According to the report, Lonsdale youth have a negative attitude towards ethnic minorities, and sometimes they engage in active confrontations with ethnic minority youth.

At a school in Naaldwijk, for example, three extreme right-wing skinheads deliberately attacked an ethnic minority student, who was stabbed several times with a pair of scissors. The student, 16 years old and of Moroccan origin, was saved by the intervention of the school's caretaker. The district court established that the perpetrator, who was joined by another boy, got into a fight with a foreigner, as he himself put it.⁷⁰ In determining the punishment, the court took into account that the perpetrator had no criminal record and sentenced him to 120 days' juvenile detention, 77 of which were suspended, under the condition that he follow the rules and instructions of juvenile rehabilitation.

The striking thing in this case is that the obvious racist dimension was not taken into account in the form of an increased sentence. In his indictment, the public prosecutor said that racism as a motive was not apparent in the dossier. According to the *Discrimination Instructions*, however, proof of a racist motive – always difficult – does not have to be produced: demonstrating the discriminatory aspects of the offence is sufficient.

Finally, an incident occurred at a primary school in which a woman was told by her two daughters that they had been bullied by children of Turkish origin. The mother, a native Dutch Haarlem woman of 47, lost her temper and went right up to the Turkish mothers, whom she found at a nearby playground. The woman set her dogs on the mothers while making rude comments such as, "F*** Muslims, go back to your own f*** country." Someone who happened to be passing by witnessed the scene. The women reported the incident to the police, and the police court convicted the women of threatening with violence and of racist and religious insults. She was sentenced to 40 hours' community service.⁷¹ The police court judge was quite clear in making the connection between race and religious as grounds for discrimination. The discriminatory insult was handled on the basis of art. 137c of the Criminal Code and not art. 266 of the Criminal Code (simple defamation).

It is commonly assumed by the Public Prosecution Service that conviction on the grounds of art. 137c of the Criminal Code is only possible if there is evidence of "defamation of a group of people," and that therefore the insulting must be directed at more than one person.⁷² This distinction does not strike me as correct. Nor is it consistently applied. The rude comment "F*** homo, you're all [*jullie zijn* in Dutch – second person plural] a disgrace to society" in combination with "Nigger, you're [*je bent* in Dutch – second person singular] a disgrace to society" does not result in a conviction on the grounds of art. 137c of the Criminal Code, according to the Amsterdam district

⁶⁹ Ibid., p. 211.

⁷⁰ The Hague District Court, 9 August 2007, LJN BB2554.

⁷¹ Haarlem District Court, 29 October 2007, public prosecutor's office no. 15/660636-06.

⁷² Gardine Dankers & Paul Velleman, *Handboek Discriminatie 2006* (2006 Discrimination Handbook), Amsterdam: Landelijk Expertise Centrum Discriminatie 2006, pp. 74-78. This work by the Public Prosecution Service is not available to the public.

court, but to conviction on the grounds of art. 266 of the Criminal Code.⁷³ The second person plural form *jullie zijn*, however, would have resulted in a conviction on the grounds of art. 137c of the Criminal Code. If the sentence had been, "(***) , you're [second person singular] a disgrace to society," art. 266 of the Criminal Code would have applied. This difference is no longer accepted by legal experts. Back in the 1990s Possel wrote that every person from a particular group will experience the comment in question as insulting. Indeed, the reason why someone is insulted in the first place is because he belongs to a particular group.⁷⁴ The grounds for discrimination apply by definition to group characteristics (whether supposed or not), and they also apply to every individual member of the group. Janssens explains this in his dissertation as follows:⁷⁵

"Denying the dignity of a single individual can be specifically based on one of the group characteristics found in art. 137c of the Criminal Code and is then punishable on the grounds of that provision. From this point of view the contents of the notion of defamation in art. 137c of the Criminal Code differs little from that in art. 266 of the Criminal Code."

The task now is for the judiciary and the public prosecutors to eliminate from the criminal discrimination prohibitions their current practice of distinguishing between singular and plural insults based on group characteristics. Support for this view can also be found in the Supreme Court judgement of 1984 in which personally insulting a Jewish woman was qualified as a group insult.⁷⁶ The singular insult not only has a lower maximum penalty (three months as opposed to twelve months for discriminatory defamation) but is also an offence that is only subject to prosecution after a civilian complaint has been filed. It is my feeling that in the case of insult based on prohibited group characteristics, prosecution based on art. 137c of the Criminal Code should be offered by virtue of legal certainty and for a proper explanation of discrimination based on group characteristics.

10.4.2 Arson

In 2007 there were eleven cases of arson or attempted arson.⁷⁷ This is the same number as in 2006. Two fires attracted a great deal of publicity and both resulted in judgements in 2007: the burning of a mosque in Edam and of a synagogue in Almere.

Three young people from Edam were held accountable for the arson in Edam: two men and a woman. One of the men was tried separately. In the case of the man and the woman, the district court found that they had thrown a Molotov cocktail against the wall of the mosque.⁷⁸ This Molotov cocktail had been made shortly before the incident in a garage, where the two had gathered with other Lonsdale youth. In this garage, a number of those present discussed the plan to set the mosque on fire. Then the three drove to

⁷³ Amsterdam District Court, 8 November 2007, public prosecutor's office no. 13/412395-07.

⁷⁴ Utrecht District Court, 9 October 1992, RR 1995, 298, esp. Possel, and also see J.C.M. van der Neut, *Discriminatie en strafrecht* (Discrimination and criminal law). Gouda: Quint 1986, p. 68.

⁷⁵ A.L.J.M. Janssens, *Strafbare belediging* (Criminal defamation). Amsterdam: Thela Thesis 1998, p. 394.

⁷⁶ Supreme Court, 26 June 1984, RR 1995, 69.

⁷⁷ See chapter 2, "Racial and extreme right-wing violence in 2007," table 2.1 and section 2.4.

⁷⁸ Haarlem District Court, 31 May 2007, LJN BA6136 and BA6137.

the mosque, bringing the Molotov cocktail with them. When they arrived at the mosque, they found that the light was still on. So they drove around for a while, and after half an hour they returned to throw the Molotov cocktail at the mosque. The building caught fire immediately, while four men were present in the mosque. That nothing more serious happened is mainly owing to the fact that one of the four men ran through the fire, grabbed a fire extinguisher and managed to put the fire out. The district court assumed that the light in the mosque was still on when the suspects returned. So the three knew, or in any case took into account the fact that at that point there were still people in the mosque, for which the court gave them full blame.

The district court and the public prosecutor were of the opinion that this behaviour was clearly discriminatory. In throwing a Molotov cocktail at a building that is meant for religious activity, such a conclusion is inherent – regardless of what was actually behind the perpetrators' conduct and regardless of the extent to which they were willing or able to examine the social and political consequences of their action. They were guilty of deliberately setting fire to a house of prayer, an act that can be seen as a direct infringement of the fundamental right to freedom of religion. It was clear that the discriminatory character of the act would be taken into account in the sentencing. The court rightly stated that in order to reach a sentence it was not necessary to ascertain the motives of the perpetrators: the decision to attack an Islamic house of prayer was sufficient to establish discriminatory motives. This judgement was one of the few to include such pointed comments about discriminatory motives by the judge, which occurs especially when the public prosecutor has focused attention on it in his indictment.

The perpetrators were sentenced to twelve months' imprisonment, half of which was suspended. They were also ordered to submit to social rehabilitation and to 240 hours of community service.

In the separate case against one of the arsonists, it was found that he had already been found guilty of desecrating Jewish graves in an earlier case. The boy had an anti-social personality disorder and for this reason was regarded as less than fully accountable for his actions. There was also evidence of an addiction problem and an extreme right-wing background. The court sentenced the young man – on the basis of the same offences as those for which his accomplices were tried – to twelve months' imprisonment, half of which was suspended.⁷⁹ He was also ordered to submit to social rehabilitation under supervision and to treatment for his addiction.

In another case of arson, the district court sentenced a group of eleven young men with extreme right-wing sympathies to nonsuspended imprisonment of from seven to sixteen months, among other penalties.⁸⁰ All eleven youths were acquitted of setting fire to a former home improvement centre in Almere, with which they had been charged. They were convicted of threatening the squatters living in the building with gross maltreatment on 20 February 2007. In its decision, the court stated the following:

"In determining the punishment to be imposed, the court seriously took into account the feelings of social unrest brought about by the raid on the former Formido

⁷⁹ Haarlem District Court, 17 August 2007, public prosecutor's office no. 15/40110-07.

⁸⁰ Zwolle District Court, 4 September 2007, LJV BB2830, BB2832, BB2832.

building. The court also took into account the fact that at this point in time, actions that are extremist in nature, no matter from which side, can contribute to further radicalisation, and is of the opinion that this must be dealt with vigorously."

Five of the suspects were also convicted of two cases of attempted arson (in an Islamic school and in a synagogue in Almere), of vandalising and causing damage to an Islamic supermarket in Almere and of setting fire to a squat in Amsterdam. The two minors who were part of the group were sentenced to 200 hours of community service and suspended juvenile detention.⁸¹ The sentence is worth noting because the court condemned extremist actions – regardless of the ideological background – due to the risk of further escalation and radicalisation.

10.4.3 Aggravating circumstances

The *Discrimination Instructions* stipulate that in the case of criminal offences aggravated by discriminatory behaviour, the public prosecutor must demand a 25% increase in punishment if a discriminatory dimension is present.⁸² It is rare to see this increased sentence explicitly expressed in case law, and usually it only occurs after the public prosecutor has asked for it in his indictment. Attention is also paid to the sentence increase in attempts to harmonise criminal law against discrimination within the European Union. In the EU proposal for a *Framework decision on combating racism and xenophobia*, the preamble states the following in point 6:⁸³

"Racist or xenophobic motivation should be taken into account as an aggravating factor when imposing penalties for ordinary offences. This would constitute a direct response to perpetrators of such offences and have a deterrent effect."

The racist motive, which is often difficult to prove, is included in the *Framework decision*.⁸⁴ The *Discrimination Instructions* set less severe requirements, however: demonstrating a discriminatory dimension is sufficient.⁸⁵

The European Court of Human Rights (ECtHR) has also given its opinion of racially motivated violence. In Bulgaria, a Romani man was beaten up and stabbed by a group of seven boys. The man died of his injuries. The criminal investigation took a very long time, and as a result no one was prosecuted. The ECtHR found that there was no evidence whatsoever of an effective investigation of the death of the victim.⁸⁶ The fact that Bulgarian criminal law does not have a specific provision for racially motivated murder or assault did not constitute a violation according to the ECtHR, but the absence of specific charges against the seven youths of racially motivated crimes did. Despite the fact that one of them had promptly confessed racist motives, the Bulgarian judiciary did

⁸¹ Zwolle District Court, 4 September 2007, LJN BB2836 and BB2838.

⁸² *Staatscourant* 2007, 233.

⁸³ PBEG C 75E/269 of 26 March 2002.

⁸⁴ Also see chapter 9, "Investigation and prosecution in 2007," section 9.2.

⁸⁵ C. Brants, R. Kool & A. Ringnalda, *Strafbare discriminatie* (Criminal discrimination), p.161.

⁸⁶ ECHR, 26 July 2007 (Agelova and Iliev vs. Bulgaria), *European Human Rights Cases* (EHRC) 2007, 108.

nothing with this confession. The ECtHR ruled that such a failure constituted a violation of art. 14 of the ECHR.

The court held, among other things, the following (115):

"[...] Moreover, when investigating violent incidents State authorities have the additional duty to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the events. Failing to do so and treating racially induced violence and brutality on an equal footing with cases that have no racist overtones would be to turn a blind eye to the specific nature of acts that are particularly destructive of fundamental rights. [...]"

