

**Racism and Extremism Monitor
Seventh Report**

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Introduction

Jaap van Donselaar and Peter R. Rodrigues

The intended purpose of the *Racism & Extremism Monitor* is to follow several different forms of racism, extremism and anti-Semitism – and reactions to these phenomena – and to write about them in periodic reports. First the phenomena themselves are examined: how are racism, extremism and anti-Semitism being manifested in Dutch society? This might involve looking at the ways these sentiments are expressed, such as politically organised racism, and at forms of exclusion, such as discrimination in the night life in industry. Some phenomena by their very nature are not limited to the territory of the Netherlands, such as discrimination via the internet. In such cases the extra-territorial context is taken into account. A fixed pattern in this monitoring research is the attempt to identify different kinds of victims and perpetrators with as much precision as possible. This may involve both native Dutch people and ethnic minorities, with the latter subdivided into various minority groups. The responses to racism, extremism and anti-Semitism can be quite different, from educational to legal. Usually the nature of the response depends on the type of discrimination, the category of victims and the background of the perpetrators. In addition, some forms of response can function in tandem or even reinforce each other. The periodical monitoring of the phenomena, the victims, the perpetrators and the response serves many purposes. It is an attempt to add to the insights being gained in the fight against racism, extremism and anti-Semitism. Moreover, the fact that the system is fixed and the research is issued at regular intervals results in an accumulation of knowledge. In the end a picture is produced of long-term developments, and suggestions for future solutions can be made based on experiences from the past.

The *Racism & Extremism Monitor* research project was started ten years ago at Leiden University. In 1997 the first report was issued, and now – December 2006 – seven general, broad reports have appeared. Four monographs have also been published: shorter research reports on specific topics. All the reports can be found on our website: www.monitorracisme.nl. Since the fourth report (2001), the monitoring project has been carried out jointly by Leiden University and the Anne Frank Stichting. In 2004 the name of the project was broadened from *Racism & the Extreme Right* to *Racism & Extremism*. This name change reflects the fact that the research project has taken a new direction. While the attention being paid to right-wing extremism continues undiminished, we are also looking at other forms of extremism and radicalism, at least insofar as these are linked to the multi-ethnic society and inter-ethnic relations. One important current theme here is the tension that exists between fighting terrorism and respecting the principle of non-discrimination. Both these human rights are of great consequence, and in the event of a conflict they both deserve to be assessed equally to avoid imbalance and social damage.

In taking this new direction we are also attempting to introduce a different and complementary approach. Contributions to this seventh monitoring report have been made by several authors from both inside and outside the Anne Frank Stichting. Involving external authors in the project makes it possible to obtain a broader view of the scope of racism and extremism. We wish to extend our heartfelt thanks to Frank Bovenkerk (professor of criminology at the University of Utrecht), Frank Buijs, Froukje Demant and Atef Hamdy (researchers at the University of Amsterdam) and Jenny E. Goldschmidt (professor of human rights at the University of Utrecht) for their contributions.

The monitoring project employs a broad working definition of racism, covering 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 inter-ethnic relations. Animal rights extremism and left-wing extremism, for example, do not meet this criterion.

In 2003 a new monitoring project was launched that had been initiated by the Directorate for the Integration and Coordination of Policy on Minorities of the Ministry of Justice. This project was a collaborative effort of the Anne Frank Stichting, Leiden University, the National Agency to Combat Racial Discrimination and the National Federation of Anti-Discrimination Agencies and Hotlines. In June 2006 the first report was published: *The 2005 Racial Discrimination Monitor*. In this monitor, which will appear every two years, the focus is on the data from 2004.

The present edition of the *Racism & Extremism Monitor*, the seventh, follows on the report drawn up for the Ministry of Justice. We are attempting to attune the various monitoring reports to each other as much as possible. In the project for the Ministry the emphasis was on breadth, while in our own monitoring project we have opted to concentrate on depth. In the seventh monitor the focus is on the facts and figures for 2005. This compels us to make a few comments about the available data.

The *Racism & Extremism Monitor* is partially based on research carried out by the various authors. It also depends to a certain extent on data collected and analysed by others. This does not mean that the figures were available across the entire breadth of the research field, however. The area of extremism was particularly subject to gaps. As a result, bumps have appeared on the new path which we hope to smooth out in the near future.

Monitoring work implies a high level of cooperation. The seventh report came about thanks to cooperation with an extensive network of experts and organisations, both inside and outside the government. They are listed here in random order: the General Intelligence and Security Services (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 Bureau for Discrimination Cases for the police force (Landelijk Bureau

Discriminatiezaken; LBD), the Equal Treatment Commission (Commissie Gelijke Behandeling; CGB), the National Ombudsman, the Centre for Information and Documentation on Israel (Centrum Informatie en Documentatie Israël; CIDI), the Kafka research group, the National Federation of Anti-Discrimination Agencies and Hotlines (Landelijke Vereniging van ADB's en Meldpunten; LVADB), the Discrimination on the Internet Reporting Centre (Meldpunt Discriminatie Internet; MDI), the Magenta Foundation, National Agency to Combat Racial Discrimination (Landelijk Bureau ter bestrijding van Rassendiscriminatie; LBR), the Forum Institute for Multicultural Development, the Dutch Monitoring Centre on Racism and Xenophobia (DUMC), the Rotterdam Anti-Discrimination Action Council (Rotterdamse Anti-Discriminatie Actie Raad; RADAR), the Amsterdam Discrimination Reporting Centre, The Hague Discrimination Agency and fellow researchers.

In devising a new plan for this seventh report we opted for chapters that can be read autonomously, recognising that there is a risk of limited overlap.

In this monitor special attention is focused on the following manifestations:

- racial violence and violence incited by the extreme right
- the use of ethnic and religious profiles

On the following victims:

- Jews
- Muslims

On the following perpetrators:

- the extreme right
- Muslim extremists

On the following responses:

- deradicalisation
- investigation and prosecution
- punishment

This division is not meant to suggest that other manifestations, victims, perpetrators or responses will not be touched on. The main divisions sketched here show only the key points of the system we have chosen.

More than in previous issues, the publication of the seventh report of the Racism & Extremism Monitor would not have been possible without the persons, organisations and agencies mentioned here and their willingness to collaborate. Given the strain that is burdening interethnic relations today, we hope this publication will prove itself valuable to those involved in the day-to-day practice.

Amsterdam, October 2006

[2]

Racial violence and violence incited by the extreme right in 2005

Willem Wagenaar and Jaap van Donselaar

Since the mid-nineties, systematic attempts have been made to gain insight into the problem of racial violence and violence incited by the extreme right, especially by means of the *Racism & Extremism Monitor* research project.¹ In the last general report – the sixth, published in December 2004 – incidents of violence that occurred in the year 2003 were scrutinised and the tentative results of violent incidents that occurred in November 2004 after the murder of Theo van Gogh were presented in an annex. No analysis could be given for the year 2004 as a whole due to lack of available data. In the present report, the seventh, attention is being focused exclusively on racial violence and violence incited by the extreme right in the year 2005. The reporting in this monitor will not cover the nature, extent and background of violent incidents linked with *other* forms of extremism that are related to racism. Here, too, the principal reason is lack of available data. We are hopeful that this gap will be filled in a future *Racism & Extremism Monitor*.

2.1 —

Definitions and scope

Opinions differ when it comes to defining racial violence and violence incited by the extreme right. Even the statistical data pertaining to these manifestations, insofar as they are available, often evoke discussions, due in part to ‘underreporting’: many incidents are not reported to the police (or elsewhere) and are known only within a small circle, sometimes only by the perpetrator and the victim. Only part of the manifestation is visible, while another part – probably larger but unknown – remains hidden.

The problem of racial violence and violence incited by the extreme right gives rise to many difficulties having to do with definitions 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 isn’t even worth reporting. The question is: who exactly decides how the incident is to be defined and interpreted? Because in many cases the perpetrators remain unknown 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.

Because of all these various perspectives – known in sociological jargon as the different ‘definitions of the situation’ – a broad working definition of racial violence is recommended.²

¹ See www.monitorracisme.nl.

² 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.

In this regard, violence is understood as:³

behaviour in which one party deliberately harms another party, or threats 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:⁴

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 second and third categories in particular have increased in significance.⁵ 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. Violence incited by the extreme right can be racist in nature, but not necessarily. Extreme right-wing groups traditionally maintain a twofold enemy image as a rule. There is opposition to elements that are either ‘alien’ or ‘hostile to the people’ – to use extreme right-wing jargon. In National Socialism from before and during the Second World War, Jews and gypsies were regarded as ‘alien to the people’. Since 1945, ‘alien to the people’ has been broadened in extreme right-wing ideology and has more and more come to include ethnic minorities in general. ‘Hostile to the people’ – from the extreme right-wing perspective – refers to the political opponents of the extreme right. They may be anti-fascistic activists and demonstrators, but they may also be politicians and government officials who take measures against the extreme right or in favour of ethnic minorities. In short, violence incited by the extreme right may be racist, but it may also be aimed at people whom it regards as opponents.⁶

2.2 —

Brief historical sketch

In the period after the Second World War, racial violence and violence incited by the extreme right in the Netherlands was for decades an incidental phenomenon. In the early seventies the pattern changed. Fights broke out between Dutch people and ethnic minorities. In Rotterdam

³ F.J. Buijs and J. van Donselaar, *Extreem rechts, aanhang, geweld en onderzoek* (The extreme right: adherents, violence and research). Leiden: LISWO 1994, p. 57.

⁴ F.J. Buijs and J. van Donselaar, *Extreem rechts: aanhang, geweld en onderzoek* (The extreme right: adherents, violence and research). Leiden: LISWO 1994, p. 57.

⁵ J. van Donselaar, *Monitor racisme en extreem-rechts. Derde rapportage (Monitoring racism and the extreme right: Third report)*. Leiden: Leiden University, Department of Public Administration 2000, p. 134.

⁶ It is also sometimes argued that the extreme right-wing enemy image is not twofold but threefold. The third category has to do with what might be called the ‘aberrant’, such as the homeless and the disabled. We hear about extreme right-wing violence towards the ‘aberrant’ in other countries, but this does not occur in the Netherlands as far as we know. It might be said that a close second is the aggression perpetrated by extreme right-wing young people towards young people who have adopted a different youth style and who are mistreated for those reasons, such as skinheads who threaten and abuse ‘skaters’.

(1972) and Schiedam (1976) there were race riots. In 1977 the first fatal casualty occurred: a Turkish man was deliberately thrown into a canal and drowned because he could not swim. In the early eighties 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 extreme right-wing involvement.

In the early nineties there was a sharp increase in racial violence and violence incited by the extreme right.⁷ The year 1992 stands out in particular as a year in which people became aware of 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 assault. The attack on a mosque in Amersfoort was the beginning of twenty violent actions aimed at mosques.

The steady increase in racial violence and violence incited by the extreme right continued through the mid-nineties, as can be seen in the first *Racism & Extremism Monitors*.⁸ During the same period we also saw growing protest against the establishment of asylum seeker centres in various regions 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, or to be more precise between a series of anti-Semitic incidents on the one hand and protests against Israel in response to the conflict in the Middle East between Israelis and Palestinians on the other. 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 anti-Semitic manifestations is not new in itself, but the scale and intensity with which it occurred in 1999 and 2000 in the Netherlands – and surrounding countries – was unprecedented.

The fifth monitoring report covered racial violence and violence incited by the extreme right in the year 2001, the year of the terrorist attacks of 11 September in the U.S.⁹ These attacks were followed immediately in the Netherlands by a series of anti-Islamic displays, some of them violent. In addition, a series of incidents took place – in response to ‘September 11th’ – 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 arson was committed in churches or attempts were made to commit vandalism. The series of violent incidents that took place shortly after 11 September had ebbed away for the most part by early December 2001. The anti-Islamic reactions to the attacks of 11 September were of considerable statistical significance for the entire year: approximately 60 per cent of the total number of violent incidents that we surveyed in 2001 took place after 11 September.

⁷ See F.J. Buijs and J. van Donselaar, *Extreemrechts: aanhang, geweld en onderzoek* (The extreme right: adherents, violence and research). Leiden: LISWO, 1994.

⁸ J. van Donselaar, *Monitor racisme en extreem-rechts. Derde rapportage* (Monitoring racism and the extreme right: Third report). Leiden, 2000. J. van Donselaar and P.R. Rodrigues, *Monitor racisme en extreem-rechts. Vierde rapportage* (Monitoring racism and the extreme right: Fourth report). Amsterdam: Anne Frank Stichting/Leiden University, 2001. www.monitorracisme.nl.

⁹ See J. van Donselaar and P.R. Rodrigues, *Monitor racisme en extreem rechts. Vijfde rapportage* (Monitoring racism and the extreme right: Fifth report). Amsterdam: Anne Frank Stichting/Leiden University, 2002. www.monitorracisme.nl.

Nonetheless, the total number of incidents covered by our inventory for 2001 turned out to be lower than in the previous year, and this decrease continued into the year 2002.¹⁰ One important incident that year was the murder of Pim Fortuyn on 6 May 2002. This serious act of violence was immediately followed by a large number of hostile displays, especially threats. Initially – the first hours after the murder – these were mainly of a racist nature, but gradually 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 quantity of threats was exceptionally large by Dutch standards. The heavy flow of threats had a considerable impact on the research we were doing on violent incidents in 2002 as part of the *Racism & Extremism Monitor*. Due to the absence of systematic research – because many cases have not been solved – the nature and scope of the threats could only be presented in vague contours. This meant that we could obtain little insight into the racist or extreme right-wing content of the stream of threats following the Fortuyn murder. Because this insight was lacking, we decided not to include this stream of threats in our study of violent incidents in 2002. Had we been able to do so, we probably would have come up with higher figures.

In 2003 the total number of violent incidents was about the same as in 2002.¹¹ 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'.¹² The involvement of the extreme right in any form in acts of violence in 2003 was double that of the previous year (10 per cent and 5 per cent of the total respectively).

Most striking for 2004 was the wave of violent acts in November following the murder of Dutch filmmaker Theo van Gogh by a muslim extremist.¹³ 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. At that time we saw a series of about 190 violent incidents that were committed in the period between 11 September and the beginning of December 2001 – roughly two and a half months. The series of more than 170 violent incidents in 2004 took place within a more concentrated period: the month of November. Just as in 2001 there were a strikingly large number of cases of arson. In about 60 per cent of the total there was evidence of anti-Muslim violence, while in almost 20 per cent of the cases the violence was directed towards native Dutch people or objects. The involvement of the extreme right increased further with respect to 2003. Please note: this pertains only to the month of November 2004. Because the data from the police were lacking for the greatest part of 2004, no integral file on violent incidents for 2004 could be made. So unfortunately any conclusions that could have been drawn concerning the comparison of violent incidents in 2003 and 2004 have to be omitted.

¹⁰ J. van Donselaar and P.R. Rodrigues, *Monitor racism en extreem-rechts. Racistisch en extreemrechts geweld in 2002* (Monitoring racism and the extreme right: Racial violence and violence incited by the extreme right in 2002). Amsterdam: Anne Frank Stichting/Universiteit Leiden, 2003.

¹¹ J. van Donselaar and P.R. Rodrigues, *Monitor racism en extreem-rechts. Zesde rapportage* (Monitoring racism and the extreme right: Sixth report). Amsterdam: Anne Frank Stichting/Leiden University, 2004.

¹² This term refers to extreme right-wing or racist 'gabbers'. 'Gabber' refers to a lifestyle that is extremely popular among young people in the Netherlands and centres around hardcore techno music. A substantial number of gabbers have xenophobic, racist or extreme-right ideas.

¹³ J. van Donselaar and P.R. Rodrigues, *Monitor racism en extreem-rechts. Zesde rapportage. Annex: Over ontwikkelingen na de moord op Van Gogh* (Monitoring racism and the extreme right: Sixth report. Annex: On developments after the murder of Van Gogh). Amsterdam: Anne Frank Stichting/Leiden University, 2004.

2.3 —

Data collection

Concerning the collection of data on racial violence and violence incited by the extreme right, the same procedure was followed for several years: the Dutch secret service (the BVD – the National Security Service – later the AIVD, the General Information and Security Service) issued a request to the 25 police districts to collect data on racial violence and violence incited by the extreme right, based on a particular framework. These data were entered by the AIVD into a central data file. The format of this data file was developed as part of the *Racism & Extremism Monitor* project. The data were then processed and analysed – also as part of this project.

Other sources were also drawn on for the violence file for the *Racism & Extremism Monitor*, such as the annual surveys of the Centre for Information and Documentation on Israel (Centrum Informatie en Documentatie Israël; CIDI) and the National Federation of Anti-Discrimination Agencies and Hotlines (Landelijke Vereniging van Anti Discriminatie Bureaus en Meldpunten; LVADB). These data were then combined in a single data file, after which duplicates and overlaps were identified so they would not distort the total picture. The result produced an annual picture on which a report was based.

Generating police data on racial violence and violence incited by the extreme right (by both the police and by external researchers) is a complicated procedure. One of the problems was lack of access to the information systems employed by the police. As a result, bringing together the necessary information could be a labour-intensive affair that was either a high or a low priority item. In a few police districts the problem in question hardly ever occurred, if at all – according to their reports. These are not credible results and may rather be an indication of the low priority accorded to the collection of data. Over the years, the problem of underreporting by the police – the good districts excepted – became more rather than less serious.

A few years ago, the AIVD made known its desire to terminate its role in the incident inventory. For the AIVD, working on the inventory did not have a high enough priority. Their decision was also based on the poor functioning of the inventory structure itself. The *Racism & Extremism Monitor* project urged that the service continue its involvement until another body could be found to take up the task. It seemed an obvious choice to charge the police with maintaining an inventory of racial violence and violence incited by the extreme right, but that turned out to be easier said than done.

Finally the transfer was concluded, and the task is now being carried out by 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). What this means in practical terms is that once again the police are collecting data on racial violence and violence incited by the extreme right and have been doing so since November 2004.

There was stagnation in the collection of data and as a result no data is available for the year 2004 (until November). There are also deficiencies in the way data are presently being collected by the KLPD, so we cannot do all the calculations that we did in earlier reports. We hope that we and the KLPD together can promote the stabilisation of the current approach and improve and expand it where necessary. This applies first of all to data concerning racially motivated acts of violence that are linked to Islamic radicalism. The police data on acts of violence that we were able to use in our current monitoring report are exclusively related to right-wing extremism and racism, as was the case in earlier monitor studies.

Now that the police have begun collecting data once again it will be possible to create another integrated file of violent incidents. As in earlier years, this file will also make use of data from the Centre for Information and Documentation on Israel (CIDI), the National Federation of Anti-Discrimination Agencies and Hotlines (LVADB), the Kafka Anti-Fascist Research Group and from our own documentation. Looking at the resulting file, it is striking that the portion of police data in the file for 2005 is smaller than in previous years (less than half, as opposed to 60 to 80 per cent in previous years). It is also striking that there is little overlap in the data from the individual sources, once again underscoring the value and desirability of an integrated data file. Indeed, a file based on a single specific source – the police, for example – would be extremely incomplete.

2.4 —

Nature and magnitude of incidents in 2005

In the year 2005 a total of 296 cases of racial violence and/or violence incited by the extreme right were registered by the police and by others (see Table 2.1). In the table the figures for 2005 are placed beside the figures for previous years. As was noted in the first section of this chapter, no figures are available for the year 2004. The violent incidents are varied in nature. In the Netherlands they mainly have to do with the specific acts listed in the chart below.

Table 2.1 Racial violence and violence incited by the extreme right, according to category, 2000-2005¹⁴

Category	2000	2001	2002	2003	2004	2005
Targeted graffiti	157	68	41	52	-	54
Threats	86	88	83	73	-	73
Bomb scares	2	10	7	1	-	2
Confrontation	20	15	10	28	-	37
Vandalism	37	52	38	35	-	42
Arson	20	37	10	10	-	13
Assault	83	46	75	60	-	70
Illegal possession of weapons	-	-	-	-	-	5
Bombings	0	0	0	1	-	0
Manslaughter	1	1	0	0	-	0
Total	406	317	264	260	-	296

Targeted graffiti

Targeted graffiti is vandalism directed towards an object. It can involve anything from drawing a swastika on the wall of a public toilet with a felt-tip pen to large-scale racist graffiti on a war monument. Graffiti, especially in the form of minor vandalism, involves expressions of violence that occur with relative frequency.

¹⁴ As noted earlier, no data could be collected for all of 2004.

In this study only the 'heavier' cases will be discussed: 'targeted graffiti' – acts with an explicit target – and large-scale graffiti. From the data on graffiti that we received from the KLPD we were not able to determine in a number of cases whether the actions concerned 'ordinary' graffiti or targeted graffiti according to the criteria we are employing. In doubtful cases – a few dozen – we decided not to qualify the incidents as targeted graffiti. So it is almost certain that the number of cases of targeted graffiti has thereby been distorted – that is, that the figures presented here are optimistic.

In 2005, 54 cases of targeted graffiti were registered, two more than in 2003. A few examples:

- A school in Den Bosch signed up with the 'School without racism' project. The night before its participation was to be made official the school was vandalised with extreme right-wing graffiti.
- A war monument in Putten was covered with Nazi symbols. SS symbols were also written in the guest book of the memorial centre in Putten.
- In Boekel extreme right-wing propaganda was pasted on the front door of the house of a refugee family. This was done repeatedly. The propaganda came from an extreme right-wing group that called itself the United Dutch Arian Brotherhood.

Threats

Threats occur with relative frequency and in many cases they are not reported to the police. In 2005 we counted 73 cases of threat, exactly the same number as in 2003. A few examples:

- Four ethnic minority families from one neighbourhood in Beek were sent anonymous letters threatening death and arson. The texts seemed to indicate that the threats came from their neighbourhood.
- The editorial board of a television programme received an e-mail with a threat to commit a terrorist attack during Sail. It turned out to be a hoax, deliberately worded in broken Dutch by the native Dutch perpetrator to call suspicion on an Islamic organisation.
- An ethnic minority man in Rotterdam wanted to introduce himself to his new neighbour. The neighbour said he hated foreigners, and if the man didn't 'piss off' he would kill him.

Bomb scares

The bomb scare is a specific form of threat. It consists of apparently violent threats – with various degrees of seriousness – which are not carried out. We found two in 2005 as opposed to one in 2003.

- In Ede a cultural centre received a false bomb scare during a Moroccan activity.
- A Rotterdam man sent e-mails to a national daily newspaper and to an Islamic organisation in which he made an empty threat to carry out a bomb attack during the 'Monaco on the Maas' racing event. In the e-mails he wrote 'We Muslims love blood'.

Confrontation

A confrontation is often spontaneous, but sometimes it consists of organised street violence of a more or less racist or extreme right-wing character. Sometimes several parties are involved, such as groups of young people who get into a fight 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 2002 we found ten cases, in 2003 twenty-eight and in 2005 thirty-seven. A few examples:

- A fight broke out in Geldrop involving seventy young people: Lonsdale youth and ethnic minority young people. The fight had been triggered by an earlier fight at a youth centre.
- A native Dutch secondary school student in Rotterdam was beaten up by Lonsdale youth at school because he associated with ethnic minority students. The boy's father responded by returning to the school with a number of friends. He looked for the students wearing Lonsdale brand clothes, grabbed hold of them and destroyed their clothing.
- At a school in Heerlen a group of Lonsdale youth were waylaid by a group of thirty of their peers. They were able to escape.

Vandalism

Vandalism is the deliberate infliction of damage with a racist or extreme right-wing motive. A few examples from the total of 42 cases for 2005:

- In Papendrecht a sapling was planted to commemorate the Jews who had been transported during the Second World War. The sapling was stolen within a single day. A sticker from an extreme right-wing organisation was pasted on the memorial stone. Later the sapling was found, snapped and stripped of its branches, and successfully replanted. A few months later it was vandalised again.
- The windows of a mosque in Zwolle were smashed by stones and bottles on five different occasions. On the Stormfront internet forum someone claimed to have been one of the perpetrators.
- In Delft, neighbourhood residents repeatedly smashed the windows of a home in which a Surinamese family was coming to live. Written on the outside wall of the home were the words 'We don't want blacks here'.

Arson

We found 13 cases of racially motivated arson in 2005. This is an increase with respect to 2003. A few examples:

- Right-wing extremists tried to start a fire in an Israeli restaurant in Harmelen. The attack failed when the window through which the perpetrators tried to throw the fire bomb refused to break and the bomb fizzled against the outside wall.
- In Uden, the temporary accommodation of an Islamic primary school was set on fire. The damage was minimal because the fire quickly went out. The primary school was using this temporary space after their original building was burned to the ground in November 2004 after the murder of Theo van Gogh.
- An Iraqi family in Roelofarendsveen were being harassed over a long period of time by young people with racist motives. One of the tormentors finally set the front door of the house on fire while the family lay sleeping.

Illegal possession of weapons

The illegal possession of weapons has not been included as a separate category in previous reports. Because a few striking examples were reported in the year 2005, it was decided to include this category this year for the first time. In 2005, five cases of weapons possession were registered in which there was evidence of a racist or extreme right-wing context.

- In Noord-Brabant a set of brass knuckles was confiscated from a man with extreme right-wing leanings. The words ‘White Power’ were written on the knuckles.
- In Winschoten a group of neo-Nazis – all decked out in Nazi regalia – took group photographs in front of a Jewish monument. This led to a fight with some of the onlookers. A short time after the fight the police arrested a number of right-wing extremists who had been involved in the incident. One of them was found to be in possession of various firearms.
- In Alphen aan de Rijn, members of the organisation ‘Skinhead Jugend Rijnland’ beat up a number of young people. When the perpetrators were arrested the police found a firearm and a collection of baseball bats.

Assault

We registered 70 cases of racist assault in the year 2005, such as:

- In Oss a school boy wearing Lonsdale clothing was beaten up by a group of Turkish boys. The following day all the native Dutch young people wore Lonsdale clothing in protest.
- In Haarlem, ethnic minority girls were verbally abused with racist epithets and then were assaulted by a group of Lonsdale youth.
- In Apeldoorn an Antillean boy was threatened by a group of skinheads. Nazi slogans were shouted. Finally one of the skinheads throw a beer bottle at the back of the boy’s head.

Bombings

Bombings with racist or extreme right-wing motives are very rare in the Netherlands. Our definition of bombings does not include throwing heavy fireworks or Molotov cocktails, which does occur with quite some regularity here. By bombings we mean using explosives to cause a serious explosion. One such incident occurred in 2003, and in 2004 there were two bombings after the murder of Van Gogh and another that was prevented by the police. In 2005 we registered no bombings.

Manslaughter

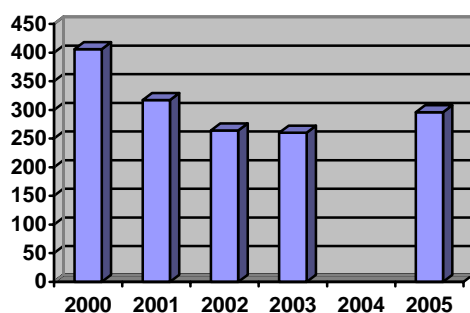
Racist or extreme right-wing violence with fatal results is so far a rare phenomenon in the Netherlands. The murder of Theo van Gogh in November 2004 was an event that can be included in this category. We did not find any case of manslaughter (or murder) for the year 2005.

2.5 —

Trends in 2005

The section on ‘trends’ for a particular year is a recurring element in the monitor reports on violent incidents. In this case the detection of trends is a complicated matter. As already noted, for many years the collection of data on racial violence and violence incited by the extreme right registered by the police was the work of the AIVD/BVD (the Intelligence Service) and has now been taken over by the KLPD, the National Police Services Agency. As was also mentioned earlier, a stagnation occurred, as a result of which there are no data available for the year 2004. It should be pointed out that this means the year 2004 *as a whole*, since data were collected for the month of *November* 2004. Because of this we cannot compare the findings for the year 2005 with those for 2004.

Figure 2.1
Racial violence and violence incited by the extreme right, 2000-2005¹⁵



The significance this ‘trend break’ in the collection of data with regard to fluctuations in the number of violent incidents in the period 2003-2005 is a question that we are not yet able to answer. It is conceivable – but once again, cannot be stated with certainty – that the year 2004 would have seen an increase in the trend. The argument to support this speculation is the unusual and grave series of violent incidents that followed the Van Gogh murder. This event was followed by a series of violent incidents that were concentrated in the month of November. Information on this series of violent incidents was published in an *Annex* included with the sixth monitoring report.¹⁶ There the number incidents of racist violence or violence incited by the extreme right was also included (see Table 2.2).

Table 2.2
Racial violence and violence incited by the extreme right in the month of November 2004 after the murder of Theo van Gogh

Category	Number
Targeted graffiti	28
Threats	41
Bomb scares	11
Confrontation	18
Vandalism	23
Arson	36
Assault	12
Illegal possession of weapons	4
Total	173

As Table 2.2 shows, there were 173 violent incidents in the month of November, 36 of which were cases of arson. In our inventory for 2005 we counted 296 cases of violence for the entire

¹⁵As noted earlier, no data could be collected for all of 2004.

¹⁶J. van Donselaar and P.R. Rodrigues, *Monitor racism en extreem-rechts. Zesde rapportage. Annex: Over ontwikkelingen na de moord op Van Gogh* (Monitoring racism and the extreme right: Sixth report. Annex: On developments after the murder of Van Gogh). Amsterdam: Anne Frank Stichting, 2004. The Annex can be found at www.monitorracisme.nl.

year. With these data in mind, it can be presumed that if figures had been gathered for all of 2004 there would probably be more registered violent incidents than in 2003 and 2005. Striking fluctuations can be seen in the categories 'bomb scares' (2 in all of 2005, 11 in November 2004) and arson (13 in 2005 and 36 in November 2004).

Rising level of violence

If we disregard the year 2004 for a moment we come to the conclusion that the level of violence in 2005 rose in comparison with 2003 (296 as opposed to 260 cases counted). This rise was mainly the result of increasing numbers of assault and confrontations.

Racial violence or violence incited by the extreme right?

As explained earlier, racial violence and violence incited by the extreme right can coincide, although not necessarily. A distinction can be made between racial violence with extreme right-wing motives and violence incited by the extreme right that is not racist. Nineteen cases of the latter category were registered in 2005. This is an increase with respect to 2003, when there were 8 such cases. Examples might include threatening an anti-racist organisation, vandalising a building used by a left-wing party or threats to a homosexual by a right-wing extremist. So except for these cases, all the violence in 2005 was racially motivated. The number of cases of *racial violence* in 2005 amounted to 277.

Increased confrontations

The rise in violent incidents partly has to do with the continued rise in the number of confrontations from 28 to 37. In many cases (23 of the 37) these have to do with confrontations in which the so-called 'Lonsdale youth' were involved. Last year we published a study on the current problem of extreme right-wing 'gabbers' (also known as Lonsdale youth); in this study we concluded that whenever these young people were involved in racial violence it usually took the form of confrontations.¹⁷ The natural habitat of Lonsdale youth (entertainment establishments, schools, youth centres, places where they hang out) is the site of frequent smaller and larger fights with a wide range of causes and motivations. Often these involve drawn-out conflicts in which concepts such as perpetrator and victim have long lost their meaning. Such confrontations can assume serious forms: blunt objects are used as weapons, but there are also known cases in which firearms have been used. One example is a series of confrontations between Lonsdale youth and ethnic minority young people that resulted in the arrest of a group of Lonsdale youth. They were in the midst of preparing to set a mosque on fire, out of revenge.

Victims and targets

'Victimhood' is a collective term in which finer distinctions can sometimes be useful. It is relevant to make a distinction, for instance, between violence aimed at objects and violence in which persons are the target.

Violence aimed at objects 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, accommodations for asylum seekers and refugees. 'Neutral' objects involves applying racist messages or symbols to 'neutral' places such as walls, fences, paved road surfaces, bus shelters or public toilets.

¹⁷ J. van Donselaar, *Monitor Racisme & Extremisme: het Lonsdalevraagstuk* (Monitoring Racism & Extremism: The Lonsdale problem). Amsterdam: Anne Frank Stichting, 2005. See www.monitorracisme.nl.

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, refugees, Muslims and persons with a Jewish background. Extreme right-wing 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 2.3
Violence aimed at persons and objects, 2003 and 2005

	2003	2005
Against objects	84	101
Against persons	135	170
Mixed or unclear	41	25
Total	260	296

For many years, the inventories carried out as part of the *Racism & Extremism Monitor* kept finding more violence against objects than against persons, until in 2002 the scale appeared to have tipped and more violence towards persons in absolute numbers was observed than against objects. This development seems to have continued in 2005. An increase of 36 incidents against persons was registered, while the violence against objects increased by 17.

Table 2.4
Racial violence in 2003 and 2005, according to 'ethnic direction' and categories of incidents

	Anti-Jewish		Anti-Islam		Anti-refugee		Anti-'white' ¹⁸	
	2003	2005	2003	2005	2003	2005	2003	2005
Targeted graffiti	11	13	18	8	4	3	-	0
Threats	14	13	9	18	0	1	-	1
Bomb scares	1	0	0	2	0	0	-	0
Confrontation	0	2	2	6	5	1	-	2
Vandalism	8	6	11	11	4	1	-	0
Arson	0	1	4	7	1	0	-	0
Assault	5	5	14	18	1	0	-	7
Illegal possession of weapons	-	1	-	0	-	0	-	1
Bombings	0	0	1	0	0	0	-	0
Manslaughter	0	0	0	0	0	0	-	0
Total	39	41	59	70	15	6	-	11

¹⁸ One would suppose that 'anti-white' violence would pertain exclusively to violence against native Dutch people. This category does include this group, but it also includes violence against other Western Europeans. This does not concern violence against whites by other whites with extreme right-wing motivations but only ethnic violence towards whites.

It is relevant to ask about what might be called the 'ethnic direction' of racial violence. In the previous monitor we distinguished three directions: anti-Semitic violence, violence against Muslims and violence against refugees.

In the present report a fourth category has been added: racial violence against whites. The reason for this is twofold. First, a number of violent incidents were reported in 2005 that stand out in that they were cases of racially motivated anti-white violence. There was an ethnic minority youth gang in Haarlem, for example, that chose white people exclusively as robbery victims. A second reason is formed by the research results from the *Racial Discrimination Monitor 2005*, published in 2006.¹⁹ According to the sub-study *Experiences of discrimination in 2005*, approximately 2 per cent (between 1 and 3 per cent) of the native Dutch population (from 16 years of age) had experience with discrimination.²⁰ Care should be taken in dealing with these results. The values are low, which means scarcely any judgements can be made in terms of the nature of the experiences of discriminatory treatment. But even if we keep our options open to be on the safe side and interpret the found percentages with detachment, the picture is still disturbing. Indeed, based on a native population (16 years and older) of 10,000,000, if 1 to 3 per cent of all native Dutch people have experiences of discrimination that comes out to 100,000 to 300,000 people. For an unknown number of these people the experience of discrimination probably had a violent aspect. These research findings have induced us, more than ever before, to include racism against native Dutch people in the monitoring study. There is still little that can be said about the significance of the 11 registered incidents of violence in 2005 because comparison with previous years is not yet possible. Racist treatment of native Dutch people is a relatively new theme, and the significance of the problem may still be insufficiently recognised. It seems logical that because of this the underreporting of this form of racism is relatively widespread.

There are a few other striking developments in the 'ethnic direction' of racial violence. First is the very steep decline in the number of incidents of violence against refugees in the inventory. While violence against asylum seeker centres and refugees' homes was still a very prevalent form of racial violence a few years ago,²¹ it seems almost to have disappeared in 2005. This development was discernible even earlier, by the way: in 2002 we counted 31 violent incidents against refugees, while that number dropped in 2003 to 15 and has now dropped even further to 6. In addition, the registered violence against asylum seekers no longer takes serious forms such as arson or assault.

The second striking development is the growth of violence against Muslims from 59 incidents to 70. This growth is taking place despite a steep drop in the number of registered cases of targeted graffiti against Muslims. The growth is mainly occurring in the number of threats and more serious forms of violence, such as assault, bomb scares and arson. What we mainly see in this increase is probably the reaction to the murder of Theo van Gogh. Last but not least, the number of anti-Semitic acts of violence has increased slightly. This is striking because other inventories are showing a drop in anti-Semitic incidents (see the chapter on anti-Semitism).

¹⁹ See <http://www.monitorracisme.nl/content.asp?PID=111 &LID=1> (11 October 2006).

²⁰ J. van Donselaar, 'Allochtonen als daders bij racisme en rassendiscriminatie' (Ethnic minorities as perpetrators of racism and racial discrimination). In: Igor Boog et al. (ed.) *Monitor rassendiscriminatie 2005* (Racial discrimination monitor 2005). Rotterdam: Argus 2006.

<http://www.monitorracisme.nl/content.asp?PID=111 &LID=1> (11 oktober 2006).

²¹ J. van Donselaar and P.R. Rodrigues, *Monitor racisme en Extreem-rechts. Vierde rapportage* (Monitoring racism and the Extreme right: Fourth report), Amsterdam: Anne Frank Stichting/Leiden University 2001. See www.monitorracisme.nl.

Perpetrators

The vast majority of cases of racial violence and violence incited by the extreme right are never solved. This conclusion has repeatedly been drawn in the context of the *Racism & Extremism Monitor* project. Evidence can also be derived from the *Racial Discrimination Monitor* that was published in 2006, to which we will return later in this chapter (section on underreporting).

After years of low clear-up rates (around 8 per cent), we saw results in 2003 that were somewhat less meagre. According to our registrations there were 28 known perpetrators, somewhat less than 11 per cent. In 2005, 27 cases were solved, again a scant 11 per cent. This result fits into a long-standing pattern. Apparently the chance of being caught is very low in these kinds of offences. We suspect that the chance of apprehension would be considerably increased 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 confirm that if the police make it their business, the results will usually be positive.

The clear-up rate has to do with establishing the identity of the perpetrator. Additional information about the perpetrator(s) can be distilled from the registration of an incident. A victim of assault, for example, will be able to supply a lot of information about the perpetrator without necessarily resulting in such a clear identification that investigation and arrest are possible. The notion of 'known perpetrator' is therefore rather elastic, in a certain sense.

