

8 The extreme right and discriminatory identity of the PVV

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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, opportuness 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, 'Strafvervolgung 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.