In an earlier case, the ECtHR had already made it clear that when an assault was committed by an individual on the basis of art. 14 of the ECHR, the government had a special duty to expose any racist motives.⁸⁷ Carelessness in this regard can result in the member state in question being found in violation of the prohibition on discrimination in art. 14 of the ECHR. Once again, the incident here had to do with the gross maltreatment of a man of Romani origin by several skinheads.

It seems to me that considerations having to do with penalty increases for criminal offences aggravated by discriminatory behaviour can no longer be implicitly contained in judgements made by Dutch courts. Not only is it almost impossible to determine whether those considerations took place at all, but because they are implicit it is impossible to verify judgements made on this point. This seems to be in violation of ECtHR case law. From now on, public prosecutors ought to incorporate their request for an increased sentence in their indictments, and the courts ought to indicate in their judgement whether they are granting this request or not.

10.5 Conclusion

There are two sides to the discussion of freedom of expression and crimes of expression. On the one hand, it is rightly argued that the prohibition on discrimination should not lead to a situation in which individuals cannot freely express themselves within their responsibility before the law. On the other hand, there is a whole spectrum of measures aimed at remarks made by Islamic radicals in which a stricter standard seems to have been applied. This imbalance can also be found in various policy documents in which most of the attention is focused on hate mongering by Islamic radicals, while insufficient light is shed on the extreme right.

The danger of right-wing extremism should not be underestimated, however. The discussion of criminal offences aggravated by discriminatory behaviour shows that quite a few serious cases can be found at that end of the ideology spectrum. Furthermore, not only should the impact of the crime on the victim be taken into account, but so should the fear and insecurity that members of the surrounding community experience as a result. The argument that only a few serious cases of discriminatory violence ever take

⁸⁷ ECHR, 31 May 2007 (Šečić vs. Croatia), ECHR 2007, 92 with case note by Henrard.

place is a failure to appreciate the effect that these deeds have on members of the minority groups concerned.⁸⁸ Not only that, but recidivism in cases of racial violence is by no means exceptional.

It should be emphasised that general prevention is one of the goals of criminal law, which should be better expressed in cases of racial violence. Public prosecutors should explicitly include the 25% increase in sentences for criminal offences aggravated by discriminatory behaviour in their indictments. Subsequently, judges should be explicit when granting this demand. In this way, the fact that our society does not tolerate these forms of violence in particular is given expression.

The ECtHR interprets the discrimination prohibition in the same way. One misconception is the idea that the Public Prosecution Service has to prove the discriminatory *motive*. Our regulations, expressed in the form of the *Discrimination Instructions*, demand only that the discriminatory dimension be demonstrated. In the words of the Haarlem district court: "In throwing a Molotov cocktail at a building that is meant for religious activity, such a conclusion is inherent." Such a pragmatic approach is quite sufficient.

Despite the fact that the largest part of the iceberg is under water, there is enough sticking out to teach us something. The Minister of Housing, Communities and Integration would like to encourage the public – ethnic minorities and native Dutch – to report discriminatory incidents. To make this happen, the public needs to understand that there is a point to complaining about racial discrimination. The best way to increase the public's willingness to report these incidents is to make them aware of successful cases. By learning about these cases, people will come to realise that reporting discriminatory incidents can produce results. For criminal law this means that the police and the Public Prosecution Service must conduct an active policy on racial discrimination. Stimulating new case law (law formation) and taking the initiative (in an official capacity) are part of this effort. Case law should be given as much publicity as possible and should be made known to the public at regular intervals by way of the media, both new and conventional. In short: we need stories.

⁸⁸ Renée Kool & Mirjam Siesling, "Aandacht voor strafbare discriminatie" (Focus on criminal discrimination), NJB 2008, pp. 1152-1156.

11 Deradicalisation of right-wing radicals and Islamic radicals

*Froukje Demant, Marieke Slootman, Frank Buijs and Jean Tillie*¹

What makes radical movements break down? Why is it that at a certain point some radicals decide to embark on a less violent course? Why do some people bid their radical group farewell? While for a long time research on radicalism was focused on studying why certain persons become radical, more and more attention is being focused on why some groups and individuals *stop* being radical; why they "deradicalise." This is not just a matter of analysing the process of deradicalisation; it also has to do with asking how this process could be stimulated by means of deradicalisation programmes. In this chapter we will discuss the process of deradicalisation as well as the experiences with deradicalisation programmes for right-wing radicals and Islamic radicals gained abroad. In the first part, the notion of "deradicalisation" will be developed and the factors that play a role in the process of deradicalisation will be discussed. Factors that might form a barrier to deradicalisation will also be discussed. In the second part we will concentrate on experiences with deradicalisation programmes for right-wing radicals from Norway, Sweden and Germany. In the third part a number of deradicalisation programmes for Islamic radicals will be discussed. These include programmes in Saudi Arabia, Singapore, Egypt and Indonesia. Finally, the programmes for right-wing radicals and Islamic radicals will be compared, and a few points will be discussed with regard to possible application in the Netherlands.

11.1 Describing deradicalisation

Following Sprinzak,² radicalisation is regarded here as a process of delegitimation, as a process in which trust in the system declines and people withdraw further and further into their own group because they no longer feel part of society. It is therefore (partly) a political process. The legitimacy of the system is increasingly called into question and the people who are part of the system are increasingly dehumanised and seen as the enemy. This goes hand in hand with the desire and the intention to change the system profoundly. In the most extreme form of radicalism, that intention is converted into violent action.³

We regard deradicalisation as the opposite of radicalisation: it is the process of becoming less radical. This "becoming less radical" applies both to behaviour and views. As far as behaviour is concerned, this involves first of all the suspension of (violent) radical activities and the cessation of radical comments and displays. With regard to views, this involves an increase in trust in the system, a desire to be part of society once more and the rejection of non-democratic means. This is not to say that the

¹ This article is largely based on F. Demant et al., *Teruggang en uittreding: processen van deradicalisering ontleed* (Decline and disengagement: an analysis of processes of deradicalisation). Amsterdam: IMES 2008.

² E. Sprinzak, "The process of delegitimation: towards a linkage theory of political terrorism," *Terrorism and Political Violence* 1991, p. 3.

³ This most extreme form of radicalism can be called "extremism." For a discussion of the terms "radicalism" and "extremism" see: F.J. Buijs, F. Demant & A. Hamdy, *Strijders van eigen bodem: radicale en democratische moslims in Nederland* (Homegrown warriors: radical and democratic Muslims in the Netherlands). Amsterdam: Amsterdam University Press 2006.

deradicalised person is no longer interested in political change, but that his goal is no longer to undermine the system – and that now the means that he desires to use fit within the democratic legal system. In general, the deradicalisation of behaviour goes with the deradicalisation of opinions; for various reasons, movements or individuals can moderate or renounce their radical ideology and can decide that radical actions are no longer in keeping with their world view. But changes in behaviour and in outlook do not always coincide. Radical behaviour can be suspended without a concomitant moderation of radical opinions (for example, when a radical individual suspends his violent activities under pressure from his partner). Radical opinions do not have to change in order for the individual to be regarded as deradicalised. Conversely, individuals who have radical views but have not yet used violence can moderate their views. Although in such a case there is no clear change in behaviour, we can still regard the individual as deradicalised.

11.1.1 Collective and individual

Deradicalisation can take place on two different levels: the collective and the individual level. The collective level is the level of the radical movement. The individual level is the level of the radical individual.

Deradicalisation at the collective level means that a radical movement ceases to exist. This can happen in a variety of ways: a movement falls apart, bleeds dry, is broken up by governmental intervention, is absorbed by a non-radical movement or is transformed into a non-radical movement. In these cases we speak of a *decline* of the radical movement.

Deradicalisation at the individual level can assume several different forms. A very clear-cut form of deradicalisation is when a violent radical suspends his violent activities. But not all radicals are violent. Another indicator of radicalism is membership in a radical movement. Although membership in a radical movement does not necessarily mean that someone shares all that group's convictions and participates in all its activities, there is a high possibility that someone who is a member of a movement does endorse (some of) its most important convictions. It can also be assumed that membership in a movement increases the chance that someone also actually participates in some of the group's most important activities. By the same token, *disengagement* from a radical movement can also be regarded as a form of deradicalisation. Disengagement may often be linked with the moderation of radical views, but as noted, that does not necessarily have to be the case. If someone drops out of a radical movement (and thereby ceases his radical behaviour) but does not moderate his radical views, we still regard this as deradicalisation.

Finally, people may have had radical views without having exhibited the related behaviour, such as violence or membership in a radical movement. In the case of such individuals it is difficult to determine to what extent they were radical. Yet they may have undergone a process in which their radical views have been moderated, so this also constitutes a process of deradicalisation. In the rest of this chapter we will focus our attention on deradicalisation at the individual level.

11.1.2 Motives for radicalisation and deradicalisation

Why do individuals deradicalise? Persons who radicalise have certain needs that radical movements can fulfill. The radical movement constitutes a suitable "supply" to meet the individuals' demand. When the supply is no longer adequately suited to the individuals' demand, the appeal of the movement will diminish and the individuals will drop out. To understand why the appeal of a radical movement diminishes for an individual, we first have to know what that appeal involves. What motives prompt individuals to radicalise, or in other words: what functions do radical movements fulfil for individuals? In the literature on the motives for radicalisation, three fundamental motives can be distinguished: the response to perceived injustice, the need for bonding and the need for fulfilment.⁴

The response to perceived *injustice* is linked to a perception of injustice that can be deeply painful. The injustice can manifest itself in many areas such as the economic, the ethnic, the political, the religious and/or the social realm. An individual may feel that he has been unjustly treated either as a person or as a group. Some people feel the need to take an active response to the perceived injustice and may become increasingly radical as they do so. Buijs et al.⁵ call this the political-activist dimension of radicalisation.

The need for *bonding* implies that people not only want to achieve something but they also want to belong to a group that they regard as valuable. The members feel a sense of connection with the movement, the people in the movement or the group leadership. The group also provides the individual with a subculture in which he can feel at home and from which he derives a positive social identity. The subculture forms an alternative to the present society and is the manifestation of the views of the group's members with regard to the ideal life, be it an adventurous and free life or a highly structured and orthodox life. Buijs and his associates call this the social-cultural dimension of radicalisation.

The need for *fulfilment* is linked to a search for personal meaning and purpose. Some people search for an unambiguous explanation for the world they live in and the role they play (or are expected to play) in that world. Radical movements offer an ideology that provides the clear-cut answers these people need. Buijs and his associates call this the religious dimension of radicalisation.

Klandermans and Mayer⁶ call attention to a fourth factor that plays a role in becoming active in a (radical) social movement: the so-called "selective incentive." Selective incentives include all the advantages from which the individual participant benefits, such as a career in the movement or profiting from the network. These selective incentives, which have to do with the practical aspects of the way someone organises his life, is an important addition to the more "substantive" motives of responding to injustice, the need for bonding and the need for fulfilment.

Individuals will deradicalise when their needs and motives no longer correspond with what the radical movement has to offer. Here the ideology of the movement plays a crucial role. The ideology formulates the movement's outlook on the established order

⁴ See for example: F.J. Buijs, F. Demant & A. Hamdy, *Strijders van eigen bodem* (Homegrown warriors).

⁵ Ibid.

⁶ B. Klandermans & N. Mayer (eds.), *Extreme right activists in Europe: through the magnifying glass*. New York & London: Routledge 2006.

and describes how we can move from the established order to an ideal society. Thus the ideology can help impart meaning (which meets the need for fulfilment) and can motivate people to do something about the present situation (which meets the need to respond to injustice). Doubt may arise if the ideology is insufficiently convincing on any one of these points. But other aspects can also cause someone to doubt as to whether he still wants to belong to the radical organisation. For example, if the movement no longer satisfies the need for bonding, or if there are no longer enough selective incentives to stay with the movement: the movement fails to provide any personal advantages or even offers personal disadvantages.