Racial violence can be committed by both native Dutch people and ethnic minorities. In the inventory for 2005, information was sufficient in 122 cases to establish the ethnic minority or the native identity of the suspected perpetrators: 101 native Dutch and 21 ethnic minorities. In the case of anti-Semitic violence we found ethnic minority perpetrators in 3 out of 39 cases.

In a parallel development we also see a growing involvement of the extreme right as perpetrators. In 2003 we were already noticing a growing involvement (from 12 to 28 cases, or from 5 to 10 per cent in terms of percentage). This growth continued in 2005 to 31 cases. 'Extreme right-wing involvement' is a complex phenomenon. That is why we think it is useful to make a few more general, illustrative comments. Many people believe the perpetrators of incidents of racial violence can be found in circles of extreme right-wing activists and their organisations. There is evidence of what might be called large-scale 'symbolic involvement'. This reaction reflects the tendency to look first of all 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 extreme right-wing organisations. One thing is clear, however: in only a portion of the cases can a link be made between the committing of racist acts and the extreme right. The demonstrable relationship is usually indirect: the offence cannot be attributed to any particular organisation but to persons who make up that organisation in a variety of ways. There is no consensus on the question to what extent extreme right-wing groups are involved in racial violence. It's 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 see?

In short, the involvement of extreme right-wing organisations in the phenomenon of racial violence is a complicated affair, and that is certainly 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 extreme right-wing groups. As a rule the links are indirect, such as the involvement of adherents.

2.6 —

Underreporting: indications from the study Experiences of Discrimination in 2005

The study of experiences of discrimination conducted for the *Racial Discrimination Monitor 2005* provides a few results that are of importance here.²²

Table 2.5
Percentage of Turks, Moroccans, Surinamese and Antilleans (n=348) who had experiences of discrimination in 2004-2005, according to the nature of the treatment

Discriminatory treatment	percentage
Discriminatory remarks	64%
Unequal treatment	58%
Avoidance of contact	15%
Harassment	16%
Threats	10%
Vandalism, inflicting damage or graffiti	7%
Physical violence	7%
Other	17%

Three of the categories of discriminatory treatment distinguished by the researchers are important to the discussion in this chapter on racial violence: 'threats', 'vandalism, inflicting damage or graffiti' and 'physical violence'. These categories together provide us with a picture of racial violence – in this case threats, violence to objects and violence to persons – in the period 2004-2005.

²² See J. van Donselaar, 'Racistisch en extreemrechts geweld' (Racial violence and violence incited by the extreme right). In: Igor Boog et al. (ed.) *Monitor rassendiscriminatie 2005* (Racial discrimination monitor 2005). Rotterdam: Argus 2006, p.128 ff. [http:// www.monitorracisme.nl/content.asp?PID=111 &LID=1](http://www.monitorracisme.nl/content.asp?PID=111&LID=1) (11 oktober 2006).

Table 2.6
Percentage of Turks, Moroccans, Surinamese and Antilleans (n=348) who had experiences of racial violence in 2004-2005, according to the categories of threats, violence to objects, violence to persons

Categories of racial violence	Extrapolated percentages
Threats	10%
Violence to objects	7%
Violence to persons	7%

The percentages found (threats 10 per cent, violence to objects and persons 7 per cent each) concern Turks, Moroccans, Surinamese and Antilleans. Divergent percentages were found with regard to experiences of discrimination for these ethnic categories: Turks 48 per cent, Moroccans 55 per cent, Surinamese 40 per cent and Antilleans 37 per cent. Let's proceed from 40 per cent, an 'average' for all four categories.

A conservative estimate of the researched population (persons 16 and older belonging to the four categories mentioned) is 700,000 persons. Forty per cent had experiences of discrimination, or 280,000. Extrapolating from the three violence percentages produces a picture that is reflected in table 2.7.

Table 2.7
Extrapolating from the percentages of Turks, Moroccans, Surinamese and Antilleans (n=348) who had experiences of racial violence in 2004-2005, according to the categories threats, violence to object and violence to persons

Categories of racial violence	Extrapolated percentages
Threats	10% >28,000
Violence to objects	7% >19,600
Violence to persons	7% >19,600

Based on the results of the study, 28,000 persons from the four ethnic groups would have had experiences of racial threats in the period 2004-2005, 19,600 of them with violence to objects and another 19,600 with violence to persons. Extrapolation should be used with caution because it is based on the presumption that the research is representative and on statements made by the respondents. So the extrapolations given in Table 2.7 do not represent violent incidents that have been actually demonstrated. 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 the research has produced indications that in reality the numbers run into the thousands.

2.7 —

Conclusion

After a sharp increase in racial violence and violence incited by the extreme right at the end of the nineties and in 2000, we have seen a remarkable decrease since 2001. In 2002 we observed another drop that seemed to have stabilised in 2003. Because of problems with data collection with the police a stagnation took place, and as a result there unfortunately are no available data for the year 2004. For all of 2005 we counted 296 cases of violence. So in comparison with 2003, 2005 saw an increase in the number of violent incidents (from 260 to 296 counted cases). This rise was mainly the result of increased numbers of assaults and confrontations.

Of the 296 incidents in 2005 there were 19 cases of violence incited by the extreme right that were not racist in nature. The number of cases of *racial* violence in 2005 was therefore 277.

As far as *perpetrators* were concerned, in the previous monitor we distinguished three targets: anti-Semitic violence, violence directed towards Muslims and violence towards refugees. In the current report a fourth category has been added: racial violence directed towards whites. There is still little that can be said about the significance of the 11 violent incidents of this type registered in 2005 because comparison with previous years is not yet possible. Racist treatment of native Dutch people is a relatively new theme and the significance of the problem is still not being sufficiently recognised. It is logical that because of this the underreporting of this form of racism is relatively substantial. As far as victims are concerned it is also striking that violence towards refugees has decreased and violence towards Muslims has increased. The number of cases of anti-Semitic violence has slightly increased as well.

An increasing number of *perpetrators* were from the extreme right in 2005. This is a continuation of a trend that we have already pointed out several times.

Investigating the nature, magnitude and background of racial violence and violence incited by the extreme right can be done in many different ways. By taking inventories and registering the concrete cases of violence, as we do in our monitoring research, numbers of violent incidents have been found that run into the hundreds. A survey approach, however, like the one undertaken for the *Racial Discrimination Monitor 2005*, has produced indications that in reality the numbers of such incidents run into the thousands. Both approaches have strong points as well as weak ones. One weak aspect in the registration approach is underreporting, in which many incidents never appear in the inventory. One disadvantage of the survey approach is that no concrete cases are gathered; the results are based on what respondents report. For this reason both methods should be used, on a regular basis and in tandem. In addition, both approaches should be broadened to include not only right-wing extremism but also other forms, especially Islamic radicalism with racist overtones.

[3]

The use of ethnic or religious profiles in preventing and investigating criminal acts that pose a threat to the public order and safety

Jenny E. Goldschmidt and Peter R. Rodrigues

At a time in which the threat of terror is putting considerable strain on public safety, the privacy and equal treatment of ordinary citizens can be unintentionally shunted aside in the efforts to combat terrorism. More than in the past, the police and the courts are being given the authority to act against persons even before there is a reasonable suspicion that they are guilty of a punishable offence. In this way the government is attempting to guarantee certain human rights such as the right to life and the right to safety. At the same time, unmistakable infringements of other fundamental rights are being made. When any measure is taken and any new authority applied, the question should always be asked whether these infringements are proportional and necessary. In expanding compulsory identification, for example, the legislature realised that the authority to stop persons and ask for their identity papers could be discriminatory in application. By prohibiting arbitrariness and by issuing further implementing regulations, attempts are being made to check the progress of any such practice. This study will explore the use of ethnic or religious profiles in the prevention and investigation of criminal acts. The focus here will be on preventing and investigating criminal acts that pose a threat to the public order. The use of ethnic or religious attributes by police and the courts can quickly come in conflict with the prohibition of discrimination on the grounds of race or religion. This is why requirements are formulated from the perspective of human rights with which the use of these profiles must comply.

3.1 —

Definition of concepts

On 3 June 1977, the Court of Amsterdam pronounced a judgement that has come to be known by the name ‘Hollende kleurling’ (Running coloured person).¹ One night in the heart of Amsterdam two policemen saw a dark man running from a café drugs were known to be sold. They stopped the man, and after a fierce skirmish discovered heroine on his person. In the court’s view there cannot be said to be a reasonable suspicion of guilt if a ‘coloured person’ comes running out of a commercial establishment that has the reputation of being a drug café. Stopping such a person and frisking him is illegal, and the man was released. The word ‘coloured person’ is outdated, and the arrest itself may also be something of an artefact.² While the public order or safety did not come into play in this case, it is a good example of the dilemma being discussed in this chapter. May personal characteristics having to do with race or religion serve as a basis for criminal prosecution? In dealing with this question our attention will focus on punishable offences that form a threat to the public order and safety.³ The concept of *ethnic profiling* is defined by Goldston as follows: ‘The use of racial/ethnic stereotypes, rather than individual behaviour, as a basis for making law enforcement and/or investigative decisions about who has been or may be involved in

¹ *NJ* 1978, 601.

² J. Doomen, *De hollende kleurling, Het Nederlandse strafrecht in negen verhalen* (The running coloured man: Dutch criminal law in nine stories). Amsterdam/Antwerp: Contact 2006, pp. 9-13.

³ The use of profiles in investigating trafficking in women, for example, falls outside the scope of our research.

criminal activity.⁴ This broad definition is certainly justifiable, but it exceeds the compass of this chapter. Linking it to criminal activity that poses a threat to public safety sufficiently restricts the study to the framework of this monitor. This means that the supervision of aliens, for example, also falls outside the scope of our study.

Our aim is to present an initial overview of the use of profiles in preventing and investigating criminal offences that pose a threat to public safety. This will also involve turning our attention to *data mining*, a research method in which an attempt is made to discover patterns and relationships in large quantities of computer data. In addition, we will try to ascertain which requirements in the area of human right must be met in order for the use of profiles to be admissible. Or is profiling completely incompatible with human rights?

3.2 —

Background of the use of profiles

The use of profiles occurs on a large scale and is not limited to criminal proceedings. Because of the large number of transactions involved in their work, providers of goods and services, for example, use selection and acceptance criteria that are readily available and can easily be obtained.⁵ In doing so they make use of profiling. In risk profiling, both general and specific characteristics are involved in determining whether a customer can be accepted or is too great a business risk. A provider of pay TV, for example, refused to extend its service to certain postal code areas in the Bijlmer district of Amsterdam, a practice that amounted to indirect discrimination on the grounds of race according to the ruling of the Equal Treatment Commission (Commissie Gelijke Behandeling; CGB).⁶ The consumer believed there was evidence here of *redlining*: refusing customers on the basis of their postal codes.⁷ The CGB is now conducting its own study of redlining by mortgage providers.⁸ Profiling is also used in the granting of credit in the form of credit scoring, and disco bouncers use it in deciding who comes in and who stays out.

It must be said that usually those who practise profiling have no malicious intentions. Those who use profiling are trying to work more effectively, which is also to the advantage of the customer or member of the public. But in choosing particular profiling criteria they sometimes make a conscious or usually an unconscious distinction based on race or religion. Regardless of their awareness, making these kinds of distinctions is prohibited insofar as it is condemned by the Equal Treatment Act (Algemene Wet Gelijke Behandeling; AWGB). In criminal legislation, deliberate discrimination based on race in the holding of an office, the practise of a profession or the running of a company is a crime (art.137g of the Penal Code). Article 429quater of the Penal Code prohibits discrimination on the grounds of race, religion, personal convictions, gender or sexual orientation in holding an office, practising a profession or running a company. Making such a distinction is an offence, and the requirement of intent does not apply.

⁴ J.A. Goldston, 'Toward a Europe without ethnic profiling', *Justice Initiative*, June 2005, p.7.

⁵ For further discussion see P.R. Rodrigues, *Anders niets? Discriminatie naar ras en nationaliteit bij consumententransacties* (Will that be all? Discrimination based on race and nationality in consumer transactions), Lelystad: Vermande 1997, pp. 147-158 .

⁶ CGB 2004-15.

⁷ M. Aalders, *Redlining in Nederland: Oorzaken en gevolgen van uitsluiting op de hypotheekmarkt* (Redlining in the Netherlands: Causes and consequences of exclusion in the mortgage market), Amsterdam: Aksant 2003.

⁸ *Het jaar 2004, Jaarverslag Commissie Gelijke Behandeling 2004* (The year 2004: Annual Report of the Equal Treatment Commission 2004), Utrecht: CGB 2005, p. 54. The study is published 15 December 2006 (Advise 2006-15).

Profiling also takes place in the aforementioned method of data mining, in which computer data are searched for possible patterns and relationships. Data mining can provide new information that would not otherwise have been found without this technique. However, when large quantities of personal data are processed by computer, the rules concerning privacy must be complied with and no conflict may arise with the prohibition on discrimination. An example of using data mining to help combat terrorism is the Counter Terrorism (CT) Infobox. The CT Infobox is a joint effort that falls under the General Intelligence and Security Services (Algemene Inlichtingen- en Veiligheidsdienst; AIVD) of the Netherlands. Besides the AIVD, other groups collaborating in this effort are the Military Intelligence and Security Service (Militaire Inlichtingen- en Veiligheidsdienst; MIVD), the National Police Services Agency (Korps Landelijke Politiediensten; KLPD), the Immigration and Naturalisation Service (Immigratie- en Naturalisatiedienst; IND) and the Public Prosecution Service (Openbaar Ministerie). The goal of the effort is to make a contribution to fighting terrorism by comparing information (previously gathered at a central point) on networks and persons who in some way are involved in terrorism. By consulting, comparing and analysing the data that has been entered into the CT Infobox by the participating services, a quick, multidisciplinary analysis and evaluation of the available information can be obtained. On the basis of the results, measures can be taken in terms of intelligence, criminal prosecution or aliens law or within the scope of interference. In the case of interference – such as persistently following persons who are in danger of becoming radicalised – religious aspects often play a role because of the specific attention being paid to Islamic terrorism.⁹ The effectiveness of data mining is increasingly being questioned, especially when it comes to preventative aspects. It has been argued that the practise only makes sense if there is a concrete basis and it can be demonstrated that large groups of innocent people will not become ‘suspect’.¹⁰

In addition to computer profiling there is also ‘instinctive’ profiling, which is very important among criminal investigators. By this we mean actions by the police, for example, that are not based on explicit regulations or indications and involve subjecting the public to compulsory identification checks or preventative frisking. It is quite conceivable that in exercising this authority, certain ethnic or religious characteristics come into play when certain persons are stopped in the street.

In the United States in particular there has been a great deal of resistance to various forms of racial profiling. According to critics, the presumed relationship between the profile and the group of suspects is often absent. If that is indeed the case, the ethnic group in question is disproportionately and grievously affected.¹¹ Goldston argues that racial profiling should be prohibited because it is ineffective and because it disturbs interethnic relations in society.¹² Harris goes even further and says that racial profiling is based on prejudices that simply confirm themselves (self-fulfilling prophecies).¹³ Because so many members of ethnic groups are in custody, the same groups are singled out when punishable offences are being investigated. As a result, says Harris, the prison population changes colour, thereby confirming the prejudices of the police and the courts. On the basis of criticism, a private

⁹ See the section on disturbance.

¹⁰ Aldus Valdis Krebs, expert from the United States: see ‘Uw goeie gedrag in de computer’ (Your good behaviour in the computer), *de Volkskrant* 2 September 2006 Kennis katern, p. 5.

¹¹ J.E. Goldschmidt, *Mag het iets minder zijn? Hebben we een teveel aan mensenrechten?* (Is a little less all right? Do we have a surplus of human rights?) (speech 2004), Utrecht: SIM 2005, pp.25-26 .

¹² J.A. Goldston, ‘Toward a Europe without ethnic profiling’, *Justice Initiative*, June 2005, pp.6-13.

¹³ D.A. Harris, *Profiles in injustice: Why racial profiling cannot work*. New York: The New Press 2003, p. 242 .

member's bill was submitted to the United States Congress in 2004 that was called *a bill to prohibit racial profiling*.¹⁴

The anti-terrorism measures taken worldwide after 9/11, understandable in themselves, have shown that it is also necessary to guard against discrimination and arbitrary actions. As a result of the passing of the British Terrorism Act of 2002, for example, more than twice as many people of colour are being stopped and searched as before the act was passed, and almost three times as many Asians.¹⁵ A dark-skinned Briton is six times more likely to be stopped and searched by the police than a white person.¹⁶ These figures are known because the police in England and Wales are required to fill out a so-called 'stop-and-search' form for every person they question.¹⁷ The person's ethnicity must also be reported on the form. The Justice Initiative in Europe is now waging a campaign against ethnic and religious profiling.¹⁸

3.3 —

Fighting terrorism: fundamental rights and profiles

Within the context of protecting fundamental rights it is relevant to note that more and more attention has been paid to preventing violations of fundamental rights in recent years. This not only means that prohibiting these violations and providing redress to victims is important; it also means that the government has an obligation to make sure fundamental rights are not being violated. This positive obligation – let's call it a duty of due care – pertains even when it has not yet been demonstrated that violations are taking place.

So it makes sense to first take a good look at which fundamental rights may be at issue in any discussion of the use of ethnic or religious profiles. This insight is necessary in order to do as much as possible to prevent a violation of fundamental rights and to develop criteria for such a practice. Indeed, each fundamental right has its own framework and possibilities for restriction.

Almost none of the civil rights are unrestricted. Only a few rights, such as the prohibition of torture, are absolute. Most rights are not absolute, and in such cases restrictions are permissible, but not unreservedly.

Restrictions are usually rooted in interests issuing from other civil rights, the public order or democratic society. So the question is: when and to what extent are restrictions permissible? The problem we are discussing here is less recent than many people think. In his oration, Kuijer refers to the *Lawless* case, the first case brought before the European Court of Human Rights. Even then, 1961, fighting terrorism was a current concern, which is what this case was all about: here the IRA and the related violation of the human rights of suspects.¹⁹

It is beyond dispute that protecting people from violence, and terrorist violence in particular, is one of the responsibilities of the government, in accordance with the public's right to safety. This is in keeping with what Franklin Roosevelt called the 'Freedom from fear',

¹⁴ 108th Congress, 2nd session, S. 2132 (26 February 2004).

¹⁵ *Statewatch* May-July 2004, Vol 14 no 3/4, pp. 16-17.

¹⁶ [www.politics.co.uk/news/public-services/police/police/stop-and-searches-still-racially-skewed-\\$444449 .htm](http://www.politics.co.uk/news/public-services/police/police/stop-and-searches-still-racially-skewed-$444449.htm) (10 July 2006).

¹⁷ J. Miller, *Measuring and understanding minority experiences of stop and search in the UK*, Justice Initiative June 2005, pp. 53-58.

¹⁸ www.justiceinitiative.org (3 August 2006).

¹⁹ M. Kuijer, *Van Lawless naar een rechtmatige bestrijding van terrorisme* (From *Lawless* to a lawful fight against terrorism) (oration, Amsterdam VU). Nijmegen: Wolf Legal Publishers 2005.

which the government is obliged to promote. In doing so, the government is justified in placing restrictions on the rights of others as well as on the public order. The question is: how far can those restrictions go, what conditions should they meet and what legal protection exists against possible unjust restrictions? Human rights are not things that can simply be cast aside when there are threats of serious violence or conflicts, in an effort to combat that threat. Many measures having to do with the investigation and the prosecution of criminal acts are taken in the context of fighting terrorism, when it is sometimes mistakenly suggested that the decision to fight terrorism can only be done at the cost of fundamental rights.

Besides the right to safety there is also the right to the protection of privacy and physical integrity, prohibition of discrimination, freedom of speech, freedom of religion, freedom of association and assembly, and freedom of movement. These freedoms can be at issue when counter-terrorism measures are taken. So the measures mentioned here, which derive their rationale from the protection of safety, must be justifiable within the system of limitations that applies to other fundamental rights.

This makes the relationship between fighting terrorism and fundamental rights a complicated one. Fighting terrorism focuses on implementing the obligation to guarantee safety – a human right – in which placing restrictions on human rights at the same time is among the possibilities. Some perpetrators justify terrorist attacks by appealing to the fact that fundamental rights cannot be taken for granted everywhere and by everyone. This is a reference not only to classical rights such as those named but also to social and economic rights, such as the right to work.

Furthermore, there is a specific connection between fighting discrimination and fighting terrorism, because excluding certain population groups through discrimination can result in members of those groups constituting an attractive target for the recruitment of members of terrorist organisations. If measures taken to fight terrorism wrongfully affect such specific groups, a new breeding ground for terrorism will develop.²⁰ This last problem has frequently been raised by groups such as the Human Rights Committee of the UN and CERD, the Committee that oversees the observance of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). In 2002 this committee formulated an obligation for member states, to make sure that measures taken against terrorism did not bring about discrimination on the grounds of race or origins.²¹

So states have a double obligation when it comes to investigating and fighting terrorism: any measures taken must remain within the limits placed by other human rights *and* they may not lead to discrimination. In every major declaration and recommendation having to do with fighting terrorism, reference is made to the necessity not to allow measures to that effect to be taken at the cost of fundamental rights. This keeps them in line with existing case law, especially that of the European Court of Human Rights.

Here we will mention a few authoritative guidelines and declarations.

In 2004 the *Berlin Declaration* was adopted by the *International Commission of Jurists*, which states, among other things, that human rights must be respected in criminal law as

²⁰ Ibid., p. 17.

²¹ J.P. Loof, *Mensenrechten en staatsveiligheid: verenigbare grootheden? Opschorting en beperking van mensenrechtenbescherming tijdens noodtoestanden en andere situaties die de staatsveiligheid bedreigen* (Human rights and state security: Compatible quantities? Suspending and restricting human rights protection during emergencies and other situations that threaten state security). Nijmegen: Wolf Legal Publishers 2005, p. 578 ff.

well. This Berlin Declaration insists that the exercise of rights and freedoms may not be punished and that criminal responsibility must always be *individual*.²²

The Task Force on International Terrorism of the International Bar Association issued a report in 2003 dealing specifically with racial profiling in which it warned against making unlawful distinctions in the investigation of terrorist crimes.²³ Shortly after the attacks of 11 September 2001, the Committee of Ministers of the Council of Europe adopted the *Guidelines on Human Rights and the Fight against Terrorism*.²⁴ The first article of the guidelines emphasises that terrorism is a threat to fundamental rights. The second clause refers to the necessity to respect human rights when taking measures against terrorism and to rule out all arbitrariness as well as all discriminatory or racist treatment. Section VII of these guidelines states that when arrests are made there must be evidence of reasonable suspicion of which the person involved has also been informed.

The literature also emphasises that in combating terrorism no other criteria apply in principle in the restriction of human rights. Loof argues, for example, that in this very case states have fairly broad discretionary powers (margin of appreciation), but they must abide by the norms of legality (provided by the law), necessity and proportionality.²⁵ These grounds for restriction arise from articles 2, 15 and 17 of the European Convention on Human Rights (ECHR). In his dissertation, the same author also points to the obligations arising from other conventions such as the International Covenant on Civil and Political Rights (ICCPR), and the fact that the UN Human Rights Committee regularly notes that members states have a positive obligation to discourage the stereotyping of Arabs and Muslims as extremists and terrorists as well as the unequal treatment that issues from it.²⁶

In 2004 the ECRI, the European Commission against Racism and Intolerance of the Council of Europe, issued a general recommendation on 'combating racism in the fight against terrorism'.²⁷ In the context of this chapter, the following recommendation is of particular importance:

to pay particular attention to guaranteeing in a non-discriminatory way the freedoms of association, expression, religion and movement and to ensuring that no discrimination ensues from legislation and regulations – or their implementation – notably governing the following areas:

checks carried out by law enforcement officials within the countries and by border control personnel (...)

²² http://www.icj.org/news.php?3?id_article=3503?en (3 August 2006).

²³ Pp. 64-65.

²⁴ To be found at: http://book.coe.int/sysmodules/RBS_chier/admin/download.php?.leid=1417 (3 August 2006).

²⁵ J.P. Loof, 'Terrorismebestrijding, de Raad van Europa en het EVRM' (Combating terrorism: the Council of Europe and the ECHR, in: E. van Dongen et al. (eds.) *Terrorismebestrijding met mensenrechten*, Leiden: NJCM Boekerij 2005, p. 69.

²⁶ J.P. Loof, *Mensenrechten en staatsveiligheid: verenigbare grootheden? Opschorting en beperking van mensenrechtenbescherming tijdens noodtoestanden en andere situaties die de staatsveiligheid bedreigen* (Human rights and state security: Compatible quantities? Suspending and restricting human rights protection during emergencies and other situations that threaten state security). Nijmegen: Wolf Legal Publishers 2005, p. 590.

²⁷ ECRI General Policy Recommendation no. 8.

In the same year, CERD issued a general recommendation on the 'discrimination against aliens'.²⁸ This recommendation specifically deals with the risk that combating terrorism will lead to the use of discriminatory profiles. This is stated in section II (no. 10) of the recommendation reads as follows:

Ensure that any measures taken in the fight against terrorism do not discriminate, in purpose or effect, on the grounds of race, colour, descent, or national or ethnic origin and that non-citizens are not subjected to racial or ethnic profiling or stereotyping.

What CERD seems to be saying here is that racial profiling may not lead to a situation in which being an alien is in itself an incriminatory factor that would legitimate the violation of fundamental rights. Or would CERD reject all racial profiling? That does not seem to be the case from the general recommendation of 17 August 2005.²⁹ In section III 1 (no. 1) of this recommendation, on preventing racial discrimination in criminal proceedings, we read the following:

States parties should take the necessary steps to prevent questioning, arrests and searches which are in reality based solely on the physical appearance of a person, that person's colour or features or membership of a racial or ethnic group, or any profiling which exposes him or her to greater suspicion.

CERD's criterion seems to be that the simple fact that someone has racial or religious characteristics is insufficient reason to exercise criminal powers against him or her. In the findings accompanying this recommendation, CERD points out that because of increasing activity on the part of investigative services and tightened counter-terrorism measures, there has also been an increase in prejudice towards certain population groups among officials charged with implementing these measures. Examples are anti-Arab or anti-Muslim sentiments, or anti-Semitism in reaction to these sentiments.

Some authors have spoken out against the use of ethnic or religious profiles in any form. CERD rejects the use of profiles under certain conditions. Before looking at what we believe might be the rights-based criteria in the use of profiles, we would first like to examine a few examples from Dutch practice.

3.4 —

Practical examples

3.4.1 —

Identity surveillance

Since 1 January 2005 the expanded Compulsory Identification Act has been in force.³⁰ The desire to expand this obligation to provide proof of identity was inspired to a large extent by fear of terrorism after the 9/11 attacks on the United States.³¹ In the Memorandum in

²⁸ CERD General Recommendation no. 30.

²⁹ CERD General Recommendation no. 31.

³⁰ *Staatsblad* 2004, 300.

³¹ *Kamerstukken II* 2003/04, 29 218, no. 3, p. 5.

response to the Final Report it is explicitly stated: 'the current situation, in which individual citizens are not required to show proof of identity in the event of a threatened disturbance of public order caused by a terrorist action, is likely to cause problems at this point in time'.³² A comment contained in the explanation to the Act states that efforts are being made to avoid discriminatory application: these powers may not be randomly exercised. The government has no reason to assume that the police will ask ethnic minority young people for proof of identity merely on the basis of their skin colour or origins. Yet this is not inconceivable in a situation such as threat of a terrorist attack by an extremist group. According to the explanation to the Act there must be a concrete immediate cause, without that cause having to consist of suspicion of a punishable offence.³³ Testing to see whether the criterion was properly applied can be done after the fact through the police complaints commission or the National Ombudsman. The reports from the police complaints commission usually provide little or no information on which to base a clear idea of the complaint, and the National Ombudsman receives only a few cases of discrimination a year from the police.³⁴ The *Instructions for the Expansion of the Compulsory Identification Act* include instructions for implementing officials.³⁵ Examples are mentioned when demanding proof of identity might be included in a reasonable interpretation of duties. One such example is young people who hang around in public places and create a nuisance. Zeegers is of the opinion that the question 'who would be most troubled by the obligation to provide identity' is rhetorical: it is Islamic ethnic minorities.³⁶

One year after the implementation of the Compulsory Identification Act, 66,241 people were fined for not carrying proof of identity with them.³⁷ Approximately 10 per cent of the tickets went to young people between the ages of 14 and 18. Approximately half of all the fines are not paid, and these cases are then turned over to the courts. In response to critical questions raised by Member of Parliament Vos regarding the results and effectiveness of the Act, Minister of Justice Donner said he thought efforts should be made to counter any perception that the Act is being applied in a discriminatory manner.³⁸ It is partly for this reason that the Act will be evaluated in 2008. Hertogh demonstrates that dissatisfaction with the Compulsory Identification Act can mainly be found on the internet.³⁹ The Reporting Centre for Compulsory Identification Abuse held a small demonstration on 28 September 2005 when the first 250 cases occurred. According to a spokeswoman, dozens of complaints about the Act are lodged every day. Especially the fact that now two fines are often imposed for relatively light offences rubs many people the wrong way. The National Ombudsman also receives complaints about the Compulsory Identification Act and is planning to register the complaints

³² *Kamerstukken II* 2003/04, 29 218, no. 10, p. 2.

³³ *Kamerstukken II* 2003/04, 29 218, no. 10, p. 14.

³⁴ P.R. Rodrigues and R. Schriemer, 'Politie en Justitie' (Police and the courts), in: I. Boog et al. (ed.), *Monitor rassendiscriminatie 2005* (2005 Racial Discrimination Monitor), Rotterdam: Argus 2006, pp. 110-112.

³⁵ *Staatscourant* 2004, 247.

³⁶ N. Zeegers, 'Verschuivende warden' (Shifting values), in: B. van Klink and N. Zeegers (eds.), *Hoe maakbaar is veiligheid? Over de Wet op de uitgebreide identificatieplicht* (To what extent can safety be fabricated? On the Expanded Obligation to Provide Proof of Identity Act). Breda: Papieren tijger 2006, p. 67.

³⁷ W. Witteveen, 'Voorwoord bij een dubbelzinnige wet' (Preface to an ambiguous law), in: B. van Klink and N. Zeegers (eds.), *Hoe maakbaar is veiligheid? Over de Wet op de uitgebreide identificatieplicht* (To what extent can safety be fabricated? On the Expanded Obligation to Provide Proof of Identity Act). Breda: Papieren tijger 2006, p. 7.

³⁸ Question time, 27 September 2005, 4-183.

³⁹ M. Hertogh, 'WWW.ID-NEE.NL. Protest op internet en de wet op de uitgebreide identificatieplicht', in: B. van Klink and N. Zeegers (eds.), *Hoe maakbaar is veiligheid? Over de Wet op de uitgebreide identificatieplicht* (To what extent can safety be fabricated? On the Expanded Obligation to Provide Proof of Identity Act) Breda: Papieren tijger 2006, pp.87-98.

received by telephone. In a study carried out by *de Volkskrant*, it appears that the Act is mainly being used as a ‘fine duplicator’ in the case of minor offences such as driving without lights and urinating in public.⁴⁰ Although evidence of discriminatory effects is being presented on critical internet forums, this is still more a matter of expectation than of actual occurrences. In early 2006 the mayor of Amsterdam called an emergency meeting of the chairmen of the submunicipal councils because of escalating problems with young people of Moroccan origin. *De Volkskrant* reported at the time that this tension was partly a result of the stricter checks on proof of identification being carried out among these young people.⁴¹

3.4.2 —

Preventative frisking

The law of 13 July 2002 amending the Municipalities Act and the Weapons and Ammunition Act allows police to perform preventative frisking. To make this possible the city council must issue an order granting the mayor the authority to designate an area as a ‘security risk area’ if there is a disturbance of the public order due to the presence of weapons. Areas in which there is serious fear that such disturbances may develop may also be designated security risk areas. If the reasons given for establishing such an area are not cautious enough the courts can declare the order void, and any measures already taken against citizens will have no legal effect.⁴² The Amsterdam District Appeal Court ruled that the statutory authority was in accordance with the requirements set down in art. 8, paragraph 2 of the ECHR (privacy), so that exercising that authority does not result in any illegal violation of the right of privacy.⁴³ Preventative frisking can only take place if the Public Prosecutor has given permission. The most essential aspect of preventative frisking is that the citizen can be subject to it without any suspicion that he or she is about to commit a punishable offence. The law assumes that everyone in the security risk area should be frisked.

In ten municipalities in which preventative frisking was actually performed one or more times until 1 September 2003, an inventory was taken and an analysis carried out.⁴⁴ The goal of the research was to show how preventative frisking was carried out at the local level and what the results are. The research took place in two large cities – Amsterdam and Rotterdam – and eight medium-sized cities – Den Helder, Haarlemmermeer, Heerlen, Utrecht, Tilburg, Roermond, Maastricht and Zaanstad.

With regard to the goal as applied to criminal acts – finding weapons – data are available for 187 incidents of preventative frisking in the period 2002 through 2004 in the cities of Amsterdam, Maastricht, Haarlemmermeer, Den Helder, Rotterdam, Heerlen, Utrecht and Tilburg. During these actions, 79,499 persons were checked and 2,101 weapons were found (as defined in the Weapons and Ammunition Act). Almost 70 per cent were stabbing weapons,⁴⁵ 16.8 per cent striking weapons and 2.6 per cent firearms (52 items).⁴⁶ The police found 25 weapons per 1,000 frisked persons (2.5 per cent).

⁴⁰ *de Volkskrant* 22 April 2006.

⁴¹ *de Volkskrant* 17 January 2006.

⁴² Amsterdam District Appeal Court, 23 September 2005, *LJN* AU3200.

⁴³ Amsterdam District Appeal Court, 10 February 2006, *LJN* AV1477.

⁴⁴ E.J. van der Torre and H.B. Ferwerda, *Preventief fouilleren, Een analyse van het proces en de externe effecten in tien gemeenten* (Preventative frisking: An analysis of the process and the external effects in ten cities). Zeist: Uitgeverij Kerkebosch 2005.

⁴⁵ 68 per cent.

⁴⁶ 12.6 per cent other weapons as defined in the Weapons and Ammunition Act.

In 54 actions in Amsterdam (November 2002 through March 2004) and 32,332 frisked persons, 702 weapons were found including 15 (real) firearms. This involved 11,687 hours of police time. In our opinion the returns are relatively low, and that was also the conclusion of the authors of the research on preventative frisking.⁴⁷ According to the researchers the frisking was carried out in a respectful way and resulted in hardly any incidents. Only three complaints were lodged concerning the Amsterdam actions.

Of the persons who were checked but not arrested, 402 were asked to be interviewed. A total of 64 persons refused (16 per cent). Of the 338 persons interviewed, 79 per cent thought the police had been clear in explaining to them why they were being frisked. The same percentage said they approved of preventative frisking. Twenty per cent thought frisking was a violation of privacy. One-third of those questioned live in the neighbourhood where the frisking action occurred. It is striking that almost 10 per cent live abroad and were probably foreigners. Only 4 per cent view the action negatively. Almost half of those questioned said their sense of security – the social significance – was improved by the actions.

In Rotterdam, 24 per cent of the ethnic minorities disagree or sharply disagree with the statement that preventative frisking increases the sense of security. They seem to feel more singled out by these actions than native Dutch people. According to the researchers, this fact stimulates city administrators, police and the courts to remain attentive to the care with which the actions are carried out.

In Amsterdam, Heerlen, Haarlemmermeer, Maastricht, Tilburg and Utrecht, 397 suspects were arrested during preventative frisking actions. Of all the suspects, 91 percent were male. The average age was 28. Besides sex and age, people were also asked about their ethnicity: 46 per cent were Dutch, 8 per cent Moroccan, 6 per cent Surinamese, 4 per cent Antillean and 4 per cent Turkish. The category 'other' is relatively high: 32 per cent. Given the composition of the population in these cities, the ratio of native Dutch to ethnic minority does not work to the advantage of the ethnic minorities.

The requirement to frisk at random or to frisk everyone turns out to be difficult to put into practice. Those who carry out the task have a great deal of discretionary power. In practice potential suspects are usually the first to be frisked, followed perhaps by other members of the public. By drastically restricting the size of the area, small groups can also be closed off and frisked. This method is called 'mini-insluiting' (mini-detention), and it seems selective by its very nature. In the case of selective checks, and intuition of the investigating officer in question is not sufficient. The basis of any check must be objective reasons. We think it is of fundamental importance that the Public Prosecutor formulate those criteria.

In the parliamentary treatment of the amendments to expand the legal options for detection and prosecution of terrorist crimes, the Minister of Justice provides an explanation of the permitted selectivity.⁴⁸ An investigating official can approach a citizen in connection with indications of a terrorist crime or because of the continuous threat level in a security risk area. 'It cannot be ruled out that skin colour and clothing will play a certain role here. This is not to say that in the selection of persons the investigating official will allow himself to be led by unwarranted prejudices or even by reasons of a discriminatory nature. After all, specific information can give rise to making such choices.' We believe that such ethnic factors in themselves should never be allowed to play a role, but only and exclusively in combination

⁴⁷ E.J. van der Torre and H.B. Ferwerda, *Preventief fouilleren, Een analyse van het proces en de externe effecten in tien gemeenten* (Preventative frisking: An analysis of the process and the external effects in ten cities). Zeist: Uitgeverij Kerkebosch 2005, especially Chapter 5.

⁴⁸ *Kamerstukken II* 2005/06, 30164, no. 7, p. 52.

with other factors that together actually contribute to the prevention and investigation of punishable offences. In the British practice, the stop-and-search forms that the police must fill in constitute a good basis for assessing performance. This practice serves the interests of both the investigating officials and the public.

3.4.3 —

Investigating criminal acts

In 2004 the Anti-Discrimination Agencies (Anti-Discriminatie Bureaus; ADBs) registered 198 complaints of discriminatory treatment by the police, the courts and the Public Prosecution Service. This corresponds to 5 per cent of the annual number of complaints. Most of these complaints had to do with actions of police officers in the regional police force, in particular with discriminatory behaviour based on ethnicity. This was the reason for 89 per cent of the complaints. The grounds for the complaints were those of race (83 per cent), nationality (5 per cent) and anti-Semitism (1 per cent). Most complaints had to do with arrests (44 per cent), then with failure to offer adequate assistance (15 per cent) and finally with refusing to take down a report (6 per cent).

Most complaints resulted from arrests. It is quite possible that the arrests were partly influenced by ethnic characteristics, such as looking for a suspect with a North African or Negroid appearance. Another explanation might be that persons from ethnic minority groups are more often under the impression that they were arrested because of their origins alone. Complaints of discriminatory police violence are made almost exclusively by ethnic minorities. Closer inspection of the nature and cause of the violence as it was experienced shows that this mainly occurs (60 per cent) in the case of the aforementioned arrests. It is quite possible that the first contacts between the police and ethnic minority citizens take place during proof of identity checks. For citizens it is often not clear whether they are being arrested or simply stopped in order to establish their identity. When such checks occur, irritations can easily take root. This is also true of preventative frisking.

The question is not whether the police are being selective in the investigation of criminal acts but whether this selection has led to discrimination or not. In the early nineties, De Haan and Yesilgöz attempted to demonstrate that the fact that criminality figures are high for certain ethnic groups has an effect on the attention that the police pay to these groups in the performance of their duties.⁴⁹ This attention can easily develop into bias, a bias that also seemed discernible in the courts when the study was carried out. In a dated (1992) but unique comparative study of appropriate sentencing in the Netherlands there appeared to be a clear difference in penalties being applied to different groups for the same offences. The big difference lay between the prosecution of minors and adults, but there were also considerable differences between men and women and between Dutch people and foreigners. Foreign adult men were given the heaviest penalties for the same offences.⁵⁰

In a recent publication Bovenkerk points out the danger of racial profiling.⁵¹ Even if there were persons within a particular ethnic group who more frequently commit certain criminal

⁴⁹ F. Bovenkerk, W. de Haan and Y. Yesilgöz, 'Over selectiviteit gesproken! (Non-)discriminatie in opsporingspraktijken in Nederland' (Speaking of selectivity! Discrimination and non-discrimination in investigation procedures in the Netherlands), *Tijdschrift voor Criminologie* 1991, pp. 309-321.

⁵⁰ A.C. Berghuis, 'De harde en de zachte hand – een statische analyse van verschillen in sanctiebeleid' (The hard and the soft approach – a statistical analysis of differences in sentencing policy), *Trema* 1992, p. 89.

⁵¹ F. Bovenkerk, 'Drie lessen over het criminaliseren van minderheden' (Three lessons on the criminalising of minorities), in: R. Gowricharn (ed.), *Falende instituties*, Forum, Utrecht: 2006, pp. 89-112.

acts, the entire group would be disproportionately subject to the inconvenience of intensive police checks. The impact that such behaviour would have on often innocent citizens would create tension between them and the police. Moreover, the government's 'bad' example (since the group would then be officially stigmatised) would be closely imitated in the business community. In this way, we believe, more problems are created than solved.

3.4.4 —

Interference

There are cases in which criminal action, investigation of residence rights or intelligence gathering are not enough to prevent preparations for a terrorist activity, to put an end to processes of radicalisation or to keep an event with radical overtones from taking place. The government can try to combat these processes by 'interfering'.⁵² One of the forms this may take is to target particular persons, i.e. to engage in the systematic and visible tracking of persons. An individual is kept under surveillance to such an extent that he is no longer capable of carrying out radical activities. In the case of personal interference the aim is to carry out disturbing and noticeable surveillance. The person's private life is invaded. The question is, what indications provide grounds that justify such an invasion? At the end of 2005 it became too much for a Muslim mother of three children, and she brought summary proceedings against the city of Amsterdam. The city was forbidden to interfere with the woman any further. The court in interlocutory proceedings tested the personal interference against art. 8 ECHR, the right to respect for privacy.

First of all, the court determined that an invasion of privacy must be provided for in law.⁵³ There is a national interference guideline, but the city did not make use of it. It seems to us that the exception to art. 8, paragraph 2 is only possible within the law. The court doubted whether art. 12 of the Police Act (public order) offers sufficient basis because it is a general power of the mayor. There are no specific published policy regulations concerning interference. The court in interlocutory proceedings expressly refused to answer the question whether the infringement is sufficiently provided for in law.

The judge did rule that the goal of the interference was legitimate: safeguarding public safety and preventing criminal offences. This is a second requirement of art 8, paragraph 2 ECHR. The third requirement is that the invasion must be necessary. Investigation undertaken by the court revealed that such necessity did not exist. Five of the eight indications provided by the city to justify its action had to do with the woman's religion and could only be regarded as incidental circumstances. These concern indications such as 'changing religion', 'changing clothing' and 'refusing to shake hands with men'. The three other indications proved to be no longer relevant, so they could not be used to justify interference either.⁵⁴

The court found that the religious factors mentioned were of insufficient significance in themselves and said they could only apply as incidental circumstances. This ruling prevents information on religious practice from leading to sweeping measures against members of the public. The *Second Counter-Terrorism Progress Report* reveals that the exchange of information via the so-called Counter-Terrorism (CT) Infobox is used in cases of

⁵² This section is an edited version of a note by Rodrigues under Amsterdam District Court, 1 December 2005 in *Privacy & Informatie* 2006, pp.129-131.

⁵³ Amsterdam District Court, 1 December 2005, *LJN* AU7314.

⁵⁴ The tension that exists between freedom rights and intelligence work remains complex. Also see Y. Buruma in de symposium collection *Vrijheid versus veiligheid* (Freedom versus security), a speech given on 1 September 2005 in honour of the 60th anniversary of the AIVD.

interference.⁵⁵ It is quite possible that the religious profiling in question came about in this way. The *Policy Framework for Tackling Hotbeds of Radicalisation* points out that in the case of radicalisation, interference can produce undesired side effects.⁵⁶ Interference can lead to feelings of discrimination and stigmatisation, for example, which would actually promote polarisation and radicalisation. It is of great importance, according to the memorandum, to make a comparative assessment of the measure to be taken, the desired effect and the expected result.

In response to the Parliamentary questions, Minister of Justice Donner indicated that he believed there is a sufficient legal basis for interference.⁵⁷ The interference operations take place within the context of maintaining public order. On the grounds of art. 172 of the Municipalities Act, this is the mayor's responsibility. According to Donner, the mayor, within the context of this administrative responsibility, is charged with ensuring that criminal offences that influence the peace and quiet of municipal life are prevented. Since then, interlocutory proceedings have been brought against an interference operation for a second time in Amsterdam. This concerned a young man of Moroccan origins who argued that an interference operation was wrongful. The court in interlocutory proceedings ruled that, in view of the nature and scale of the interference, art. 12 of the Police Act did offer sufficient basis for action.⁵⁸ It also ruled that the interference was proportional and, as such, lawful. In the court ruling in the case of the Muslim woman, the judge no longer had to answer the question concerning sufficient legal basis. In the later court ruling in the case of the young man, the other court in interlocutory proceedings seems to have been a bit more flexible in passing over this question. It seems to us that in the case of infringements of fundamental rights, the legal basis for the exception should be evident. On the basis of 'accordance with the law' of art. 8, paragraph 2 ECHR, infringements should have a substantive basis in national law and should satisfy the demands of foreseeability and recognisability. We find a general basis such as art. 12 of the Police Act to be too weak for this purpose. The same is true for the basic principles under art. 172 of the Municipalities Act, insisted on by Donner.⁵⁹ Strong criticism was also expressed by Brouwer, who said in his oration that the practice of interference directed personally at potential terror suspects at the mayor's orders is, in his opinion, against the law.⁶⁰

3.5 —

A human rights standard for profiles

It could be argued that there is reason to rule out the use of ethnic or religious profiles entirely. The reason is not so much that the prohibition of discrimination or the right to privacy would never tolerate such a violation, but rather that the method is not effective and the possible social damage is too great. In the previous section it was noted that in the Netherlands, too, minority groups are affected more by profiling than native citizens. Nevertheless, the number of complaints being lodged remains small. It also seems too early to thereby conclude that there have been no discriminatory or stigmatising effects.

⁵⁵ *Kamerstukken II* 2004/05, 29 754, no. 24, pp. 6-7.

⁵⁶ *Staatscourant* 2006, 6.

⁵⁷ *Appendix to the Proceedings II* 2005/06, no. 693.

⁵⁸ Amsterdam District Court 9 March 2006, *LJN* AV4173.

⁵⁹ In the same critical sense see the Editorial in *NJCM-Bulletin* 2006, pp. 639-641.

⁶⁰ http://www.rug.nl/Corporate/nieuws/opinie/opinie_20 (3 August 2006).

We do not want to go so far as to simply insist that all ethnic or religious profiling is absolutely inadmissible. Rather we would like to concentrate on the conditions that must be met to satisfy the international legal standards noted above in section 3.3. These standards compel us to use criteria in the practice of profiling. Because profiling often takes place within the context of combating terrorism, the criteria are linked with this effort. The prohibition on discrimination makes it necessary to subject the criteria to extra strict testing.

The first requirement that can be made is that there is a reasonable expectation that the use of 'risky' profiles will be effective. In our opinion, the effectiveness of profiling very much depends on the way the methodology is used. Sometimes the inclusion of ethnic or religious factors is unavoidable, as in tracking down a perpetrator who is known to have a dark skin colour. However, even in such a case, skin colour can never be the only lead for specific investigative activities. There must be other factors as well, such as – once again, by way of illustration – the perpetrator is a man of around twenty years old, bald, about 1.8 metres tall, wearing a yellow track suit and last seen headed for Dam Square in Amsterdam. In general, the prohibition on discrimination, in combination with the right to privacy, will add weight to the obligation to demonstrate why the goal being sought cannot be reached without stigmatising and stereotyping measures. The Amsterdam court has ruled on the question to what extent there is evidence of unjustified violation of privacy in stop-and-search operations.⁶¹ The court found that the infringement of art. 8 ECHR (privacy) is admissible, since it is formally provided for by law and the importance of the infringement is included in the exclusion clause. According to the court, the measure is both necessary and proportional, the latter partly because a time limit is imposed on the authority to carry out the infringement. One important difference with art. 14 ECHR (the accessory prohibition on discrimination) is that the covenant does not have an exclusion clause in this particular article. This means that the prohibition on discrimination is not an absolute right, but the exceptions should be subjected to a much stricter test. The European Court speaks of 'very weighty reasons' in this regard.⁶²

On the basis of our prior analysis, earlier studies by various authors⁶³ and the declarations, reports, recommendations and statements made by international human rights organisations, we have arrived at the following criteria:

Contextuality

In our opinion, profiling can never be lawfully carried out simply and solely on the basis of ethnic and religious characteristics. There will always have to be evidence of the existence of a cluster or combination of factors, within which the use of discriminatory characteristics can be justified. This also applies when a certain form of criminality is said to occur more frequently within a certain ethnic or religious group.

Legitimacy

The possible infringement of fundamental rights made by profiling must be based on an authority that is laid down in law in the formal sense. On the grounds of the ECHR, when justified infringements arise the government is bound by the principle of non-discrimination or privacy to establish this exception formally in law.

⁶¹ Court of Amsterdam 10 February 2006, *LJN AV1477*.

⁶² ECHR 16 September 1006 (Gaygusuz), *NJCM-Bulletin* 1997, pp. 461-474.

⁶³ The publications by Loof, Kuijer and Goldschmidt mentioned earlier.

Necessity

The government must demonstrate that the measures being taken, of which profiling is a part, are necessary for the protection of the democratic society or for maintaining public order and safety. The requirement of necessity implies that there must be evidence of a sufficient concrete threat; suspicions are not enough.

Proportionality

Although states do have considerable discretionary powers to take measures in order to promote safety, it is necessary to search for a balance between this good and the goal being pursued. The promotion of other relevant fundamental rights must also be considered.⁶⁴ States can be required to comply with certain requirements when they deal with these considerations. In general this will mean that the greater and more acute the threat, the greater the latitude for measures.

Effectiveness

Above we emphasised that effectiveness is an important element. It is not good to establish the possible effectiveness of a measure such as the use of profiles in advance. Even if there are good grounds for assuming that the expected effect will occur, the only way this can be verified is to see it happen in practice. For this reason, the measures must be monitored after a short time and with a certain regularity to see whether the expected positive effects involved in the attempt to reach the 'higher' goal have indeed occurred. This means that the measure must be subjected to an evaluation and tested at intervals for effectiveness.

Temporariness

The requirement of effectiveness and the related obligation to carry out evaluations in many cases necessitates certain time limits. Many of the measures in which profiling is used have to do with a special situation that justifies those measures. One example is the permitting of security frisking due to danger in a certain residential neighbourhood because of weapons use. If the danger is taken away, the justification for the measure also disappears. This means that infringements like this should always have a time limit. A sunset clause is essential.

Specificity

Beside the need to check from time to time to see whether a measure is proving effective, it is also important that the profile be limited as much as possible to keep large (or not too large) groups of innocent citizens from falling within it. That means that a profile must consist of more than very general criteria or, if this is not really possible, that there must be a concrete indication of a serious threat. Recently in Germany the absence of such additional circumstances based in what appeared to be concrete facts led to declaring a certain method of data mining unconstitutional.⁶⁵ In this case, the German police had created a data file of 11,000 potential 'suspects' based on the profile 'young, male, student, Arabic and Muslim'.

⁶⁴ Also see P.J.A. de Hert, 'Balancing Security and Liberty within the European Human Rights Framework', in: A.M. Hol and J.A.E. Vervaele (eds.), *Security and Civil Liberties: The Case of Terrorism*, Antwerp/Oxford: Intersentia 2005, p. 37 ff. Also see J.P. Loof, 'Terrorismebestrijding, de Raad van Europa en het evrm' (Combating terrorism: the Council of Europe and the ECHR), in: E.van Dongen et al. (eds.), *Terrorismebestrijding met mensenrechten* (Combating terrorism with human rights), NJCM Boekerij Leiden 2005, pp. 51-73.

⁶⁵ BverfGe, 1 BvR 518 /02, 4.4.06

Recognisability

The deployment of measures that include the use of profiling should be made known: to the public in general and to the group that runs the greatest risk of being included in a profile in particular. Each criteria being used must be clear. This recognisability can apply to a lesser degree to activities undertaken by the intelligence services.

Caution

When measures are carried out, caution should be observed. The use of sensitive profiles must be imbedded in a policy in which those charged with implementing it are trained in the protection of the rights of all those involved and in the prevention of abuse.⁶⁶ This applies to those who give the orders, such as a public prosecutor in designating security risk areas, as well as to the police who carry the measure out.⁶⁷

In our opinion, another basic principle in the matter of caution is that no one be subjected to an order that has legal consequences for him, or that affects him to a considerable degree, and that is taken merely on the basis of computerised data processing.⁶⁸ The European Court ruled that refusing entry must not only be based on a signal from the Schengen Information System, but that the member state must verify that the presence of the person poses a real, present and sufficient threat.⁶⁹ A personal check of the computer generated results is always necessary.

Verifiability

When ethnic or religious profiles are used, they must meet the requirement of an *effective remedy*.⁷⁰ It must be possible for an independent judge to check the content and use of the profiles. In the Berlin Declaration of the International Commission of Jurists of 2004, this requirement is defined in the following general terms:

States must ensure that any person adversely affected by counter-terrorism measures of a state, or of a non-state actor whose conduct is supported or condoned by the state, has an effective remedy and reparation and that those responsible for serious human rights violations are held accountable before a court of law. An independent authority should be empowered to monitor counter-terrorism measures.

3.6 —

Conclusion

On the basis of available figures and research conducted at an earlier time we have carried out an investigation of ethnic profiling in the Netherlands. In doing so we have limited ourselves to the use of ethnic or religious profiles in the prevention or investigation of criminal offences that pose a threat to public order and safety. It will not be surprising to learn that ethnic profiling is also used in the Netherlands. Sometimes the profiling is

⁶⁶ For a good example of police training, see: Northern Ireland Human Rights Commission, Human Rights in Police Training, Report 5, Tutor Constables Scheme: Belfast 2006.

⁶⁷ See an interesting unpublished Master's thesis by J.W. Achterberg, *Preventief fouilleren* (Preventative frisking), Amsterdam: VU 2005.

⁶⁸ Also see art. 15, paragraph 1, Data protection guideline 95/46/EC.

⁶⁹ HvJ 31 January 2006, C-503/03 .

⁷⁰ Also see P.R. Rodrigues, 'Bezwaar tegen aanwijzing veiligheidsrisicogebied' (Objection to the designation of security risk area), *Privacy & Informatie* 2003, pp. 216-218 and the note by Brouwer and Schilder under Afd. RvSt 9 November 2005, AB 2006, 90.

computerised, as with data mining, and sometimes it is not computerised but ‘manual’, as with compulsory identification and preventative frisking.

From the perspective of protecting human rights we have attempted to answer the question whether the use of ethnic profiling is admissible or whether it should be prohibited. First it should be noted that profiling is used to protect the nation’s own citizens and society, hereby protecting the citizens’ human rights. Nevertheless, the use of profiling can involve an infringement of other fundamental rights, and in a way in which the risk of discrimination on the grounds of race, origins or religion is considerable.

Because of the fact that the goal of profiling is the protection of fundamental rights, and the fact that so far there has not been a disturbingly large number of citizen complaints, we see no reason as yet to prohibit the use of ethnic and religious profiling under all circumstances. We believe that profiling is a permissible means of achieving this goal – the protection of human rights as we have formulated it – but only if a number of guarantees are cumulatively met. These guarantees arise from the demands made on the limitation of fundamental rights, especially the demands of legitimacy, necessity and proportionality. The imposition of an effectiveness test by means of a required evaluation, and of a time limit on the authority being exercised by means of a sunset clause, are not new in the curtailment of fundamental rights. Other guarantees have to do with the special character of the method of ethnic profiling. Thus we attach great importance to the requirement of contextuality, so that profiling is not opted for solely on the basis of ethnicity or religion. Also important are the criteria of sufficient specificity, public recognisability and verifiability by judicial testing. As far as the judicial testing is concerned, the English model of stop-and-search forms might also prove useful in the Netherlands. In this way police officers can account for their activities after the fact. The ethnicity of the citizens is also included on these forms, so any prejudice with regard to certain ethnic groups can either be refuted or recognised. Finally, we feel that for a far-reaching method such as profiling, formal legislation offers insufficient guarantees for the public if cautious implementation is not also required. This implies instructions and training, but it also means making sure that the public is not subjected to government interference through computerised data processing alone.

It is also of more general importance to recognise that the same human rights aspects play a role in profiling as those that should be present in general in all counter-terrorism measures. The criteria presented above do not contain anything new in this sense, but it is of great importance that when profiles are used, the people responsible are aware of them. This is all the more pressing because of the fact that the careless use of profiles can be extremely dangerous in the sense that it can enlarge terrorism’s breeding ground: profiling that is experienced as stigmatising and is not understood can give the public the feeling that they ‘do not belong’, with everything that entails.

[4]

Anti-Semitism in 2005: Patterns and trends

Dienke Hondius and Jaap Tanja

In contrast to previous years, the figures for the year 2005 from the most available inventories show a decreasing trend for anti-Semitism. A separate study of patterns in complaints of anti-Semitism, which we carried out at the Amsterdam Discrimination Reporting Centre (Meldpunt Discriminatie Amsterdam; MDA) on the basis of their database, provides insight into the complicated reality behind these figures. At the same time, our study shows something of the relative value of a statistical presentation of anti-Semitism and anti-Semitic incidents. In this chapter, we will begin with an explanation of the national complaint inventories and the study carried out at the Amsterdam Discrimination Reporting Centre, followed by a brief look into the problems being faced in the educational sector. After this we will discuss the combating of anti-Semitism by means of criminal law – paying particular attention to developments in ‘the Verbeke case’ – and we will look at the figures on anti-Semitic violence. Finally we will focus on the problem of anti-Semitism in extreme right-wing groups.

4.1 —

National complaint inventories

There are several different bodies in the Netherlands that carry out annual inventories of complaints of anti-Semitism. The results of these inventories are an important indication (and in fact the best available) of whether the number of anti-Semitic incidents is increasing or decreasing. But, we hasten to add, they are no more than an indication: the problem of underreporting that was pointed out both earlier and elsewhere in this Monitor, the fact that a single body (the police, to be exact) does deal with complaints but does not maintain a national registration, and the fact that not all the figures can be measured by the same yardstick, are all equally valid arguments for exercising caution when approaching the statistical picture of anti-Semitism.

In addition, sometimes an incident or complaint that is regarded as anti-Semitism by one body will not be perceived in the same way by another. We will return to this problem later on.

Complaints of anti-Semitism are registered and inventoried by a wide range of bodies in the Netherlands: the Discrimination on the Internet Reporting Centre (Meldpunt Discriminatie Internet; MDI),¹ the 34 Anti-Discrimination Agencies (ADBs)² and the Centre for Information and Documentation on Israel (CIDI).³ The inventories made by the 34 ADBs are compiled each year by the National Federation of Anti-Discrimination Agencies and Hotlines (Vereniging van Anti-Discriminatie Bureaus en Meldpunten; LVADB). The CIDI inventory differs from those taken by the MDI and the LVADB: the latter two bodies register anti-Semitism within the broader context of discrimination, while CIDI limits itself to anti-Semitism alone. In addition, CIDI not only includes complaints that come to the organisation

¹ See www.meldpunt.nl.

² See www.meldpundiscriminatie.nl.

³ See www.cidi.nl.

by telephone or in written form, but under the name ‘incidents’ it also compiles its own wide-ranging list of facts and occurrences, divided into almost twenty categories. On the basis of the three sources mentioned above, the most important trends in manifestations of anti-Semitism for the year 2005 will be reviewed below.

4.1.1 —

Internet

From the annual report of the MDI for the year 2005 the conclusion can be drawn that the number of manifestations of anti-Semitism in Dutch on the internet has declined, in both absolute and relative terms (see table 4.1).

Table 4.1
Reports of discrimination and anti-Semitism made to the MDI, 2002-2005

Year	Total reported incidents	Antisemitism (%)	Holocaust denial
2002	1008	---	---
2003	1242	477 (37%)	37
2004	1812	531 (29%)	79
2005	1289	302 (23%)	71

Source: MDI

There even seems to have been a sharp decrease in the total number of discriminatory incidents reported to the MDI in 2005: from 1,812 in 2004 to 1,289 in 2005. To a certain extent, however, this decrease is the result of a change in registration method. Since 1 January 2005 the MDI has been counting only ‘unique’ manifestations.⁴ Nevertheless, the relative decrease in reported incidents of anti-Semitism is quite striking (from 29 per cent in 2004 to 23 per cent in 2005). This means anti-Semitism no longer constitutes the largest category of reported manifestations; that less than honourable position has been taken over by ‘hatred of Muslims/Islamophobia’. The MDI estimates that of the 302 registered manifestations of anti-Semitism, a little less than half (146) were punishable offences. Ninety of these were removed from the internet after being requested to do so by the MDI; ten unmistakably punishable manifestations had already been removed before the MDI could take action. Approximately a quarter of the manifestations of anti-Semitism reported to the MDI concern Holocaust denial (71 of the 302). The relatively high number of such reports, as well as the fact that this category has decreased much less sharply in absolute terms and has even increased in relative terms, is a cautious indication that the problem of Holocaust denial in Dutch society is growing rather than shrinking. Anti-Semitism on the internet mainly comes from extreme right-wing and radical Islamic sources, the MDI concludes. Eleven of the manifestations of anti-Semitism were reported to the authorities by the MDI; among them are two cases that led to criminal conviction in early 2006.⁵ The MDI has observed that a

⁴ See Meldpunt Discriminatie Internet: Jaarverslag 2005 (Discrimination on the Internet Reporting Centre: 2005 Annual Report), page 3. Since 1 January 2005, MDI has based their count on how often the manifestation is observed on a specific location on the internet and no longer on how often a manifestation is reported to the MDI. As a result, the total number of manifestations is lower than before. It is difficult to say how much lower.

⁵ Amsterdam District Court 25 January 2006, *LJN AV 2201* and District Court 24 May 2006 (Housewitz).

number of popular web forums frequented by Moroccan-Dutch young people are being relatively actively moderated, and that anti-Semitic postings are often quickly removed.

4.1.2 —

Anti-discrimination agencies and reporting centres

Each year, the LVADB (National Federation of Anti-Discrimination Agencies and Hotlines) issues a summary called *Kerncijfers Discriminatie* (Key figures on discrimination).⁶ As noted, the ADBs deal with and register all forms of discrimination; anti-Semitism constitutes one of the smaller categories. Of all the reports and complaints coming in to the ADBs in 2005, 2.1 per cent of the cases had to do with anti-Semitism (see Table 4.2). This is appreciably lower, in terms of percentages as well as in terms of absolute figures, than comparable figures from previous years, 2001 through 2004. While the total number of reports of discrimination made to the ADBs in 2005 was more than 16 per cent higher than in the previous year, the number of reports of anti-Semitism dropped from 119 in 2004 to 94 in 2005 (from 3.1 per cent to 2.1 per cent). Of the 94 reports of anti-Semitism that came in to all the ADBs in 2005, three-quarters fell under the category of ‘hostile treatment’. A total of three cases of anti-Semitic violence and four cases of threats to Jews was noted.⁷ For many years, the Amsterdam Discrimination Reporting Centre (Meldpunt Discriminatie Amsterdam; MDA) has received more complaints and reports of anti-Semitism (once again see Table 4.2) than any other ADB. This is understandable, given the composition of that city’s population: in fact most Dutch and foreign Jews live in Amsterdam and Amstelveen. The high number of reports of anti-Semitism made to the MDA (compared with the other ADBs) was one reason why we decided to take a closer look at this city’s anti-Semitism dossiers (see further on in this chapter).

Table 4.2
Complaints of anti-Semitism made to ADBs and reporting centres, 2001-2005

Year	Total number of reports	Antisemitism (%)	Anti-Semitism reported to the Amsterdam Reporting Centre
2001	3987	154 (4.0%)	53
2002	3928	184 (4.7%)	105
2003	3589	139 (3.9%)	42
2004	3819	119 (3.1%)	45
2005	4433	94 (2.1%)	24

Source: LAVDB

⁶ LAVDB, *Jaaroverzicht Discriminatieklachten bij Anti-Discriminatiebureaus en Meldpunten, Kerncijfers 2001-2005* (Annual summary of complaints of discrimination reported to Anti-Discrimination Agencies and Hotlines, Key Figures 2001-2005).

⁷ For all available figures on violence, see the chapter ‘Racial violence and violence incited by the extreme right in 2005’ elsewhere in this monitor report.

4.1.3 —

CIDI report

The figures that CIDI published in August 2006 dealing with the previous year⁸ also show a decrease in comparison with the previous years. CIDI has been registering incidents and reporting on anti-Semitism since 1983, based on incoming reports and on its own research. One positive aspect of the CIDI reports is that they use brief descriptions to provide insight into the character and nature of the incoming reports and incidents. Each year this results in a long list of anti-Semitic verbal exchanges, threats, graffiti, vandalism, violence and incidents of the most unpleasant kind. For Jews who are (or want to be) physically identifiable as Jews, public spaces in the Netherlands were not always safe in 2005. Anyone who thinks anti-Semitism is rare or non-existent in the Netherlands should take a look at CIDI's annual list.

Unlike the MDI and LVADB, CIDI works with a definition of anti-Semitism: 'treating Jews (either individually or as a group) differently than other people or population groups, in particular adopting a hostile attitude towards Jews on the basis of prejudiced assumptions.' This definition, which seems broad at first glance, is applied with caution. Targeted graffiti such as swastikas, for example, are only counted by CIDI 'when combined with expressions of anti-Jewish bias. This means that swastikas on viaducts and tunnels and the like are not registered.' Behaviour such as making the Nazi salute is only counted if it is made 'in the direction of a Jewish person or institution or during the 4th and 5th of May [Commemoration of the Dead and Liberation Day].' Expressions of anti-Israeli bias are only counted if 'a direct reference can be made to Nazism. A concrete example: the expression "Sharon is a murderer" is not registered, but "Adolph Sharon" is. But when the entire Jewish people is held responsible for what other Jews or what Israel is doing, we regard [that expression] as anti-Semitism', according to CIDI.

We note here that this cautious application of the 'broad' definition of anti-Semitism in the 2005 CIDI report has not been consistently maintained. In the chapter 'Legal precedents for 2005-2006', for example, mention is made several times of young people who were fined because they gave the Nazi salute to a police officer. On the basis of the report, however, one wonders whether giving the Nazi salute to a police officer is really an expression of anti-Semitism or just an expression of hatred or dislike of investigating officials in general (and perhaps the officer in question in particular). Another example: mention is made of a DJ in a disco near the town of Oss who shouted 'Heil Hitler'. Is this a joke, an anti-Semitic incident, or perhaps both? It's difficult for us to make a judgement based on the report. We point out these two examples to highlight the fact that differences in interpretation are quite possible when assessing the anti-Semitic character of reports and incidents compiled by CIDI.

The CIDI report also distinguishes between 'serious' and other incidents, where 'physical violence' and 'violent threats' are counted together. Here, too, differences in interpretation are possible. For example: is an incident to be regarded as *physical violence* if a boy gets pushed around by a group of other boys, his yarmulke is pulled off and he is then verbally abused? While it is bad enough for the victim, we believe that an incident like this can only be categorised as *physical violence* if the interpretation of that concept is a broad one. At the

⁸ Hadassa Hirschfeld, *Antisemitische incidenten in Nederland. Overzicht 2005 en 1 januari - 5 mei 2006* (Anti-Semitic incidents in the Netherlands: Overview for 2005 and 1 January - 5 May 2006). Centre for Information and Documentation on Israel. The quotes in this section are taken from the appendix to this report, 'Definitie & uitgangspunten antisemitisme' (Anti-Semitism: Definition & basic premises), pp. 60-61.

same time, the border between the category *verbal abuse* and the category *violent threats* is rather vague: why a report or a complaint is sometimes categorised under the one and sometimes under the other is not always easy to understand from the description of the incidents. Usually these are similar (and unpleasant) incidents.

Apart from the possible differences in interpretation and related comments mentioned above, what stands out in the CIDI figures is the significant drop in the total number of incidents (see Table 4.3): from 326 in 2004 to 159 in 2005.

Table 4.3
CIDI figures of anti-Semitic incidents, 2001-2005

Year	Total number of incidents	Serious incidents (violence + violent threats)	Verbal abuse
2001	168	14	48
2002	359	31	68
2003	334	16	92
2004	326	20	78
2005	159	23	42

Source: CIDI

In addition, what the CIDI figures for the last five years primarily show is a sharp increase and later an equally striking decrease in *anti-Semitic e-mails*: from 31 in 2001 to 159 in 2002, followed by a drop to only 15 in 2005. A similar increase and later decrease can also be seen in the category *anti-Semitic verbal abuse* (for the figures, see Table 4.3), where the ‘high point’ occurred in the year 2003. CIDI does conclude, however, that there was a much less severe decrease in the number of incidents of face-to-face confrontations in the street.

4.2 —

Amsterdam statistics

4.2.1 —

Amsterdam Discrimination Reporting Centre

To obtain a clearer picture of the reality behind the figures, we went to the Amsterdam Discrimination Reporting Centre and looked into a number of dossiers containing information on reports of anti-Semitism.⁹ We limited ourselves to the dossiers comprising the years 2004 and 2005; in 2004 the MDA registered 45 reports of anti-Semitism, and in the following year this number was almost halved (24). What struck us first is that these figures are unfiltered. At the MDA, every report (by telephone or in writing) is dealt with seriously, and for every report a dossier is opened. All these dossiers go into a database, and the cases are counted up at the end of the year. But calculating the yearly figures for the annual report in this way does not prevent duplications (such as multiple reports of the same pamphlet), nor does it exclude reports of incidents whose anti-Semitic content may be regarded as dubious.

⁹ Thanks to Jessica Silversmith, director of the MDA, for granting us access to the dossiers on anti-Semitism for the years 2004 and 2005.

In a few instances the dossier itself even concludes that there is probably no anti-Semitism or discrimination involved. In other words: like all other ADBs, the MDA uses a system based on a registration of complaints, but there is not always a serious, new case of anti-Semitism hidden behind every complaint or report.

The second thing that stands out is that at the MDA – in contrast to what is standard practice at CIDI – every report of graffiti with Nazi symbols is automatically classified in the category ‘anti-Semitism’. In theory it’s a good thing, of course, that daubing and scratching of Nazi symbols is being registered somewhere, just as it’s good that all these kinds of symbols are removed, wherever possible. But we think it’s incorrect to interpret every report of a swastika as a report of anti-Semitism; for us the way CIDI deals with the situation is preferable in any case. Partly in line with this, it is striking that in the MDA’s anti-Semitism dossiers, all offences – almost without exception – are offences of expression. This is something that also stands out in the CIDI report: there, too, almost all the reports and incidents concern offences of expression. A positive conclusion can be drawn from this: that Jews in the Netherlands are not being discriminated against in the job market and in the housing market, to name but a couple of important social sectors. If they are discriminated against, it is almost always in the form of verbal abuse and, by rare exception, physical abuse. Another figure to underscore this observation: more than six out of ten of all the complaints made to the MDA in 2005 (545 out of 867, to be exact) had to do with complaints in the work situation. Not one of these complaints had to do with anti-Semitism:¹⁰

In the almost seventy other dossiers we examined, we were also struck by the fact that not all the complainants are Jewish by any means. Our well-reasoned estimate is that about 40 per cent of those approaching the MDA with a complaint of anti-Semitism are not Jewish. In a considerable number of the dossiers mentioned, it is difficult to tell whether the complainant is Jewish or not, or it is irrelevant. All this is in contrast to the complaints of anti-Semitism reported to CIDI: there, interestingly enough, the descriptions of the reports and incidents indicate that a great many of them come from the Jewish community of the Netherlands, or parts of it. In that respect, therefore, the MDA may have a broader reach than CIDI, but at the same time it should also be noted that a number of sectors of society are noticeably absent from the MDA dossiers. Hardly any reports of anti-Semitism from the Amsterdam school system are made to the MDA, for instance, despite all the media interest in recent years in increasing anti-Semitism among Muslim pupils. This may first of all say something about the reach and profile of the MDA.¹¹

In going over the Amsterdam dossiers, we were also struck by the fact that not all the complainants were themselves targets or victims. Sometimes people see graffiti in the street, hear an offensive remark about Jews in a shop, etc., and they call the MDA. Sometimes people call or write on behalf of a family member or organisation. Most of the people who contact the MDA (60 per cent, according to our calculated estimate) are acting for others or for the public good; only about 40 per cent make contact because they feel personally discriminated against. Another fact that can be distilled from the MDA dossiers is that about one-third of all those who complain of anti-Semitism have done so more than once and/or have approached the MDA more than once over the years. Whether these are people with an extra antenna for anti-Semitism cannot be determined without further investigation. Probably there is quite a large group of people in the Dutch community who – partly as a result of the

¹⁰ See MDA 2005 Annual Report, Table 7, p. 18.

¹¹ Also see the section on education, further along in this chapter.

Second World War and the Shoah – have an intensified sense of alertness when it comes to expressions of anti-Jewish bias. We do not know whether this also results in a correspondingly high willingness to actually report the incidents.

One of the main conclusions from the aforementioned CIDI report of complaints of anti-Semitism and anti-Semitic incidents in 2005 was that the decrease in anti-Semitic incidents is closely related to the events and developments in the Middle East. CIDI writes in its conclusion: ‘The most obvious conclusion to be made from the drop in the total number of registered incidents must be sought in the relative calm that occurred in the conflict between Israel and its neighbours in 2005.’ The decrease in anti-Semitic incidents, according to CIDI, is ‘mainly owing to the small number of anti-Semitic e-mails’.¹² If we look at the MDA dossiers for the years 2004 and 2005, we cannot immediately endorse this conclusion. In both years there were strikingly few dossiers that could be directly or indirectly related to the Middle East in general or the conflict between Israel and the Palestinians in particular. On the contrary, what stands out in the MDS dossiers for both years are the runic characters and other references to the Second World War. In incidents of verbal abuse and other kinds of hostile treatment, Jews are associated with gas, concentration camps, Hitler, etc. References to Sharon, Hamas or the Israeli occupation of the Palestinian territories are exceptional in these incidents. Are we dealing with a striking difference or are there more factors involved? We believe there’s room for a supplementary explanation. In the eyes of the public, CIDI is seen first and foremost as a pro-Israel interest group. This means that anyone who thinks he has to respond to events in the Middle East by translating his solidarity with the Palestinian cause into verbal abuse aimed at Israel or at all Jews will turn to CIDI sooner or later to vent his wrath. So CIDI is not only an organisation that registers and does inventories of anti-Semitic incidents, but sometimes it, too, is a direct victim of anti-Semitism. This may make it easier for other victims of this kind of anti-Semitism to find CIDI in the future.

In this regard, shouldn’t the search for an explanation for the spectacular decrease in the number of insulting e-mails received by CIDI be conducted closer to home?

After the rise and later the murder of Pim Fortuyn, the Netherlands underwent a period in which a striking number of public individuals and institutions were threatened and subjected to verbal abuse. The rise of this ‘threat culture’ was signalled in the fifth Monitor report on racism and the extreme right from 2002, when the internet in particular came to serve as a prominent means and forum.¹³ Both e-mail and the internet are relatively new forms of communication, but they are also extremely accessible. In 2002 CIDI also found out what happens when large numbers of people in the Netherlands ‘say what they think and do what they say’, to quote Fortuyn’s catchy motto. Is it not possible that in the Netherlands of 2005, the novelty of sending abuse by e-mail had worn off a bit? And that more people were slowly coming to realise that there really are limits to ‘saying what you think and doing what you say’? Or is this a matter of wishful thinking? Only time will tell. The Lebanon War of 2006 resulted in an increase in anti-Semitic e-mails at CIDI.¹⁴

A few final remarks about the MDA dossiers. A strikingly high sense of public responsibility is evident in these dossiers. In the case of graffiti, the people who report the incidents often remove the graffiti or stickers themselves, and when local residents or those directly involved are asked to do it they also tend to act quickly. The overwhelming majority of the incidents are dealt with satisfactorily, often by the complainants themselves. Self-motivation and

¹² CIDI report for 2005, p. 54.