To summarise, there are three types of factors that may play a role in deradicalisation:

1. A failing ideology: the analysis of the present world that is being provided no longer appears convincing to the individual. Or the individual is no longer attracted by the image being sketched of the ideal society. Or the proposed strategy for getting from the present to the ideal world is no longer desirable or effective. In the last case this often concerns doubt about the use of violence. Factors that are linked to a failing ideology are here called *normative* factors.
2. A failing movement: some radical group members become disillusioned with the group dynamic and the activities of the movement. Limited loyalty among the members themselves can also weaken ties with the group. Such factors that have to do with a failing movement are here called *affective* factors.
3. Adverse practical living conditions: active members may begin to feel that they are too old for what they are doing. They long for the freedom of an "ordinary" life. Another important aspect that may play a role here is formed by negative social sanctions imposed by the surrounding environment, such as stigmatisation or threats of criminal proceedings. Factors that are linked to such practical living conditions are called *continuance* factors.⁷

Disengagement from a radical movement is just one form of deradicalisation at the individual level. Individual deradicalisation can also consist of moderating one's radical views and radical (violent) behaviour. Whenever someone is not a member of a radical group, deradicalisation is therefore unrelated to the group aspects. In such cases, deradicalisation will mainly be the result of a failing ideology.

11.1.3 Barriers to deradicalisation

In addition to the factors that are conducive to deradicalisation, there are factors that impede deradicalisation. These are barriers that movements erect to prevent members from disengaging. The barriers are closely related to the deradicalisation factors mentioned above. Essentially they are the reverse impulse of deradicalisation motives: they ensure a dominance of the ideology in the individual's perception of the environment (normative barriers), social dependence of the individual on the group

⁷ The classification "normative, affective and continuing" is taken from B. Klandermans, *The social psychology of protest*. Oxford: Blackwell 1997. Klandermans writes about the concept of involvement in a movement (movement commitment) and distinguishes between normative, affective and continuance involvement. Also see F. Demant et al., *Teruggang en uittrekking* (Decline and withdrawal).

(affective barriers) or practical circumstances which all but force the individual to remain in the group (continuance barriers).

One important *normative* barrier is the individual's psychological dependence on the group. When an individual is involved in a community as demanding as a radical group, the group's influence reaches further and further into every area of his personal and moral judgement formation. Because of this, the individual loses faith in his own impressions and ability to make judgements. So disengagement is seen as a sign that someone is not strong enough to live according to his ideals. Before they leave, most people go through a fierce internal struggle. The outside world has become the great unknown where they no longer know how to make their way, and they are afraid of landing in a moral vacuum.⁸

An *affective* barrier is the individual's social dependence on the group. Radicals often break all ties with the past and therefore run the risk of ending up in a social vacuum if they were to leave the group.

An important *continuance* barrier is formed by investments that have been made previously (in terms of money, time, energy and/or in the social realm). Realising the costs that one has made as an individual for the movement can make it more difficult to leave. This mechanism is related to processes of cognitive dissonance, which cause one to feel as if he has to justify his efforts and sacrifices. So if one has a change of opinion, or in this case if one disengages from the movement, it feels as if the costs have been "for naught." Other continuance barriers are the fears, whether realistic or not, of physical reprisals after leaving the group or of the marginal social position that one will occupy after deradicalisation. Many radicals have status and a position within their group and are afraid of losing it if they to return to "normal" society.

Barriers can be overcome in various ways. Doubts about leaving can be overcome by seeing a clear discrepancy between what the leaders teach and what they do in practice. Breaking out of isolation is also an important step; getting involved in new activities, for instance, can be a first step in a process of pulling away. Doubts about leaving can also be overcome by maintaining a relationship with someone outside the group who offers a new frame of reference. Such factors can have an effect on different barriers at the same time. Breaking out of isolation can reduce both the psychological and the social dependence of the individual on the group. And a new relationship can result in breaking through both the psychological and the continuance barriers: the disengager realises that the previously made costs may be high, but that he may also regain a great deal when he disengages from the group.

A little light has now been shed on the factors and barriers that play a role in the deradicalisation of individuals. In this chapter we will continue building on this basis and we will look into the extent to which the process of deradicalisation among individuals can be stimulated and/or supported. Although the Netherlands has had to deal with many different forms of radicalism, and still does, it has little experience with initiatives

⁸ For a description of this process among right-wing radical young people, see: B. Rommelspacher, *Der Hass hat uns geeint: junge Rechtsextreme und ihr Ausstieg aus der Szene*. Frankfurt am Main: Campus Verlag 2006.

for stimulating or supporting the deradicalisation of individual radicals.⁹ For this reason we will look past our borders in order to find deradicalisation programmes to investigate.

11.2 Deradicalisation programmes for right-wing radicals

In several Western European countries, deradicalisation programmes have been developed that are intended to simulate individual followers of radical movements to disengage and to change their way of thinking. The Norwegian researcher Bjørgo is one of the founders of a programme to help right-wing radicals disengage. This so-called Exit Programme was developed in the mid-nineties and adopted in Norway. After this, a somewhat tailored version of Exit was adopted in Sweden and Germany. In the sections that follow, the programmes in these various countries will be discussed.

11.2.1 Norway¹⁰

There are only about 100 to 200 active right-wing radicals in Norway, and they are scattered across five to ten locations. The members are young, and their careers in the movement are relatively brief. Few remain active after the age of twenty. Most members have no more than a basic education and struggle with social problems. This makes the organisation weak, and the movement stands or falls with a few individual leaders. The Exit programme was developed between 1995 and 1997 and has three components: prevention, intervention and re-integration.

1. *Prevention* consists of conducting "empowerment conversations:" structured conversations in which a professional (such as a police officer or a youth worker) talks with a young individual who has already set off in the direction of the right-wing radical milieu, and their parents. The goal is to tell the youth about the possible adverse effects of right-wing radical membership.
2. *Intervention* consists of a combination of magnifying the drawbacks of membership in a right-wing radical group on the one hand and offering an attractive alternative on the other. Parental networks have been established for the parents of young people who are involved in a right-wing radical group. These networks are partly seen as a form of intervention because the programme tries to pull out young people out of the right-wing radical milieu by way of their parents.

⁹ In September 2007, a pilot of a deradicalisation programme for right-wing radical youths was started in the Netherlands. The programme was developed at the initiative of FORUM, the Anne Frank House / Leiden University and the Institute for Migration and Ethnic Studies (Instituut voor Migratie en Etnische Studies; IMES). It is being carried out in the cities of Winschoten and Eindhoven and will run until early 2009. At the time of this writing the pilot is still in full swing and therefore cannot be included in the discussion.

¹⁰ The discussion of the programme in Norway is based on: T. Bjørgo, "Reducing recruitment and promoting disengagement from racist groups," *Journal für Konflikt- und Gewaltforschung*, 2002, p. 4; T. Bjørgo (with Y. Carlsson & T. Haaland), "Conflict processes between youth groups in a Norwegian City: polarization and revenge," *European Journal of Crime, Criminal Law and Criminal Justice*, 2005, p. 13; and K. Warchold, *Konzepte gegen Rechtsextremismus in Norwegen und Schweden: das Beispiel "Exit"*, Magisterarbeit Humboldt-Universität, Berlin 2003.

3. *Re-integration* is aimed at offering support to individuals who leave the right-wing radical milieu by finding them a job and a place to live, and by carrying on conversations with the person in question.

The Norwegian Exit programme has chosen not to establish its own organisation to deradicalise people but to support local parties (mainly municipalities and the police) in increasing the knowledge of right-wing radicals and developing deradicalisation methods at the local level. So in Norway the Exit programme is not so much a contact point for individuals who want to disengage as it is a model that local parties can use to deradicalise people.

11.2.2 Sweden¹¹

In Sweden the right-wing radical milieu consists of approximately 3,000 individuals and can justly be called a social movement. There are several thousand sympathisers, and the movement has developed its own organisational, economic and media infrastructure. It has grown beyond a youth scene, moreover; many of the activists are in their twenties or thirties and have been involved in the movement for ten years or more. Because of its size the movement is not vulnerable; if any of the leaders are imprisoned, new leaders rise up.

The Swedish ex-neo-Nazi Kent Lindhal established the Swedish Exit programme in Stockholm in 1998. The Swedish programme had the same goals as the Norwegian programme but with a somewhat different structure. For example, a large section of the staff itself is from an right-wing radical background. Support to parents is individual, in contrast to the parents' networks in Norway. The Swedish project has also developed a five-phase model based on assistance to alcoholics. This model involves drawing up a "needs profile" and an individual plan with rules.

- *Motivation phase.* The individual is still in the group but is having doubts and contacts the Exit team. The team provides information and offers a contact person who has gone through the process himself.
- *Disengagement phase.* The individual has taken the decision to disengage from the group. This is a chaotic period during which the Exit team helps by talking with him. Sometimes a person has to move or needs financial help. The contact person is always available by telephone and serves as the intermediary with the authorities. The contact person also provides personal support.
- *Settlement phase.* The break is now complete. The individual has a place to live, financial resources and sometimes a job or a course of study. But he is often socially isolated and feels empty and lonely. The contact person tries to establish ties with "normal" life. Group discussions are often useful at this stage.

¹¹ The discussion of the programme in Sweden is based on: National Council for Crime Prevention (brÅ). *English summary. Exit: a follow-up and evaluation of the organisation for people wishing to leave racist and nazi groups.* Stockholm 2001; T. Bjørge & Y. Carlsson, *Early intervention with violent and racist youth groups.* Oslo: Norwegian Institute of International Affairs 2005; T. Bjørge, J. van Donselaar & S. Grunenber, "Exit from right-wing extremist groups: lessons from disengagement programmes in Norway, Sweden and Germany," in: T. Bjørge & J. Horgan (eds.), *Leaving terrorism behind: individual and collective disengagement,* New York & London: Routledge 2008; and K. Warchold, *Konzepte gegen Rechtsextremismus in Norwegen und Schweden.*

- *Reflection phase.* The individual begins to free himself from things from the past such as violence, crime, radical ideology and hatred. Some people experience problems such as anxiety, depression, sleeplessness or alcohol abuse. They are often referred to a therapist. This is the phase in which they abandon their radical and racist ideas.
- *Stabilisation phase.* The individual now has a "normal" life again with work, a course of study and sometimes a family of his own. He is still afraid that the past will ruin his future, and he often experiences feelings of guilt and shame. The Exit programme is now no longer active, but many people maintain contact with their contact person.

The Exit programme generally covers a period of between six and twelve months. The conversations that are held are not attempts to change the disengager's mind ideologically but to strengthen his will to extricate himself from the right-wing radical milieu and to build a normal life. During these conversations, the negative personal consequences of remaining in the right-wing radical movement are examined as well as the possibilities and alternatives that are associated with disengagement. Things have not gone so well for Exit Sweden in recent years. It has become more and more difficult to raise funds, and a number of regional sections of the programme have had to close.

11.2.3 Germany¹²

Germany has been struggling with right-wing radical youth groups for a long time. At the end of 2007 there were about 31,000 right-wing radicals in Germany, around 10,000 of whom are regarded as being prepared to resort to violence (predominantly from skinhead groups).¹³ Consequently Germany has a whole range of programmes for combating and preventing right-wing extremism. Around the year 2000 several different deradicalisation programmes were launched. At the moment there are about fifteen to twenty projects that are aimed at the deradicalisation of right-wing radicals. These programmes differ from each other in terms of target group (key persons, experienced activists, hangers on or sympathisers), methodology and organisational structure. There are projects that operate at the state level and national projects. Grunenberg and Van Donselaar¹⁴ have investigated four of these projects: the national NGO-based "Exit Deutschland" programme, the national government programme of the *Bundesverfassungsschutz*; and two government programmes that operate at the state

¹² The discussion of the programmes in Germany is based on: T. Bjørge, J. van Donselaar & S. Grunenberg, "Exit from right-wing extremist groups: Lessons from disengagement programmes in Norway, Sweden and Germany;" Exit Deutschland. *Letzter Halt: Ausstieg. Wege aus der rechtsextremen Szene*, 2007; S. Grunenberg & J. van Donselaar, "Deradicalisering: lessen uit Duitsland, opties voor Nederland?" (Deradicalisation: lessons from Germany, options for the Netherlands?), in: J. van Donselaar & P. R. Rodrigues (eds.), *Monitor Racisme & Extremisme: zevende rapportage* (Racism & Extremism Monitor: seventh report). Amsterdam: Anne Frank House / Leiden University 2006, pp. 158-178; and B. Rommelspacher, *Der Hass hat uns geeint*.

¹³ <http://www.verfassungsschutz.de/de/arbeitsfelder/af_rechtsextremismus/zahlen_und_fakten.html> (28 July 2008).

¹⁴ S. Grunenberg & J. van Donselaar, "Deradicalisering: lessen uit Duitsland, opties voor Nederland?"

level (Noordrijn-Westfalen and Hessen). The "Exit Deutschland" programme was also studied by Rommelspacher.¹⁵

The Exit programme uses the Swedish five-phase model and draws up a general profile in order to get a better idea of the disengager's views and his reasons for wanting to disengage. The assessment of the disengager's safety is given high priority. The government programmes seem more strict in their approach than the Exit programme: the demands for admission are higher and contracts are drawn up with the disengagers that must be carefully observed. Contact with old friends from the radical right-wing milieu, or a failed attempt to kick the habit, are reason enough to be expelled from such a programme. The Exit programme, on the other hand, is more accessible because it operates independently of the government. For this reason, many disengagers do not see it as part of the "enemy" camp.

An interesting outcome is the relatively low significance which ideological considerations appear to have in the German programmes studied by Grunenbergh and Van Donselaar. Many of those programmes are mainly aimed at the resocialisation of the disengager and not at reflecting on radical right-wing ideology. A break is often regarded successful if the disengager just gets out of bed on time, shows up for work and does not immediately raise fists when someone disagrees with him. The Exit programme is an exception in this regard: its aim is not only to provide the disengager with practical support but also to tackle radical right-wing ways of thinking and to stimulate a democratic mentality. It is not clear, however, to what extent the programme gets around to this in practice (in addition to providing a safe environment and new social contacts). Nor is it clear whether such efforts have been successful.

11.2.4 Discussion of the programmes for right-wing radicals

One striking feature of the Exit approach is its "depoliticised" character: radicalisation is regarded as a psycho-social problem that stems from a weak social background. Aspects of political activism and a radical ideology play a minimal role. This vision of the radical as "social dropout" is particularly dominant in Norway. Here the Exit programme concentrates on getting young people who have come in contact with the radical right-wing milieu back on the right track as soon as possible. The underlying idea is that initially the young people have hardly been shaped ideologically, but seek out the radical right-wing group because of a need for bonding and identity. Once they find themselves in the group, this will gradually shape them ideologically and they will be steamrollered into committing violent crimes. This must be avoided at all costs. In the Norwegian vision, young people who feel attracted to right-wing radicalism must be assisted with the basics such as an education, a place to live, social contacts and activities. These are young people who say they particularly miss friends and who benefit enormously from developing an alternative social network. For this reason, Exit focuses on social help in combination with cooperating with the police. So the Norwegian Exit program mainly responds to the role played by continuance factors and works on breaking through continuance barriers (helping out with practical living conditions). A modest amount of attention is also paid to affective factors (providing another social environment), but no consideration is given to normative factors. This approach appears to work well in Norway. The Exit programme has managed to change the thinking of a large number of

¹⁵ B. Rommelspacher, *Der Hass hat uns geeint*.

young people who were gravitating towards the radical right, and has established a number of successful parents' networks.

In Sweden and Germany, too, the focus is on practical living conditions and affective factors. The German Exit programme is aiming at tackling normative factors as well, but it is unclear to what extent that is actually happening.

The Swedish and German programmes are especially successful with young people who are not yet deeply entrenched in the radical right-wing milieu and with older individuals who no longer have any prospects because of threatening court cases, pressure from the outside and/or alcoholism and drug addiction. But in Sweden, many right-wing radicals, unlike the "social dropouts" in Norway, have political activist backgrounds. Likewise in Germany, right-wing radicalism is not just a problem of marginalised youth but constitutes a serious movement. It seems that in these countries right-wing radicals with a different, more politically motivated profile do not feel drawn to the existing deradicalisation programmes. So the programmes are successful, but only with people with a certain profile.

It can be concluded that the programmes would benefit from paying more attention to normative factors. Research conducted on individual deradicalisation¹⁶ shows that for many dropouts, normative factors play a major role in setting the process of deradicalisation in motion. Doubts about the feasibility of the desired future and changes in the world visions can cause a person to lose interest in the radical movement. By incorporating normative factors into deradicalisation programmes persons who are now out of the picture can also be reached.

11.3 Deradicalisation programmes for Islamic radicals

Now that we have described a number of deradicalisation programmes that are aimed at helping people pull out from right-wing radical groups, we will now turn to a series of deradicalisation programmes that are specifically focused on Islamic forms of radicalisation. These programmes are being conducted in Saudi Arabia, Singapore and Egypt. They are based on a re-education programme that according to reports was first used in Yemen but was discontinued in 2005, according to Montlake,¹⁷ on account of high recidivism. We will also discuss an Indonesian programme.

11.3.1 Saudi Arabia¹⁸

In Saudi Arabia in 2003 a programme was launched that was supposed to make radical ideas less attractive. The programme is aimed at people in prison. Individuals who successfully take part in the programme are given early release. The aim of the programme is to give prisoners a different view of Islam. This is done by means of intensive religious conversations and psychological support. The first conversation consists mainly of listening to the prisoner, and as the contact progresses this develops

¹⁶ F. Demant et al., *Teruggang en uittreding* (Decline and disengagement).

¹⁷ S. Montlake, "U.S. tries rehab for religious extremists. Singapore has reduced its detainee ranks with Islamic reeducation," *Christian Science Monitor*, 9 October 2007. <www.csmonitor.com/1007/1009/p01s04-woap.htm>.

¹⁸ The discussion of the programme in Saudi Arabia is based on C. Boucek, "Extremist reeducation and rehabilitation in Saudi Arabia," *Terrorism Monitor*, 16 August 2007 and J. Burke, "Saudis offer pioneering therapy for ex-jihadists," *The Observer*, 9 March 2008.

into a two-way discussion. Attempts are made to show the prisoner that his ideas and motives are not really Islamic but are based on an incorrect interpretation of Islam. The assumption is that the suspects have been misled and abused, and that the state is going to set them straight. The prisoner is supposed to come to realise that he was enticed to follow an incorrect interpretation of Islam and that the version being supported by the state is the best. The programme gains legitimacy because a number of former militants are taking part in it, and they enjoy a great deal of credibility among the other participants.

Another part consists of a six-week group training programme in which subjects such as *takfir*,¹⁹ jihad and terrorism are dealt with and in which psychological courses are given to promote self-confidence. The programme ends with an examination, and if the prisoner fails to pass it he must repeat the course.

Attention is also paid to the social needs of the prisoner and his family. That may consist of paying an allowance to the family if the prisoner was the breadwinner, or covering school and health care costs. The family is involved in the deradicalisation owing to the fact that they have permission to visit on a regular basis, for example. The socio-economic support is continued after release if the prisoner completed the re-education course satisfactorily and renounced his former way of thinking. He is provided with sufficient financial resources, a job and sometimes even a dowry of about ten thousand euros, enabling him to get married. The socio-economic help is offered as a form of "inclusion," since the government believes that otherwise the help will be offered by radical organisations.

Since the beginning of 2004 more than two thousand prisoners have taken part in the program. Seven hundred have renounced their ideas and have been released. Boucek²⁰ rightly points out that it is difficult to gauge the success of the programme, partly because it has not been running very long. According to the Saudi authorities, of all those who have completed the programme and have been released, only nine have been arrested for violations of security regulations.

11.3.2 Singapore²¹

In 2003, the Religious Rehabilitation Group was established in Singapore. Twenty clergymen participate in this programme on a voluntary basis, carrying out one-on-one conversations with imprisoned radicals in order to correct their vision of Islam. In this programme, too, the main assumption is that the jihadists have been "misled" and that they have to learn the proper interpretation of Islam. The families are given psychological, social and financial support so they do not feel marginalised. When the ex-radicals are released they are given assistance in finding work. Unlike most other programmes in which there is hope for the prisoner even without participation in the

¹⁹ *Takfir* involves declaring other Muslims and people of other religions as nonbelievers. In fact it boils down to an informal shunning of everyone who does not observe the strict laws of a radical version of Islam.

²⁰ C. Boucek, "Extremist reeducation and rehabilitation in Saudi Arabia," *Terrorism Monitor*, 16 August 2007.

²¹ The discussion of the programme in Singapore is based on S. Montlake, "U.S. tries rehab for religious extremists. Singapore has reduced its detainee ranks with Islamic reeducation," *Christian Science Monitor*, 9 October 2007. <www.csmonitor.com/1007/1009/p01s04-woap.htm>. Also see the website of the Religious Rehabilitation Group <www.rrg.sg>.

programme and the programme itself is voluntary, it is not possible to be released in Singapore without taking part in the programme. Moreover, these are prisoners who do not know if or when they are going to be released, so for them there is no light at the end of the tunnel. In all likelihood such compulsion undermines the purpose of the programme, since in a situation like this prisoners will be prone to pretend that their beliefs have been changed in order to get out of jail.

11.3.3 Egypt²²

In Egypt, an approach involving dialogue with the group Gamaat Islamiya has born fruit – so much so that the group foreswore violence in 1997 and even made an attempt to establish a political party. The approach of the Egyptian government is comparable to the programmes described above and stemmed from the insight that the hard, repressive course which previously had been followed was counterproductive. Islamic scholars who registered with the government engaged in debates with the prisoners of the Gamaat Islamiya in order to change their minds about the use of violence. This introduction to other ways of thinking and other insights gradually changed their views, even though they had little else to gain from it. There was no prospect of release, they received no recognition and they were not allowed to talk to people from outside. The leaders have officially foresworn violence. Still, some reserve must be exercised when evaluating success: the Gamaat Islamiya is "still in an inner search stage."²³

11.3.4 Indonesia²⁴

In Indonesia it was the police who set up a deradicalisation programme. The programme is only carried out within the police organisation because the situation in the prisons is so corrupt that it is unsuitable for conducting such a programme.

The programme actually consists of two steps: first deradicalise influential leaders, and through them exercise influence on the radical group (thus from the individual to the collective). The basic assumption of the police programme is that jihadis do not listen to moderate people from outside their own group, but that the debate on the strengths and weaknesses of violent strategies must be carried out within the movement itself. The programme focuses on apprehended members of the Jemaah Islamiya (JI), the largest radical organisation in Indonesia. The police select people from the JI who are in prison. They choose people who have prestige within the movement, who know it well and are willing to lend their assistance. These people then try, in informal discussions, to make other radical prisoners aware of what is good and what is bad about their approach to jihad. Because there remains a major risk that jihadis who change their thinking in prison will join up with their old radical networks (which function as intensive social networks) as soon as they are released, attempts are made to neutralise the networks by stimulating internal discussion.