¹³ J. van Donselaar and P.R. Rodrigues, *Monitor racism en extreem-rechts. Vijfde rapportage* (Monitoring racism and the extreme right: Fifth report), p. 36. Amsterdam: Anne Frank Stichting, Leiden University 2002.

¹⁴ See preface to the 2005 CIDI report.

alertness are striking features in the dossiers. Most distressing, on the other hand, are the neighbourhood conflicts that get out of hand, with residents shouting anti-Semitic abuse at each other. In the few cases we examined, not only the MDA but also the landlord, the police, the neighbourhood organisations and social workers were called in, without exception, to solve the problems. After reading these dossiers we began to wonder how intense the anti-Jewish or anti-Semitic content of such a conflict really is compared with other anti-social aspects, such as alcoholism or other addictions. There is no simple or general answer to this question. Such thick dossiers, however, also amply underscore the fact that the reports coming in to the MDA vary widely in terms of gravity. A report of extreme anti-social behaviour – involving what seems like half the relief workers of Amsterdam – will be seen by many as a much graver incident than a complaint of a single scratched-in swastika. And the MDA will devote considerably more time, energy and manpower to the one dossier than to the other. Unfortunately, this wide-ranging gravity of complaints is not reflected in the statistical account of the complaints of anti-Semitism.

4.2.2 —

The Amsterdam school system: indication of a problem area

As we indicated above, almost no incidents or complaints of anti-Semitism from the Amsterdam school system were reported to the MDA in 2004 and 2005; only one case has become known. Yet the media regularly state that, especially in Amsterdam schools, there is tension with regard to views about Jews and about Israel, tension between Jews and non-Jews, between Muslim and non-Muslim pupils, and between teachers and pupils. After the murder of Theo van Gogh, the extent of radicalisation at Amsterdam schools became an important question. Commissioned by the local television station AT5 and the ABOP trade union, the city of Amsterdam (Research and Statistics Department) carried out a survey among Amsterdam secondary school teachers.¹⁵ A quarter of the ABOP members in Amsterdam working in these schools were sent notices and a third of these filled in the questionnaire in May 2005, which means that 7 per cent of the secondary school teachers of Amsterdam responded.

This survey is a spot check for May-June 2005 and as such it is not an indication of more prolonged anti-Semitic tendencies in the school system. Yet it does show, perhaps unintentionally, that there is a certain tolerance in Amsterdam schools with regard to the existence of anti-Semitism. One of the first questions in the survey was whether the climate at school had changed dramatically in the past year in terms of extreme opinions and manifestations. In answering this question, 77 per cent said there was no change. The results then showed that 31 per cent of the respondents had often or sometimes observed manifestations of extreme anti-Jewish and anti-Israel bias. When asked what kinds of extreme and radical manifestations they had observed, the teachers spontaneously answered those aimed at Jews or Israel (ten times) and extreme right-wing manifestations (five times; Nazi salute, Nazi booklet, swastika, Star of David, etc.) The combination of these answers – according to 77 percent nothing has changed since last year, and according to 31 percent there is quite some evidence of manifestations of anti-Jewish bias at their school – is not reassuring. Does this suggest a certain inurement, or acceptance of a certain measure of anti-

¹⁵ City of Amsterdam, Research and Statistics Service: Extremisme en radicalisering in het Amsterdams voortgezet onderwijs (Extremism and radicalisation in Amsterdam secondary schools). Commissioned by ABOP and AT5, carried out by Marian Visser and Jeroen Slot. Project 5072-D, Amsterdam: June 2005, p. 28.

Jewish comments? A repetition of this survey sometime in the future might provide more insight.

4.3 —

Criminal law

In the chapter *Investigation and prosecution in 2005* of this Monitor report there are detailed figures on the inflow and settlement of discriminatory offences such as those gathered by the National Expertise Centre for Discrimination (Landelijk Expertise Centrum Discriminatie; LECD) of the Public Prosecution Service. Here we will limit ourselves to the criminal prosecution of anti-Semitic offences in 2005. The picture is not much different from that of the previous year. In 2004, anti-Semitism constituted the largest category of incoming offences in terms of absolute figures (58 cases) and in terms of percentage (27 per cent). In 2005 the number rose in absolute terms (from 58 to 65) but dropped slightly in relative terms (from 27 to 23 per cent). Although this means the category of anti-Semitism is no longer the largest for discriminatory offences (the category 'blacks/coloured' was larger in 2005), the continued high volume of cases of penalised anti-Semitism is striking – certainly in light of the fact that the Jewish community in the Netherlands is a relatively small minority, and that offences under general criminal law such as arson, vandalism or assault with a discriminatory basis are not registered by the LECD and therefore cannot be traced to the figures of the Ministry of Justice.

The most striking criminal event in 2005 was the arrest and extradition to Germany of Siegfried Verbeke. Verbeke, who lived in Belgium, had begun distributing so-called revisionist pamphlets, books and brochures in the early nineties – material in which, without exception, the Holocaust is denied or trivialised. At the mail-order house known as 'Vrij Historisch Onderzoek' (VHO; Free Historic Research), all known revisionist works are available in several languages.¹⁶ This makes Verbeke one of the most important and large-scale international distributors of material on Holocaust denial. In the previous Monitor report, the criminal procedures carried out in the Netherlands and Belgium against Verbeke and Vrij Historisch Onderzoek since 1992 were described in detail;¹⁷ here we mainly want to look at recent developments. In June 2003 the Anne Frank Stichting, CIDI, the MDI and the National Agency to Combat Racial Discrimination (Landelijk Bureau ter Bestrijding van Rassendiscriminatie; LBR) jointly reported the statements, content and information that was being distributed and offered via the website www.vho.org, but for two years this complaint did not result in the prosecution of Verbeke. Finally Verbeke was arrested at Schiphol Airport in August 2005 because a European Arrest Warrant had been issued against him through the agency of the German government. In October 2005 the International Legal Aid section of the Amsterdam District Court decided to act on this German request. This means that Verbeke will have to stand trial in Germany but not in the Netherlands. It is not possible to appeal a ruling of the Amsterdam District Court, so Verbeke was actually handed over to the German courts. He is in prison in Mannheim, awaiting trial. Reports made in 2006 concerning his release on bail seem premature; the German legal system does not have such a form of parole. In Germany there is a law that makes distribution of the 'Auschwitz-Lüge' a

¹⁶ 'Welcome to the World's largest Website for Historical Revisionism' can be found on the VHO website.

¹⁷ J. van Donselaar and P.R. Rodrigues, *Monitor racism en extreem-rechts. Zesde rapportage* (Monitoring racism and the extreme right: Sixth report), Amsterdam: Anne Frank Stichting, Leiden University 2004, pp.159-161.

punishable offence, and the maximum sentence for Holocaust denial is five years' imprisonment.

4.4 —

Violence

For the past few years, the Monitor study on 'racial violence and violence incited by the extreme right' has also included an examination of anti-Semitic violence.¹⁸ For information on methods and techniques as well as on the development of the annual 'integrated violence file', we refer the reader to the chapter *Racial violence and violence incited by the extreme right in 2005*. That chapter explains why no integrated file on violence could be constructed for the year 2004. In 1997 and 1998 there were 9 and 8 cases of anti-Semitic violence respectively. For the year 2001, 18 cases of anti-Semitism were found. In 2002 there was a sharp increase in the number of inventoried cases: 46. Since then the number of compiled cases of anti-Semitism has decreased slightly (39 in 2003), followed by a slight increase (41 in 2005).

A few examples of anti-Semitic violence in 2005 are listed below.

- A threatening letter with explicit anti-Semitic content was received by a 16-year-old girl in Groningen.
- A swastika was daubed on the front door of a Jewish man's home in Amsterdam.
- In Papendrecht a sapling was planted to commemorate the Jews who had been transported during the Second World War. The sapling was stolen within the space of a single day. A sticker from an extreme right-wing organisation was pasted on the memorial stone. Later the sapling was found, snapped and stripped of its branches, and successfully replanted. A few months later it was vandalised again.
- Right-wing extremists tried to set fire to an Israeli restaurant in Harmelen. The attack failed when the window through which the perpetrators tried to throw the fire bomb refused to break and the bomb fizzled against the outside wall.
- In Winschoten a group of neo-Nazis – all decked out in Nazi regalia – took group photographs in front of a Jewish monument. This led to a fight with some of the onlookers. A short time after the fight the police arrested a number of right-wing extremists who had been involved in the incident. One of them was found to be in possession of various firearms.

¹⁸ This section is based on the chapter *Racial violence and violence incited by the extreme right in 2005* from this Monitor report as well as on earlier Monitor reports. See www.monitorracisme.nl.

Table 4.4
Anti-Semitic violence in the period 2003-2005, according to type of incident¹⁹

	2001	2002	2003	2005
Targeted graffiti	10	9	11	13
Threats	6	22	14	13
Bomb scares	-	1	1	-
Confrontations	-	-	-	2
Vandalism	-	3	8	6
Arson	-	2	-	1
Assault	2	9	5	5
Possession of weapons	-	-	-	1
Bomb attacks	-	-	-	-
Manslaughter	-	-	-	-
Total	18	46	39	41

Source: Monitor study 'racial violence and violence incited by the extreme right'

4.5 —

Extreme right-wing groups

Extreme right-wing groups in the Netherlands constitute a social field in which anti-Semitism frequently occurs. By extreme right-wing groups we mean not only extreme right-wing political parties but also neo-Nazi splinter groups, neo-Nazi web forums, and less-organised groups with common features such as the 'Lonsdale youth'.²⁰ Of the extreme right-wing political parties, the Netherlands People's Union (Nederlandse Volk-Unie; NVU) and the National Alliance (Nationale Alliantie; NA) are particularly anti-Semitic. The NVU has identified itself with National Socialism for many years now. The NA is more radical, as can be seen by glancing at the many postings on the party's web forum. A single example: a former board member of the party argued on the NA website that Jews do not belong in Europe. They only exist because 'we whites allow them to exist'. The posting goes on to discuss 'the Jews who annoy us every year with their Holocaust myth [...]. Take the Holocaust away from the Jews and what do you have left? [...] Nothing more than an international pack of bandits and murderers and manipulating liars who have foisted on us the biggest lies in human history.' On 29 January 2005 – the day the liberation of Auschwitz was commemorated worldwide – the NA held a meeting in Rotterdam on the theme 'combating Zionism'. In June 2005, the Rotterdam Anti-Discrimination Action Council (Rotterdamse Anti Discriminatie Actie Raad; RADAR) filed a report against the NA because of the anti-Semitic statements on the party's web forum.

Of the extreme right-wing web forums Polinco, Stormfront and Holland Hardcore,²¹ the first two in particular are rarely free of anti-Semitic statements. It has already been concluded that

¹⁹ No integrated file on the violence reported in 2004 could be constructed (see chapter on racial violence and violence incited by the extreme right in 2005).

²⁰ Also see the chapter on extreme right-wing groups elsewhere in this Monitor report.

²¹ Ibid.

anti-Semitic statements on Stormfront and Polinco are common everyday affairs.²² Some of the anti-Semitic statements made on these web forums have to do with Holocaust denial, made with the usual regularity. When Parliamentary questions were raised concerning anti-Semitic statements on Stormfront, the Public Prosecution Service began investigating this forum in August 2005.²³ This investigation is still underway. A frequently recurring discussion on the extreme right-wing web forums mentioned above concerns who is the most 'dangerous', Jews or Muslims. A number of participants in the discussion see Muslims as allies in the struggle against worldwide 'Jewish domination'. Others reveal themselves as Islamophobic and talk about the 'Judeo-Christian culture' that must be defended against the Islamic invasion. And others see the Jews as the instigators of the great world conflicts between the West and Islam. Such conspiracy theories take firm root on these web forums and others. For whatever reason, in the year 2006 prominent Dutch neo-Nazis were observed at extreme right-wing demonstrations wearing T-shirts bearing the photograph of Bin Laden. Some neo-Nazis certainly see extremist Muslims as allies in the struggle against Zionism and 'world Jewry'. In Germany consultations have already taken place between groups of neo-Nazis and groups of radical Muslims;²⁴ whether it has come this far in the Netherlands has so far escaped our observation.

Perhaps one of the most disquieting developments over time has been the appeal of extreme right-wing ideas in general – and anti-Semitic ideas in particular – for groups of extreme right-wing 'gabbers' in the Netherlands. At the moment the gabber culture is the largest native Dutch subculture in the Netherlands. The web forum Holland Hardcore is a popular discussion forum for extreme right-wing gabbers (the 'right-wing hardcore fans', in their own words) and scores about three thousand hits a day. Like the Stormfront and Polinco web forums, Holland Hardcore is also becoming a place where anti-Semitic and National Socialistic ideas are being vented in increasing numbers. One mail order company affiliated with Holland Hardcover offers numerous nationalistic and fascist products and knickknacks for sale. The Dutch branch (or rather, *a* Dutch branch) of the international organisation of Nazi skinheads Blood and Honour tries to recruit gabbers. The Dutch variants of Blood & Honour are markedly anti-Semitic and there are indications that in 2005 the number of adherents mushroomed, mainly because some older skinheads began to involve themselves in the advancement and expansion of Blood & Honour.²⁵ For example, they managed to gain the allegiance of a group of (former) gabbers in the town of Zoetermeer in Zuid-Holland. Blood & Honour also includes individuals who have openly expressed their sympathy for Saddam Hussein (because of his struggle against Israel) and Mohammed B. (murderer of Theo van Gogh, because of his anti-Semitic ideas). In 2006 Blood & Honour organised the laying of a wreath at a war cemetery in the Limburg town of Ysselsteyn (where former SS members are buried), a place known for neo-Nazi demonstrations. Many dozens of Dutch Nazi skinheads were present.

²² See J. van Donselaar, 'Patronen van antisemitisme' (Patterns of anti-Semitism) in I. Boog et al. (eds.), *Monitor rassendiscriminatie 2005* (Racial discrimination monitor 2005). Rotterdam: Argus 2006, p. 163.

²³ *Appendix to the Proceedings II 2004 /05*, no. 2128.

²⁴ For years, the annual reports of the *Verfassungsschutz* in various German states have been reporting collaboration between groups of right-wing extremists and groups of radical Muslims. See, for example, the annual reports of the *Verfassungsschutz* of the state of Meckelenburg-Vorpommern, 2001-2005.

²⁵ For more on Blood & Honour, see the chapter on extreme right-wing groups elsewhere in this Monitor report.

Conclusion

Compared with the previous years, the figures on anti-Semitism for the year 2005 show that, with some reservations, we can speak of a declining trend. The organisations that register and inventory complaints of anti-Semitism have all produced lower figures for the year 2005, although the drop in the number of Dutch expressions of anti-Semitism on the internet observed by the MDI is partly the result of a different registration method. The figures from the LAVDB and CIDI are both clearly lower than for the previous years. A certain amount of caution is called for, however, when speaking of a declining trend: the figures concerning the criminal prosecution of anti-Semitism in 2005 do show a decline in relative terms but an increase in absolute terms. The figures concerning anti-Semitic violence also show a slight increase. A few comments in the annual statistical inventories and our own examination of the MDA file confirm our view that such figures are relative and should be interpreted with the requisite caution. At the same time we realise that other than these figure there is very little to go by. In our examination of the MDA file we were struck by the relatively high number of non-Jewish people who complained about anti-Semitism and by the fact that few of the anti-Semitism dossiers contained anything that could connect them with the conflict between Israel and the Palestinians. A survey taken among teachers in the Amsterdam school system shows that almost one in three teachers are sometimes or frequently confronted with expressions of extreme anti-Jewish and anti-Israeli bias. In the Netherlands, it is not only ethnic minority (Muslim) young people who are outwardly anti-Semitic; this is particularly apparent from the high number of anti-Semitic postings on internet forums being run by extreme right-wing gabbers.

One final concluding remark. For the last several years, especially since mid-2001, there has been evidence (mainly in the media) of an emergence of the 'new anti-Semitism'. Apart from whether or not this is a useful notion, it points to anti-Semitic ideas among ethnic minorities (in this case Muslims) who have translated their solidarity with the Palestinian cause into hatred of Israel and everything Jewish. Without trivialising this problem, our brief discussion of 2005 does show that anti-Semitism in 2005 was always a much broader problem than just the 'new anti-Semitism'. We observed a decreasing number of reports and complaints of anti-Semitism in which 'North African young people' can be identified as the perpetrators; we have also observed that web forums for Moroccan young people are being better maintained and moderated, resulting in a decrease in anti-Semitic outpourings by these young people. At the same time we are seeing an increase in anti-Semitic ideas within the native Dutch subcultures. We are also getting indications that Holocaust denial is becoming a growing problem, among native Dutch young people as well, which suggests that the 'old' anti-Semitism is back (if it ever left).

[5]

Islamophobia

Frank Bovenkerk

‘Muslims throughout Europe feel continually being exposed to pressure to justify themselves’ *Carla Bajhaji*¹

After the ‘9/11’ attacks in America, and especially after the murder of Theo van Gogh on 2 November 2004, there followed brief periods in which politicians made unexpectedly sharp public statements about Islam, individual Muslims were harassed in public and attacks were carried out on Islamic property (such as mosques and schools). When the public attitude towards Muslims in the Netherlands was measured in opinion polls over a somewhat longer period, it showed signs of becoming increasingly anxious and bleak.

The whole range of hostile opinions, and the practices resulting from them (molestation, discrimination), are summarised in the word ‘Islamophobia’. In this chapter I would first like to examine how this word is being used in a scholarly sense in international scientific literature, what it clarifies and what its limitations are. This will be followed by a presentation of the empirical material that makes a reasonable case for the existence of Islamophobia in the Netherlands. The third part concerns the response of Muslims themselves, which is closely connected with the problem of hatred towards Muslims. The fourth and last question is the most important: how can the (sudden) change in attitude towards and treatment of Muslims by the native Dutch population be explained? Important scientific research on this question has been conducted right here in the Netherlands.

5.1 —

The development of Islamophobia?

This word is a neologism and literally means fear of Islam. In its general usage, however, it is meant to express something else: aversion to the Islamic religion and hatred of its adherents. There is no generally accepted definition, but in the literature the working definition occurs quite frequently, formulated by the Council of Europe as follows: ‘Islamophobia is the fear of or the prejudice against Islam, Muslims and everything having to do with them.’

The word first appeared in England in 1991 (even before the attacks on New York and Washington), and in the English-speaking world a minor conflict broke out regarding its meaning. Does it primarily mean opposition to Islam as a religion or ideology, or does it just mean to say that its adherents are stigmatised? Those who choose the latter also sometimes use the term ‘Muslimphobia’. I have decided not to use this term simply because the word ‘Islamophobia’ appears more frequently in print.

The notion of Islamophobia comes from the world of the social (liberation) movements of the 1970s and ‘80s and was devised within the circles of anti-racists and multiculturalists. The old term ‘racism’ (a body of pronouncements – or theory – about the inferiority of people of colour) is no longer adequate because those whom anti-racists oppose no longer make flagrant references to racial characteristics, generally speaking. Now the era of the ‘new racism’ has begun: their pattern of discourse remains the same, but their adherents find other

¹ C.A. Bajhaji, ‘Freedom of speech and hate speech: Should there be limits to freedom of speech or not – and if so, which?’ in: *Equal Voices* 18 2006: 26-28. Bajhaji is an Australian Muslim intellectual and activist.

peoples inferior because of their primitive or barbaric culture.² Islamophobia consists of the views of Westerners who imagine themselves to be superior with regard to Islam and its adherents. Because of this activist background you might call the word 'Islamophobia' a battle term.

In the Netherlands, the similarity between the aversion to Muslims and anti-Semitism has been noticed by prominent Jews such as Rabbi Avraham Soetendorp (in *NRC-Handelsblad* on 11 December 2004) and by the former mayor of Amsterdam Ed van Thijn (in *de Volkskrant* of 16 June 2005). The recognition of prejudice and stereotypes prompted Van Thijn to write, 'Anti-Semitism and hatred of Muslims are two sides of the same coin: both are forms of unadulterated racism'.

Expressions of Islamophobia (like those of racism and xenophobia, or hatred of foreigners) are being registered throughout Europe by anti-racism agencies (or their equivalents) established by the various governments or by volunteer organisations such as the English *Commission on British Muslims and Islamophobia* and the French *Collectif contre l'islamophobie*. The contested facts mostly have to do with types of behaviour that are punishable under the national criminal statutes: discrimination on the grounds of race or religion, insults based on ethnic origins or inciting to racial hatred. International organs collect data from European countries. The best survey reports are the *Summary Report in the EU after 11 September 2001* of the *European Monitoring Centre on Racism and Xenophobia* (EUMC) in Vienna, 2002³ and the report *Intolerance and Discrimination against Muslims in the EU* of the *International Helsinki Federation for Human Rights* (IHF) of March 2005.⁴

These reports basically show how European populations respond to acts of terrorism and threats of violence by Muslims and their organisations. The principal thesis on which these reports are based, it seems to me, is that it will not do to make all twenty million Muslims living in Europe, or the religion they profess, responsible for the loathsome deeds of a very small group of fanatics. The idea that Muslims, or Islam itself, poses a fundamental threat to Europe is deemed a strong exaggeration. The fact that Islam is becoming more and more visible in the public scene (clothing, mosques, butchers) does not mean that Muslims are intent on taking over the country and imposing their views on others. Those who are worried about terrorism do not seem to notice that the vast majority of the victims of Muslim terrorism are in Muslim countries.

There are four to five million Muslims living in France, three million in Germany, one and a half million in the United Kingdom, approximately one million in Italy, Spain and the Netherlands, four to five hundred thousand in Belgium and smaller numbers in Greece, Sweden and Denmark. Together they never form more than a few per cent of the population; in Netherlands this is a little over 6 per cent. Moreover, they are quite divided among themselves, if only because they come from different countries, do not speak each other's languages and therefore do not attend the same mosques (in the Netherlands the Muslims come from Morocco, Turkey and Surinam, and a few come from the Molucca Islands and from other countries). The vast majority are ordinary immigrants, like so many others, and eventually they will assimilate as other immigrants do. In principle they abide by the regulations of the democratic state under the rule of law. The *Leitkultur*, as the dominating native culture in Germany is called, is never seriously threatened.

But take note: this is not to say there are no serious problems. Some Muslim groups do not integrate easily, major social problems exist (such as criminality, oppression of women and

² M. Barker, *The new racism: Conservatives and the ideology of the tribe*, London: Junction Books 1982.

³ Compiled by C. Allen and J.S. Nielsen of the University of Birmingham.

⁴ The material was collected and summarised by Ann-Sofie Nyman.

aggression towards homosexuals), and within the multicultural society that took shape all over Western Europe after the Second World War different ideas about church-state relations or views about the raising of children have led to a number of fundamental conflicts regarding norms and values. There is no evidence, however, that the Judeo-Christian civilisation on which European culture is based is in any real danger, even though society is actually multicultural. Islamophobia is an overreaction by the established population to all these problems. Instead of facilitating the process of adjustment and integration among Muslim immigrants, prejudice and the resulting dismissive treatment only make this process more difficult.

Immigration and Islam in the Netherlands

The vast majority of the Muslim population is the product of the guest worker system, which existed one or two generations ago to supplement temporary shortages in the lowest echelons of the job market. Guest workers came from eight Mediterranean countries, but the groups of Turks and Moroccans were by far the largest. Most immigrants from these two countries are of simple origin: central and eastern Turkey and the Rif region of Morocco. For many years, several European countries, including the Netherlands, were very generous in granting residence permits, permitting family reunification in the country of immigration and allowing participation in the welfare state.

People have regretted Dutch generousness, but it is part of our present reality. It should be noted that there has never been an immigration policy in which new arrivals were taught how the Netherlands functions. Attempts by the Dutch government to accelerate the immigration process (see the proposed Civic Integration Act) will not help much, at least not among first-generation immigrants. For a long time the government clung to the idea that immigration would only be temporary. Some of the immigrants do well, and it is astonishing to see how some families climb from illiteracy to university in only one generation. But the other part lags behind (unemployment, school drop-outs, low incomes). The difficulties encountered with this slower group have gained the upper hand in the formation of public opinion; the immigrants from Turkey and Morocco are particularly problematic. This is especially true in the Netherlands, where the tendency to ethnicise major social problems is more common than in other European societies.⁵ After 2001 this resulted rather unexpectedly in regarding religion as the explanation for many problems.

The way these groups have declined in social status in the Netherlands is apparent from the words used to describe them. The immigrants (neutral term) being discussed here were called guest workers forty years ago (not threatening because they were only here temporarily). When Dutch people learned to see the national differences, they became Turks and Moroccans (they are still referred to this way, even though an increasing number of them are actually Dutch!). A well-intentioned attempt to turn them into 'Mediterraneans', starting with the minorities policy, failed. In 1989 (after the publication of an important report by the WRR entitled *Het allochtonenbeleid – minorities policy*) they became '*allochtonen*', literally non-natives. This word is used exclusively in the negative sense as 'ethnic minorities' (although immigrants from America or Japan, for instance, are technically *allochtonen* as well, they are

⁵ For example, see J. Rath, *Minorisering: De sociale constructie van 'etnische minderheden'* (Minorising: The social construction of 'ethnic minorities'), Nijmegen: Sua 1991 and R. Koopmans, 'Het Nederlandse integratiebeleid in internationaal vergelijkend perspectief: Etnische segregatie onder de multiculturele oppervlakte' (Dutch integration policy from an international perspective: Ethnic segregation beneath the multicultural surface) in: H. Pellikaan and M. Trappenburg (eds.), *Politiek in de multiculturele samenleving* (Jaarboek Beleid en Maatschappij) (Politics in the multicultural society / Policy and Society Yearbook), Amsterdam: Boom 2003, pp. 64 -100 .

never referred to as such), and that effect was reinforced during the 1990s by the introduction of the statistical category 'non-Western *allochtonen*'.

As noted above, the big problem with parts of this group lagging behind is that in the Netherlands this is quickly perceived as a question of culture. Since the millennium a sudden reversal has taken place and attention has shifted to the religion of Islam, giving the national integration question a worldwide dimension. A series of international events (terrorism, threats to artistic expression, the conflict between Israel and the Palestinians) has cast Islam in a bad light. What kind of attitude will the immigrants in the Netherlands adopt? In the press, academia and politics, the spotlight is now focused on their religion.

The first politician to define this foreign culture as a threat to basic Dutch values as well was the conservative leader Frits Bolkestein in 1991 (see *de Volkskrant* of 12 September 1991). He felt that the integration debate was being seriously restricted by a politically correct caste of politicians and experts who condemned every complaint about ethnic minorities as racism. As far as he was concerned it was time to open the windows. The results were quite successful. After Bolkestein was initially branded a racist, the problem of integration and Islam became an object of public discussion and gained a prominent place on the political agenda. In an interview with Ian Buruma, who has just written a book on the murder of Theo van Gogh, Bolkestein recalls, 'Never underestimate how deep the hatred of Turkish and Moroccan immigrants is among the Dutch. My political success is founded on the fact that I listened to those feelings.'⁶ After Bolkestein it was mainly Pim Fortuyn who picked up on this idea and ran with it. In 1997 he took a swipe at cultural relativism in his booklet *Tegen de islamisering van onze cultuur* (Against the Islamisation of our culture), and in the media he called Islam 'a backward religion'.

In European opinion polls dealing with minorities and the multicultural society, the Netherlands has always come out sounding very civilised and tolerant, up until now. In the 'Eurobarometer', where the opinions of the residents of all the countries of the European Union are registered, the results for the Netherlands began to shift in the year 2000. At the end of the nineties the Netherlands scored third highest of the fifteen countries (after Sweden and Spain) when it came to 'multicultural optimism', but now that score has dropped and we're right in the middle.⁷ In a new Eurobarometer poll taken in the spring of 2003, we have the very highest score for racial and ethnic antipathy of all the 17 countries surveyed.⁸ In the years that followed, and naturally after '9/11' in 2001, the public representation of Islam swung a hundred and eighty degrees. Politicians tried to outdo each other in making daring statements about Muslims, in the media it was mainly the columnists who raised a hue and cry, and certain newspapers distinguished themselves with their salvo of hostile opinions against Muslims (*HP/De Tijd* and *Trouw's Letter en Geest* have earned the reputation of having become 'the sewer of Islamophobia'). The Dutch discussion was viewed with dismay in other countries. In an interview in *NRC-Handelsblad* on 18 December 2005, the prominent theologian Karin Armstrong said,

⁶ I. Buruma, *Murder in Amsterdam*, New York: The Penguin Press 2006, p.64. It surprises me that Bolkestein denied this statement in the *NRC Handelsblad* of 17 September. The populism behind his piece of 15 years ago can also be seen in his recollection published in *de Volkskrant* of 31 August 2006: 'The cartel of experts is no longer deciding which opinions are permissible'. He gave voice to the trapped residents of the old neighbourhoods, didn't he?

⁷ *Attitudes towards minority groups in the European Union: A special analysis of the Eurobarometer opinion poll*. On behalf of the European Monitoring Centre on Racism and Xenophobia (Technical Report), Vienna: SORA 2001. Authors: E. Thalhammer et al.

⁸ *Eurobarometer 57.0. Executive Summary Discrimination in Europe*, written by A. Marsh and M. Sahin-Dikmen of the Policy Studies Institute in London.

Look at what's happening here in the Netherlands. I've been here since 1993 and I feel the Islamophobia growing. And look at how you're wrestling with your own intolerance, since historically you've always been so liberal. What you ought to do is say: this is a free country; if you want to practise your religion, go right ahead. But don't write those nasty things about Muslims in the press.

Characteristics of Islamophobia

Islamophobia consists of a complex of ideas and attitudes and of hostile behaviour towards Muslims to which such notions are attributed.

First the mental background of the phenomenon. Islamophobia is based on prejudice, and prejudice is the result of faulty reasoning. It's the fault of essentialist reasoning: an abstraction is presented as essential reality rather than the thought construction that it is.

According to the publications of the English *Runnymede Trust on Islamophobia: A Challenge for us all*⁹ and author Kenan Malik,¹⁰ the phenomenon meets a whole series of characteristics.

The first characteristic is that Islam is seen as a monolithic entity, even though there are enormous differences in the experience of the religion and religious practice – and that's only in the 51 countries where Islam is the dominant religion. Islam is regarded as unhistorical and as a static entity, powerless to respond to change. These objections are the same as those levelled against Samuel Huntington with his famous thesis on the *Clash of Civilizations*. Second, this religion is seen as fundamentally different than one's own religion. The similarities with Christianity and Judaism (such as the simple fact that all three are monotheistic religions) are barely recognised and the differences are accentuated. Third, the description of Islam always goes hand-in-hand with a negative value judgement. Islam and its adherents are barbarous, irrational, primitive and sexist. Fourth, Islam is presented as violent, aggressive and threatening towards the outside world and as encouraging to terrorism.

These first four characteristics rest on actual, verified assertions, but they form a caricature.¹¹ Is Islam always barbaric, for example? By way of illustration take the sharia, the Islamic legal system, and especially the most detested part: criminal law. Introduce this system in the Netherlands? Don't even think about it. The recent report by the WRR, *Dynamiek in islamitisch activisme* (Dynamics in Islamic activism; 2006),¹² which consciously runs counter to the essentialist view of Islam, asks where criminal sharia law actually occurs in the world. In codified law, sharia occurs in six countries – Iran, Pakistan, Sudan, Afghanistan, Saudi Arabia and Morocco – but in fact it is only enforced in three or four of them. Is chopping off hands and stoning adulterous women a characteristic of 'the' Islam? As far as I know, not a single Islamic organisation has argued for the introduction of sharia in the Netherlands.¹³ Otto, professor of Law and Government in Developing Countries on the Law Faculty at Leiden University, has pointed out that the social discussion of Islam in the Netherlands is active at the normative level (compare law philosophers Cliteur and Philipse) and without

⁹ Runnymede Trust, *Islamophobia: A challenge for us all*,

<http://www.runnymedetrust.org/publications/currentPublications.html#islamophobia>.

¹⁰ K. Malik, *The islamophobic myth* – http://www.kenanmalik.com/essays/islamophobia_prospect.html

¹¹ P. Scholten and A. Tourabi, 'Integratie mét', in: P. van Helden et al. (eds.), *Jonge moslims, andere geluiden* (Young muslims, other voices) (Forum Essay), Utrecht: Forum 2006, pp. 47-80, hear exactly this objection from young Muslims in the Netherlands: what native Dutch people know about Islam is one-sided and caricatural.

¹² WRR, *Dynamiek in islamitisch activisme: Aanknopingspunten voor democratisering en mensenrechten* (Dynamics in Islamic activism: Starting points for democratization and human rights), Amsterdam: Amsterdam University Press 2006.

¹³ This is why the recent example of Minister Donner – to explain the operation of democracy on the basis of the possible introduction of sharia – was not a terribly clever choice.

reference to any social reality.¹⁴ That a difference can exist between law and reality (as is immediately understood with regard to Christianity) seems to have escaped the debaters. Furthermore, the big objection to attributing a range of undesired phenomena to religion is that too little attention is paid to the socio-economic causes. Critics also fail to realise that traditions are often much older than Islam. This is true of honour killing, for example, and even of female circumcision. These dreadful practices occur only in certain parts of the world and not in most Islamic countries. They are older than Islam, and there are also non-Islamic people who practise them. It is confusing, of course, that those involved sometimes make reference to the Koran.

Back to the characteristics of Islamophobia. According to the theory, the distorted views of Islam and the hostile feelings towards Muslims are responsible for a series of acts of aggression and abuse, discrimination and governmental repression. Aggression comes in many forms, from giving a 'dirty look' to headscarf-clad women in the tram to setting fire to a mosque. Discrimination occurs when job applicants are rejected and tenants turned away because they are Muslims. Selective surveillance takes place when shop owners keep a special eye on Islamic-looking customers, or when the police, the military police or train ticket inspectors go after Muslims on the basis of racial profiling. Observation agencies that spot discrimination and xenophobia identify Islamophobia not only by finding and analysing written and spoken tests but also on the basis of concrete incidents. A final characteristic of prejudice and discrimination mentioned in the Runnymede Trust publication is a more general observation concerning social minority positions: there is evidence of Islamophobia when everyone believes it is natural and normal that representatives of the particular group are ignored, ridiculed or excluded. Those who oppose this are regarded as naïve at best.¹⁵ Regardless of how true this may be in concrete cases, this characteristic is rather dubious because it can also easily be deployed as an immunisation strategy. Some defenders of Islam can actually be very naïve.

Objections

Now the arguments against the use of the notion of Islamophobia in practice. How can we be so sure that Islamophobia is what is behind the hostilities aimed at Islam and Muslims? This is relatively easy to demonstrate by looking at concrete examples of abuse directed towards Islam (crimes of expression according to article 137c of the Penal Code that took place in 2005, for example, constituted seven out of ten manifestations of Islamophobia in the Netherlands). The same is true of racist, extreme right-wing political organisations that make use of explicit hate speech against Muslims (during demonstrations, on internet sites, etc.). But in the case of non-verbal acts problems of interpretation immediately arise. For the victims it is sometimes difficult enough to determine whether the aggressor was ill-intended or whether there really is evidence of discrimination (a clear example is if the employer refuses to hire an Islamic applicant because he doesn't want any potential terrorists on the premises), but it is much more difficult to be sure that the perpetrators were really driven by hatred of Muslims. Such a motive is only likely if the object of their crime is of symbolic value: setting fire to a mosque. But Moroccans were already being discriminated against in

¹⁴ J.M. Otto, 'De verhouding tussen sharia en nationaal recht volgens "essentialisten" en "multiplisten" (The relationship between sharia and national justice according to 'essentialists' and 'multiplists'), in: B.C. Labuschagne (ed.), *Religie als bron van sociale cohesie in de democratische rechtsstaat?* (Religion as a source of social cohesion under the democratic rule of law?), Nijmegen: Ars Aequi 2004, pp.145-172.

¹⁵ The authors of the recent 2006 WRR report referred to above, which advocated an open attitude towards Islam and its adherents, told me that many had complimented them for their bravery. Political correctness has taken such a turn that it now requires courage to write about Muslims in a nuanced way!

their search for jobs (or intern positions) before they were defined as Muslims,¹⁶ and other ethnic groups were being denied admission to discos as well.¹⁷ There are other conceivable grounds for aggression than pure hatred of Muslims. People go ballistic about anti-social behaviour in their neighbourhood because they're victims of criminality or because they're exasperated by the way the neighbours are raising their children. If a Muslim is the victim of discourteous treatment or of a crime it doesn't automatically mean that the perpetrator is an Islamophobe.

As far as real crimes are concerned, these are commonly known as *hate crimes*. In the years after the great successes of the Civil Rights movement in the United States, large numbers of other ethnic groups began demanding the same legal protection (this phenomenon – discovering one's own ethnic background – was first called *the new ethnicity* and is now referred to as *identity politics*). A large number of states passed special laws in which crimes that are entirely or partially motivated by the victim's group identity are penalised separately. One person harms another because of his sex (gender), race, religion, ethnic background or sexual preference, or because he is disabled.¹⁸ The Netherlands has also passed such laws. What this says is that vulnerable groups can count on special legal protection. Punishment has a preventive effect, and these laws have an important symbolic value: intolerance and discrimination will not be accepted. The notion of Islamophobia can help place a concrete act in the correct context.

What is less well known is that these laws are controversial in America. According to critics, criminal law is relied on too heavily to solve social problems. In addition, the cases that result from it have to do with behaviour that is punishable in and of itself. Jacobs and Potter fervently argue that applying these laws is counter-productive because they stir up social differences and do not promote social harmony.¹⁹ On the other hand, another function of criminal law is that it prevents people from taking the law into their own hands. Victims of Islamophobia are better off taking the matter to court than taking revenge on their own.