The prisoners' approach is regarded as a success. Already more than twenty members of the JI and people from other organisations have offered to cooperate. One of the

²² The discussion of the programme in Egypt is based on: C. Goerzig & K. Al-Hashimi, "Change through debate - Egypt's counterterrorism strategy towards the Gamaa Islamia," *Paper for the Sixth Pan-European Conference on International Relations*, Turin, 12-15 September 2007.

²³ Ibid.

²⁴ The discussion of the programme in Indonesia is based on: International Crisis Group, "Deradicalisation" and Indonesian prisons. *Asia Report no. 142*, 2007, <www.crisisgroup.org>.

factors that contribute to this success is the friendly treatment by the police. By maintaining a sympathetic attitude, the police refute the jihadis' assumption that the police are un-Islamic; they also hope to plant doubt in their minds concerning other convictions. To a great extent, however, the programme's success depends on economic support, especially after release, which according to the International Crisis Group²⁵ appears to be more important than religious arguments in changing a prisoner's attitude. The programme focuses at least as much on socio-economic factors as it does on ideological factors. It responds to personal needs, which usually are related to the economic situation of the family, communication and attention.

11.3.5 Discussion of the programmes for Islamic radicals

It is striking that in the deradicalisation programmes for Islamic radicals the emphasis is placed on ideology and re-education. The Saudi government even speaks of a "war of ideas" when talking about combating radicalism. The programmes use discussion and education to try to show radicals that their views are based on an incorrect and incomplete interpretation of Islam. The idea behind this approach is that the jihadis are naïve and easily influenced young people with an underdeveloped capacity for reasoning and few communication skills. Their religious knowledge is minimal and they have let themselves be "seduced" into embracing a violent interpretation of Islam by charismatic leaders. The deradicalisation programmes focus on correcting this interpretation.

Such an ideological approach raises a number of questions. First of all, what alternative should be offered when contending with incorrect interpretations of Islam? What is the "correct" Islam, anyway? In Saudi Arabia and Singapore, the programmes try to replace radical Islam with an interpretation of Islam that has been approved by the state. The Indonesian programme makes use of ex-jihadis, whose views are not that far removed from those of the present radicals: they still approve of jihad but argue that the radicals act too rashly. They think the radicals should assess their own strengths and weaknesses, and first win the support of their own Muslim community. By means of this reasoning, many radicals become convinced of the efficacy of abandoning violence, but they do not reject violence in principle.

Second, almost all the projects follow two tracks in which the ideological approach is combined with an approach aimed at improving the person's practical living conditions. The underlying assumption is that someone in a distressing situation will easily be drawn back into the radical circuit. But because of the interweaving of the two tracks within the programmes it is difficult to determine how much of the success is owing to the ideological approach. Do the prisoners become deradicalised because they reject the jihadi ideology or because they and their families are being supported in the effort to build up a new life? This interweaving reinforces the existing criticism that it is impossible to say for sure whether someone has really foresworn his radical ideas. People can easily feign a change of views, a situation that is probably compounded by a system of high rewards such as generous financial support.

In any case, no firmly substantiated claims can be made at this time concerning the success of the programmes. Too little is known about the effectiveness of the re-education programmes described here to say whether they have really been a success

²⁵ Ibid.

or not. This is because they have only been running for a few years and relatively few academic studies on this topic have been published.

11.4 Conclusion

In the interest of possible application in the Netherlands, analysing the experience of deradicalisation among right-wing radicals and Islamic radicals in other countries is a worthwhile exercise. When the programmes for right-wing radicals are compared with those for Islamic radicals, the striking feature in the programmes for right-wing radicals is their emphasis on cancelling out the disadvantages connected with membership in a radical right-wing group. These disadvantages are found mainly in the area of practical living conditions (career, drug addiction, threatening court cases) and on the social plane (dependence on the right-wing radical group). So the programmes focus mainly on continuance and affective factors and attempt to eliminate barriers in those areas by offering social alternatives. They do not focus on the group's ideology. Programmes that target Islamic radicals on the other hand, place their accent on ideology. They use discussion and dialogue in an attempt to transform radical thinking and to help the radical understand that violence is not the right way. They also pay attention to the radical's practical living conditions, mainly in the socio-economic sense. So these programmes mainly focus on normative and continuance factors, but do not deal with the radical's affective involvement in the group.

The two kinds of programmes supplement each other well: each one lacks a factor that is important for disengagement. The programmes for right-wing radicals have much to gain by introducing the normative factor. This would involve entering into a discussion with the right-wing radical about his or her world view, and doing it in a constructive way. The methods applied in the programmes for Islamic radicals can be of help here. An addition like this would make it possible to address even the more politically motivated radicals. The programmes for Islamic radicals too, might profit from an addition: the affective factor. Right now, the matter of bonding with and being dependent on the radical group is barely dealt with, even though this can constitute a major barrier to disengagement. By counselling individuals (in the case of prisoners, after they have served their time) in the search for social alternatives, the bonding with the group can be severed. The Indonesian police programme does focus on affective factors to a degree by stimulating internal ideological discussions, but this is more a method on a collective, rather than an individual level.

A few more general remarks can be made with regard to the content of the programmes. First, it is questionable whether disengagers should be given financial support. As already noted, such a decision can increase the risk of feigned ideological change. But the justice of such treatment is questionable as well. The Saudi government argues that socio-economic assistance is a form of inclusion because otherwise such help would be derived from radical organisations. But where is the fairness of preferential treatment for ex-radicals with regard to other prisoners, and especially with regard to the victims of terrorist attacks?

Second, with an ideological approach – certainly with a religious ideological approach – it is necessary to take a look at the alternative that is offered or that ought to be offered. We saw that in the countries being discussed, the official state Islam serves as the

alternative. But in secular countries like the Netherlands this is a much more difficult question. To what extent can the governments in those countries express a preference for one religious ideological interpretation and oppose another religious ideological interpretation? And how radical or orthodox can the alternative be?

In the discussion of the programmes for Islamic radicals, we saw that radicals are sometimes receptive to people whom they see as credible conversational partners. This credibility has to do with the fact that the conversational partner is seen as "us" and not as the hostile "them." And on the other hand, it also has to do with content-based authority and legitimacy, since the conversational partner is equipped with profound ideological knowledge and is able to argue in a way that appeals to the radical. This insight can be valuable for application in the Netherlands, but it immediately raises questions about who could act as a credible conversational partner. Can the role be played by non-orthodox, perhaps even non-religious persons? Or are the only people who are credible for radicals the ones whose ideas coincide largely with their own, i.e. persons who themselves are relatively radical and orthodox? For some radicals the latter is quite possible the case, which makes the choice of an alternative religious body of thought a complex one. After all, the goal is to offer an alternative body of thought that has as deradicalising an effect as possible.

All in all, the experiences with deradicalisation programmes in other countries provide good entry points for application in the Netherlands, although the organisation of the programme, the alternative being offered and the role of the government must be well thought out. It is essential that the programme be tailor-made, combining general expertise with knowledge of the local situation and the target group. This local knowledge is mainly developed by gaining experience – because establishing a successful deradicalisation programme is ultimately a process of falling down and getting up again, where scholarly insights must be paired with stubborn practical realities.

12 Concluding remarks

Jaap van Donselaar and Peter R. Rodrigues

The *Racism & Extremism Monitor* is a research-based collaborative project of the Anne Frank House and Leiden University. The aim of the Monitor is to investigate the various forms of racism and extremism – and responses to these phenomena – and to publish the results in periodical reports. This means looking at both forms of expression and forms of exclusion. Different kinds of victims *and* perpetrators are also identified, involving either native Dutch or ethnic minorities. The response to racism and extremism can vary, in terms of kind – legal, administrative and political, for example – and in terms of actors – such as governmental authorities, media, politicians and civil society. The recurrent monitoring of racism and extremism, as well as the responses to these phenomena, serves a range of objectives. It seeks to contribute to the general understanding of the problem itself and to finding solutions to racism and extremism as social problems. The longitudinal research that is conducted, and the periodical reports ensuing from it, result in an accumulation of knowledge. A picture emerges of developments over the somewhat longer term. In addition to recurring themes, the Monitor project also deals with new subjects of research.

In this eighth report of the *Racism & Extremism Monitor*, the following subjects are examined:

- Racial and right-wing extremist violence in 2007.
- Right-wing extremist groups.
- Grey Wolves in the Netherlands.
- Demonstrations by right-wing extremist groups in the Netherlands and Germany.
- Counterterrorism and radicalisation policy.
- Response to extremism in the Rotterdam region.
- The extreme right and the discriminatory identity of the PVV.
- Investigation and prosecution in 2007.
- Case law on racism and extremism in 2007.
- Deradicalisation of right-wing radicals and Islamic radicals.

This final chapter consists of two parts. In the separate chapters of the book, the results and conclusions are presented. In the first part of this chapter these will be repeated, not *in extenso* but briefly summarised. In the second part, a few conclusions will be drawn based on these chapters that go a bit further than the individual reports. This analysis will concentrate on the following issues:

- Freedom of expression and hate speech.
- The extreme right in the year 2008.
- Islamophobia.

Racial and extreme right-wing violence in 2007

The year 2007 demonstrates the continuance of an established trend: the decline in the number of violent racist and right-wing extremist crimes (from 259 in 2006 to 223 in 2007). We see this drop in almost all the categories of violence. As far as perpetrators

are concerned, the increasing number of anti-Muslim incidents is especially striking: from 62 in 2006 to 82 in 2007. That is a one-third increase, as opposed to the general declining trend. Violent anti-Semitic incidents dropped, also by one third. The involvement of right-wing extremist perpetrators in racial and right-wing extremist violence is particularly noteworthy. The number of incidents involving alleged right-wing extremist perpetrators may have dropped but, as in previous years, it is still high. The salient feature there is a shift in accent from racial violence to violence aimed at political opponents.

Right-wing extremist groups

The right-wing extremist domain in the Netherlands has been going through a transition recently. The readiness to take action has grown substantially within the extreme right. This can be seen in the increased number of public demonstrations, high-profile actions and members of action-oriented organisations. The number of neo-Nazi activities has grown over four years from forty to four hundred. Their ideology includes the call to bring back National Socialism, the glorification of violence and the justification of armed struggle against enemies: "the Jewish conspiracy," government, police, intelligence services and political opponents.

The only "classical" right-wing extremist political party still in existence in 2008 was the Netherlands People's Union (Nederlandse Volks-Unie; NVU). Its electoral significance is scant, but as far as right-wing extremist street activism is concerned the NVU is important. The other right-wing extremist parties faded away in recent years. Factors that played a role in their demise were external repressive pressure, lack of internal stability and "competition" from the Party for Freedom (Partij voor de Vrijheid; PVV). Then there is the Lonsdale problem: possibly a few thousand more or less racist Lonsdale (white power) youth who were involved in interethnic confrontations and other incidents in various regions. Data from the Education Inspectorate show that the problem exists at many schools, but unfortunately there is a lack of specific information concerning the nature and scale of the problem.

Grey Wolves in the Netherlands

Since the end of the seventies, the names *ülkücüler* and Grey Wolves have become general designations for those who adhere to the ideology of the *Milliyetçi Hareket Partisi* (MHP, or Nationalist Action Party), an extreme nationalistic Turkish political party. It should be noted, however, that during the past decade the MHP has adapted and revised some of its radical image. Over the past five years Grey Wolves have received less media coverage in the Netherlands than they once had been given. It is conceivable that extreme nationalistic ideas have become less widespread among people of Turkish origin. It may also indicate, however, that the Turkish federation, and the organisations allied with it, are less the vehicle for radical nationalistic ideas than they once were among the Turks of the Netherlands. While there are signs that the latter may be the case, no research has yet been done to confirm it. Clearly, further research on the extent to which Turkish-nationalist views prevail among Turkish young people in the Netherlands is desirable. Finally, the ideology of the Grey Wolves can best be characterised as nationalistic or – certainly by Dutch standards – extreme nationalistic. But it is less extreme than it used to be. It is much more difficult to demonstrate that the ideology of the Grey Wolves incites racial hatred. In the past, Grey Wolves were often

accused of intimidating, fighting with and threatening Kurds, Alevis and left-wing political opponents. Today such incidents occur only sporadically, and there are no indications that racism is involved.