The most important objection to introducing the concept of Islamophobia is the danger that those who are openly critical of Islam will be silenced by being branded Islamophobes. Afshin Ellian of the Netherlands has argued that the term Islamophobia is an attempt by the thought police to dismiss every criticism of Muslims as pathological and irrational. He sees the charge of Islamophobia as an attack on the freedom of expression.²⁰ The English activist Bahram Soroush also regards it as intellectual blackmail to silence all critics of Islam with the charge of racism.²¹ In a free democratic society, you must have the freedom to exchange opinions (which, I hasten to add, is a bit different than crude slinging matches) without the accusation of racism or discrimination hanging over your head. The same is true, by the way, of terms like anti-Semitism or xenophobia, and is not only applicable to Islamophobia. Once again, this is not to say that these concepts are without meaning; beware of easy debating tricks!

¹⁶ M. Gras et al., *Een schijn van kans: Twee empirische onderzoeken naar discriminatie op grond van handicap en etnische afkomst* (A ghost of a chance: Two empirical studies of discrimination on the basis of disability and ethnic origins), Arnhem: Gouda Quint 1996.

¹⁷ M. Komen and K. Schram, *Etniciteit en uitgaan* (Ethnicity and social life), Amsterdam: Het Spinhuis 2005.

¹⁸ P.B. Gerstenfeld, *Hate crimes: Causes, controls, and controversies*, Thousand Oaks, etc.: Sage 2004, p. 145.

¹⁹ J.B. Jacobs and K. Potter, *Hate crimes: Criminal law & identity politics*, New York and Oxford: Oxford University Press 1998.

²⁰ <http://kvc.minbuza.nl/uk/current/2006/februari/ellian.html>, Afshin Ellian, *Stop capitulating to Threats*.

²¹ <http://bussorah.tripod.com/soroush.html>- (7 June 2004).

Expressions of Islamophobia in the Netherlands

Acts of terrorism committed by Muslims are immediately followed by a frenzied wave of reactions against Muslims (or people who look like Muslims) and the symbols of Islam. There are insults and abusive language, unpleasant remarks are made at work and at school, objects are vandalised and anti-Muslim graffiti is scribbled on walls. In the month of November 2004 following the murder of Theo van Gogh,²² 106 serious violent incidents were noted in which mosques had to pay the price 47 times. It should be noted that these 106 incidents took place within a single month, and this number is considerably higher than the numbers registered on an annual basis (see Table 5.1).

Table 5.1
Anti-Muslim violence during the period 2002-2005, according to categories of incidents²³

	2002	2003	2005
Targeted graffiti	11	18	8
Threats	19	9	18
Bomb scares	1	-	2
Confrontations	-	2	6
Vandalism	14	11	11
Arson	3	4	7
Assault	20	14	18
Possession of weapons	-	-	-
Bombings	-	1	-
Manslaughter	-	-	-
Total	68	59	70

While 105 incidents of Islamophobic violence were inventoried in November 2004 in the Netherlands, in a somewhat longer period after '9/11' in 2001, 190 such incidents were registered. It is striking that these incidents took place primarily in smaller towns and not in the big cities. Are people there less accustomed to the multicultural society? The actual number of incidents, particularly the minor ones, will probably have been much higher. The victims have all sorts of reasons for not reporting the incidents: it doesn't help, it's too much of a bother, it's a waste of time or the victim is ashamed or too proud or afraid he won't be taken seriously.

The general impression is that Muslims of the Netherlands prefer to hide away rather than complain of discrimination over the least little thing. The compilers of the 2002 EUMC report warn that the relatively high results of reported Islamophobic incidents in the Netherlands do not necessarily reflect reality; probably this can also be attributed to a better spotting system. Igor Boog, who follows the figures carefully for the National Agency to Combat Racial

²² Which I would not call a terrorist attack, by the way, because it was not an attempt to send fear into the hearts of the populace by making random victims but a political murder of a deliberately chosen person.

²³ The statistics for this table are taken from the chapter 'Racial violence and violence incited by the extreme right' from this Monitor report, as well as from earlier Monitor reports. See www.monitorracisme.nl. It was not possible to create an 'integrated file of violent incidents' for the entire year 2004 (see Chapter 2).

Discrimination (LBR), thinks that the Netherlands is actually somewhere in the European middle. But that is not consistent with the results of the Eurobarometer mentioned earlier. Expert opinions differ.

A strikingly large number of threats were registered by the National Police Services Agency (KLPD) after the attacks in New York on 11 September 2001. There were no less than 485; most of them had to do with anonymous powder letters, bomb scares and threats of arson targeting mosques and Islamic schools. Such incidents were noted throughout all of Europe (in England, for instance, there were 670, 244 of which concerned physical attacks, including hitting Muslims over the head with umbrellas!). The large number of threats seems to have been a uniquely Dutch phenomenon.²⁴

Straightforward examples of Muslim hatred can be seen on the web forums of the extreme right. Hate speech (Stormfront.org, Polinco.org) has become an everyday affair. For the monitors of these websites it often seems difficult to determine what they should take out and what they should leave in. Holland-Hardcore.com distinguishes itself (unfavourably) by not being selective at all when it comes to Islamophobic fulminations.

Expressions of social exclusion, selective harassment and discrimination are less connected to these peak incidents. There is a fairly steady and somewhat fluctuating number of incidents involving the refusal to give Muslims employment, to accept them for intern positions and to admit them to cafés and bars. Occasionally there is a case of flagrantly unreasonable selective surveillance in the news. These concern passengers at airports, in trains and metros and police identity checks. The latter constitutes the greatest grievance for minorities in France, Belgium, Spain, Greece and England, who are constantly being stopped and searched. When the skirmishes that have occurred in these countries between minorities and the authorities are viewed in retrospect, they often seem to have begun with intimidating personal checks.²⁵

I am not aware of any scientific study of the effects of the Compulsory Identification Act that was passed in the Netherlands on 1 January 2005.²⁶ The chance is great that the main effect of the increasingly harsh anti-terror regulations will be the angering of innocent Muslims.²⁷

Opinion poll

After the '9/11' attacks in America the first survey of Dutch Muslims took place. Foqz Etnomarketing, commissioned by the Multicultureel Instituut Forum, came up with its results on 13 September. Forty-eight per cent of the Dutch Muslims were sympathetic with the attacks and 6 per cent agreed them. Government ministers were shocked with the 6 per cent, but what exactly does the 'sympathetic' of the 48 per cent mean? Internet conducted the survey again with a somewhat different way of asking the question and came to the conclusion that 73 per cent of the Muslims did not support the attacks. But this time around 10 per cent of the Muslims said they did approve of them!

²⁴ F. Bovenkerk et al., *Bedreigingen in Nederland* (Threats in the Netherlands), Amsterdam: August 2005.

²⁵ In the IHF report mentioned above, mention was made of an English study showing that in the stop-and-search practice, more and more checks are being carried out without any provocation. While a few years ago 13 per cent of the persons stopped and searched in the street had done something punishable, now that amount is only 1.7 per cent.

²⁶ An exception is B. van Klink and N. Zeegers (eds.), *Hoe maakbaar is veiligheid? Over de Wet op de uitgebreide identificatieplicht* (Can security be engineered? On the expanded Compulsory Identification Act), Papieren Tijger: Breda 2006.

²⁷ Also see R. Peters, 'Islam-bashing en jihad: De radicalisering van jonge moslims in Nederland' (Islam-bashing and jihad: The radicalisation of young Muslims in the Netherlands), in: M. Komen (ed.), *Straatkwaad en jeugdcriminaliteit: Naar een algemene of een etnisch-specifieke aanpak?* (Anger in the streets and juvenile delinquency: Towards a general or an ethnic-specific approach?), Apeldoorn-Antwerpen: Het Spinhuis 2006, pp. 84-96.

These results stirred up ill feelings. Muslim organisations and leaders were already being blamed for not openly distancing themselves from the terrorist attack, but now it seemed that a great many Muslims actually approved of them. NIPO and other opinion poll companies conducted a survey of the native Dutch population, and a kind of battle of the opinion polls ensued. Sixty-two per cent of the native Dutch thought that Muslims who approved of the attack on America should be deported without delay. On 24 October 2001 the Centre for International Conflict Analysis and Management of the Nijmegen Catholic University, along with VARA (a broadcasting network), the Medical Polemology Study Fund and the Lagendijk Bureau, reported that 14 per cent of the native Dutch population regarded Islam as the most serious threat to the Netherlands. On 10 December 2001, NIPO published research results indicating that 29 per cent of the native Dutch agreed with politicians who saw Islam as an exceptional threat. Bureau Interview/NSS, commissioned by the GPD newspapers, measured the tolerance of the native Dutch for ethnic minorities (Muslims in particular) and observed a substantial increase.

After every terrorist action or incident in the world, opinions are sounded out among the native Dutch and among Muslims. The gap between the two is becoming wider and wider. Peter Kanne (TNS/NIPO) reported in *de Volkskrant* of 21 June 2004 that 36 per cent of the Dutch population have negative feelings towards Muslims. Although a large majority of the Dutch people questioned (81 per cent) admitted to knowing 'absolutely nothing' or 'not very much' about Islam, and although many said they were bothered when all Muslims are lumped together in one category, 15 per cent still found them threatening.

The murder of Theo van Gogh on 2 November 2004 prompted a new wave of public opinion polls. Although the murder was committed by one man who, we assume, represented only a small group of extremists, one-third of the Dutch population who responded to an opinion poll conducted by *De Telegraaf* (7 November 2004) said the entire Moroccan community was responsible for the murder. On 20 November the same newspaper reported that according to the results of a new poll, '9 out of 10 Dutch people have a negative or very negative attitude towards Muslims'. Labyrinth BV, a research bureau, asked a panel of 501 Moroccan Dutch people how they felt, and there the exact opposite was revealed. While 45 per cent still felt at home in the Netherlands before 2 November, now that amount had dropped to only 27 per cent. The Moroccans Dutch said they felt unsafe and threatened. Seventy-two per cent said the future looked bleak. Seventeen per cent said they felt a very great distance between themselves and the native Dutch, and 51 per cent said they felt 'a great distance'.

On 22 March 2005, Peter Kanne of TNS/NIPO, in response to the discussion of the possible political constituency for Geert Wilders, summarised the study his institute had carried out. Fear of Islam and exasperation with the insufficient integration of ethnic minorities was occupying a 'dominant position' in the heads of the native Dutch.

The attacks in London occurred on 7 July 2005. On 20 July *De Telegraaf* published the results of a readers' survey conducted among more than 6,000 respondents: the Netherlands is terrified of radical Muslims. After Ali Lazrak left the Socialist Party's parliamentary group of the Lower House, he had NIPO measure the public attitude towards Muslims. *Het Parool* published the results on 24 January 2005: 35 per cent of the population had an unfavourable opinion of Muslims and only 19 per cent regarded their presence as not threatening. Some fear that 'Islam will become dominant'. In Italy and Spain, where the same kind of opinion poll had been taken shortly before, the population were much less negative towards Muslims. Lazrak felt that in those countries the media were much more restrained in reporting about Muslims, and that politicians there were less politicising than Verdonk and Balkenende were in the Netherlands. An interesting point, as we shall see.

The opinion poll bureau Motivaction took a survey for the GPD and published its findings in June 2006 which contained the shocking statement that many Dutch people are no longer reluctant to express their negative feelings openly; 10 per cent of the participants agreed that they were 'racist'. After the Danish cartoon controversies that same year, the research bureau R&M/Matrix, commissioned by the *Algemeen Dagblad*, revealed that 'people are becoming increasingly fearful of Islam'. The religion is considered misogynistic, intolerant and humourless.

I am not entirely in agreement with these investigations,²⁸ and I abstain from commenting on the quality of the polls and the precise way the questions were asked. Nevertheless, the picture is quite clear: there is evidence of increasing Islamophobia and polarisation. The questioning of public opinion is politically relevant: how much political support is there for strong policy measures meant to curb immigration and for interventions that promote integration? The results themselves are elements in the Islamophobic discourse. Several politicians are participating in this discourse by expressing themselves in bellicose language. Pim Fortuyn spoke and wrote about a 'cold war against Islam'. Deputy Prime Minister Zalm declared war on Muslim terrorism after the murder of Van Gogh and said, 'Apparently there is a movement active in the Netherlands that finds religiously motivated murder legitimate.' VVD parliamentary party chairman Van Aartsen called the murder 'Muslim terrorism' and spoke of 'Jihad in the Oosterpark' (the area of Amsterdam where Van Gogh was murdered). The characterisations of Islam and Muslims that prominent Dutch politicians allow themselves is considered outrageous by foreign observers.²⁹ Everyone should be able to speak their mind, said Minister Verdonk contemptuously in the Buitenhof in 2004, and Muslims shouldn't have such a short fuse. Geert Mak, in his brochure *Gedoemd tot kwetsbaarheid*, called Dutch politicians 'fear mongers'.³⁰ It's a risky strategy for politicians to force an entire segment of the population into a corner.

5.3 —

How do Dutch Muslims react to Islamophobia?

The public opinion surveys already indicated the existence of a parallel development. Fewer and fewer Muslims feel comfortable in the Netherlands, and more and more native Dutch people do not like to live with people who cling to their own Islamic culture. Despite the fact that in all the opinion polls a large portion of the native Dutch population say they feel positively towards the multicultural society, and despite the social success that a large portion of the second and third generation of Islamic minorities in the Netherlands have soundly demonstrated, there is still clear evidence of polarisation.

In all the countries of Europe, the initial response of Muslim groups to terrorist attacks has been to provide themselves with preventive protection. They stood guard at schools and mosques and accompanied their children to school, and some men preferred to stay home

²⁸ For the development of public perception before 2000 see: C.S. van Praag, 'Wederzijdse beeldvorming' (Mutual perception), in: J. Dagevos et al. (eds.), *Rapportage minderheden 2003* (2003 Minorities Report), The Hague: Sociaal en Cultureel Planbureau 2003, pp. 363-392. For the new opinion polls also see: I. Boog, 'Beeldvorming' (Public perception), in: I. Boog (ed.), *Monitor rassendiscriminatie 2005* (2005 Racial Discrimination Monitor), Rotterdam: Argus 2006, pp. 15-49.

²⁹ It is interesting to compare this with the response in England to the attacks of 9/11. The British government publicly condemned every form of intolerance towards Muslims. When it was leaked to the media in 2003 that Denis MacShane, Minister for European Affairs, was said to have called Muslims to make a choice between 'the British way' and 'the terrorist way', he felt the need to tone down his language.

³⁰ G. Mak, *Gedoemd tot kwetsbaarheid* (Doomed to vulnerability), Amsterdam/Antwerpen: Atlas 2005.

from work for a few days. In European reports, mention has been made of Muslim women who took off their headscarves to keep from attracting attention in public.

The reaction, also over the long term, has been mainly one of apathy. The poorly integrated segment of the Muslim population live in remarkable isolation, according to Margalith Kleijwegt's recent penetrating report about Amsterdam-West.³¹ This apathy was also studied by Marjan Dijkstra, who went to talk to Muslim young people in the same district of Amsterdam: why don't they distance themselves more openly from the Muslim extremists instead of fuelling the suspicion that they secretly agree with the fanatics by refusing to do so?³² Even the call by alderman Aboutaleb to take such a position met with a tepid response. Dijkstra thinks many young people feel excluded and participate more in Muslim religious life as a reaction to this situation. In the media the debate on Islam is conducted by people who are not Muslims themselves (Fortuyn, Cliteur, Philipse, Donner) or who are no longer Muslims (Hirsi Ali, Ellian), with whom these young people cannot identify. They are furious about all the negative stereotypes in the media, incensed at the widespread ignorance of their religion in the Netherlands, and angry that the government allows the film *Submission*, which was deliberately meant as an insult, to be broadcast on television. Isn't it annoying that the media keep showing the same extremist and fundamentalist imams, who leave them cold? The young people Dijkstra spoke with feel discriminated against in numerous ways.

They too – like their opponents – seem prone to essentialist reasoning (my words, FB): they regard Dutch society as one hostile and Islamophobic whole. For those involved it is very unpleasant that all insults in the Netherlands are permitted in the name of freedom of expression. Living together is based on simple common decency, and it is not clear to them why everyone is allowed to say anything they want to about their religion. Freedom of expression is something different. It's a term that has to do with the reasonable exchange of opinions and arguments and is not 'pandemonium, in which everyone says and writes whatever pops into his head,' said E. Dommering, professor of information law at the University of Amsterdam, a few days after the murder of Theo van Gogh and looking back on the filmmaker's conduct.³³

The freedom to say and write whatever you want is restricted by the law. Anyone who suspects he is a victim of defamation or racism can take his case to court. Why haven't any of the angry Muslim young people ever tried to take legal action? I think it has to do with the problem of their social isolation.

This is in line with the study conducted by Buijs et al. of radicalisation among young Moroccans.³⁴ A quarter of the Muslims in the Netherlands (and the fraction is even higher among the young people) think that the Western and the Muslim way of life do not go well together. There is evidence of what the writers call an integration paradox: the best integrated people are the very ones who feel most discriminated against when they are rejected.³⁵ These tendencies have also been observed in other countries; there are signs of isolation, apathy and hostility.

³¹ M. Kleijwegt, *Onzichtbare ouders: De buurt van Mohamed B.* (Invisible parents: The neighbourhood of Mohamed B.), Zutphen: Plataan 2005.

³² M. Dijkstra, *Opwaaierend stof: Hoe ervaren moslims in Amsterdam-West het maatschappelijke debat in de media rond de islam?* (Blowing dust: How do Muslims in Amsterdam-West experience the social debate on Islam in the media? (undergraduate thesis for the Master's in criminology degree), University of Utrecht: Utrecht 2006.

³³ *de Volkskrant* 2 November 2004.

³⁴ F.J. Buijs et al., *Strijders van eigen bodem: Radicalen en democratische moslims in Nederland* (Homegrown warriors: Radical and democratic Muslims in the Netherlands), Amsterdam: Amsterdam University Press 2006. Also see the chapter by Buijs et al. elsewhere in this Monitor report.

³⁵ Also see K. Phalet and J. ter Wal, *Moslims in Nederland: Religie en migratie* (Muslims in the Netherlands: Religion and migration), Ercomer-UU and Sociaal en Cultureel Planbureau, The Hague: SCP 2004.

Theoretical explanations

It goes without saying that scholarly researchers who explain phenomena such as xenophobia, racism and anti-Semitism are following a long (and mainly American and German) tradition. Accordingly, unfounded hostility towards weak groups in society is based on one-sided information (cognitive problem), prejudice plays a role in the economic competition for jobs or the distribution of goods (competition hypothesis), and aggression is the externalised fear of people with an authoritarian personality (psychological theory), etc. A recent German research project will serve as an example. Wilhelm Heitmeyer and Andreas Zick of the University of Bielefeld studied *Gruppenbezogene Menschenfeindlichkeit* (group-related hostility).³⁶ It struck the researchers that there was a similarity between anti-Semitism and Islamophobia, and they saw these phenomena as a particularisation of a general anti-humanistic attitude of hostility towards strangers, immigrants, homosexuals, the homeless and the disabled. In their sociological investigations of the opinions of Germans they noted all sorts of stereotypes with regard to Muslims: they're fanatic, harsh, religious. They live in seclusion, drink tea all day, etc. The better educated and richer Germans had a more nuanced way of thinking, but the simple people – particularly men with an authoritarian tendency – thought in stereotypes.

What Heitmeyer and Zick found is based on the so-called standard model of prejudice.³⁷ Researchers keep finding that prejudice correlates with little education and low social status, and that those who are cursed with prejudice tend to be authoritarian personalities and people who value conformist behaviour and condemn deviant behaviour. Those prejudices may have a material basis (real conflicts over scarce goods such as jobs), but they may also be irrational. When reading such research results, I often get the uncomfortable feeling that the more affluent score more favourably on the prejudice scale only because they're better at answering in a 'politically correct' way: tolerantly and with an open mind. On the other hand, the prosperous and intellectually developed segment of the population does not have to compete for scarce goods with immigrants who are lower on the social ladder.

What are the questions that the respondents in all surveys of prejudice and xenophobia are actually answering? There are questions in which you can demonstrate your faith in the multicultural society. For example, Heitmeyer and Zick asked: Do you agree with the statement 'it's good that more Jews are living in Germany again?' or 'the Muslim culture definitely fits in our Western world?' And there are questions in which people can use their answers to express unfavourable, generalised opinions about other groups and in which they can give vent to certain stereotypes. Heitmeyer and Zick ask respondents to answer statements such as 'the Jewish people have too much influence in the world', 'with all the Muslims here in Germany I sometimes feel like a stranger in my own country' and 'Islam is a backward religion'. Those who give affirmative answers to the latter type of questions are classified in the category 'Islamophobe' or something similar. By asking the questions in this way, it is clear that the cause of the problems is always being sought among the natives alone. People who think this way are irrational, jealous or politically reactionary.

³⁶ W. Heitmeyer and A. Zick, *Anti-semitism, islamophobia and group-focussed enmity in Germany* (Research Note), Bielefeld: Institute for Interdisciplinary research on conflict and violence 2004.

³⁷ K. Phalet and J. ter Wal, *Muslims in Nederland: Religie en migratie* (Muslims in the Netherlands: Religion and migration), Ercomer-UU and Sociaal en Cultureel Planbureau, The Hague: SCP 2004, p. 11.

But is that true? In the early eighties I began to think differently about such studies of prejudice. Along with a group of co-workers and students, we conducted a study of prejudice and xenophobia in a few working-class districts of Utrecht using ethnographic methods (i.e. that we listened to people without asking them prepared questions beforehand).³⁸ The researchers came home with unexpected stories about the disappointment of local Utrecht residents whose overtures to their Turkish and Moroccan neighbours had been rebuffed, about their annoyance that the foreigners didn't participate in common activities (such as street parties) and about demonstrable anti-social behaviour in the form of public mischief and criminality. We found that the objections of Utrecht-born residents were not so much signs of racial prejudice or authoritarian personality traits as they were a report of quite real social tensions. What we were dealing with was a two-sided process and (in the terminology of Norbert Elias, whose theory played an important role in the book) of a 'figuration between established persons and outsiders'. Later, in my function as criminologist, I was constantly coming into contact with all these problems: aggression at school, over-representation of Moroccan and Turkish women in shelters for battered women and the threat of terrorism. This in itself produces a possible distortion of perception, just like the fact that what police officers know about specific social groups is sometimes limited to their judgement of 'the worst segment'.

It is a relief to see how today's researchers from the Utrecht Ercomer (Karen Phalet et al.) are looking not only for one-sided prejudice but also for two-sided cultural contacts in their investigations of the declining trend in tolerance among the Dutch with regard to Muslims.³⁹ A rejection of Islam or multiculturalism can come from prejudice, to be sure, but reasonable and rational objections can also exist. They find that among respondents who are better educated and persons in whom no prejudice towards other minority groups can be detected, there are those who believe that certain Islamic and Western family values are irreconcilable ('experienced cultural conflict').⁴⁰ So some of those cultural conflicts are not based on prejudice but reflect actual contrasts in points of view and lifestyles. Studies among Muslims reveal a corresponding situation, and the same is true for the second generation. Those conflicts have to do with the way men treat women, with traditional rules of marriage and with the way immigrants raise their children (with corporal punishment). These are based on a different appreciation of the notions of tolerance, freedom and equality. What comes first: respect for other groups and cultures or individual rights and freedoms?

In a subsequent study, Hagendoorn and Sniderman look at the essential question that also lies at the foundation of my essay here: what makes people think their national and cultural identity is being threatened if that threat is not evident?⁴¹ They maintain that the intolerance mainly comes from a group within the Dutch population that is attached to conformism and social uniformity: the demand that everyone act the same way and abide by the same rules. This feature of Dutch society has already attracted the attention of outsiders. It is the central proposition in *The Dutch plural society*⁴² by the Englishman Christopher Bagley (1973), one

³⁸ F. Bovenkerk et al., *Vreemd volk, gemengde gevoelens: Etnische verhoudingen in een grote stad* (Foreign people, mixed feelings: Ethnic relations in a big city), Meppel en Amsterdam: Boom 1985.

³⁹ K. Phalet and J. ter Wal, *Muslims in Nederland: Religie en migratie* (Muslims in the Netherlands: Religion and migration), Ercomer-UU and Sociaal en Cultureel Planbureau, The Hague: SCP 2004.

⁴⁰ P. Sniderman et al., 'De moeizame acceptatie van moslims in Nederland' (The laborious acceptance of Muslims in the Netherlands), in: *Mens en Maatschappij* 78 (3)2003, pp. 199-217.

⁴¹ L. Hagendoorn and P. Sniderman, 'Het conformisme-effect: Sociale beïnvloeding van de houding ten opzichte van etnische minderheden' (The conformism effect: Social influencing of the attitude towards ethnic minorities), *Mens en Maatschappij* 79 (2)2004, pp. 101-123.

⁴² C. Bagley, *The Dutch plural society: A comparative study in race relations*, London etc.: Oxford University Press 1973.

of the first studies of the multicultural Netherlands (not mentioned by Hagendoorn and Sniderman). While the negative attitude towards immigrants in England is mainly a function of racism, many Dutch people (according to Bagley) responded primarily to non-conformism. Hagendoorn and Sniderman test their hypothesis in an almost experimental way by asking questions outside the context of the formal interview that constitute the deciding factor for the conformists. People who feel culturally threatened are actually insecure about the absence of social uniformity, to such an extent that they are prepared to set aside their central democratic values for it. When these people are asked to endorse a fully segregated school system based on ethnic backgrounds, they do so ... as long as it is supported by the authorities and especially by the politicians! According to the researchers, this explains the dramatic change in the attitude of the Dutch with regard to minorities, or in this case Muslims. As long as politicians call for tolerance and willingness to please, people are prepared to accept the value conflict. If politicians make a reversal, 'the genie is out of the bottle'. This explains why the opinion about Muslims in the Netherlands has deteriorated so dramatically in the years after 2000 and especially after 2002 with the election campaign of Pim Fortuyn: politicians exceeded the social conformists in their tough stand on immigration, failed integration and the pressure to adapt. According to the authors, that clearly shows how great the responsibility of politicians is in this question.

5.5 —

Conclusion

In 2005 the European Monitoring Centre on Racism and Xenophobia analysed how the terrorist attacks in London on 7 July 2005 had affected the Muslim community in Europe.⁴³ All of Europe has been struck by the fact that the English attacks were followed by only a very few incidents (of Islamophobia). According to the report this has to do with three factors:

- 1) An immediate reaction was forthcoming from the government, politicians, opinion makers and the police, and everyone did his best to make a clear distinction between those who had committed the attacks and Islam as a whole.
- 2) There was a prompt reaction from Muslim representatives in which they condemned the attacks.
- 3) The media also did their best to distinguish between the terrorists and Muslims in general.

It is essential that the Muslim communities be involved in all this. According to the British model, local politicians consult with the leaders of the local Muslim communities. In the fight against terrorism this is a primary necessity, and politicians do their best not to alienate Muslim organisations.

It can be done – in contrast with the Netherlands, where the polarisation in the daily debate drags on in statements by politicians and abstract reflections by columnists about the true nature of Islam, and where Islamophobia seems to be increasing with every new opinion poll. The effect is that Muslims are being forced further and further into isolation.

How will the Netherlands react when a real terrorist attack committed by Muslims occurs here?

⁴³ EUMC, *Het effect van de bominslagen in Londen van 7 juli 2005 op moslimgemeenschappen in de EU* (The effect of the bombings in London of 7 July 2005 on Muslim communities in the EU, (memorandum of November 2005), Vienna.

Extreme right-wing groups in the Netherlands

Willem Wagenaar and Jaap van Donselaar

After the 'Fortuyn revolt' (2002) the electoral chances for the extreme right took a turn, or so it seemed. Following Michiel Smits departure from the council faction of Liveable Rotterdam (Leefbaar Rotterdam), he took a seat on the city council that seemed to form the basis of a new, successful extreme right-wing party: New Right (Nieuw Rechts). The New National Party (Nieuwe Nationale Partij; NNP) also won two seats in the Rotterdam district councils. By demanding and successfully obtaining the freedom to demonstrate through the courts, the Netherlands People's Union (Nederlandse Volks-Unie; NVU) slowly but surely succeeded in broadening the interpretation of freedom of expression for the extreme right in the public domain.

The rapid growth in membership of a few extreme right-wing groups and the decline and fragmentation of the Fortuyn movement seemed to create room to offer former Fortuyn voters an 'alternative to the right'.

Since 2002 another development has made itself known: the emergence of extreme right-wing 'gabbers', or the so-called 'Lonsdale youth'. As we have already concluded, these young people were joining the existing extreme right-wing parties but only in dribs and drabs,¹ and there was scattered evidence of successful self-organisation at the local level. What do these two developments demonstrate? Do they really signal a comeback of the extreme right-wing party politics, or is there rather a 'new' extreme right-wing movement growing outside the parties? Or are these developments occurring in tandem: a declining interest in party politics with growing support for extreme right-wing street activism? Here we will be discussing, in this order: extreme right-wing parties, organisations, young people (the 'Lonsdalers') and internet forums. Then we will examine the numerical aspects of the extreme right constituency.

6.1 —

Extreme right-wing political parties

The category of extreme right-wing political parties includes the Netherlands People's Union (Nederlandse Volks-Unie; NVU), the National Alliance (Nationale Alliantie; NA) and the New Right (NR). The New National Party (NNP) will only be referred to indirectly; the NNP broke up in 2004 and disbanded in 2005.²

Netherlands People' Union

The Netherlands People's Union was founded in 1971, and during the seventies, under the leadership of Joop Glimmerveen, it worked hard to create a public profile for itself.³ In 1974 Glimmerveen narrowly missed winning a seat on the Hague city council. The NVU was openly

¹ J. van Donselaar, *Monitor racism & extremism: Het Lonsdalevraagstuk* (Monitoring racism & extremism: The Lonsdale problem), Amsterdam: Anne Frank Stichting/Leiden University 2005, pp. 16-17.

² The party membership disbanded, but the registration with the Chamber of Commerce is still active (30 August 2006).

³ See J. 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, chapter 6.

racist and also became openly Nazi during the seventies. An attempt was made at the end of the seventies to prohibit the NVU, but it failed due to legal complications.⁴ Afterwards the NVU underwent a few dormant periods. In the mid-nineties the NVU was reactivated by Glimmerveen and Constant Kusters as well as Eite Homan, leader of the National Socialist Action Front (Actiefront Nationale Socialisten; ANS). In 2001 Glimmerveen passed on the position of chairman to Constant Kusters. Initially Joop Glimmerveen continued to work on the party's behalf, but he left the NVU one year later out of dissatisfaction with his successor's policies. The immediate cause of Glimmerveen's move was the moderate course introduced by Kusters, so-called 'consensus politics', by which the party vowed to keep its political activities within the limits of the law. The party did continue to invoke its national socialist orientation, but it did so in covert, nonpunishable terms. In addition, the NVU renounced confrontations with law enforcement officials and the courts: from that moment on, demonstrations would be properly announced and, if necessary, coerced by the administrative courts. The party also chose populist themes (against drugs, radical Islam or the entrance of Turkey into the European Union) for its propaganda.

Glimmerveen was not the only one to criticise this new course. Groups of neo-Nazis in and around the party were of the same opinion. The borders between the NVU and neo-Nazi circles were never clearly defined after the party was started up again. Joint meetings were regularly convened and joint demonstrations held. When the NVU decided on consensus politics, this collaboration could no longer be taken for granted. The party's neo-Nazi supporters saw this change in course as a surrender to 'the system' that was not in line with its own revolutionary ideas. A number of neo-Nazis left the party, and during an NVU demonstration a banner was carried that objected to the party's new course.

To find a way out of the 'adaptation dilemma', chairman Kusters made a compromise and periodically organised demonstrations with themes that were popular with the neo-Nazi supporters. An example of this was a demonstration 'against US Imperialism and Zionism' on 1 July 2006 in The Hague. During this demonstration banners were carried that alternated between denunciations of Israel and 'Zionism' and sympathy for the Third Reich and radical anti-Israel terrorist organisations. So far this kind of anti-Semitic confession has managed to keep the neo-Nazi groups within the party's *Umfeld*.

The NVU has a variety of international contacts, mainly with neo-Nazi oriented groups from Germany. The party collaborated with these groups in organising meetings on Dutch soil (where the risk of prosecution was considered lower than in Germany). Mainly these were joint commemorations of historic days such as the birthday of the Führer or Hitler's failed Beer Hall Putsch of 1923. The groups also attended each other's demonstrations. This was mainly of importance to the NVU because at party demonstrations at least half the participants were usually from Germany.

The party's room to manoeuvre increased with the introduction of consensus politics: the NVU and the party leadership have no longer been in conflict with the courts in recent years. The change of course has a lot to do with this, but so does the party's own efforts to force more opportunities to demonstrate. During the eighties and nineties, when extreme right-wing demonstrators applied for a demonstration permit or announced their intention to demonstrate they were usually turned down for preventive reasons, referring to the expected disturbance to public order. Technically a demonstration cannot be prohibited beforehand on substantive grounds, and the only way a preventive ban can be issued is on objective, politically neutral

⁴ 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. 65ff.

grounds, such as threats to public health, traffic and the public order that cannot reasonably be controlled by the mayor.⁵ In the eighties and nineties that prohibition was based on a speedy and broad application of the ground of ‘threat of disorderly conduct’. Because assessments by the courts were rarely conducted, this broad application was able to continue.

In 2001 the NVU leader Kusters fought a preventive ban on an announced demonstration in Kerkrade by taking it to the administrative courts. The judge brushed the ban aside because the mayor failed to make a sufficiently reasonable case that uncontrollable disorderly conduct was expected. With this ruling the demonstration was able to take place.⁶ Later, after another preventive ban was declared, Kusters went to the administrative courts once again. By following this procedure he was able to obtain permits for demonstrations in Rotterdam, Harderwijk and Apeldoorn. Since then no NVU demonstrations have been prohibited. However, NVU demonstrations were almost always placed outside the city centre, often in remote industrial areas where it was easy for the police to provide protection. In May 2005 Kusters brought legal action against this practice, again with success. The Arnhem administrative court ruled that the right to demonstrate was being excessively restricted if the NVU had to demonstrate in a remote place in the early hours of the day, since no public would be present to become acquainted with the message of the demonstration.⁷ The demonstrations that the NVU organised after this ruling were no longer placed outside the city centre.

The police who are present at NVU demonstrations – and at those of the extreme right in general – are willing to put up with more and more. Their attention goes primarily to maintaining public order, while very little is done about violations of legal order such as discrimination. As a result, the limits of the permissible have shifted. A few years ago, demonstrators obeyed the rules for the most part, and suspected punishable displays during extreme right-wing demonstrations were rare. But in recent years, lapses during demonstrations are no longer exceptional. At an NVU demonstration held on 30 September 2006, ‘Ausländer raus’ was chanted, the Horst Wessellied was sung and observers noticed numerous displays of anti-Semitism. To deal with the various problems of extreme right-wing demonstrations – such as maintaining public order *and* taking action against violations of legal order – the *Manual Concerning the Disturbance of Public Order by the Extreme Right* was issued by the Board of Procurators General in 1996.⁸

One of the added benefits of demonstrations for the NVU is the opportunity to recruit new adherents. Young people from throughout the region gather at these demonstrations and constitute a potential source of new growth. To provide a place for these young people, the youth organisation of the NVU, the Netherlands Germanic Youth (Germaanse Jeugd in Nederland) was re-established in late 2004.⁹ Coincident with this was the acceptance of the

⁵ These grounds for prohibition are laid down in the Constitution (article 6), and the actual practice of demonstrating is regulated in the Public Assemblies Act (act of 20 April 1988 directing provisions concerning the practice of the freedom of religion and personal convictions and the right to assemble and demonstrate). Also 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. 35ff.

⁶ Maastricht District Court 22 March 2001, *LJN* AB 0754.

⁷ Arnhem District Court 13 May 2005, *LJN* AT 5504.

⁸ The manual was drawn up on 10 September 1996 by the Board of Procurators General and went into effect on 1 December 1996. The piece is included as appendix 4 in J. van Donselaar, *Monitor racism en extreem-rechts. Eerste rapportage* (Monitoring racism and the extreme right. First report). Leiden University 1997, pp.119-128. The report can be found at [monitorracisme.nl:upload/downloads/monitor 1997-1.pdf](http://www.monitorracisme.nl:upload/downloads/monitor%201997-1.pdf) (16 October 2006).

⁹ ‘Heroprichting van de Germaanse Jeugd in Nederland’ (Re-establishment of the Netherlands Germanic Youth), *Wij Europa*, 2004-12, p. 31.

extreme right-wing youth organisation of the United Netherlands Arian Brotherhood Verenigd Nederlands Arisch Broederschap) into the NVU.¹⁰

The relationship between the NVU and young people might be called ambiguous. The NVU is helped by these new members but there are disadvantages as well, such as the possibility of being involved in violent incidents, which casts the party in a negative light. Examples of such incidents in the past year:

- A confrontation between extreme right-wing gabbers and Turkish young people in Venray in April 2005, at which a number of NVU adherents were present.¹¹
- An incident in Apeldoorn at which a group of skinheads intimidated an Antillean. In the end a prominent NVU member threw a bottle at his head.¹²
- In Hoensbroek a skinhead concert was organised near a Moroccan social centre. Because of this proximity a fight broke out during the evening in which people were wounded and arrests were made. An NVU member was later convicted.¹³

In 2006 the NVU took part in council elections in five municipalities: Apeldoorn, Arnhem, Nijmegen, Venray and Oss. The party tried to attract media attention in several ways, hoping this would bring in votes. The party did receive a striking amount of attention through the website 'stemwijzer.nl', which gives visitors voting advice based on their answers to a series of questions. In the municipalities of Apeldoorn and Arnhem between 20 and 25 per cent of the visitors were given the NVU as voting advice, an obvious indication of manipulation by NVU adherents. The incident prompted the province of Gelderland to abandon the use of the stemwijzer in the Provincial States elections of 2007.