Demonstrations by the extreme right in the Netherlands and Germany

For decades, right-wing extremist demonstrations were put under a preventive prohibition in the Netherlands on account of the chance of public disorder. After an administrative change in the mid-1990s, mayors were more and more willing to allow right-wing extremist demonstrations to take place. Since 2000, legal developments have mainly resulted from court decisions in which demands on decisions to prohibit or restrict demonstrations were made more explicit. These concerned both the preparations for and motivations behind such decisions and proof by the mayor that a prohibition is justified by a situation of administrative force majeure. In addition, banning such a demonstration to a remote part of the city is entirely out of the question, as are preventive checks on statements made at demonstrations. After 2000 the number of right-wing extremist demonstrations gradually increased, and participants from surrounding countries were present at most of them. "Council" on responding to discriminatory statements, or expressions that are otherwise punishable, was recently urged. Any application of this council that results in the confiscation of or the required taping over of slogans or symbols that are not conclusively punishable is inconsistent with the constitutional freedom of expression and freedom of demonstration. The same is true of requiring proof of identity of groups of demonstrators if punishable offences or disturbances are not at issue.

In comparison with the Netherlands, Germany exercises more extensive central control of the freedom of demonstration in the *Versammlungsgesetz*, while the German criminal code prohibits the carrying of National Socialist messages and symbols. As in the Netherlands, the number of demonstrations in Germany has increased. Since 2000, a fierce legal debate has raged on the constitutional leeway for right-wing extremist demonstrations in the "resilient" Germany constitutional system. The result resembles the situation in the Netherlands: less room for preventive prohibitions and better grounds for restrictions. A provision was incorporated in the *Versammlungsgesetz* in 2005 enabling a preventive prohibition on demonstrations at a location of important historical significance in the light of Nazi rule and the fact that such a demonstration would amount to a violation of the dignity of Nazi victims.

A close look at counterterrorism and radicalisation policy

In its struggle against radicalisation and terrorism, the Dutch government prefers the comprehensive. This approach does not limit itself exclusively to a small group of people who are about to resort to violence; rather it focuses on a much broader group of people who harbour radical ideas in principle. In this way an attempt is made to combat radicalisation at an early stage. These are people who do not use or threaten to use violence but who think about whether violence may be necessary for reaching their goals. So radicalisation and terrorism are seen as a coherent continuum. The policy to combat them comprises not only repressive counterterrorist measures, but it also fans out in all directions. Such a comprehensive approach seems logical in and of itself, since terrorism can inflict such enormous damage – not only immediate damage caused by the violence itself but also the residual unrest that arises from it and the social damage,

such as polarisation, that may ensue. On the other hand, the comprehensive approach also results in problems. Attempts to identify risks at an early stage, for example, can easily lead to extensive "funnel models" in which vast numbers of persons are suspected in principle. So the question is, how much justification is there for focusing attention on people in the "base area phase" solely on the grounds of certain religious beliefs or a strong sense of exclusion, most of whom will never develop into people who commit violent crimes? Another question is how to arrive at the correct indicators in order to create an effective distinguishing capacity. If attempts at profiling do not work – because they are based on stereotypes or outdated information, for example – they could backfire, creating irritation about the government's action and feelings of discrimination and exclusion. In short, they could result in emotions that are conducive to radicalisation. Experience teaches that unsuccessful profiling is often continued rather than abandoned, so that the government penetrates further and further into the capillaries of society. That is why it is time we did more than simply mark time by accepting measures against radicalisation and terrorism whose usefulness is yet to be proven. It is also time we decided whether we want a society in which every move citizens make are deeply scrutinised and where we call in the police for every form of radicalism or non-conformism.

Response to extremism in the Rotterdam region

The national *Polarisation and radicalisation action plan for 2007-2011 (Actieplan polarisatie en radicalisering 2007-2011)* contains three objectives for targeting radicalisation: prevent processes of radicalisation, tackle radicalisation through the local government and exclude people who have transgressed those boundaries. In Rotterdam, too, radicalisation is being combated by means of a so-called "soft" and a "hard" approach. These involve, respectively, strengthening ties with society and repression if necessary. The city of Rotterdam and the city of Amsterdam together play a pioneering role in the local fight against radicalisation. The Rotterdam structure, which is aimed at detecting and combating radicalisation, had developed further in recent years. The city reporting structure seems to have hit its stride. The quantity and quality of reported incidents of Islamic radicalism received by the Information SwitchPoint Radicalisation (Het InformatieSchakelPunt Radicalisering; ISPR) is increasing. The attention being paid to right-wing radicalism has also been increasing recently but is not expressed in the report. Threat assessments carried out by the ISPR and the police concur with regard to Islamic radicalism but differ with regard to right-wing radicalism, to which the ISPR initially paid insufficient attention.

Community-based organisations agree that radicalisation must be dealt with. Migrant and Islamic organisations in Rotterdam contribute to this effort in many ways, but at the same time they are critical of the observation skills of individual citizens and public officials. They fear that because of a lack of nuance, all religious Muslims will be considered suspect, and sometimes this trepidation creates an obstacle to providing information to the ISPR.

The police can opt to act repressively against radicalisation after people have "crossed the border." Rotterdam uses an approach for persistent offenders, among other things, to avoid violence and to restrict their influence. At the time this report goes to press – autumn 2008 – the police are preparing a group approach for right-wing radicals.

The extreme right and the discriminatory identity of the PVV

Ideological characteristics that are typical of the extreme right are a positive orientation towards *cultural Sameness* – a set of qualities or characteristics belonging to one's own culture – and an aversion to *cultural Otherness* – a set of qualities or characteristics belonging to other people's culture –, in other words, us versus them, i.e. foreigners, political opponents and established politics in general, and a longing for authoritarianism. Despite efforts made by the Party for Freedom to distance itself from right-wing extremism, there is no doubt that generally speaking the characteristics mentioned can be found in the PVV. For the PVV, ethnic homogeneity is more important than the present national borders: the ideal Netherlands is free of the Antilles, while Flanders has been added to it.

The aversion to "Islamisation" and "non-Western immigrants" is expressed in a series of powerful descriptors, such as the metaphor of a natural disaster. If right-wing extremist thinking is divided into "national democrats" and "racial revolutionaries," the PVV should be seen as belonging to the first and – emphatically – not the second. Characteristics of neo-Nazism such as anti-Semitism have not been found in the PVV.

More radical right-wing extremists feel drawn to the PVV, but this is not true of neo-Nazis, who usually are opposed to the PVV. Because the PVV does not admit members the party is not democratically organised, and consequently radicals cannot join it. If the PVV were to open its doors, it seems likely that dozens of them would try to become members.

Other points that were discussed were the extent to which remarks made by the PVV in the context of the legal discrimination prohibitions are of a discriminatory character, and the prosecution policy of the Public Prosecution Service. The PVV makes statements in which criminalisation, the introduction of a social split and the excluding of rights are important themes. These themes have led to criminal convictions in the past. So the decision to dismiss a number of complaints brought against Wilders is at odds with legal precedent. Taking these things into account, it is regrettable that the Public Prosecution Service did not bring the question about the possible punishability of the remarks before the court.

Investigation and prosecution in 2007

The absence of a proper and comprehensive registry of discriminatory offences has been a tough problem for years. One major shortcoming is the total absence of criminal offences aggravated by discriminatory behaviour in the registry of the Public Prosecution Service. For quite some time now, faulty registration has been at odds with various editions of the *Discrimination Instructions*. At the moment the different sets of figures circulating among the police and justice departments are not sufficiently transparent and verifiable. It would be much better – and in conformance with the *Instructions* – if an integrated database for discrimination cases could be set up.

Another problem is the time required to settle discrimination cases. If too much time is involved it increases the chance of a discretionary dismissal, which is just as much out of line with the *Discrimination Instructions* as the registration problem. It might be wise to consider setting deadlines before which a decision to institute proceedings and to serve a summons would have to be taken. The Public Prosecution Service might search for a link with deadlines that already exist in administrative law.

It is also striking that although the number of suspects of discriminatory offences being registered by the police remains practically the same, the settlement by the Public Prosecution Service shows a decline. The drop in district court settlements is also striking. The reason for the stagnation of cases earlier on in the police-to-judiciary chain is unclear as well as worrisome, since the trust of the public is needed for adequate investigation and prosecution. The aim of the eleven new public prosecutors' offices – to make expertise on discrimination easier to organise and more available – has not been a total success, according to the decline in the figures for 2007.

Case law on racism and extremism in 2007

The discussion on freedom of expression and hate crimes is a two-sided one. On the one hand it is argued that the discrimination prohibition must not stand in the way of freedom of expression. On the other hand there is a whole range of measures that target expressions of Islamic radicalism, so it seems as if a stricter standard is being applied. This imbalance can be found in various policy documents: attention to Islamic hate mongering is paramount while right-wing extremism tends to be disregarded. The danger of right-wing extremism, however, should not be underestimated. Criminal offences aggravated by discriminatory behaviour are rarely inconsequential. Research shows that the harm caused by these offences often not only affects the victim but can have a social dimension as well. Strong emotions are evoked among those surrounding the victim, which can lead to undesired behavioural responses such as radicalisation. General prevention is decidedly one of the goals of criminal law, which should be better expressed in cases of racial violence. Public prosecutors should explicitly include the 25% increase in sentences for criminal offences aggravated by discriminatory behaviour in their indictments. Subsequently, judges should be explicit when granting this demand. In this way, the fact that our society does not tolerate these forms of violence in particular is made clear.

The European Court of Human Rights interprets the discrimination prohibition in the same way. One misconception is the idea that the Public Prosecution Service has to prove the discriminatory *motive*. Dutch regulations, expressed in the form of the *Discrimination Instructions*, demand only that the discriminatory dimension be demonstrated.

The government would like to encourage the public – ethnic minorities and native Dutch – to report discriminatory incidents. To make this happen, the public needs to understand that there is a point to complaining about racial discrimination . The best way to increase the public's willingness to report these incidents is to make them aware of successful cases. Indeed, by learning about these cases, people will come to realise that reporting discriminatory incidents can produce results.

Deradicalisation of right-wing radicals and Islamic radicals

With a view to possible application in the Netherlands, it can be helpful to look at experiences gained in other countries with the deradicalisation of right-wing and Islamic radicals. In comparing programmes for right-wing radicals with those for Islamic radicals, striking differences are revealed. Efforts to deal with right-wing radicals do not focus their attention primarily on ideology but on ending the isolation in which radicalised persons find themselves. On the other hand, programmes aimed at Islamic radicals place the accent squarely on ideology. By encouraging discussion and dialogue, attempts are

made to alter the radical way of thinking. This raises the question to what extent both kinds of programmes can reinforce each other. Programmes for right-wing radicals may gain from introducing attempts to change a distorted world view, while programmes for Islamic radicals can be improved by paying more attention to the obstacles a person faces after leaving radicalism behind.

Certain reservations should also be expressed with regard to the various programmes. The decision to offer disengagers financial support, for example, is of questionable value, mainly because it increases the risk of feigning ideological change. With regard to an ideological approach – certainly in the case of a religious ideological approach – it is necessary to look more closely at the alternative that is offered or that should be offered. For the Dutch context there is the not unimportant question, to what extent may the government involve itself as an active party in religious questions?

All in all, the experiences with deradicalisation programmes in other countries provide good starting points for application in the Netherlands. It is essential that the programme be tailor-made, combining general expertise with knowledge of the local situation and the target group. This local knowledge is mainly developed by gaining experience, which unavoidably involves a process of trial and error.

Three issues in the spotlight

This completes our brief overview of the most important results. Looking at the past Monitor period in more general terms, we might ask what has changed – or what has not changed. As noted, we believe that there are still a few comments and conclusions that should be added to the above results in terms of the themes: freedom of expression and hate speech, the extreme right in 2008 and Islamophobia.

Freedom of expression and hate speech

The balance between the right to freedom of expression and the principle that no one should be discriminated against has been under intense pressure during the past Monitor period.

On the one hand, various measures have been taken to limit the freedom of expression of individuals if their statements can be considered a form of radicalisation. This restrictive approach has led to a nonsuspended prison sentence for someone referring to radical publications on the internet, for example. In his chapter on counterterrorism and radicalisation, De Graaff points to the detrimental effect that a one-sided approach has on the integration of minority groups. In practice, it is mainly minorities with a Muslim background who are affected by these measures. In their chapter on the regional approach to extremism, Grunenberg and Schriemer also stress the importance of combating discrimination, and warn that persons should not be suspected solely on the basis of religious stereotyping.

On the other hand, there is a political current which insists that people should be able to say whatever they think. According to this view, the freedom of expression is not limited by the fact that statements can sometimes be offensive. It is mainly Geert Wilders's Party for Freedom that holds this belief. Apart from the question as to whether this hard tone can produce political solutions, there is in particular cases also the question of possible illegal discrimination with regard to the phrasing used. In our chapter on the PVV, we concluded that there is every reason to turn this matter over to the courts for a

ruling. In general it is important to show the public that there is no right to insult under Dutch law, which prohibits discriminatory statements (art. 137c-e of the Criminal Code).

The religious minority groups that are particularly affected by restrictive antiterrorism measures in their daily lives are largely the same as those who admit to being frequently discriminated against. The various chapters in this Monitor suggest that they are most frequently the victims of racial violence, and that as a group of victims they appear most often in the complaints registries of the local antidiscrimination agencies. While this group's freedom of expression is being restricted, protection afforded to them from hate speech is decreasing. Indeed, in this climate people are more reluctant to appeal to the discrimination prohibitions, and such appeals are honoured less promptly. We come across this paradox more and more, as in the case of the right to demonstrate (to be discussed below).

In the past ten years, right-wing extremist groups have succeeded in wresting from the courts their constitutional right to hold demonstrations. Even more difficult, however, is the question as to what public statements these demonstrators are allowed to make and display at their demonstrations. Moreover, intervening at the demonstration is a complex matter for the police from the perspective of maintaining law and order. In his chapter, Loof demonstrates that preventive reviews of these public statements sometimes take drastic forms. Checking the statements beforehand is incompatible with the statutory regime of freedom of expression. After discriminatory public statements have been made in a demonstration, however, action must be taken – if not immediately, then at least later on. The application of a double standard must be avoided. If the extreme right is permitted to demonstrate by law, then the law with regard to discriminatory public statements must also be enforced during the demonstrations.

The selective application of legislation along ethnic lines does society no good. If the sense of justice in the Netherlands has taken such a turn that certain articles of the law are considered out-of-date, a mere dismissive reaction will not do and a substantive effort is called for. This also applies to the prohibition on discriminatory defamation (art. 137c of the Criminal Code) and to inciting hatred and discrimination (art. 137d of the Criminal Code). These articles are anchored in international law. If any of them are felt to be too restrictive of freedom of expression, then an investigation should be undertaken to see whether the Netherlands can rid itself, legally as well as politically, of this legal standard. That would have even more far-reaching consequences, not only for our participation in the International Convention on the Elimination of All Forms of Racial Discrimination but also for the European Convention of Human Rights (ECHR) and other human rights treaties. If revocation of these treaties (or parts of them) is impossible for practical reasons, then this option would also seem unfeasible for political reasons. A heated debate concerning the limits of freedom of expression and protection from discrimination could do no harm. But the same cannot be said of government action based on a double standard.

As noted, in the balance between the freedom of expression and hate speech, the ECHR is essential to the Dutch rule of law. The basic principle is that the freedom of expression is a fundamental right, but it must also tolerate restrictions (as in the case of slander, blasphemy and defamation). The right to not be discriminated against is also a fundamental right, and for this reason it also enjoys protection under the ECHR. This

protection does not evaporate if the statements are made by politicians, artists or columnists. One basic right does not trump the other, moreover. Rather, a legal assessment is made based on the concrete circumstances of the particular case. Far more important than this legal approach is the realisation that we need to search for solutions, and stigmatising certain groups by seeing them as perpetrators or victims does not contribute to this effort. This Monitor also teaches us that the positions of victim and perpetrator are often interchangeable. It is a good thing to be heard, but at the same time one should refrain from insults. In that respect, too, the balance between the freedom of expression and hate speech is in need of minor correction.

The extreme right in 2008

The right-wing extremist landscape has undergone considerable change in recent years. Most of the political parties that emerged from right-wing extremist traditions have disappeared. But at the same time a new political party, the PVV, grew out of a rift in the VVD. The PVV underwent intense radicalisation and, in our opinion, can be qualified as a right-wing extremist party, especially with regard to the nuances that were discussed above in detail. The outspoken Islamophobic PVV is striving for a reorganised Netherlands that is primarily based on ethnic uniformity. The "Centre movement" of the 1990s has a successor in the PVV, but so far the PVV is not only larger in scale but it is also more radical. That is to say, more radical in comparison with the Centre movement when it occupied the centre stage. Behind the scenes of the Centre Democrats and the Centre Party '86 more radical tendencies were in evidence, tendencies that we have not yet been able to detect in the PVV.

Besides the PVV we are also seeing growing street activism. Not before 2008 have so many right-wing extremist public demonstrations been held. These demonstrations are controversial and invariably lead to opposition, even in places where the demonstrations are organised. Sometimes this results in intense scenes. Local governments are inclined to impose more and more restrictions on right-wing extremist demonstrations. When these restrictions concern substantive aspects of the demonstrations, the question of possible conflict with the constitutionally anchored freedom of demonstration comes into play. It is to be expected that the administrative conflicts concerning demonstrations, which until now have mainly had to do with locations, routes and scheduled times, will shift to the substantive aspects of the demonstrations – that is, to questions about what may or may not be said, sung or carried on banners and signs. Another form of right-wing extremist street activism is the increasing tendency to enter into confrontations with political opponents, as the intelligence service AIVD noted in its annual report for 2007.

It should also be reported that neo-Nazi groups have grown in both size and significance. In four years' time, the number of neo-Nazi activists grew from forty to four hundred. The neo-Nazi ideology includes the justification of armed struggle against enemies, outside and inside the government. A terrorist discourse is still discernible. Although neo-Nazis are involved in committing political acts of violence every now and then, there has been no evidence that more serious forms of political violence – or terrorism – are being developed at the moment.

We have no reason to assume that the so-called Lonsdale problem has declined in significance in recent years. There are indications (from the Education Inspectorate, among other sources) that many schools are being confronted with the problem of right-

wing extremist juveniles. Unfortunately because of an absence of precise data we cannot judge the nature and scale of these problems on their merits.

Islamophobia

The previous, seventh Monitor included a chapter on Islamophobia by Frank Bovenkerk. Bovenkerk discussed the origins and development of the concept of Islamophobia – a concept that is not without problems, incidentally. In some cases, for instance, Islamophobia can conceal more general, broader discrimination, while in other cases the "phobia" element is replaced by aspects that vary from hatred to a vague sense of rejection. In short, appearances are very often deceptive. In his chapter, Bovenkerk pointed out that public opinion has a particular tendency to see immigrants from Morocco and Turkey as problematic. According to him, people in the Netherlands are more inclined to "ethnicise" major social issues than people in other European societies. After 2001 this resulted in singling out Islam as the explanation for many problems. Because the attention shifted from "culture" to "Islam," the national integration problem took on a worldwide dimension. Influenced by international developments, Islam was put in a bad light. And again around the turn of the century the Netherlands began to "slip" in international opinion polls, comparing less and less favourably in terms of racial and ethnic aversions. Thus Bovenkerk's report in the last Monitor. So what important developments in the area of Islamophobia can be pointed out in the present Monitor period?

In the first chapter we referred to an extensive investigation by Dekker and others in 2007: as a result of negative public perception, among other things, more than half the Dutch, non-Islamic, school-aged young people between the ages of fourteen and sixteen have a negative attitude towards Muslims. We also make note of the *Jaaroverzicht discriminatieklachten* (Annual summary of complaints of discrimination) for 2007, which suggests that the complaints of discrimination lodged by Moroccans in particular are remarkably numerous, and that many researchers also explain this by pointing to negative perceptions.

In the chapter on counterterrorism and radicalisation policy (De Graaff) and on the response to extremism in the Rotterdam region (Grunenberg and Schriemer), reference is also made to the risks attached to the policy of the national and local authorities. Due to a lack of nuance, all religious Muslims might be regarded as suspects and the policies might backfire, creating irritation about the government's action and feelings of discrimination and exclusion. The danger of a "comprehensive" policy against radicalisation is that it also has a "broad" anti-Muslim impact.

In the film *Fitna*, says De Graaff, terrorist practices are linked with Islamic religious beliefs. While the film did not cause the uproar that had been expected, it did occupy the public spotlight for months.

There are two aspects from the study of the PVV reported in this Monitor that we would like to single out as especially relevant for Islamophobia in the Netherlands. The first of these, of course, concerns the many anti-Muslim statements made by the PVV and the massive amount of attention being paid to them. But just as important is the decision by the Public Prosecution Service not to prosecute a number of these statements, and thereby (for the time being) to evade the verdict of an independent court. Because the

government (before *Fitna* came out) frequently spoke – to far beyond the Dutch borders – about the possibility of going to an independent court in the case of hate speech, only to impede those proceedings, the sense of justice of the Islamic community was sorely tested. Added to this is the fact that the decision not to prosecute may be interpreted as a signal that the brakes are now off and anyone can say whatever they want – an incentive for even more drastic anti-Muslim remarks.

Two other studies that were carried out in the context of this Monitor report show an increase in the number of victims among the Muslim population. In "Investigation and prosecution" we see almost a doubling of the number of Moroccan and Turkish victims of discrimination: from 11% in 2006 to 20% in 2007. In "Racial and right-wing extremist violence" the increase in the number of violent anti-Muslim incidents is also striking: from 62 in 2006 to 82 in 2007.

In short, the problem of Islamophobia in the Netherlands became considerably more important during the past Monitor period.

Appendix

Overview of criminal prohibitions on discrimination

Article 90quarter

Discrimination or discriminating shall be defined as any form of distinction, any exclusion, restriction or preference, the purpose or effect of which is to nullify or infringe upon the recognition, enjoyment or exercise on an equal footing of human rights and fundamental freedoms in the political, economic, social or cultural fields or any other field of social life.

Article 137c

1. Any person who verbally or by means of written or pictorial material gives intentional public expression to views insulting to a group of persons on account of their race, religion or convictions, their heterosexual or homosexual preferences or their physical, psychological or mental handicap, shall be liable to a term of imprisonment not exceeding one year or to a fine of the third category.
2. A person who makes a habit out of discriminatory behaviour listed in Article 137c, para. 1 WvS, or who behaves discriminatory in the sense of Article 137c, 1°, para. 1 WvS in the course of his profession, or if two or more persons infringe upon Article 137c, 1°, para. 1 WvS, can be imposed a term of imprisonment not exceeding two year or to a fine of the fourth category.