In addition to this incident, the NVU also managed to generate attention by holding a demonstration in Nijmegen the day before the elections. Less good news for the NVU was the vandalising of a Jewish cemetery in Terborg, Gelderland, where gravestones were desecrated with swastikas and NVU stickers. Whether this was an action by an NVU sympathiser or an attempt to discredit the party at election time is not clear. That may seem stranger than it actually is. In the past period the NVU has spent a great deal of time fighting with other extreme right-wing parties or persons who did not find the party leadership acceptable. This erupted into regular conflicts, especially with the National Alliance – some of whose members are former NVU members. These conflicts were fought out on the internet to a great extent, but every now and then they occurred in the street as well. One National Alliance board member – a key figure in the conflict – was arrested near the house of an NVU supporter; weapons were found as well.¹⁴ The two parties were also in danger of open conflict at a demonstration in Brussels. At the last minute, however, the National Alliance decided not to participate.

At the municipal elections of March 2006, the NVU was far from winning a seat. In October 2006 the total party membership was about one hundred.

National Alliance

Usually extreme right-wing groups are the result of a merger or a quarrel, and the National Alliance (Nationale Alliantie; NA) is no exception. This party was founded by Jan Teijn and Virginia Kopic in 2003 after they had quarrelled with the New National Party (NNP) and left.

¹⁰ 'Nederlandse Volks-Unie (NVU)', http://www.kafka.antifa.net/verk_2006NVU.htm (29 August 2006).

¹¹ 'Venray in de wereld' (Venray in the world), <http://www.kafka.antifa.net/venray.htm> (29 August 2006).

¹² Arnhem Court of Justice 13 April 2006, public prosecutor number 21/003776/05.

¹³ Maastricht District Court 7 July 2006, public prosecutor number 03/615042-06.

¹⁴ 'Proces Kopic versus Blom' (Trial of Kopic vs. Blom), <http://kafka.antifa.net/kopicblomproces.htm> (29 August 2006).

The National Alliance, it is maintained, was supposed to develop into a party that would bring together various movements, such as nationalism, conservatism, Fortuynism and national-socialism. Initially the NA worked like a magnet on supporters of the NVU and the radical wing of the New National Party (NNP), and grew by leaps and bounds. The party also was extremely active. A web forum was launched, internal gatherings were convened and barbecues and demonstrations organised. The themes were diverse: the release of a man who had shot dead a Turkish attacker, against a streetwalkers' district, against the European Union, against protests by asylum seekers, against multicultural violence, against Muslim fundamentalism, against paedophilia, against the murderer of Van Gogh, against International Antiracism Day and against the building of a mosque. When demonstrations were organised, between twenty and fifty interested persons were mobilised each time.

After a while growth flagged and the party began to founder. There is no clear reason for this, but the rapid radicalisation of the party will certainly have scared off a number of supporters. When the last Monitor report was published there were still indications of a moderate and a radical wing within the NA. Radicalisation has taken place recently with regard to a number of themes. The most striking is the party's increasing anti-Semitism. In our previous report, we pointed out that the NA forum's *Administrator* intervened to rectify the situation whenever overly radical reports appeared. Now another person has taken over the work of *Administrator* and there is little evidence of this moderating voice. All the following quotes are from the *Administrator*:

The true enemy. Who are the authors of the left liberal agenda, and whose hands guide the process in its development? Who is behind the project of destroying all standards of decency and racial self-respect, of luring young white girls (who are ashamed of being white) into the beds of non-whites? Who wants to mix our people with races that do not belong here? The answer is simple: it is the Jews. Trying to have an honest discussion about cultural poisoning and miscegenation without talking about the Jews is like discussing disease without talking about bacteria.¹⁵

Take the holocaust away from the Jews and what do you have left? Without their precious holocaust, what are the Jews? Nothing more than an international gang of bandits, of murderers and manipulating liars who have foisted on us the biggest lies in human history. If the world would just wake up to the fact that from the day we were born we have been massively lied to and deceived concerning the history and the effects of the Second World War, the days of the Jews on earth would be numbered.¹⁶

[...] So, Arabs back to the desert and Jews back to hell. There's no place for them in Europe. This forced tolerance is nothing more than a stay of execution.¹⁷

For some time the forum has also been featuring a spot known as the 'revisionist library', a place where a large number of writings have been brought together in which the Holocaust is denied or doubted. Whether or not these sentiments can count on broad support within the NA membership is not known to us; what we do know is that they are strongly stimulated by the party top.

Another point of radicalisation for the party is its attitude towards violence. Various party executives, members and activists became involved in violent incidents. The most striking of

¹⁵ <http://forum.freespeech4u.com/viewtopic.php?p=22294> (7 September 2006).

¹⁶ <http://forum.freespeech4u.com/viewtopic.php?p=22359> (7 September 2006).

¹⁷ <http://forum.freespeech4u.com/viewtopic.php?p=22667> (7 September 2006).

these was the sentencing of a party activist, Ben van der Kooi, to thirty months in prison for burning down a Rotterdam mosque.¹⁸ Remarkably, the National Alliance stood behind Van der Kooi after the conviction:

Despite the fact that Ben was sentenced to 30 months in prison, we continue to believe in his innocence. No hard evidence has been produced against him, only soft evidence in the form of declarations that are based on speculation. We deeply regret that Ben was convicted, but actually it doesn't surprise us. Ben has become the victim of a nationalist witch hunt being carried out by the Dutch state. Ben is being used by the Dutch state as a scapegoat. But anything is possible in a state in which even judges and public prosecutors appear to have paedophile tendencies.¹⁹

Another party member fell foul of the law on two occasions. The first time was after the man had hung a party poster in his window. The court decided the poster was illegal and sentenced the man to suspended imprisonment.²⁰ One year later the same party member was back in court after he and two others had thrown an autistic man of ethnic minority origins in the water. This time he was given a community punishment order.²¹

In September 2006 the NA was again in the news because of the involvement of two of its leaders (Kapic and Ross) in military training in Belgium. This case became known after a large-scale action by the Belgian police to rout a group of extremely militant right-wing extremists, in which seventeen persons were arrested and three trucks full of weapons were confiscated. The detainees, adherents of the group Blood, Soil, Honour and Loyalty (Bloed, Bodem, Eer en Trouw; BBET), were suspected of planning terrorist attacks. 'A congenial case,' opined the *Administrator* of the National Alliance forum.

[...] compared with the couple of imbeciles who beat up a foreigner every now and then for no good reason, this is a horse of an entirely different colour. It makes me think of the case of Ben van der Kooi, someone who expressed his displeasure in no uncertain terms [...] and was locked up as a terrorist.²²

And a few weeks later:

It is my hope that they will not be convicted on the basis of untruths, soft evidence and insinuations, and if that should happen, then I hope we get value for our money and REAL NATIONALISTIC TERRORISTS will emerge. You've got my support.²³

Besides radicalisation, the lack of electoral success will not have contributed to a very stable membership either. The party's participation in the 2006 municipal elections was particularly disappointing: the NA took part in the Rotterdam election and the Rotterdam-Feijenoord district election, but with 0.1 per cent and 0.6 per cent of the votes respectively it was unable

¹⁸ Rotterdam District Court 13 April 2006, *LJN* AW 2001. During the final phase of this Monitor report (October 2006), Van der Kooi was acquitted on appeal by the Appellate Court of The Hague because, according to the Court, there was not sufficient legal and convincing evidence to conclude that the charge of an offence had been proved. See: 's-Gravenhage District Court 12 October 2006, *LJN* AZ 0001. The Public Prosecutor then decided not to appeal to the Supreme Court for a reversal, which made the acquittal irrevocable.

¹⁹ <http://forum.freespeech4u.com/viewtopic.php?p=23354> (7 September 2006).

²⁰ Den Bosch District Court 19 July 2005, *LJN* AT 9494.

²¹ Den Bosch District Court 25 July 2006. Public prosecutor number 01/835083-06.

²² <http://forum.freespeech4u.com/viewtopic.php?t=5538> (1 October 2006).

²³ <http://forum.freespeech4u.com/viewtopic.php?t=5548> (1 October 2006).

to win a single seat²⁴ – this despite successful attempts to make the papers by carrying out folder actions in orange burkas.

A last explanation for the continued crumbling of the party is the constant internal tension and quarrelling. At first these quarrels were aimed at other extreme right-wing organisations such as the NNP and New Right, which were branded as ‘Zionists’ and ‘friendly towards Jews’. The NVU was also a regular object of their criticism. After a while the quarrels turned inward as well. A significant portion of the party activists have recently left the party as a result and have started up organisations of their own (Nationalistic People’s Movement/Nationalistische Volks Beweging and Dietse Comrades (‘Dietse’ is Great Netherlands)). With this the party seems to have been downgraded for the time being to a marginal existence with a small, mainly Rotterdam constituency and a handful of active members throughout the rest of the country. In early October 2006 the estimated membership of the National Alliance was about sixty.

New Right

In 1995 Michiel Smit (1976) started his political career with the VVD (Conservatives) in Rotterdam. After a difference of political opinion, Smit broke with that party and in 2001 became involved with Liveable Rotterdam, led by Pim Fortuyn. Fortuyn put Smit in third place on his candidate list for the 2002 municipal elections and also asked him to take on the role of party secretary. Soon after his arrival on the city council Smit clashed with Liveable Rotterdam. Some of the conflict had to do with his extreme right-wing orientation, indicated by participation in extreme right-wing web forums (Stormfront and Polinco) as well as Smit’s friendly relations with the Flemish Bloc. In Rotterdam itself, open and friendly ties were developed with the extreme right-wing New National Party (NNP), which had two seats in the Rotterdam-Feyenoord district council.²⁵ In the spring of 2003 Smit broke with Liveable Rotterdam after a series of conflicts and started up his own party, ‘New Right’ (Nieuw Rechts; NR).²⁶

Once his hands were free, Smit decided to move even further to the extreme right. He strengthened the existing ties with the Flemish Bloc, and in the summer of 2003 he began to work more and more intensively with the NNP. After a number of jointly organised actions it even seemed as if a merger of the two parties might take place at the end of the year. This was called off at the last minute, however. After the failed merger, Smith tried to get rid of his radical right-wing image. A new course was charted in which an attempt was made to distance the NR somewhat from controversial extreme right-wing groups, subcultures and ideologies. At the same time, the party began to be known as ‘friendly towards Jews’ among neo-Nazi’s, which caused the more radical supporters to sever ties. Because the NR still worked with the Flemish Bloc (later Flemish Interests; Vlaams Belang) and other extreme right-wing organisations in the Netherlands, and because it had not moderated its points of view, it continued to exhibit an extremist character. Recently, for example, the party argued that the Spanish coast guard should be allowed to shoot ‘in self defence’ at boats carrying

²⁴ See J. van Donselaar, Gemeenteraadsverkiezingen 2006 (2006 Municipal elections), *Onderzoeksberichten*. <http://www.monitorracisme.nl/content.asp?PID=99&LID=1> (7 September 2006).

²⁵ See J. van Donselaar and P.R. Rodrigues, *Monitor racisme en extreem-rechts. Vijfde rapportage* (Monitoring racism and the extreme right. Fifth report), Amsterdam: Anne Frank Stichting/Leiden University 2002, pp.84-85.

²⁶ See <http://www.nieuwrechts.eu/cms/> (12 September 2006).

illegal immigrants.²⁷ On one point, however, a blatant compromise was made: Israel. Very fierce discussions had taken place in and around the party concerning whether to support Israel or not, and since then NR's party line has been not to make any more statements on this foreign question.

During this period an attempt was made to seize on supposedly popular themes by undertaking various actions. For example, NR announced a demonstration in Venray the month great unrest broke out due to conflicts between Lonsdale youth and Turkish youth. The demonstration was prohibited twice. Because of its insistent extreme right-wing position, the party's activities were often opposed. On a number of occasions it was not able to rent a hall, and political opponents frequently carried out actions that made it impossible for party leader Smit to speak in public or to demonstrate.

Despite its party line, which was not always entirely clear to either friends or enemies, New Right managed to become a reasonably stable party with a few hundred members. In the spring of 2006 the party had to make its first serious appearance – to the public and to its own supporters – during the municipal elections. Party support was such that participation in a large number of municipal elections seemed guaranteed, and Smit sketched out success scenarios in which these elections were made to be the final test for the 2007 Lower House elections. When the results of the municipal elections failed to meet his expectations it was a blow for the party and its supporters. In the end the party only succeeded to participate in four municipal elections (and in five Rotterdam submunicipalities) and won just one seat: in Ridderkerk.²⁸

After this disappointing result, it turned out the party was also dealing with major financial problems. NR had disbursed its faction allowances from the city of Rotterdam either improperly or without verification, and the party was deeply in debt to its internet provider. In the case of the faction allowances, the city of Rotterdam started civil proceedings after holding a number of hearings. The city's claim was dismissed in interlocutory proceedings because urgent interest had not been demonstrated, but that does not mean the claim on the NR has been dropped.²⁹

The internet provider shut down the party's website right after the elections on account of unpaid bills.³⁰

After these setbacks the party largely collapsed. Part of the active leadership severed ties and in only a couple of regions did the NR manage to retain any organisation at all. The estimated membership of the New Right is 400, with about ten persons forming the core.

6.2 —

Extreme right-wing organisations

In addition to parties there are also various extreme right-wing organisations active in the Netherlands. They are different from the parties in that they do not intend to participate in elections. A number of these organisations are affiliated with parties; others are active as

²⁷ Schieten of niet schieten? (To shoot or not to shoot?), op http://www.nieuwrechts.eu/cms/index.php?option=com_content&task=view&id=215&Itemid=9 (15 October 2006).

²⁸ See J. van Donselaar, Gemeenteraadsverkiezingen 2006, *Onderzoeksberichten*. <http://www.monitorracisme.nl/content.asp?PID=99&LID=1> (7 September 2006).

²⁹ Rotterdam District Court 13 April 2006, *LJN AW 1830*.

³⁰ See <http://www.nieuwrechts.nl> (12.09.2006). Also see: 'Kopzorgen groeien voor Michiel Smit' (Worries increase for Michiel Smit), *Algemeen Dagblad* 31 March 2006 .

independent action groups. First we will discuss the neo-Nazi groups in the Netherlands. For many a year they have been characterised by their small size and by considerable ideological conflict. This has not changed since the last Monitor period.

Racial Volunteer Force

Racial Volunteer Force (RVF) is the new name of the National Socialist Action Front (Aktiefront Nationale Socialisten; ANS). This organisation was established in the mid-eighties as the Dutch offshoot of a prohibited German neo-Nazi organisation by the same name. The Dutch branch was also openly neo-Nazi. In 1987 Eite Homan became the leader of the Dutch ANS and has remained so until the present day. For some time now the organisation calls itself the Racial Volunteer Force.³¹ This name is taken from a radical splinter group of the English 'Combat 18' terror organisation.

The RVF is a diffuse society without corporate rights or a formal membership, and it acts under various names. The number of adherents has fluctuated over the years between five and fifty. In the mid-nineties there was considerable overlap between this group and the Centre Party '86 (Centrumpartij '86; CP'86), and since the CP'86 was prohibited between this group and the Netherlands People's Union (NVU). RVF adherents have appeared in criminal court with relative frequency over the years, mainly for violent crimes. Michael Krick, a prominent RVF member (originally German), was arrested in May 2006 after grievous bodily harm was done to an Antillean man in Papendrecht.³² In the autumn of 2004 a group of RVF members were involved in a violent incident in Germany in which an attempt was made to assault an Ethiopian man. When the man resisted, an RVF member deliberately ran him over with his car. A German court sentenced the member to a suspended sentence, a fine and travel restrictions.³³

The RVF organisation is not large, but its extremism, name and international contacts guarantee it a great deal of publicity. Homan's significance also has to do with the prestige he enjoys in international circles of old and new Nazis.

In recent years the organisation's extreme anti-Semitism has been one of its most striking features. Earlier the organisation occasionally called itself 'Anti-Zionist Action' and aimed its arrows at Jews in the Netherlands and the Zionist state of Israel. A few RVF members, including Homan, participated in demonstrations opposed to the politics of the state of Israel, including demonstrations held by radical Islamists on Al Quds Day at the end of Ramadan. This development of sympathy for Islamic radicalism based on anti-Semitic considerations reached its apex at a demonstration of the Netherlands People's Union in the summer of 2006. This was a demonstration against 'US Imperialism and Zionism'. The RVF demonstrators carried Iraqi flags and portraits of the Iranian president Ahmadinejad and shouted the slogan ' Hamas, Jihad, Hezbollah'. RVF leader Homan was dressed in a T-shirt bearing an image of Al-Qaeda leader Osama Bin Laden. However, the far-reaching solidarity with radical Muslims is not appreciated by some of the adherents. A veteran such as Joop Glimmerveen, for example, won't have anything to do with these kinds of alliances.

The RVF constituency support the ideology of 'leaderless resistance': individuals with a common ideology should carry out their own autonomous actions. As mentioned earlier, a similar organisation in Belgium, 'Blood, Soil, Honour and Loyalty' (Blood, Bodem, Eer en Trouw; BBET) was broken up in September 2006. Large numbers of weapons were found.

³¹ See <http://www.bloodandhonour-rvf.com> (11.09.2006).

³² J.Bosch, 'Nazis run amok and short news', *Searchlight* 2006-9.

³³ 'Nederlandse neonazi in Duitsland veroordeeld' (Dutch neo-Nazi sentenced in Germany), <http://www.kafka.antifa.net/opstal.htm> (12.09.2006).

BBET had ties with several organisations in the Netherlands, including the NVU and the National Alliance.

Blood & Honour

Blood & Honour is an international network of neo-Nazi skinheads. Blood & Honour was founded in 1987 in England. The organisation produces and promotes Nazi music in order to gain supporters and to generate income. The international distribution of Nazi music appears to be a very lucrative activity. In the early nineties a Dutch branch of Blood & Honour was started up with the name Keep in Touch (Hou Kontakt). That organisation disappeared after a few years.

Since 2000 there have been attempts to re-establish a Dutch branch of Blood & Honour. These were successful in 2002, when a number of dissatisfied NVU members left the party and devoted their efforts to Blood & Honour. In recent years the international Blood & Honour network has found itself embroiled in a complex ideological struggle. Two organisations are active that both call themselves Blood & Honour and regard themselves as the one true organisation. The ideological struggle has many elements, but what it roughly boils down to is that one Blood & Honour (with the subtitles *Combat18* and *Terrormachine*) blames the other Blood & Honour (with the subtitles *Midgard* and *Traditional*) for not being political and active enough. *Traditional* is accused of spending most of its time drinking beer and earning money.

At first the Dutch branch seemed to bear a strong similarity to the Blood & Honour-C18/Terrormachine arm (that is, the 'political' arm). But a rift occurred in the Dutch branch as well. The C18/Terrormachine section drew closer to the RVF. The other section allied itself with the international Blood & Honour Traditional network.³⁴ Recently this Traditional section has successfully managed to recruit followers from among the radicalised Lonsdale youth. To become a member, an aspirant must first be introduced by an existing member. This is followed by a period in which the person is not a member but a 'supporter' and his loyalty is investigated. Finally he is allowed to become a fully-fledged member. Because of the nebulous character of Blood & Honour it is difficult to make any firm statements about the organisation's membership. Partially on the basis of estimates made by others, we're putting it at a few dozen fully-fledged members surrounded by a larger group of adherents and 'supporters'.

The activities of Blood & Honour Netherlands take place in a twilight zone. Gatherings are held every now and then (social get-togethers, excursions and small-scale concerts). *Paintball* contests are also held, and since mid-2004 survival training sessions have periodically been organised in the Belgium Ardennes.

In the spring of 2006 an attempt was made to carry out a public political action prior to a concert organised by Blood & Honour Flanders. Blood & Honour members from the Netherlands and Flanders wanted to lay a wreath at the German military cemetery in Ysselsteyn in Limburg. This cemetery has been used as a place of pilgrimage for right-wing extremists since the early 1950s because in addition to German soldiers a few hundred Dutchmen are buried there, among them members of the SS and the Waffen SS.³⁵ Because counter-demonstrations by anti-fascists were announced, the local authorities closed off the

³⁴ Kafka, 'Onder de loep: Blood & Honour Nederland – Traditional' (A closer look: Blood & Honour Netherlands – Traditional), *Alert!* 2006-3.

³⁵ J. 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, p. 38ff.

entrance to the cemetery. So the Blood & Honour action was diverted to the same type of cemetery in Lommel, Belgium. During the concert that was held afterwards, two cameramen from a Belgian station were molested.

About two hundred Blood & Honour followers were present at the commemoration, between fifty and one hundred of them from the Netherlands. This may seem a rather small amount at first, but in view of the fact that the activity was organised through the grapevine, that attendees were responsible for their own transportation, that there was a risk of confrontation with the police or political opponents and that a 'competitive' demonstration of the NVU was taking place on the same day, this number is surprisingly and strikingly high by Dutch standards. Members of this Blood and Honour section were also involved in violent incidents. A section leader was arrested in 2004 after an assault. In Winschoten a group of Blood & Honour members got into a fight with bystanders after having posed with Nazi symbols in front of a Jewish monument. During the arrests that were made in response to this incident, weapons were also found.³⁶

Local action groups

A new phenomenon in the Netherlands are locally and regionally organised neo-Nazi action groups. These are often young people from extreme right-wing gabber circles who become 'radicalised' together and set up a group to provide themselves with political accommodation. In 2004 the 'United Netherlands Arian Brotherhood' (Verenigd Nederlands Aisch Broederschap) was formed this way, a group from the south-eastern Netherlands. After a short period of time the core of this organisation joined the Netherlands People's Union (NVU) and was absorbed by the Netherlands Germanic Youth (GJN).

In 2005 the 'Soetermeer Skinhead Front' (SSF) emerged from a group of radicalised, extreme right-wing gabbers in Zoetermeer. This group first made itself heard on Liberation Day 2005. After problems arose between gabbers and the police on Liberation Day 2003 and 2004 (widespread anti-social behaviour, acts of violence), the city of Zoetermeer looked for a way to avoid a repetition of these incidents in 2005. When a number of young people then offered to organise their own party, a solution seemed to have been found. It soon became apparent, however, that an extreme right-wing group was behind this initiative. On 5 May (Liberation Day), it also turned out that this was not a party for gabbers but for the SSF and Outpost (Voorpost) followers from the area. When photos were then leaked to the press showing party guests making the Nazi salute, a riot was born.

In the meantime the SSF has become more radicalised. A quest for like-minded people ultimately brought the group in contact with the Racial Volunteer Force (RVF), and they took over the RVF's anti-Semitism and national socialist ideology. In late 2005 the group took the new name 'Netherlands Youth Storm' (Jeugd Storm Nederland; JSN) and tried to recruit adherents in other regions as well. According to their own website there are now sections in Zuid-Holland, Utrecht and Limburg:³⁷

So join the Netherlands Youth Storm now and get ready for the Holy struggle! The Netherlands Youth Storm is only interested in true National Socialists who are willing to sacrifice their own lives if necessary for Race and Nation! We'll do anything for the welfare of our People. We walk the path that our heroes have walked with all the means at our disposal.³⁸

³⁶ 'Vijf mannen vast voor vernielingen joodse begraafplaats' (Five men arrested for vandalising Jewish cemetery), *Novum Nieuws* 15 June 2005.

³⁷ See <http://free.volkerbord.com/free/jeugdstorm/aanmelden.html> (13.09.2006).

³⁸ <http://free.volkerbord.com/free/jeugdstorm/wiezijnwij.html> (13.09.2006).

Members of the SSF have found themselves in criminal court on several occasions. In May 2006 a group of eighteen JSN adherents were arrested after having attacked a group of young people. One of them had been arrested earlier after an assault during a neo-Nazi demonstration in Germany, and yet another group of JSN adherents were arrested after having pasted neo-Nazi stickers in public places in Zwijndrecht.

In the Drechtsteden region a comparable small group emerged, the Zuid-Holland Zuid Action Front (Aktiefront Zuid-Holland Zuid; AFZHZ). This group had its origins in the organisation Stormfront Netherlands (Stormfront Nederland).³⁹ At the beginning of the millennium Stormfront Netherlands was well represented in the same region. This is a group that can be compared to the JSN: the same ideology, regionally oriented with violent intentions. The AFZHZ became known when one of its leaders was arrested after an incident of violent assault. He and a few other right-wing extremists had assaulted an Antillean man in Papendrecht.⁴⁰ In addition to the JSN and the AFZHZ there are other comparable organisations such as Young Resistance Brabant (Jong Verzet Brabant).⁴¹

Outpost, National Movement and Society for Dutch Nationalists

Besides the neo-Nazis there are a few other organisations just outside or on the same level as the extreme right-wing parties: Outpost (Voorpost), the National Movement (Nationale Beweging) and the Society for Dutch Nationalists (Vereniging voor Nederlandse Nationalisten).

Outpost is a 'pan-Netherlands' action group that was set up in 1976 in an environment of extreme right-wing Flemish nationalism. Shortly after it was founded a Dutch section was also started. The action group was strongly committed to Flemish-Dutch collaboration. The organisation led an almost dormant existence in the Netherlands until the mid-nineties. Then the organisation was taken over by former members of CP '86, who saw no point in the founding of extreme right-wing parties. Outpost was to become an organisation, meant to facilitate the building up of an extreme right-wing movement in the Netherlands. The effort failed and in 1999 Outpost Netherlands began to collapse. After 2002 very little was heard about the organisation. Then in 2004 it made a new start under the leadership of Paul Peters and Robert Schaap. Separate sections were later formed in a few different regions. The organisation does not have an especially large membership, but it does carry out street actions with a certain regularity. For example, posters were pasted in places where the possibility of opening a mosque or a centre for addicts was being discussed. Folder actions were carried out in conjunction with left-wing political activities: a congress of the Greens (Groen Links) and an action against a refugee prison. One talked-about action was the commemoration of the violent action against the Centre Party (Centrumpartij) in Kedichem in 1986. Outpost commemorated this event in Kedichem itself with a torchlight procession.

Adherents of Outpost sections in the regions of Leiden, the flower bulb area and Eindhoven struck out on their own in 1999. They started an organisation under the name National Movement (Nationale Beweging). Various sub-organisations and periodicals were established. Key figures are the extreme right-wing veterans Tim Mudde and Michel Hubert. At the national level a website is being run, and for a time a newspaper was being published.

³⁹ For information on Stormfront Netherlands see: J. van Donselaar and P.R. Rodrigues, *Monitor racism en extreem-rechts. Vijfde rapportage* (Monitoring racism and the extreme right: Fifth report), Amsterdam: Anne Frank Stichting/Leiden University 2002, pp. 51-52.

⁴⁰ J. van Beek, 'Directe actie voor een blanke samenleving' (Direct action for a white society), *Alert!* 2006 -3.

⁴¹ See <http://www.geocities.com/jongverzet/> (13.09.2006).

Most of the activities of the National Movement were at the local level, however. In Leiden and surroundings a periodical is being published and monthly social evenings are planned. Right now the National Movement seems rather dormant. But in the vicinity of this organisation a mail order house was set up in 2004, 'Fenris Postorder', which sells all sorts of extreme right-wing materials through the internet such as clothing, music, books, jewellery, flags and stickers. This mail order house is clearly meeting a need. Within extreme right-wing circles, but also among gabbers, there is obviously a market for the stuff Fenris sells.

The Society of Dutch Nationalists (Vereniging voor Nederlandse Nationalisten; VNN) was also set up by former party activists from CP '86 and the Netherlands People's Union (NVU). The VNN wants to unite the members of many extreme right-wing parties, but for this very reason it evokes a great deal of resistance from extreme right-wing factions who regard the mutual differences as very important.

6.3 —

Extreme right-wing young people: the 'Lonsdalers'

After the sixth Monitor report (December 2004), we put out a special issue in which attention was focused on the problem of extreme right-wing gabbers, usually called Lonsdale youth.⁴²

We will not repeat the results here and will limit ourselves to a few main features. The extreme right-wing Lonsdale groups differ sharply from each other. This is true of their environment as well as their level of racism and extremism. Unlike the usual claim, the Lonsdale problem is not exclusively a rural phenomenon but something that occurs in the cities as well. For the period from 2001 to August 2005, we counted 125 extreme right-wing gabber groups and more than 200 incidents, about 140 of which were violent. The most common displays of violence are assault (41) and confrontations (50) between native Dutch young people and ethnic minorities. In these confrontations, the border between perpetrator and victim is often unclear. Many cases involve a series of incidents or actions that provoke reactions. So the Lonsdale problem is mainly *also* a problem of tension between native and ethnic minority young people. In addition, the Lonsdale problem covers a broad spectrum: there are different manifestations, different assessments and different estimates of the seriousness of the problem. This is the essence of the study that was published at the end of 2005. Now the question arises: what has been happening since then?

First of all, we have the impression that the phenomenon has not lost its significance by any means. There are no indications that the number of gabber groups has shrunk; according to well-reasoned estimates a few thousand persons are involved. The suspicion does exist that the average age has dropped and that the Lonsdale subculture has become more popular among young people of about 12. At least this is what we understand from persons who have a reasonably good grasp of what's going on at the local level among extreme right-wing Lonsdalers.

It should also be noted that Lonsdalers have not become less of a nuisance. Involvement in acts of violence is still a problem. This can be gathered from the chapter on racial violence and violence incited by the extreme right in this Monitor report.

Last but not least, a new development has emerged: radicalisation. Separate groups of neo-Nazis have arisen whose origins can be traced to the circles of extreme right-wing gabbers. We already examined a few examples of this earlier in the chapter. This has to do with a

⁴² J. van Donselaar, *Monitor racism & extremisme: Het Lonsdalevraagstuk* (Monitoring racism & extremism: The Lonsdale problem), Amsterdam: Anne Frank Stichting/Leiden University, 2005.

relatively small portion of the thousands of extreme right-wing gabbers who have taken this path. The diverse neo-Nazi groups emerging from the extreme right-wing gabber scene (such as Netherlands Youth Storm and Zuid-Holland Zuid Action Front as well as some of the supporters of Blood & Honour Netherlands) have an estimated population of a few hundred adherents. These groups are more tightly organised than the extreme right-wing Lonsdalers and they have a more explicit extreme right ideology (national-socialist) in which the use of violence is justified. Given the rapid growth of these groups as well as their radical and violent profile, this development is a matter of concern.

6.4 —

Extreme right-wing internet forums

Extreme right-wing internet forums deserve to be dealt with separately in this chapter because the way they actually function makes them look so much like organisations. Many forums form collaborative networks, some tighter than others, often with a hierarchical structure in which all sorts of activities are undertaken or initiated, just as in ‘real’ organisations. These activities can be exclusively digital, but they can also take place in the real world or in a combination of the two. An example of this is meetings: a fixed core of participants in an extreme right-wing forum use the forum to organise a social event open to all members. In a number of cases these events result in vandalism and violence. In one case, a social event organised by the Stormfront forum was attacked by anti-fascists in order to block the forum members gathered at a station.⁴³

There are many dozens of extreme right-wing forums oriented towards Dutch internet users. A few are directly connected with a party or organisation (forums of the National Alliance, Blood & Honour and of the Racial Volunteer Force). The New Right forum disappeared in early 2006 after the website was closed down by the provider on account of unpaid bills. When a new website was launched it did not have a forum. The Netherlands People’s Union (NVU) does not have its own web forum. The party is a dominant presence on the Dutch section of the Stormfront forum, however, which can be regarded as an alternative to a forum of its own. Of the dozens of forums that are not connected with any organisation there are a few that should be discussed here separately: Stormfront, Polinco and Holland Hardcore.

Stormfront Netherlands and Flanders

The American ‘Stormfront’ website⁴⁴ is one of the oldest extreme right-wing websites on the internet, having been founded in 1995. In 1998 Stormfront was also one of the first websites with a web forum, which was a new application at the time. Two years later a subsection for the Netherlands and Flanders appeared: ‘Stormfront Nederland en Vlaanderen’.⁴⁵

One development that became noticeable with the passage of time is that the forum was initially populated by the leaders of political organisations and many veterans of the extreme right. Later most of them disappeared from the forum. Too often the forum’s supposed effectiveness as a recruitment and educational tool has proved false: in the rapid coming and going of new members there was little evidence of growth. In addition, the forum turned out to be good for little more than fighting out differences of opinion in public.

⁴³ ‘Arrestaties bij confrontatie antifascisten en Stormfront’ (Arrests during confrontation between anti-fascists and Stormfront), *Algemeen Dagblad/Utrechts Nieuwsblad* 10 May 2006.

⁴⁴ See <http://www.stormfront.org/forum/forumdisplay.php?f=22> (15 October 2006).

⁴⁵ Kafka, ‘Stormfront Nederland en Vlaanderen’ (Stormfront Netherlands and Flanders), *Alert!* 2005-3.

The Netherlands-Flemish section of the Stormfront forum has not changed in character since the publication of the last Monitor report. Participants are mainly oriented towards national-socialism: illegal remarks and appeals are a regularly occurring phenomenon. The forum moderators frequently intervene in discussions by changing or removing postings or by temporarily or permanently denying access to certain participants. These are usually practical interventions, however, made for the purpose of keeping participant quarrels under control, removing data that might be sensitive to privacy or protecting the site's own status. Illegal texts are rarely removed, if ever.

The contents of texts on this forum was reason enough for MPs Van der Staaij (SGP) and De Nerée tot Babberich (CDA) to direct Parliamentary questions to the ministers of Justice and Foreign Affairs. Minister of Justice Donner indicated in his answer that a legal investigation of Stormfront had been initiated,⁴⁶ but no real progress has been made. In March 2006 this prompted parliamentarians Sterk (CDA) and Wolfsen (PVDa) to call the government to take serious legal action against hate speech on the internet. The systematic failure to take legal intervention has not gone unnoticed in the Stormfront community and has led to remarks on the order of 'no one can touch us'.

Polinco

Like the Dutch section of Stormfront, the web forum Polinco⁴⁷ (a contraction of 'Politically Incorrect') was also formed in 2000. That forum has been a repository for right-wing extremists and xenophobes of every stripe ever since. Anti-Semitism and conspiracy theories constitute the dominant tone, thanks in particular to the owner of the forum, who lives in the United States. She is also largely responsible for the turbulent existence of Polinco. Important forum participants are removed with quite some regularity, and she even took it upon herself to close down Polinco 'for good' a number of times. Polinco has recently declined in significance and size.

Holland Hardcore

The Holland Hardcore website⁴⁸ has existed since 2003 and was set up as a meeting point for extreme right-wing gabbers (the 'Lonsdalers'). The website – and in particular the site's forum – was a quick success. The forum now has more than 8,000 registered users. Initially the site was fully focused on the interests and activities of extreme right-wing gabbers. In addition to a vast amount of information about music and parties, extremist statements about the multicultural society and calls to commit violence were recurring phenomena. After some time the website moderators sought to create closer ties with various extreme right-wing organisations. As a result the moderators of Holland Hardcore began to promote these organisations on their website actively. At the same time, representatives of these organisations discovered in Holland Hardcore a place where they could reach potentially interested young people. The upshot has been an increase in the number of participants in the forum, which has no connection with the gabber culture. They use the forum mainly for recruitment, calls to action and propaganda. Holland Hardcore is also a repository of radical, illegal statements, calls to violence and the sowing of hatred.⁴⁹

⁴⁶ *Aanhangsel Handelingen II 2004/05* (Appendix to the Proceedings), 2128.

⁴⁷ See <http://www.polinco.net/forum>.

⁴⁸ See <http://www.holland-hardcore.com>.

⁴⁹ Kafka, 'Onder de loep: Holland Hardcore' (A closer look: Holland Hardcore), *Alert!*2006-1.

Numerical support: members and active core

As in the previous reports, an attempt will be made (partly based on well-reasoned estimates) to present a numerical overview of the supporters of the extreme right.

In the elections results of March 2006 there was no striking departure from earlier elections. The electoral support of the extreme right-wing parties today – October 2006 – can be called extremely modest: in March 2006 one municipal seat was won (New Right, Ridderkerk).⁵⁰ On the other hand there was the loss of two Rotterdam district council seats that had been gained by the New National Party (Nieuwe Nationale Partij; NNP) in 2002 – one of which was occupied by National Alliance leader Teijn. In addition, Michiel Smit, leader of New Right, lost the council seat that he had gained in 2002 through the Liveable Rotterdam list. That takes care of the electoral support. Estimating the total memberships, as has been repeatedly pointed out, is a tricky business. During the previous Monitor period developments took place that make counting extra difficult: the decline of a few ‘formal’ organisations (political parties) and the emergence of ‘informal’, diffuse affiliations. For this reason, the following numerical data should not be regarded as totally absolute in terms of significance.

Table 6.1
Membership and active core of extreme right-wing groups, October 2006

Group	Membership/Adherents	Active
Political Parties	Approximately	Approximately
New Right	400	10
National Alliance	60	10
Netherlands People’s Union	100	30
Organisaties	Approximately	Approximately
Outpost	30	10
National Movement	20	5
Society of Dutch Nationalists	50	5
Nationalist People’s Movement	25	10
Neo-Nazi affiliations	Approximately	Approximately
Racial Volunteer Force (including occasional adherents)	70	25
Blood & Honour Netherlands (including occasional adherents)	220	30
Total	Approximately	Approximately
	975	135
Extreme right-wing gabbers (the Lonsdalers)	a few thousand	-

⁵⁰ Also see J. van Donselaar, Gemeenteraadsverkiezingen 2006 (2006 municipal elections). *Onderzoeksberichten* (Research reports), <http://www.monitorracisme.nl/content.asp?PID=99&LID=1> (7 September 2006).

Conclusion

The extreme right-wing political parties in the Netherlands are of little electoral significance. This can be explained by several factors. One factor of the most insistent factors at the present time is the ‘profile problem’. Ever since the ‘Fortuyn revolt’ politicians have been taking tougher positions on the ‘aliens issue’ and this is also true of government policy. This is threatening to extreme right-wing parties because their political exclusivity is adversely affected. It blurs the distinction between established politicians and cabinet on the one hand and extreme right-wing politicians on the other, forcing radical right-wing politicians to create new profiles. Obviously they choose to become more radical, but radicalisation also has its risks. There is the risk of judicial intervention, for example, which could result in a ban on the organisation. Problems of public perception can also arise, with the group being seen as a criminal, national-socialist organisation. So within the borders of formal political activity, radicalisation is a risky option. It may not be coincidental, then, that there is a noticeable tendency to radicalise outside those borders, particularly out on the streets.

With other politicians and parties taking tougher positions on the ‘aliens issue’ we begin to wonder to what extent they themselves are making inroads into the extreme right-wing spectrum. This question mainly applies to the Fortuynist political groups. In the fifth Monitor we spent a great deal of time discussing the extreme right-wing and racist content of the LPF/Liveable movement.⁵¹ At this point a comparable study would be interesting but premature. Indeed, as this chapter is being completed (October 2006) the election platforms for the November 2006 parliamentary elections are trickling in and there is still insufficient insight into the party’s positions, candidates and constituency. It is too early to answer any specific questions about the extreme right-wing or racist content of the various Fortuynist groups today, so we must put those questions aside for now.

The problems of extreme right-wing gabbers – the ‘Lonsdalers’ – have increased sharply in recent years. The publicity may have ebbed away somewhat, but the problem has not lost its relevance by any means. It still involves probably a few thousand young people with a more or less racist, extreme right-wing orientation. Moreover, the extreme right-wing gabber scene is a site of radicalisation: several neo-Nazi groups have their roots in the circles of extreme right-wing gabbers. Compared with the extreme right-wing Lonsdalers, these groups are more tightly organised and exhibit an outspoken extreme right-wing ideology (read: national-socialist) in which the use of violence is justified. This is how the Dutch branch of the skinhead organisation Blood & Honour was given a powerful impulse. In view of the rapid growth of these groups, as well as their reputation for radicalism and violence, this development is cause for concern.

In extreme right-wing demonstrations there is more and more tolerance on the part of the police and the courts. Their focus is primarily on maintaining order, while hardly anything is done in response to breaches of legal order, such as prohibited discrimination. This causes shifts in the borders of what is permissible, and during such demonstrations racist displays are not uncommon. To cope with the many problems of extreme right-wing demonstrations –

⁵¹ See J. van Donselaar and P.R. Rodrigues, *Monitor racism en extreem-rechts. Vijfde rapportage* (Monitoring racism and the extreme right. Fifth report), Amsterdam: Anne Frank Stichting/Leiden University, 2002, pp. 59-88.

such as maintaining order *and* taking action against breaches of legal order – a manual was compiled in 1996 by the Board of Procurators General. It is regrettable that this manual has sunken into obscurity.

This practice of turning a blind eye is also characteristic of government policy with respect to the extreme right-wing web forums. Judicial intervention is systematically curbed while the stream of illegal displays continues, day in and day out. Not only are these displays discriminatory and racist, but more and more of them also justify or even encourage political and racial violence. A terrorist discourse is beginning to take shape. This development, certainly in combination with the radicalisation from the extreme right-wing gabber scene mentioned above, is also reason for concern.

Radicalisation of Muslim youth

Frank J. Buijs, Froukje Demant and Atef Hamdy

Modern Islamic radicalism emerged in the mid-twentieth century and was presented as an ideological alternative to capitalism and communism.¹ The problems of colonialism, economic stagnation and social chaos would have to be dealt with in such a way that Islamic identity would be brought to the fore, strengthened and renewed. Initially the influence was limited; it was only during the eighties that radical movements acquired more followers in the Middle East, partly because they received support from dictatorial regimes in order to avert the ‘Marxist danger’. Radical Islamic propaganda met with little response in Western Europe, but all that changed at the beginning of the twenty-first century. The attacks of 11 September 2001 in the United States clearly showed that the world had become one big, globalised battleground where Islamic radicalism operated as a violent force. That year the target was the United States, the policeman of the world, and for the time being the Netherlands seemed to be sheltered from the storm. On 6 May 2002 the politician Fortuyn was murdered. In and of itself the murder had nothing to do with Islamic radicalism, but the event was decisive for the political climate in the Netherlands and for the way later attempted murders would be perceived. On 11 March 2004 a series of horrific bombings took place on trains in Madrid. Now the danger was closer, and it became clear that Islamic radicalism was not going to pass Europe by. The danger was recognisable: what happened in Madrid could also happen in Rotterdam or Amsterdam. In the Netherlands the low point was reached (so far) on 2 November 2004, when an Islamic extremist murdered the filmmaker-columnist Theo van Gogh in a theatrically brutal way. The perpetrator was a man born and raised in Amsterdam-West. He was one of our boys – the enemy was in our own house, and it was that very fact that led to enormous unrest.

7.1 —

Passionate debate

Foreign observers were surprised at the passionate tone of the debate and the expression of anti-Islamic sentiments. In general the reactions in the Netherlands were much sharper and less nuanced than the Spanish reactions to the train bombings in Madrid (March 2004) or the British reactions to the bombs of July 2005 in London. Deputy Prime Minister and Finance Minister Zalm declared ‘this is war’ without indicating who the enemy actually was. During a demonstration on Dam Square in Amsterdam, Minister for Immigration and Integration Verdonk did not refer to Van Gogh’s murderer as an ‘extremist’ but as a ‘Moroccan Dutchman’, thereby using an ethnic-religious designation instead of a political one. Many democratically minded people of Moroccan descent who were also demonstrating on Dam

¹ This chapter is based on F. Buijs, F. Demant and A. Hamdy: *Strijders van eigen bodem: Radicale en democratische moslims in Nederland* (Homegrown warriors: Radical and democratic Muslims in the Netherlands). Amsterdam University Press, 2006. By ‘Islamic radicalism’ we mean radicalism based on a specific interpretation of Islam, the foundations of which were laid by Sayyid Qutb and Abu A’la al Mawdudi. This interpretation connects the pursuit of a return to the ‘pure’ roots of the original faith with a comprehensive programme of political struggle. Some authors use the concept of ‘Islamism’; this is a designation which denotes the effort to make Islam the overall basis for one’s entire life, but it does not have the political connotation of Islamic radicalism.

Square against the murder felt they had been put in the dock and excluded from the anti-extremist front lines.

The passionate and unbalanced character of the reactions can be explained by the fact that the murder underscored a number of existing social and political problems in Dutch society. First was the already heated debate about integration. The murderer of Van Gogh was a properly educated and integrated Moroccan Muslim who embraced an apocalyptic variant of Islamic radicalism. For this reason many commentators interpreted the murder as an expression of the failure of multiculturalism. The friendly consensus approach, based on a benevolent attitude towards ethnic diversity, had failed. The tough alternative – an approach with more assimilationist aspects – was more forcefully propagated. Second, the murder set on its head the traditional notion that religion must play a subordinate role in politics and that religiously charged themes must be discussed in a pragmatic way. The murderer's sloganising and writings caused great unrest and led to emotional appeals for a strict interpretation of the separation of church and state. The third problem that played a role at the time of the murder was that support for the Dutch government had been cut in half and had dropped to one-third of the population – an historic low point. The murder might well have served as an expression of one population group's broader estrangement, but it also raised doubts as to the ability of the government to protect its citizens and to prevent radicalisation. In that situation, the authorities were particularly eager to show they had the necessary energy to keep the situation under control. This manifested itself in heated language that reinforced differences instead of modifying them. So the political effect of the murder was a result not only of the deed itself and the fear it created but also of the fact that it underscored political themes that had deeply divided the country: integration policy, the role of religion in public discourse and the gulf between the government and the population.

7.2

—Extremism

To understand Islamic radicalism, it is instructive first of all to take a somewhat broader look at the concepts of extremism and radicalism. Generally speaking there are four kinds of extremism: left-wing extremism, as we saw with the German Rote Armee Fraktion (RAF; Red Army Faction), the Italian Red Brigades and the Dutch RARA; right-wing extremism, such as the Centriumpartij '86 (Centre Party '86), the Nieuwe Nationale Partij (New National Party) or more fluid configurations; single-issue extremism, such as the Dierenbevrijdingsfront (Animal Liberation Front) or (but this is a complicated case) the Moluccan young people in the seventies who demanded recognition of the republic of the Moluccas, the RMS²; and finally religious extremism. All these extremist groups and movements have a few primary characteristics in common.

- Extremist movements have an ideological basis that is marked by a rejection of the democratic state under the rule of law and a rejection of rules, regulations and values; they defend the values of uniformity over diversity, intolerance over tolerance and violence over dialogue.
- They are driven by the notion of an acute, extraordinary threat. Right-wing extremism thinks the national identity is being threatened; left-wing extremism thinks the

² RMS stands for Republik Maluku Selatan.

working class or national independence is in danger; religious extremism is propelled by the notion that the group's own religious community is in danger of perishing.

- Extremist movements reject the existing national and international order because it is dominated by 'Evil', whose tentacles control almost everything and everyone. Right-wing extremism sees conspiracies everywhere: by the Jews, communists, Freemasons or some kind of world government. Left-wing extremism sees imperialism, especially fascism, as an acute and threatening 'Evil'. Religious extremism sees the crusaders of other religions as the big 'Evil', in particular because they infect the believers in their own circle.
- Extremism envisions a spectrum with 'Evil' at one end and a utopia at the other, usually the utopia of a uniform, harmonious world of people with the same views. Right-wing extremism puts its hope in a society of people that are historically and ethnically the same. Left-wing extremism dreams of a classless society in which exploitation is abolished and all people work and consume in equal measure. The ideal image for religious extremism is a society populated exclusively by true believers.
- Extremist movements point to a chosen class or group as the social force whose task is to defeat 'Evil' and bring about the ideal society. For right-wing extremism these are the people themselves ('het eigen volk'), led by a decisive party. For left-wing extremism it is the working class, led by the communist party. For religious extremism they are the true believers, led by leaders who are close to God. In all cases the advance guard is not only primed for battle but is also engaged in a continuous internal struggle against the temptations and contagions of 'Evil'.
- And finally: they share the notion that violent means are not only justified but also necessary to defeat 'Evil'. Only an uncompromising, violent struggle can purify both the world and the movement's own people. Right-wing extremism glorifies the war of its own people, left-wing extremism glorifies the proletariat revolution against the class enemy, and religious extremism glorifies the crusade against people of different religions.

7.3

—Radicalisation

Radicalism is a catch-all concept that is much broader than extremism. Because of its breadth, we use it mostly in connection with the development of radical ideas. The radicalisation process is a process of 'delegitimation': it has to do with individuals (or groups of individuals) who gradually lose their faith in the established society and the existing rulers, develop a political-cultural alternative and finally arrive at a total antithesis. Understood in this way, 'radicalisation' and 'radicalism' cover a very broad political and ideological spectrum that starts with distrust and ends with the violent resistance that we usually call 'extremism'. Different kinds of radicals begin their journeys of alienation at different points of departure and follow different routes of delegitimation. We can distinguish a few ideal types. The classical left-wing radicals begin with a deep disappointment in the functioning of democracy and must follow a long path to turn themselves from radical democrats to terrorists. The classical right-wing radicals direct themselves primarily against another group that they regard as illegitimate, and then turn against the government and other political actors that protect the 'illegitimate' group. Single-issue radicals start criticizing one point of policy, develop a distrust of the entire policy of the government and end up denying the government's democratic legitimacy. Religiously

inspired radicals start with disappointment in the marginalisation of religion, direct their arrows at weak leaders and apostates, and end with violent attempts to bring about the world order that they attribute to their Supreme Being.

Although the radicalisation process does tend to be rather chaotic and each type of radical has his own specific peculiarities, it is still possible to distinguish three general stages of development. The first phase is that of a *crisis of trust*, in which trust in the existing government is severely eroded and a conflict arises between one group or movement and specific rulers regarding specific policy. There is no evidence of an ideological break as yet, but there is distrust of the establishment. Criticism of the establishment is formulated in ideological terms, and the opposition movement refuses to play the game according to the existing rules. It emphasises direct, confrontational actions and develops countercultural features in its language, behaviour and opinions. In a following stage it is no longer the policy but the legitimacy of the political system that is held up for discussion; this is a *conflict of legitimacy*. The opposition develops an alternative ideology and cultural system that discredits the prevailing regime and its social norms in favour of better ones. In this phase, disappointment and anger over the reaction of the government and/or over the group's own failures is transformed into an ideology of delegitimisation, which formulates a break with the existing political order. For the development of this kind of ideology, elements of existing delegitimisation ideologies are utilised. Confrontational actions are carried out at this stage, but intentional acts of violence against the regime are also committed, albeit on a limited scale. In the last stage, that of the *crisis of legitimacy*, criticism of the society is expanded to include all those who are connected with it. Those persons are dehumanised, and the opposing radicals begin to regard themselves as warriors of light who are out to conquer darkness. The activists develop a new revolutionary morality, a philosophy that turns against the existing norms and values and the behaviour that goes with them. As a social unit, the violent movement is isolated from the outside world; it develops its own reality and its own moral codes, which are imposed as compulsory.

The notion of 'stages of development' might suggest that someone in the process of radicalisation makes well-considered decisions and carefully steps from one stage to the next. Usually this is not the case. Often what takes place is an insidious or slippery process in which the events seem to possess an apparent immanent logic that carries the radical along in a more or less concentrated variant of radicalism. The radical thinks he is resolute actor standing on the world stage, but in reality he is often being led by a blind reaction to events that happen around him.

7.4

—Diversity

After having discussed the common aspects of the different kinds of extremism and radicalisation, we now must turn our attention to the special character of Islamic radicalism and extremism. Muslims throughout the world share the same faith and know they are united as members of the community of Allah's faithful. They share norms and values, and cherish common expectations and hopes. Within this community there is great diversity, including diversity in political-ideological terms. First is a large group of conservative Muslims; they see the world as fundamentally static and immutable. Islam is the definitive religion, with the earliest period being the ideal. The Koran has said all there is to say, and therefore it must be

interpreted literally. The world is divided into spheres of *dar al-harb* and *dar al-islam*, and a struggle is carried on between these two.³

Besides the conservatives there is a *pragmatic school*, which builds on a long-established tradition of associating with capricious tyrants and adapting to changing relationships, the goal of which is to preserve the core of the faith. A small number of Muslims can be typified as *modernist*; they oppose the literal interpretation of the Koran and propagate a more historical interpretation of the revelation. Central to their belief is the notion of moral human autonomy. A fourth school is alternately described as ‘fundamentalist’, ‘orthodox’ or ‘*salafist*’. This school believes that the faith community is being marginalised or even besieged, a situation that has been caused by the abandonment of the principles of the pious forefathers. For this reason the community of faith must return to the source. But because the threat is new, new strategies must be developed at the same time. The salafis share the view that essentially everything has been said in the Koran, that Islam is superior, that a literal interpretation of the Koran is necessary and that a struggle must be carried on to guard against modernism. They also believe that Muslims must protect themselves from the corrupting influence of decadent Western civilisation by strengthening Islamic identity, and that they must carry out missionary work among the non-Muslims. In many cases, salafi groups start as local religious enclaves. Over time they often develop specific ideological characteristics, such as an emphasis on the absolute truth of the faith, an emphasis on the contrast between the forces of good and evil and an emphasis on the coming end times, when the faithful will be put to the test.

7.5 —

Salafis in the Netherlands

Interestingly, within the salafis’ sphere of common piety there is a considerable variety of religious and political views. That used to be different. Before 11 September 2001 there were already three schools constituting separate entities, but they lived in a kind of peaceful coexistence and the differences of opinion were rather unclear. Most followers were not aware of the mutual differences with respect to current political and social themes. The attacks of 11 September, and later the murder of Theo van Gogh, put an end to this peaceful coexistence and led to a pattern of political-religious discussions in which three groups took shape. We call them ‘apolitical salafis’, ‘political salafis’ and ‘jihadi salafis’.

The *apolitical salafis*, who are closely related to the Wahhabi rulers of Saudi Arabia in terms of ideology, strongly condemned and denounced the attacks of 11 September. They take the position that the attacks were un-Islamic and that the perpetrators abandoned the true faith: Islam is love. The apolitical salafis are against jihad in the Netherlands because it is a ‘contracting country’ where Muslims can confess their faith freely. Politics must be left to leaders and scholars, who have the most knowledge of such matters. If everyone casually interfered with politics it would result in irrevocable chaos and anarchy. These salafis are called ‘apolitical’ because they are fiercely opposed to anything having to do with ‘human’ politics. They defend the theocratic point of view: that it is not man but God who must make the laws. In the Netherlands, where Muslims form a minority, they realise this is not a realistic perspective. As long as believers are able to carry out their religious obligations they will accept the existing democratic system.

³ Dar al-harb: the region where non-Islamic rulers reign; dar al-islam: the region where Islamic rulers reign, the sharia is applied and Muslims are allowed to practise their religion.

In the Netherlands they live a secluded existence, and their main activities are confessing the faith and *dawa* (preaching, missionary work). The basic principle is that there is no compulsion in religion, but they must hold up a good example for others. Muslims in the Netherlands should acquire as much knowledge about their faith as possible, live as puritanically and spiritually as possible, and protect themselves from modernism and the negative influence of decadent, sinful Western life. A violent jihad is only permissible if an Islamic country has been attacked and asks for support, and if one's own political leaders and religious scholars grant permission for such an action. Individual citizens may not act as their own judge, since that leads to anarchy. It is important always to pay attention to the statements made by scholars, which must be obeyed. Obedience, respect and loyalty to political and religious leaders are the main focus for these salafis.

The position taken by the *political salafis* regarding the attacks of 11 September was initially less clear. On the one hand they strongly condemned violence against innocent victims, but on the other hand they also showed a certain understanding for the motives of the perpetrators. After the murder of Van Gogh and the subsequent social and political unrest, the political salafis came up with a much more nuanced position regarding violence and life in the West. They even went so far as to call Muslims to turn over to the police any persons who were suspected of terrorism. Because of this great shift in position they are sometimes distrusted and accused of having a double agenda.

The political salafis promulgate an active attitude towards society. They have a basically theocratic attitude and definitely do not see democracy as the ideal social structure, but in the West democracy works reasonably well and offers possibilities for an active political and ideological struggle. In this respect they are pragmatic: if Muslims in the Netherlands are being marginalised, democratic rights must be applied in order to resist it. Voting is certainly permitted to this end and the Dutch legal system may be used. With regard to jihad in the Netherlands, they hold the same view as the apolitical salafis. Because followers of this school have occasionally come in contact with jihadi salafis, a categorical position has been taken within this school regarding violence in the Netherlands: violence is absolutely forbidden, and those who commit acts of violence must be turned over to the police. Islamisation must be based on conviction and not on oppression; only the word may be used and not the sword.

While the apolitical and the political salafis can primarily be characterised in religious terms under the category 'orthodox', the jihadi salafis must be primarily described in political terms as radicals or even extremists. They start with the basic principle that the survival of the *umma* is being acutely threatened, and according to them the Muslim community is in serious spiritual straits. The jihadi salafis get distinctly emotional on this point; they believe that the Muslims are now in a situation of political, social and religious disarray, corruption and depravity. Many Muslims in the Netherlands are selfish and hypocritical, according to them, since the Islam they practise is a weak infusion of the genuine Islam. A core conviction in their thinking is that Muslims have only themselves to blame for the current situation. The decay comes from within because Muslims have not obeyed the will of God. But they also believe that over the course of history a conspiracy of crusaders and Jews has been mounted against Islam. The conspiracy began with the crusades and is clearly visible today in the wars against Iraq and Afghanistan. For this reason the West is responsible for the state of ignorance and victimisation of Muslims throughout the world.

Given the perilous state of the umma, immediate and violent action is the only proper course. The struggle has to be fought against the unbelievers who have violated the treaty they entered into with the Muslims; they are engaged in a crusade. That is why violence must be used in the Netherlands against political leaders, soldiers and parliamentarians. It is not necessary to obtain permission from Muslim leaders and scholars. On the contrary, many of those leaders and scholars have been corrupted themselves, and as ‘the closest enemy’ they should be the first to be attacked. There is also a theological argument that is used to justify violence: Allah, they argue, is not only love; he is also wrathful towards unbelievers and he has come bearing the sword. For this reason only the believer who both worships and uses the sword is a true believer. According to the jihadi salafis, God has destined that a group of righteous, sword-bearing conquerors will always remain to preach and defend the true faith, which they will practise in both word and deed.

While political and apolitical salafis emphasise that Muslims in the West have entered into treaties with the countries in which they live, jihadi salafis are fiercely opposed to making compromises with unbelievers. The truth is clear, and everything that is different is unbelief and should be opposed. Democracy is hopeless as a system, and a compromise between Islam and democracy is absolutely forbidden. There is nothing that can be learned from others, and treaties and compromises can only lead to *fitna* (chaos). Since they live in Dutch society they will have to abide by Dutch laws for the time being, but there can never be any recognition of those laws. Jihadi salafis do not vote because voting for people implies attributing to them a quality of God – that of the lawmaker – and that is idolatry.

7.6 —

Political struggle in crystallised form

These three schools are engaged in a crystallized political struggle. In the interviews we held with salafis, we kept hearing the same arguments over and over again. This means there is a developed *discourse*, an elaborated pattern of reasoning. The young people from the various schools are well aware of the arguments they can use to challenge each other. Political salafis have a specific criticism of the docile way that, according to them, the apolitical salafis associate with certain Saudi scholars and leaders. They also criticise the apolitical salafis for being unwilling to adapt to their environment in any way, for not being willing to engage in reflective thinking, and for only being interested in applying strict rules about what is and is not permitted.

From the other side, the apolitical salafis blame the political salafis for being hypocrites and for essentially supporting the jihad. They accuse them of being wolves in sheep’s clothing who have moderated their tone because they have been in the public eye since 11 September 2001. The jihadi salafis are totally on the wrong track, of course, according to the apolitical salafis. They want to force people into belief by means of violence, and the apolitical salafis say that is never a good idea. Above all, the jihadi salafis charge people with heresy while, according to them, they have absolutely no right to do so: only God knows what is in the human heart. Apolitical salafis take for granted that people make mistakes and need time to recognise their errors and correct their behaviour. The only way people can be put on the right path is by training, and that is why the focus must be on *dawa*, not on jihad. According to the apolitical salafis, jihadis are on the wrong track out of ignorance. They aren’t following the right scholars or they haven’t engrossed themselves deeply enough in what is being preached to them. They are emotional young people, moreover, who want to follow their first

impulse, and they have no patience whatsoever. The apolitical salafis speak rather scornfully of ‘boys who rely on Arabic texts that they themselves can’t even read’.

This criticism is shared by the political salafis: the jihadi salafis are said to be ignorant, naïve and, moreover, violent by nature. The political salafis get annoyed at young people who, according to them, have just discovered Islam, don’t even pray or fast and don’t hesitate to pronounce fatwas concerning big questions such as jihad and *takfir* (declare someone an unbeliever). The people they appeal to, according to this criticism, are not real scholars.

The jihadi salafis, in turn, see the apolitical and political salafis as weak and passive because they supposedly construct their belief based on their own desires, which means they are not following the will of God. In their eyes, these other salafis follow only the ‘easy’ rules of the faith such as fasting and praying, but they avoid the heavy tasks such as deposing corrupt leaders and carrying out jihad. So essentially the followers of the different schools make use of the same arguments to blacken each other’s good name: the other is always weaker because he follows his own desires instead of the will of Allah.

The jihadi salafis attribute the other salafis’ aversion to jihad to cowardice and spiritual despondency. They are convinced that violence is necessary to propagate Islam and that the Prophet would not have done anything differently if he were living in times like these. While the political and apolitical salafis argue that the jihadi salafis do not follow the right scholars or do not listen closely to the scholars they have, the jihadi salafis have their own criticism of the others’ scholars. They claim that these scholars are corrupt because they use their knowledge to serve the political rulers in Saudi Arabia in exchange for protection, jobs and dollars; for these reasons they sometimes call these scholars ‘scholars for dollars’. They also accuse them of being disloyal and inconsistent because they approve of jihad in Afghanistan but are now against jihad in Iraq.

For outsiders this kind of mutual struggle often has the ring of a ‘secret language’ and seems to be based on trifling and incomprehensible differences of opinion. For the salafis these discussions have to do with the essential questions of life and faith. And such discussions are decisive to whether jihadism will increase or decrease in strength. Since the murder of Van Gogh, the jihadi salafis have had to listen to an enormous amount of criticism from their closest ‘brethren’. Nephews and nieces, friends from the mosque and neighbourhood boys are increasingly telling them: ‘Knock it off. You’re only making matters worse’. The political salafis’ explicit stand against violence and for involving the police and the courts has been a milestone. The initial, scattered admiration for the jihadis’ devotion seems to have changed into abhorrence and disgust at their religious frenzy and adolescent fascination with violence. But make no mistake: it is too early to claim that a definite reversal has taken place in the struggle within the Muslim community. And it certainly does not mean that the danger of Islamic extremism is now subsiding. On the contrary, it is when the ideological basis of violence is being tinkered with that violence becomes more chaotic. But the internal debate now provides an important opportunity to isolate the jihadis and strip them of sympathisers.

7.7 —

Causes of radicalisation

What is causing the spread of radical Islamic ideology among young Muslims in Western Europe? We have identified four different causes:

- at the level of international relations;
- at the national social level;
- at the level of second generation Muslim youth;
- at the individual level.

Causes at the international level refers to centres of struggle on the global stage: Israel and Palestine, Kashmir, Chechnya and also national areas where militant Muslims struggle for forms of independence and authority. We have not investigated the effects of these forms of struggle on radicalisation in the Netherlands, and for this reason we are not discussing the theme any further here. Causes at the national level generally refer to matters such as socio-economic disadvantages, ghetto formation, discrimination, exclusion, etc. The basic idea is that these social factors lead to indignation and outrage among young Muslims and therefore create a 'breeding ground' for radicalisation. This is a rather simplified version of reality, since the same situation is often interpreted in different ways. The social situation is 'translated' by the political vanguards, who use it to offer rationales from which individual Muslim young people can choose, as it were. The vanguards engage in mutual political struggle. In the Netherlands at this moment there are both a democratic and a radical vanguard who are engaged in a struggle over themes such as the sense of discrimination, the idea that the West is threatening the Muslim community, the positive and negative aspects of Western civilisation, the place of Islam in politics and the legitimacy of the democratic political system. In general it can be concluded that the receptivity to radicalism increases to the extent that:

- disadvantage, discrimination, etc. are not seen as the mistakes of a good system but as the expression of an essentially bad system;
- the underprivileged situation is seen as the expression of a cultural-religious and political contrast;
- the idea exists that the Islamic identity must be developed in an enclave distinct from Western society;
- there is no trust in the political institutions and the democratic system.

Causes at the generational level have to do with characteristics that are specific to second-generation Muslim young people. Their situation is marked by individualisation at the level of social connections, value preferences and personal choices other than consumer choices. In socio-cultural terms, Moroccan young people have a hybrid identity: they feel Moroccan, Dutch *and* Muslim. They have to deal with an environment in which some aspect of themselves is always beyond comprehension.

In this respect young Muslims are different from their parents, and that can lead to a deep generation gap. As a result of all this, they frequently experience problems when it comes to identity, connection, imparting meaning, self-confidence and recognition. These problems can be only be partially overcome by the development of bicultural capacities; the problem of recognition in particular is one that continues to exist. From this context, striving to reinforce one's Muslim identity, which promises self-confidence, pride and clarity, is an attractive alternative. In principle, Muslim young people can choose from all the existing interpretations of Islam. The attraction of the salafistic interpretation lies in the fact that it gives the young person something to hold on to, it emphasises the superiority of the faith and it seems to have answers to all of life's important questions.

Individual patterns

The question remains why some individuals who find themselves in the same situation become radicalised and others do not. In order to answer this question, we will consider three points: *how* does the radicalisation process work, *who* becomes radicalised and *why* do they become radicalised?

How: radicalisation is a process in which individuals increasingly lose faith in the political system. In this process three stages can be identified: the breach of trust, the legitimacy conflict and the crisis of legitimacy. A large number of the Moroccan young people in the Netherlands find themselves in the breach of trust phase: they distrust politics and feel betrayed by the media because they project a negative image of Islam. Even the most democratically active young people have extremely negative things to say about the media. This is an alarming fact because this distrust also implies a certain estrangement from society. A much smaller group of young people are in the next stage of the radicalisation process: the apolitical and the political salafis find themselves between the breach of trust and a legitimacy conflict, and the jihadi salafis between a legitimacy conflict and a crisis of legitimacy. It is important to note that not everyone experiences the process of radicalisation in stages; some young people will move quite quickly from the breach of trust to a jihadi group, thus taking a big step towards extremism all at once. So while radicalisation for some is a slow process consisting of many steps, others can develop into extremists at lightning speed. Conversely, young people who end up in an apolitical or political salafi group might be guarded from further radicalisation. For some young people, therefore, these salafi groups form a stepping stone to further radicalisation, but for others they constitute a buffer against it.

Who: little is known about the persons who become radicalised. What we do know is not very specific and therefore not very distinctive: Islamic radicals in Western Europe today are generally second- or third-generation immigrants of North African and Asian extraction; younger and younger radicals are appearing; and female radicals are on the rise (although male radicals still constitute the vast majority). They come from the lower class, are of varying educational levels and are often 'born again'. Although we do have some insight into the sociological hallmarks of Islamic radicals, these hallmarks do not seem to be decisive in explaining radicalisation.

Why: more is known about the circumstances and motives of radicals than about their personal characteristics. Three factors play an important role: feelings of alienation and uprootedness, experiences of existential doubt or of a breaking point in their lives, and the experience of relative deprivation. We know that many young people wrestle with their hybrid identity and the lack of understanding for that identity from within their own environment. This makes some young people feel uprooted: they aren't 'real' Moroccans like their parents of the first generation, but neither do they feel like real Dutch people, and 'native' Dutch people do not treat them as such. They have a strong need to connect and to 'belong to something'. In the various salafi groups they find the warmth and the subculture that they're looking for. This is the socio-cultural dimension of radicalisation.

In puberty, young people search for the answers to questions like 'who am I?' and 'what is the meaning of life?' Moroccan young people generally interpret this search in terms of their

religious identity: they look for a satisfying explanation of what it means for them to be a Muslim. For some young people this search is more acute than for others because they have strong existential doubts or because a particular event in their lives has made them feel they have reached a breaking point. These young people have a need for meaning and for something to hold onto, and this they find in the salafi ideology. While they become more and more convinced of the rightness of their orthodox religious interpretation, this orthodoxy also makes them increasingly sensitive to the depravity of the West. Only Islam can purify the world of this wickedness and immorality. This is the religious dimension of radicalisation.

A great many Moroccan young people feel excluded and discriminated against by their Dutch surroundings. Highly educated young people in particular experience relative deprivation. They have the feeling that they are working hard to attain a good social position, yet they achieve less than their native peers. It takes them longer to be offered an internship and they have more difficulty achieving a good position in the job market. For many this leads to anger and frustration. In addition, many young people experience strong solidarity with their 'oppressed brothers' in the rest of the world as a result of the emphasis on their Muslim identity. They empathise with the Muslims in Iraq, Chechnya, Palestine and Afghanistan. This reinforces their image that Muslims all over the world are being oppressed. For some, this sense of injustice is so deep that they turn away from Dutch society and embrace the jihadi ideology. This is the political activist dimension of radicalisation.

In principle, radicals are not suffering from psychic disorders, at least not any more than non-radicals are. We do suspect that certain personality traits, in interaction with the environment, can lead to greater receptivity for radicalisation. These psychological characteristics can be interpreted as either positive or negative: romanticism can manifest itself as a longing for utopianism, which can also take the form of sectarianism. And the longing for justice can take the form of solidarity or be expressed as a fixation on vengeance. Most radicals will possess all these characteristics in varying degrees, but one will be of greater importance to the one radical than to the other.

Although there is often talk of 'autonomous' radicalisation or 'spontaneous combustion', it is rare for someone to be radicalised entirely on his own. Most people pass through this process within a group. The processes that are taking place on the individual level can be reinforced by socio-psychological processes within such small groups.

One might think of the development of a radical subculture and sectarian tendencies. The subculture forms the context for and the manifestation of notions about the ideal life, and, with its alternative norms and values, it constitutes a response to the present society. Within these small formations members can exchange ideas about the various dimensions of radicalisation: the activist enthusiast finds there is more attention being paid to religious questions, the subcultural enthusiast develops ideas about Islamic solidarity, and the religious enthusiast experiences the meaning of an orthodox or radical subculture. The group process can go one of two ways: it can lead to a more inclusive radicalisation, but it can also serve to temper jihadist tendencies and to tone down the radical ideology. It is not yet possible to predict how it will go in the Netherlands.

Conclusion

In the two years that have passed since the murder of Van Gogh, the debate on Islam, integration and extremism seems to have entered somewhat calmer waters. The worst polarisation has disappeared and opponents are sometimes prepared to listen to each other again. That's on the plus side. But the political differences involved in the study of extremism are still with us. When we started our investigation of the radicalisation of Muslim young people, some people accused us of participating in the anti-Islam hype and said our work would stigmatise Muslims. We believe we have brought about just the opposite. Indeed, a carefully conducted investigation of Islamic radicalism makes it possible to distinguish between democrats and radicals, between orthodox Muslims and preachers of violence. In this respect we have actually helped liberate the Muslims of the Netherlands from the association with sharia and jihad.

Muslim young people who are searching for an interpretation of Islam that they can regard as true are being deluged by information from orthodox circles. Films, publications, translations, sermons, websites – in every area the orthodox contribution is dominant. These efforts deserve plenty of space, since that is what freedom of religion is all about. But it would be good if inquisitive Muslim youth could also come in contact with more pluralistic interpretations of Islam: modern variants that are closely connected to the reality of Western Europe, the reality in which Muslim young people are living. That is freedom of religion, too. Fortunately, national and local governments are more and more prepared to play a role in this regard. Just take summer universities for highly education Muslim young people, courses for imams, urban inter-religious discussion groups, support for translations and websites run by modernist Muslims and field workers with a broad knowledge of Islam.

Yet there are two issues that we think will be the focus of quite some struggle in the years to come. The first has to do with the role of the non-violent salafis. The central question is whether these 'salafi dawa' function as a stepping stone to jihadism or whether they throw up a barrier to that same movement. Many researchers argue for the first. We think that the barrier vision is more likely, although our choice is nowhere near certain and only time will tell. The result of this discussion will be decisive for the kind of relations that will be maintained with orthodox Muslim organisations in the Netherlands, and that in turn will be decisive for the successful isolation of the real jihadis.

The second issue has to do with the way the fight against extremism should be conducted. An open society finds itself extremely vulnerable in the presence of extremism and violence. Fear can give rise to the tendency to see the difference between democracy and extremism as the difference between good and evil, between the party of God and the party of the devil. There is no room in such a scenario for reflection on any possible shortcomings of democracy – that would only play into the hands of the extremists and would undermine our valuable system! And in such a scenario it is necessary to fight not only the extremists but also their radical 'fellow travellers'. That is the approach known in the United States as McCarthyism. Such an approach may seem effective, but it is based on the idea that democracy is a hothouse plant. The other approach is based on the power of democracy, which in the past century succeeded in defeating several forms of extremism and in encouraging their followers to take part in the democratic process. Such a democracy sees extremism not only as a danger but also as an opportunity for tackling dissatisfaction among segments of the population. To sum it all up: a frightened democracy shrivels and petrifies, but a confident democracy

develops its power and persuades its citizens. There's going to be a great deal of political discussion on this point in the coming years.

Deradicalisation: lessons from Germany, options for the Netherlands?

Sara Grunenberg and Jaap van Donselaar

After the murder of Theo van Gogh, the issue of expressions of racism and extremism among young people assumed large proportions and attracted a great deal of interest. In response, the decision was made to take a closer look at the problem within the context of the *Racism & Extremism Monitor*. In the ensuing report, *The Lonsdale Problem* – published in 2005 – attention was paid to recurring questions concerning the degree of racism and right-wing extremism among the Lonsdale youth. Do extreme right-wing gabbers constitute a youth culture, or are we instead dealing with a form of juvenile delinquency? In addition, an attempt was made to estimate the numbers of extreme right-wing gabber groups and the incidents in which extreme right-wing gabbers were involved. The various responses to the Lonsdale problem were also examined. So far the problem has occurred only on a small scale in the Netherlands, which means little experience has been gained in formulating specific policy that addresses extreme right-wing young people. Because we can learn from experiences acquired elsewhere, a sketch has been made (in connection with the description of the reaction patterns in the Netherlands) of the so-called ‘exit’ initiatives in Norway, Sweden and Germany. The present chapter in this report can be regarded as an attempt to delve more deeply into what was said about deradicalisation in *The Lonsdale Problem*.

8.1 —

The extreme right and deradicalisation projects: a few basic principles

One of the first times that the problem of non-organised, extreme right-wing, racist youth groups manifested itself was in Great Britain around 1980. This occurred under various labels and names, the most well-known being the British Movement. The growing problem – mainly anti-social behaviour in public, acts of violence and criminal manifestations of racism – more or less coincided with the decline of the racist, extreme right political party the *National Front* in the last seventies. Because both developments took place during the same period, the suspicion arose that there might be some kind of connection between them. The British political scientist Layton-Henry suggested that a reverse connection might exist between extreme right-wing electoral success and street politics.¹ In a nutshell: strong in the street, weak in the elections, and vice versa. Although the correctness of this connection has been much discussed, it does seem to provide an accurate description of the current situation in the Netherlands. The picture of right-wing extremism in the Netherlands today differs considerably from that of roughly ten years ago, when extreme right groups were represented in the national parliament and in dozens of city councils. The situation at that time left its mark on the approach to the extreme right as a problem: the primary focus was on organised connections, i.e. extreme right-wing parties, their leaders, their presence in democratically elected organs and their attitudes expressed in the form of street demonstrations.²

¹ Z.Layton-Henry, *The politics of race in Britain*, London: George Allen & Unwin 1984, p.118.

² J. van Donselaar, *De staat paraat? De bestrijding van extreemrechts in West-Europa* (Is the state prepared? Combating the extreme right in Western Europe), Amsterdam: Babylon De Geus 1995. J. van Donselaar, *Monitor racisme en extreem-rechts. Eerste rapportage* (Monitoring racism and the extreme right. First report), Leiden: LISWO 1997.