Article 137d

1. Any person who verbally or by means of written or pictorial material publicly incites hatred against or discriminating of other persons or violence against the person or the property of others on account of their race, religion, convictions, sex, heterosexual or homosexual preference or their physical, psychological or mental handicap, shall be liable to a term of imprisonment not exceeding one year or to a fine of the third category.
2. A person who makes a habit out of discriminatory behaviour listed in Article 137d, para. 1 WvS, or who behaves discriminatory in the sense of Article 137d, 1°, para. 1 WvS in the course of his profession, or if two or more persons infringe upon Article 137d, 1°, para. 1 WvS, can be imposed a term of imprisonment not exceeding two year or to a fine of the fourth category.

Article 137e

1. Any person who for reasons other than the provision of factual information:
 - (1). makes public an utterance which he knows or can reasonably be expected to know is insulting to a group of persons on account of their race, religion or convictions or heterosexual or homosexual preference or their physical, psychological or mental handicap, or which incites hatred against or discrimination of other persons or violence against the person or property of others on account of their race, religion or convictions, or sex or heterosexual or homosexual preference or their physical, psychological or mental handicap.

(2). distributes any object which he knows or can reasonably be expected to know contains an utterance, or has in his possession any such object with the intention of distributing it or making the said utterance public, shall be liable to a term of imprisonment not exceeding six months or to a third-category fine.

2. If the offender commits any of the offences defined in this Article in the course of his profession or who makes a habit out of infringing Article 137e, 1°, para. 1 WvS, or if two or more persons infringe upon Article 137e, 1°, para. 1 WvS, can be imposed a term of imprisonment not exceeding one year or to a fine of the fourth category.

3. If the offender commits any of the offences defined in this Article in the course of his profession within five years of a previous conviction for such an offence having become final, he may be disqualified from pursuing that profession.

Article 137f

Any person who participates in, or provides financial or other material support for, activities aimed at discrimination against persons on account of their race, religion, convictions, sex or heterosexual or homosexual preference, or their physical, psychological or mental disability, shall be liable to a term of imprisonment not exceeding three months or to a second-category fine.

Article 137g

1. Any person who in the exercise of his office, profession or business, intentionally discriminates against persons on account of their race shall be liable to a term of imprisonment not exceeding six months or a third-category fine.

2. If the offender makes a habit out of infringing Article 137g, 1°, para. 1 WvS, or if two or more persons infringe upon Article 137g, 1°, para. 1 WvS, can be imposed a term of imprisonment not exceeding one year or to a fine of the fourth category.

Article 429quater

Any person who in the exercise of his office, profession or business discriminates against persons on account of their race, religion, convictions, sex or heterosexual or homosexual preference shall be liable to a term of detention not exceeding two months or a third-category fine.

2. The same punishment is imposed on a person whose actions or negligence in his official capacity, profession or business, without reasonable grounds, are intended to or can have the effect of negating or infringing the acknowledgement, the enjoyment or the equal opportunity to exercise the human rights and fundamental freedoms in the political, economic, social or cultural sphere, or in other spheres within society, of persons with a physical, psychological or mental disability.

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Frank J. Buijs (†) worked as a research fellow with the Institute for Migration and Ethnic Studies (IMES) of the University of Amsterdam. He was the founder of the Centre for the Study of Radicalism and Extremism (CRES). Buijs was co-author of the book *Strijders van eigen bodem. Radicale en democratische moslims in Nederland* (Homegrown warriors: Radical and democratic Muslims in the Netherlands; Amsterdam, 2006) and the report *Teruggang en uittreding. Processen van deradicalisering ontleed* (Decline and withdrawal: analysis of processes of deradicalisation; Amsterdam, 2008).

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Froukje Demant is a political scientist and researcher with the Anne Frank Stichting. She conducts research on processes of radicalisation and deradicalisation and on how deradicalisation programmes operate. Demant is co-author of the book *Strijders van eigen bodem: Radicale en democratische moslims in Nederland* (Homegrown warriors: Radical and democratic Muslims in the Netherlands; Amsterdam, 2006) and the report *Teruggang en uittreding. Processen van deradicalisering ontleed* (Return and abandonment: Processes of deradicalisation under analysis; Amsterdam, 2008).

Jaap van Donselaar is a cultural anthropologist, associate professor at Leiden University and researcher with the Anne Frank Stichting. He has devoted a great deal of time conducting research on racism and radicalism, as well as on the response to these phenomena. In 1991 he earned a doctorate with the thesis *Fout na de oorlog, een onderzoek naar de geschiedenis van naoorlogs rechtsextremisme in Nederland* (On the wrong side after the war: A study of the history of post-war right-wing extremism in the Netherlands). In 1996 Van Donselaar founded the Racism & Extremism Monitor. He has also conducted research on combating racism and extremism in the Netherlands and in Europe.

Bob de Graaff is Professor of Terrorism and Counterterrorism at The Hague Campus of Leiden University as well as Socrates professor of political and cultural reconstruction at Utrecht University. De Graaff took part in the study conducted by the Netherlands Institute for War Documentation (NIOD) on the chain of events leading up to the fall of Srebrenica.

Sara Grunenberg studied psychology at the University of Amsterdam. In 2006 she took part in a study of deradicalisation in Germany that was carried out in the context of the Racism & Extremism Monitor. Since 2007 she has been working as a researcher at the RADAR antidiscrimination agency. Her research is focused on discrimination, radicalisation and right-wing extremism.

Jan-Peter Loof is assistant professor and a senior researcher with the Department of Public Law of Leiden University. In recent years he has published on many subjects having to do with human rights, including legislation and human rights policy, the independence and impartiality of the judiciary, the right of ownership, the European Convention on Human Rights (ECHR) oversight mechanism, freedom of expression, freedom to demonstrate, the influence of the ECHR on Dutch constitutional law and administrative law, and the organisation and intensity of international human rights surveillance in crisis situations. He is editor of the *NJCM-Bulletin /Nederlands Tijdschrift voor de Mensenrechten* (NJCM Bulletin/Netherlands Human Rights Journal) and fellow of the E.M. Meijers Institute for Legal Research of Leiden University.

Peter Rodrigues is a lawyer and head of the Research & Documentation Department of the Anne Frank Stichting. He has published copiously on Dutch and European antidiscrimination law, group actions, trans-border discrimination and Holocaust denial. From February 1995 to October 2000 he was a member of the Equal Treatment Commission. During this period he also had an appointment at Utrecht University, where in September 1997 he successfully defended his dissertation *Anders niets? Discriminatie op grond van ras en nationaliteit bij consumententransacties* (Will there be anything else? Discrimination on the grounds of race and nationality in consumer transactions).

Rita Schriemer studied General Social Sciences at Utrecht University. She then worked at Erasmus University Rotterdam for a few years and as researcher for the city of Rotterdam. Since 2001 she has worked as researcher for the RADAR antidiscrimination agency, where she conducts local research on discrimination among various minority groups and contributes to national and international Monitor reports in the area of discrimination.

Marieke Slotman is a technical physicist and political scientist specialising in Women's Studies. In recent years she has done research in processes of radicalisation and deradicalisation at the Institute for Migration and Ethnic Studies (IMES). Slotman is the co-author of the reports *Processen van radicalisering. Waarom sommige Amsterdamse moslims radicaal worden* (Processes of radicalisation. Why some Amsterdam Muslims become radical; Amsterdam, 2006) and the report *Teruggang en uittrekking. Processen van deradicalisering ontleed* (Decline and withdrawal: analysis of processes of deradicalisation; Amsterdam, 2008).

Jaap Tanja is a publicist and exhibition maker who has been associated with the Anne Frank Stichting since 1984. His most recent publication is the book *Vijftig vragen over antisemitisme* (Fifty questions about anti-Semitism; Amsterdam/Meppel, 2005). This book was also published in English (Amsterdam, 2005) and in German under the title *Alle Juden sind...* (Mülheim an der Ruhr, 2008). His most recent exhibition is *Free2choose*, an interactive film presentation on clashing freedom rights. This exhibition is not only being shown at the Anne Frank House but is also travelling through several European countries.

Jean Tillie is professor of Electoral Politics on the Faculty of Social and Behavioural Sciences at the University of Amsterdam with a special interest in the relationship between electoral processes and their economic, cultural, ethnic and social context. Since 2005 he has served as assistant director and member of the executive committee of the Institute for Migration and Ethnic Studies (IMES). Tillie also works in the Political Science Department as senior university lecturer on Methods and Techniques.

Willem Wagenaar has been working as researcher at the Anne Frank Stichting since 1 January 2002 and is connected with the Racism & Extremism Monitor in this capacity. He has conducted a great deal of research on right-wing extremism and racial violence and on combating these problems through the criminal courts.

About the Racism & Extremism Monitor project

The aim of the Racism & Extremism Monitor is to track several forms of racism and extremism – as well as reactions to these phenomena – and to publish the results in periodical reports. These reports cover forms of expression, such as politically organised racism, as well as forms of exclusion, such as discrimination in hotels, restaurants and bars. Various kinds of victims and perpetrators are also identified, whether native Dutch or foreign, with the latter further subdivided into various ethnic minority groups. The response to racism and extremism can vary, in terms of the nature of the response, such as educational, legal, administrative or political, and in terms of actors, such as governments, media, politicians and civil society.

The periodical monitoring of racism and extremism, as well as the response to these phenomena, serves several purposes. An attempt is made to contribute to insight into the problem itself as well as to finding solutions to racism and extremism as social problems. Longitudinal research and the ensuing periodical reports result in an accumulation of knowledge, producing a picture of developments over the longer term.

The Monitor project was launched in 1996 at Leiden University and the first report came out in 1997. Since 2001 the study has been carried out jointly by Leiden University and the Anne Frank Stichting.

All research reports can be found on the project website: www.monitorracisme.nl. The reports differ in nature. Some are broad, general reports that are published approximately every two years and whose subtitles are numbered, such as *Racism & Extremism Monitor, eighth report*. Then there are more concise special reports – *cahiers* – with interim up-dates on special sub-topics, such as discrimination of Roma and Sinti, and the ‘Lonsdale problem’. Also featured on the website is a range of documentation dealing with Monitor project subjects.

The following publications in this series have already appeared:

REPORTS

Monitoring racism and the extreme right: first report. Jaap van Donselaar, 1997.

Monitoring racism and the extreme right: second report. Jaap van Donselaar, final editing, 1998.

Monitoring racism and the extreme right: third report. Jaap van Donselaar, 2000.

Monitoring racism and the extreme right: fourth report. Jaap van Donselaar and Peter R. Rodrigues, 2001.

Monitoring racism and the extreme right: fifth report. Jaap van Donselaar and Peter R. Rodrigues, 2002.

Monitoring racism and the extreme right: sixth report. Jaap van Donselaar and Peter R. Rodrigues, 2004.

Racism and extremism monitor: seventh report. Edited by Jaap van Donselaar and Peter R. Rodrigues, 2006.

CAHIERS

Racial violence and violence incited by the extreme right in 2002. Jaap van Donselaar and Peter R. Rodrigues, 2003.

Investigation and prosecution in 2002. Jaap van Donselaar and Peter R. Rodrigues, 2003.

Roma and Sinti. Peter R. Rodrigues and Maaïke Matelski, 2004.

The Lonsdale problem. Final editing by Jaap van Donselaar, 2005.

Racial and extreme right-wing violence in 2006. Jaap van Donselaar and Willem Wagenaar, 2007.

Investigation and prosecution in 2006. Marija Davidović and Peter R. Rodrigues, 2007.