There is a danger that today's thinking about right-wing extremism as a problem is being overly influenced by the extremism of the past. With the focus primarily on the organised, electorally oriented variants of right-wing extremism, there may be a tendency to underestimate the significance of the problem today. After all, the extreme right-wing parties are of fairly limited significance at the moment. There is also a chance that the diffuse 'street variants', with their low degree of organisation and their relatively low ideological content, will not be seen as an extreme right-wing phenomenon. The change in form necessitates a different approach. While retaining the existing set of instruments, which are primarily geared towards the core of formal organisations, strategies must be sought that are not aimed at the core so much as the peel.

The problem of diffuse, extreme right-wing groups of young people has become very serious in the Netherlands. It is not a new problem in and of itself, but the increased size of the problem certainly is.³ Because this increase is so recent, the Netherlands has little experience in formulating policy that is specifically intended for extreme right-wing groups of young people. This is not true in a few Scandinavian countries and in Germany. Because we can learn from experiences acquired elsewhere, a brief sketch of deradicalisation initiatives in Norway, Sweden and Germany was included in a previous Monitor report (*The Lonsdale Problem*). These initiatives all have a common goal – to help young people abandon the extreme right circuit – but they work in different ways. It was not possible to present more than first impressions of these activities within the scope of the *Lonsdale Problem* research project. As a result, an important question remained more or less unanswered: what are the experiences in terms of success and failure? That is what this chapter is all about. What we gradually discovered, however, was that obtaining relevant published data was quite difficult. For this reason we decided to consult with key persons in Germany and to ask them about the deradicalisation projects. The intention was not to formulate a kind of evaluation but to gather information for the purpose of implementing deradicalisation strategies in the Netherlands. What follows is a report of our findings and an attempt to plot out some lines for the Dutch situation.

8.2 —

Deradicalisation in Germany

In Germany, as in the Netherlands, there is a wide range of extreme right-wing parties, organisations and persons. But Germany has been struggling with a subculture of organised extreme right-wing groups of young people much longer than the Netherlands has. Many young people from Eastern Germany in particular are associated with skinhead groups and neo-Nazi *Kameradschaften*.⁴ Since the Wall came down, the number of extreme right-wing young people has skyrocketed. There are now about 39,000 right-wing extremists in Germany.⁵ At least 28 extreme right-wing offences are committed each day, two to three of

³ J. van Donselaar, *Monitor racism & extremisme: Het Lonsdalevraagstuk* (Monitoring racism & extremism: The Lonsdale problem), Amsterdam: Anne Frank Stichting/Leiden University 2005.

⁴ In Germany a distinction is made between four different forms of extreme right-wing extremism: political parties, neo-Nazi groups, violent, extreme right-wing skinheads and political commentators (source: [http://www.verfassungsschutz.de/de/arbeitsfelder/af_rechtsextremismus/\[07.09.2006\]](http://www.verfassungsschutz.de/de/arbeitsfelder/af_rechtsextremismus/[07.09.2006])). The *Kameradschaften* mentioned here are among the neo-Nazi groups. Differences may arise between the *Kameradschaften* and the skinhead groups, such as their degree of ideological, national-socialist orientation, but in recent years the border between the two categories seems to have become blurred (source: Hessisches Ministerium des Inneren und für Sport (2005). *Verfassungsschutz in Hessen Bericht 2004*).

⁵ Bundesministerium des Inneren (2006). *Vorabfassung Verfassungsschutzbericht 2005*. Bundesminister des Inneren (1990). *Verfassungsschutzbericht 1990*.

them involving violence.⁶ So Germany also has an entire spectrum of programmes for fighting and preventing right-wing extremism, including the various deradicalisation programmes that were started around the year 2000. These are designed for members of extreme right-wing groups and offer them support in their efforts to abandon such groups. During the last years fifteen to twenty projects in Germany have emerged that are devoted to the deradicalisation of right-wing extremists. Although the programmes in Germany have undergone enormous growth and more and more new programmes have been added in recent years, no published evaluations have emerged. For this reason we have assessed these deradicalisation programmes on their merits, with an eye to possible implementation in the Netherlands.

The following specific questions were asked:

- Who are the dropouts and what is their background?
- How does a ‘withdrawal process’ work?
- What authorities are responsible for the programme?
- How many people have withdrawn through the programme?
- What are examples of good practice and bad practice in deradicalisation programmes?
- What should we look out for when implementing such a programme in the Netherlands?

Our study began with an examination of the literature on German deradicalisation programmes. This did not provide us with very much material however, because many programmes choose to practise a certain reticence in their responses: there was little information available, and what was available revealed a rather rosy picture. Gradually it became clear that our questions would not be answered on the basis of the literature. So we posed our questions directly to key persons in the deradicalisation programmes. In April and May 2006 we visited various programmes, and while we were there, we conducted extensive interviews. Because this approach was labour-intensive we had to be selective in choosing the programmes we wanted to evaluate. We based our choice on the diversity of the various programmes. Despite their basic commonality, there are many differences among the various German deradicalisation programmes. Target groups can differ (key persons, experienced activists, hangers-on or sympathisers), methodologies vary, and the organisational designs can be dissimilar (NGO vs GO). Some projects are planned at federal level whereas other projects are at the state level. For this reason we chose four very different programmes: the nationwide operating NGO programme *EXIT-Deutschland*, the federal government programme and two government programmes at state level (Hesse and North Rhine-Westphalia). Table 8.1 shows the diversity of these programmes in diagram form. Each programme will be discussed below separately.

⁶ Mut gegen rechte Gewalt (2006). Mindestens 28 rechtsextreme Straftaten am Tag. Bron:<http://www.mut-gegen-rechte-gewalt.de/druckartikel.php?id=3 &ka t=10 &artikelid=2037> (23.08.2006).

Table 8.1
Diversity of investigated deradicalisation programmes

	Target group			Organisation		Level	
	Top	Activists	Hangers-on	NGO	GO	Federal	State
EXIT-Deutschland		X		X		X	
Government programme	X	X			X	X	
Hesse		X	X		X		X
North Rhine-Westphalia		X			X		X

8.2.1 —

EXIT-Deutschland

This NGO project was the first deradicalisation programme in Germany. It was set up by Bernd Wagner and the ex-neo-Nazi Ingo Hasselbach and was launched in 2000. The ‘average’ dropout in the *EXIT-Deutschland* programme is male, between eighteen and twenty-five years of age and spent two to six years as a member of a skinhead group or a *Kameradschaft*. There is a higher proportion of dropouts in western Germany and in the urban areas. The vast majority of the dropouts have a criminal record. Most drop out because they realise their extreme right-wing activities will lead to a vicious circle with negative consequences for their future.

EXIT-Deutschland does not establish contact with potential dropouts. *EXIT* mainly tries to become known by appearing in the media. The dropout himself⁷ must then take the initiative and make contact with the project. The first step in the EXIT process consists of sketching a general profile of the person. Bernd Wagner explains: ‘We have to know what worldview he has. Why does he want to leave the group? How determined is he? What are his goals?’ Then the potential problems must be identified. These are problems concerning the person’s degree of reflection: analysing his own situation, putting it into words and shaping a realistic view of the future. But his needs and fears should also be examined. Safety is an especially important subject in the exit process, a subject that requires a great deal of attention. Another important point is socio-economic security. Bernd Wagner continues:

Does the dropout have a place where he can work without danger to his safety? Or does he receive government benefits? Does he have a place to live that satisfies the safety requirements? If so, does the benefits agency pay the rent for this dwelling?

Building up a social network is also extremely important. Dropouts often have to find new friends outside the extreme right-wing group.

Another important part of the exit process consists of psychological questions. There is a good chance that a dropout will have to deal with psychological problems during the EXIT process. The dropouts have lost their friends, they’ve lost their worldview and they’ve lost the positive self-image that was derived from the extreme right-wing ideology. Suddenly

⁷ For the sake of readability we are using the male pronoun, although female dropouts also exist.

there's a gap that has to be filled. Here the support of the programme is important. Yet dropouts must still come to terms with the extreme right-wing ideology they followed and the crimes they've committed. In this regard it is important that the perpetrators develop a feeling for their victims and for the impact their deeds had on the victims' lives. They also have to learn to stop seeing the government as an enemy and ultimately to accept the values of democracy.

The duration of such an exit process differs considerably. Usually the dropouts receive guidance for between six months and three years.

EXIT-Deutschland is not a government agency but an NGO, and unlike the government programmes it is not part of a network of several government agencies. So the project has no steady partners. For each individual case a search is conducted for suitable forms of cooperation. This has resulted in a loose network of acquaintances who collaborate with the initiative.

Today the project works with four staff members who are paid from government subsidies. Additional staff are also called in for specific projects, if necessary. In general, we were told, the financial situation of *EXIT-Deutschland* is problematic: 'The project simply has insufficient financial resources to provide all the dropouts with proper guidance.' For example, paying travel expenses to visit a dropout in another state can constitute an insurmountable problem, which means sometimes potential dropouts cannot be admitted to the programme. Occasionally the danger zones in the dropout's environment can only be identified by telephone contact, so there is hardly any personal guidance to speak of – at a remote distance at the very most. Yet in recent years *EXIT-Deutschland* has pulled about 230 dropouts from the extreme-right scene. At the moment it is guiding 50 persons. In all that time the organisation has failed in only six cases.

8.2.2 —

Aussteigerprogramm für Rechtsextremisten vom Bundesverfassungsschutz

The dropout programme of the *Bundesamt für Verfassungsschutz* (BfV) – the Federal Office for the Protection of the Constitution – has two different branches. One branch works with leaders of extreme right-wing organisations who have become aware that their political goals are not attainable and that they need help in abandoning their group. The BfV approaches these persons actively and tells them about the possibility of withdrawing from the extreme right scene with guidance. The second branch focuses on persons who are not in the upper echelon of an extreme right-wing group. These persons must get in touch with the BfV themselves. Because the BfV does not issue information about the first task of their *Aussteigerprogramm*, we will only concentrate on the branch that focuses on ordinary right-wing extremists with plans to abandon the scene.

The 'typical' BfV dropout is usually between twenty and twenty-five years of age. Ninety percent of the dropouts are men. Most of them come from small towns or rural areas. Unlike *EXIT-Deutschland*, the BfV programme also has many dropouts from Eastern Germany. The dropouts are often dealing with alcoholism and psychological problems. Recently, or so we gather, more and more dropouts are addicted to drugs. In addition, the vast majority of the dropouts has been involved in violent crimes. The length of time they spend in the extreme right scene depends to a great extent on the age of the dropout. Because of legal complications, minor-age dropouts are not admitted to the programme.

The reasons for dropping out can be diverse. Many people want to drop out because their partner expects them to. The threat of criminal proceedings also plays a role in the decision to leave. Just as in *EXIT-Deutschland*, many dropouts discover that participation in the extreme-right milieu can have negative consequences for the course of their lives. Sometimes people also report to the BfV because they left the right-wing extremist scene without the help of a programme and as a result they are threatened by their former comrades.

To be admitted to the programme the dropouts are first interviewed in Cologne or Berlin. The interviews are held so the BfV staff can determine whether the persons are 'serious' or not, i.e. whether they really want to drop out. So the dropout must pay part of the travel expenses (25 per cent) himself. The dropout must also fill in a detailed questionnaire. This should be approached seriously as well, since the BfV checks the answers for accuracy. If the person appears to have lied he can be refused admission to the programme. In other words, only those who are prepared to make a clean sweep of things are allowed to participate. Criminal acts that come to light in this way must be adjudicated. So participating in the programme does not result in a reduced sentence. The authors believe that making a clean sweep of things can also involve blowing the whistle on one's 'old comrades'.

After the dropout is admitted to the programme a profile of him is made. The focus here is on the person's various problems and the urgency with which these problems must be tackled. According to the person we spoke with at the BfV, the conditions for successfully dropping out are: conquering addiction, attaining socio-economic security through education or work, and acquiring social connections outside the extreme right group. The BfV follows a graduated approach. The specific goals that the dropout must meet are set down in fairly detailed contracts. Such a contract might say that the dropout must be rid of his addiction within three months. If the dropout fails to meet this deadline he can be excluded from the programme.

If the dropout is in a permanent relationship, the partner is also brought into the programme and receives the same support. In addition to providing practical support (such as help in moving house or looking for a job), the BfV also conducts individual talks with the partner. This approach works well because it is often the partner who is highly motivated to get the dropout out of the extreme right group. According to the person we spoke to at the BfV, there is even evidence of a strong correlation between a good relationship and successful withdrawal. The flip side, however, is that if their relationship founders many dropouts fall back into the extreme right milieu.

The BfV always looks at the individual to learn what kind of help the dropout needs. Many dropouts need help in moving house, finding a suitable place to work or being trained, alleviating their burden of debt, stabilising their relationship with their parents and steady partner, creating a vision of the future and learning standard rules of behaviour. In addition, many dropouts have to undergo detoxification.

The withdrawal is successful if the person achieves the goals laid down in the contract and is stable for the next two years. It usually takes around two years to achieve the goals. This means it takes a total of about four years before the person has completed the entire process. Compared with other programmes this is a rather long period of guidance.

During the process the BfV works with the *Landesämter für Verfassungsschutz* – the regional intelligence service authorities. Depending on the individual case, various agencies are then approached and asked to cooperate.

In the last five years, 230 potential dropouts have contacted the BfV. Of this total, 100 persons were not admitted to the programme after a first interview. Of the 130 persons who were

admitted, 30 did not complete the process. Their failure mainly had to do with persistent alcoholism, repeated contact with the extreme right milieu, the committing of crimes or the failure otherwise to fulfil the contract. Altogether one hundred persons have left right-wing extremism through the programme or are still being guided by it. The BfV has fewer dropouts than *EXIT-Deutschland* in terms of absolute numbers.

We suspect this has to do with the BfV's high threshold and the strict demands placed on the dropouts. It may also have to do with the image of the BfV as one of the ultimate enemies of right-wing extremism. Financially the BfV programme does not seem to have any problems. Unlike *EXIT-Deutschland*, they have sufficient resources to provide all dropouts with proper guidance.

8.2.3 —

The North Rhine-Westphalian withdrawal programme

This withdrawal programme has existed since July 2001. Responsibility for the programme is with the North Rhine-Westphalian Ministry of the Interior. In the beginning the programme only provided guidance to extreme right delinquents and right-wing extremists over the age of 27. At that time the programme had a telephone *HelpLine* that became known by means of a publicity campaign. This proved ineffective, however. Now the programme itself also makes contact with potential dropouts, and all adult dropouts can receive its guidance.

Dropouts in the North Rhine-Westphalian programme are around 25 years old and mainly come from *Kameradschaften* and skinhead groups. Most participants are men. They are often addicted to alcohol and drugs, and almost all of them have a record of violent crimes. They want to leave the extreme right milieu, we were told, because they find themselves in a hopeless personal situation. Often the person's parents or partner demands that they leave the right-wing extremist scene. Just as in the BfV programme, the threat of criminal proceedings also plays a role in the decision to withdraw.

The North Rhine-Westphalian programme also works with contracts. These contracts are less detailed than those of the BfV and there is a preference for general rules of conduct. In North Rhine-Westphalia, openness about unadjudicated crimes is also expected. This information is treated confidentially; only serious crimes are reported. Because prisoners are not admitted to the programme, attempts are made from within the programme to avoid custodial sentences and to arrange for suspended sentences or community punishment orders. The process begins with cleaning house. The guide confiscates all right-wing extremist attributes. In the most serious cases this can result in the person being left with very little clothing, losing his entire music collection and staring at blank walls.

The programme demands that the dropout actually leaves the scene, stops committing criminal offences, adopts another worldview and distance himself wholeheartedly from all extremist values. A conscious effort is made to 'build up a positive identity by experiencing success and creating alternative, new values'.

In North Rhine-Westphalia there are also many dropouts who need help in moving house, finding a suitable place to work or to be trained, alleviating their burden of debt, building up a new circle of friends, joining organisations and conducting conversations with their parents and with judges or public prosecutors.

Many dropouts also undergo detoxification and anti-aggression training. The removal of right-wing extremist tattoos also receives attention. We were told that withdrawal is considered successful if the person involved has no more contact with the right-wing extremist scene, has committed no new punishable offences and is fairly stable. Ideally the

dropout's worldview also changes, but this is far from feasible in many cases. According to one programme guide, his practical work largely consists of motivating dropouts to meet their obligations. It's quite an achievement when that happens, since many dropouts have not led a well-regulated existence for many years.

The police and the police intelligence service are regular partners in the programme. There is also support from municipalities and other bodies. Four persons work in the programme, two of them as guides. With this staff the number of dropouts can be properly guided, but guiding more dropouts with only two guides is not realistic. The programme has had few financial problems so far.

The dropouts are guided for an average of three years. The guidance is intensive at first, but gradually things ease up. The programme is currently guiding 30 dropouts. Approximately 30 persons have already withdrawn through the programme.

8.2.4 —

The Hessian withdrawal programme (IKARUS)

The programme in Hesse is relatively new and was not started until 2003. It is geared towards hangers-on and young people who have been in the extreme right-wing circuit for a relatively short time. This is important if we think about the Lonsdale problem in the Netherlands.

The Hesse programme has two main branches. The first is aimed at hangers-on and young people who only recently ended up in an extreme right environment. These young people are mostly between thirteen and sixteen years of age. Programme staff conduct interviews with them in which they are told about the risks and negative consequences of their right-wing extremist orientation. Often this is quite successful and the young people withdraw from the right-wing extremist scene.

Wilfried Rexroth, head of the IKARUS programme, says about this branch:

The extreme right-wing milieu is a youth culture. Many young people only stay with a group temporarily, but if they are interviewed they leave the milieu even sooner. In addition there are always young people who stay in the milieu. This usually has to do with good organisation. If an extreme right organisation offers interesting leisure time activities, then these young people build up contacts with right-wing activists and become radicalised. You can avoid this with interviews.

The second branch of the programme is aimed at young people and young adults who have spent a longer amount of time in an extreme right group and whose profiles resemble the profiles of dropouts in other programmes. Dropouts are mainly in the 18-to-20 age category. Alcohol addiction and involvement in acts of violence also play an important role here. The prevention of psychological problems among potential dropouts is also stressed. The dropouts are mainly from the Hessian countryside and their families are characterised as 'typical middle class families'. In these families, anti-Semitic and xenophobic attitudes are said to be more the rule than the exception. Also striking is the fact that the vast majority of dropouts already exhibited behavioural and psychological problems in early childhood. It was also noted that few women are involved in the programme.

In Hesse, too, the reasons for dropping out often have to do with pressure from a steady partner and threat of criminal proceedings. The decision to drop out is a calculated one and runs something like this: either I go to the slammer for ten years or I drop out. The dropouts here choose the second option. Ideological reasons rarely play a role. Among the few women involved a different picture emerges. Women who are members of the right-wing extremist

scene often suffer from abuse. Some have attempted suicide before ending up in the withdrawal programme.

Potential dropouts can contact the Hessian programme by telephone. More than 95 per cent of the incoming interviews are not with potential dropouts, however, but with third parties (including journalists) who want information about the programme. Making contact with the dropouts usually takes place through local institutions such as the police or a school. The programme in Hesse is quite well known, and for this reason many institutions call right away if they find they are dealing with a potential dropout.

At the beginning of the process a personality profile of the dropout is drawn up. This helps the guide plan the following steps. In Hesse too, the beginning phase involves cleaning out the person's residence and drawing up a fairly detailed contract.

The Hessian project focuses on three clusters of aspects that receive a great deal of attention during the dropout process: those having to do with membership in the extreme right-wing scene, with criminal law and personal aspects. Safety plays an important role in the first cluster, but ideological questions also arise. In the second cluster the threat of criminal proceedings is most important. Seasoned activists may commit 70 to 80 offences during their extreme right-wing careers. Openness about offences that have been committed but not yet adjudicated is compulsory. Concerning offences yet to be adjudicated, the possibility of imposing a suspended sentence instead of a prison sentence is discussed with the courts and the judicial authorities. Personal aspects that require a great deal of attention mostly have to do with debts, social problems, socio-economic security and psychological disorders.

The guidance process usually takes from three to six months. During the first month the dropout is guided by an IKARus staff person. If possible, guidance is then handed over to a local police officer. Some dropouts find it difficult to establish a confidential relationship with a 'stranger', however, and will not accept this change. In such cases, the IKARus staff person guides the dropout throughout the entire process. This usually means a workload of 100 to 150 hours per dropout. Like the North Rhine Westphalia dropout programme and the BfV programme, progress in the Hessian programme is strictly monitored. The police regularly check to see whether the dropout is committing new offences. If he is, this can result in him being excluded from the rest of the programme (like not fulfilling one's contract does). After being guided for three to six months, most dropouts are relatively stable. Sometimes dropouts are guided for longer periods. In the case of dropouts with a suspended sentence, guidance can sometimes take up to two years.

The Hessian programme warns against overly high expectations. While most dropouts no longer commit new offences and break off contact with extreme right circles, their ideological views – and enemy images – often remain unchanged. Their acceptance of democratic values is actually only superficial.

Unlike the other programmes, the Hessian dropout programme has an extensive network of working partners. Several Hessian ministries, the intelligence service and the police are closely involved in the programme. The Hessian project also has contact with a network of local agencies.

IKARus itself has two staff members. At the moment the programme has enough capacity to provide proper guidance for all dropouts. The programme also has regular contact persons among all its partners. And each Hessian police district has a police officer who supports the programme, keeps an eye on the extreme right scene and guides dropouts. In the last three years the programme has had interviews with about 150 hangers-on and sympathisers. These young people, we were told, have not had any further involvement in extreme right circles. The programme has been responsible for pulling about fifty dropouts from the extreme right

scene. IKARus is guiding seven dropouts at the moment. Another reason why the Hessian programme is successful, as we understand it, is that it has no financial problems.

8.3 —

Implementation in the Netherlands?

One of the key questions in this chapter is this: as we attempt to examine the ins and outs of the German projects, what is the significance for implementation in the Netherlands? We believe that in answering this question the following elements should be taken into account:

- the profiles of the dropouts;
- the reasons for abandoning the extremist milieu;
- the dropout process;
- scope of the goal;
- budget, working partners and network;
- attention paid to women and girls;
- professional guides;
- monitoring.

The profiles of the dropouts

Two profiles stand out in the German programmes. The first profile boils down to the following schematic type: skinheads or neo-Nazis, 18 to 25 years old, addicted to alcohol, no regular employment, a violent police record, often criminal convictions and sometimes psychological disorders. The second profile has to do with new growth and hangers-on whose lives are less severely derailed. The ages in this profile are often somewhat lower. The young people in the second profile could be radicalised over time, so some of them will end up belonging to the first profile.

Both profiles also occur in the Netherlands, although the first group – the seasoned radicals – are less numerous than in Germany. The estimated number in the Netherlands is a few hundred persons. We have the impression that the Dutch have less violent police records than their German peers. Many Dutch extreme right Lonsdale youth seem to fit well into the second profile. It should be noted however, that the difference between the two profiles is an effort to distinguish ideal types, and absolutely no value should be attributed to them.

Reasons for abandoning the extremist milieu

In examining the reasons for abandoning the extreme right scene, the above-mentioned difference between profiles is important. The reasons that can play a role among the extremists of the first profile were discussed in the earlier part of the chapter: threatening criminal proceedings, pressure from the partner or family, a feeling (misplaced or not) of not being safe, the realisation that by participating in the extreme right milieu one could become isolated, and a sense of hopelessness.

These reasons are just as important for the extremists of the second profile, not because they describe the extremists' actual current situation but because they describe the future situation of those who do not abandon the extreme right milieu. The experiences gained in Hesse suggest that heeding these risks can be successful.

One striking result of the interviews carried out in Germany is the relatively low importance that seems to be given to ideological considerations. In the public perception of deradicalisation, a great deal of value is attached to distancing oneself from radical ideas. In

actual practice, however, much more attention is focused on the concrete disadvantages of being connected to an extreme right-wing group. This is reason enough to consider attaching *relative importance* to ideological arguments when implementing such a programme in the Netherlands.

The dropout process

General features are a break with the extremist milieu, the de-Nazification of the person's residence (including clothing, music, etc.), care for the safety of the dropout and breaking the addiction to alcohol (and drugs).

At least as important as breaking with the former milieu are creating a new, alternative milieu with a secure living environment, work and/or schooling, making new social contacts, developing social skills and changing norms and values.

In addition to these broad lines, attention should also be paid in individual cases to specific problems such as psychological disorders or help in finding a way to alleviate debts. Most projects involve drawing up agreements with the dropouts in greater or lesser detail. Not only do these agreements set down various rights and privileges, but they also stipulate what steps have to be taken and how soon certain matters have to be taken care of.

It need hardly be said that the dropout process being summarised here is mainly intended for first-profile extremist dropouts. This would be regarded as overkill for second-profile extremists (hangers-on), and certain elements can be omitted or toned down when applying such a programme to the Netherlands.

Scope of the goal

As was stated above, for many dropouts the decision to leave the extreme right milieu has much less to do with ideological considerations and more to do with the serious problems and concrete disadvantages that their extremism will produce. 'Exiting' involves breaking with the former milieu and creating an acceptable alternative. So the deradicalisation projects focus their attention primarily on this effort. As Brecht says in his famous *Three Penny Opera*: 'However much you twist, whatever lies you tell / Food first, then morality.'

In practice, as we have seen, little attention is paid to morality – at least not insofar as a positive attitude towards democracy, equality and non-discrimination are concerned. As we heard from one of the people we spoke to in Germany, practical experience often lowers the bar considerably. In some cases there's cause for rejoicing if the dropout can simply get himself out of bed in the morning, get to work on time and not start throwing his fists around as soon as someone disagrees with him. In such cases, acquiring a positive attitude towards democracy, equality and non-discrimination doesn't even enter the picture.

We see no reason to assume this will be any different in the Netherlands. This means that when initiating a deradicalisation policy, attention should be paid to the scope of the goal. In other words: when deradicalisation can be regarded as successful.

Budget, working partners and network

The *EXIT-Deutschland* programme is a good example of how financial resources play an extremely important role in the quality of guidance being provided. Maintaining good contacts with various government agencies is also important for a successful programme. In Germany the government programmes seem to have better connections with the agencies and organisations that are needed in the dropout process. On the other hand, the advantage of an NGO programme is that the threshold for potential dropouts may be a little lower. The government, and especially the police and intelligence services, are regarded as natural enemies by members of extreme right-wing groups.

To summarise: the conditions necessary for a properly functioning deradicalisation programme are sufficient financial resources and a good network of chain partners. In the Netherlands, for example, it would be important to find out to what extent cooperation with related, existing areas (such as that of HALT Nederland and Reclassering Nederland) is possible.

Attention paid to women and girls

Apparently the German programmes are not very good at attracting women and girls. The number of women in extreme right groups in Germany has been rising for years and at the moment women form about 20 to 30 per cent of the scene. Dropout programmes often do not consider the special needs of female dropouts.

Women often become involved in extreme right groups because of a relationship and base much of their self-confidence in their boyfriend. Yet they are often victims of abuse by the same partner. So to a great extent working with female dropouts involves building up a positive self-image. The abuse makes it difficult for these women to put any trust in a male guide.

Dropout programmes, moreover, are mainly made up of men. In order to attract more women to a programme, the programme and the composition of the staff would have to be adjusted. Obviously, if a deradicalisation programme is initiated in the Netherlands there would have to be sufficient awareness of this potential problem, if only because the number of girls and women in extreme right groups in the Netherlands seems to be increasing.

Professional guides

A thorough knowledge of the local extreme right scene is extremely important for a withdrawal programme. All the German programmes discussed here seem to have a thorough knowledge of right-wing extremism and of the position of potential dropouts within the scene. Their working partners also have a good understanding of right-wing extremism. They can identify potential dropouts, making it possible for the dropout programmes to make contact with a particular person. Another reason why knowledge of the right extremist milieu is important is that the programme guides are often the only social contacts the dropouts have for a period of time. It is important for guides who find themselves in this position to be able to empathise with the dropout they are guiding.

Guidance is the essential element of the dropout programme, so heavy demands are made on the guides. Besides having a thorough knowledge of the extreme right scene, they have to be very sure of themselves. Dropouts often test their limits, which must be clearly defined by the guide. Yet the guide also has to win the dropout's trust. In addition, it's important for the guide to assume a professional attitude. This is because there are always dropouts who aren't going to succeed, which is usually not the guide's personal failure. Another important point is the personal safety of the dropout programme staff. Because of their work, guides in particular attract the attention of the extreme right scene, and that can be problematic.

Monitoring

Monitoring is important in two respects. Most German programmes have a system for monitoring the progress of the withdrawal program: they make regular checks to see if the dropout is still in contact with extreme right circles and if he has committed new offences. This is important not only for success of the dropout process but also for spotting a possible regression as early as possible.

The monitoring and evaluation of a programme is also important as such. The fact that it is so rare in Germany teaches us that when initiating a deradicalisation programme attention should be paid to the progress and results right from the beginning.

Conclusion

There is a danger that today's thinking about right-wing extremism as a problem is being overly influenced by the right-wing extremism of the nineties, which was mainly focused on organised, electorally oriented groups. The problem of diffuse groups of extreme right-wing young people in the Netherlands is now of considerable significance. This problem is not new in and of itself, but the increased size of the problem is. There is a chance that the diffuse 'street varieties' will not be seen as an extreme right-wing phenomenon because of their relatively low ideological content. This change in form demands a different approach. While retaining the existing set of instruments, which are primarily geared towards the core of formal organisations, strategies must be sought that are not aimed at the core so much as the peel. Because little experience has been gained in the Netherlands, we have examined a number of German deradicalisation programmes. What can be learned from them in establishing a similar policy in the Netherlands is discussed in the body of this chapter. We believe attention should be focused on the following elements: the profiles of the dropouts, reasons for leaving the extreme right milieu, the dropout process, scope of the goal, budget, working partners and network, attention for women and girls, professional guides and monitoring.

This is not an attempt to begin the construction of a deradicalisation project. But if that should happen – which we believe deserves recommendation – then these points of attention should be taken into account. This might take the form of a limited, local pilot project that is also subject to evaluation.

Deradicalisation, as described in this chapter, is not a panacea. But it can serve as a valuable supplement to existing approaches, such as repressive and educational strategies.

Investigation and prosecution in 2005

Peter R. Rodrigues

Enforcing the statutory prohibition of discrimination is the responsibility of the police and the Public Prosecution Service. These two bodies are also expected to fight discrimination consisting of offences committed under general criminal law (general offences) with a discriminatory basis. An example of this is setting fire to a mosque because of an aversion to Islam. The statistical material pertaining to the activities of the police has been obtained from the National Police Services Agency (Korps Landelijke Politiediensten; KLPD), thereby breaking through the long-standing gap in the national police figures on discrimination. The National Expertise Centre for Discrimination (Landelijk Expertisecentrum Discriminatie, LECD) provides overviews of prosecution activities for the Public Prosecution Service. The purpose of this chapter is to see what picture these figures produce and to what extent there is evidence of a trend. An important reference in evaluating this picture is the *Discrimination Instruction (Aanwijzing Discriminatie)*, which contains instructions on investigation and prosecution. The *Discrimination Instruction* itself is also being subjected to critical consideration now that an evaluation of the *Instruction* is forthcoming. This chapter is chronologically linked to my contribution in the *2005 Racial Discrimination Monitor*, which focused on developments for 2004.¹

9.1 —

Legislation

The resurgence of anti-Semitism was one of the main reasons why the United Nations adopted the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD). As a result of this convention, new prohibitions on discrimination were added to the Dutch Penal Code in 1971.² After these provisions were introduced it was found that a few additional amendments were necessary. Firstly, article 429quater of the Penal Code, which prohibits discrimination in the running of a business or the exercising of a profession, was tightened up in 1981.³ Then on 1 February 1992 the statutory prohibition of discrimination was tightened up and expanded with new grounds for discrimination.⁴ These additions were based on the premise that a person's social functioning may not be hampered by discrimination. The law is meant to protect groups that are struggling with discrimination.

On 1 February 2004 the *Act to increase the sentence for structural forms of discrimination* (Wet verhogen strafmaat voor structurele vormen van discriminatie) went into effect.⁵ This law doubled to two years the sentence for systematic and intentional defamation on account of race, religion, personal convictions or sexual orientation, and the systematic incitement to discrimination. For the systematic circulation of discriminatory material, and for systematic discrimination in exercising an office, practising a profession or running a business, the

¹ P.R. Rodrigues, 'Opsporing en vervolging' (Investigation and prosecution), in: I. Boog et al. (eds.), *Monitor rassendiscriminatie 2005* (2005 Racial Discrimination Monitor), Rotterdam: Argus 2006, pp. 185-197.

² *Staatsblad* 1971, 96.

³ *Staatsblad* 1981, 306.

⁴ *Staatsblad* 1991, 623.

⁵ *Staatsblad* 2003, 480.

maximum penalty is one year. One reason for increasing the sentence was to make available a broader scale of investigative measures for the more serious forms of discrimination. Examples of such measures are arresting a person not caught in the act and telephone tapping.

The following articles of the law went into effect in 2006:

- Article 90quater of the Penal Code defines discrimination as pertaining to criminal law;
- Article 137c of the Penal Code prohibits discriminatory defamation;
- Article 137d of the Penal Code makes incitement to hatred a punishable offence;
- Article 137e of the Penal Code prohibits the dissemination of discriminatory remarks and displays; since 1992 this prohibition has also applied to the unsolicited sending of discriminatory publications;
- Article 137f of the Penal Code stipulates that since the amendment of 1992, providing support to discriminatory activities is no longer a misdemeanour but a felony;
- Article 137g of the Penal Code contains since the amendment of 1992 not only a prohibition against intentional discrimination in practising a profession and running of a business but also in exercising an office;
- Article 429quater of the Penal Code prohibits the same offence as 137g of the Penal Code (on more grounds), but without the requirement of intentionality. This is the misdemeanour variant.

In 1992 the discriminatory grounds ‘homosexual orientation’ and ‘sex’ were added to most of the articles listed here. In 2006 the ground ‘disability’ was added to articles 137c-f and 429quater of the Penal Code. The full text of the prohibitions of discrimination as pertaining to criminal law is found in *Appendix 1*.

9.2 —

Official instructions

Over the past twenty years the Board of Procurators General has issued various instructions, guidelines and designation orders intended to improve the investigation and prosecution in cases of discrimination. The most recent *Discrimination Instruction* went into effect on 1 April 2003 and will lapse in 2007.⁶ The Public Prosecution Service is planning to evaluate the current instructions in 2006 in consultation with the police, the National Agency to Combat Racial Discrimination (Landelijk Bureau ter bestrijding van Rassendiscriminatie; LBR) and the Anti-Discrimination Agencies (Anti-Discriminatie Bureaus; ADBs).⁷ The *Discrimination Instruction* of 2003 states that in cases of discrimination, criminal enforcement, in addition to civil and administrative action, should make an essential contribution to the creation of a legal and moral norm. Cases of discrimination are often given a great deal of media attention and offer the Public Prosecution Service a good opportunity to show how criminal enforcement is contributing to dealing with the discrimination problem. The Public Prosecution Service has indicated that it wants to be a credible and trustworthy ally in the struggle against discrimination. The *Discrimination Instruction* provides rules for the investigation and prosecution of discrimination, like the procedural rules for the Public Prosecution Service. Rules are also

⁶ *Staatscourant* 2003, 61.

⁷ *Kamerstukken II* 2005/06, 30 3000 VI, no. 26, p. 5.

included for police work having to do with reports and complaints of discrimination. The main rule is that when the prohibitions against discrimination are violated, criminal enforcement always follows if the case reasonably lends itself to it. This is also important in view of the negative effect of inadequate enforcement and of the example served by criminal proceedings.

According to the *Discrimination Instruction*, in cases of discrimination the expediency of prosecution is inherent. This means that great restraint should be exercised when making a decision not to prosecute. In offences under general criminal law with a discriminatory background, public prosecutors are required to increase penalties by 25 per cent.

The police should keep a registry of cases of discrimination and of offences under general criminal law with a discriminatory background. All reports and complaints of discrimination should be recorded by the police, according to the *Discrimination Instruction*. The police should periodically report to the public prosecutor all cases of discrimination known to them. Preconditions are also formulated for fleshing out the details of local cooperation between the Public Prosecution Service, the local government, the police and the ADBs. The Public Prosecution Service is to guide the police in coming up with an approach for dealing with discriminatory incidents. The police and the Public Prosecution Service are not permitted to deviate from the *Discrimination Instruction*; it must be regarded as a compulsory, normative policy regulation.⁸

In its presentation letter, the Board of Procurators General emphasises that the *Discrimination Instruction* is a *lex specialis* of the general *Investigation Instruction*.⁹ That means that cases of discrimination may not be regarded as minor cases in the sense given in the *Investigation Instruction*; rather, they enjoy a special priority, as is also indicated in the *Discrimination Instruction*.

On the grounds of earlier instructions in cases of discrimination,¹⁰ special officers are appointed in every jurisdiction and are charged with cases of discrimination. In addition, each jurisdictional public prosecutor's office of the five courts of appeals has an Advocate General for discrimination. One of the Procurators General – Uniken Venema at the moment – has a discrimination portfolio in the Board of Procurators General. Among the police, so-called contact officials are charged with making sure the cases of discrimination are properly coordinated.

9.3 —

National Bureau for Cases of Discrimination

On 1 September 2002, the Board of Chief Commissioners gave the green light for the National Bureau for Cases of Discrimination (Landelijk Bureau Discriminatiezaken; LBD).¹¹ The LBD is placed under the police's National Expertise Centre for Diversity and as such is part of the Police Academy in Apeldoorn.

The LBD serves as the expertise centre and coordination point for the 25 regional police corps in the Netherlands. The first assignment for the LBD was the development and implementation of a so-called 'quick scan', which was meant to obtain clear insight into how discrimination cases were being carried out by the corps. The most important results of this study are that the

⁸ B.E.P. Meyer, 'Gedragcode OM: frisse wind bij open deuren' (Codes of conduct from the Public Prosecution Service: fresh breeze comes through open doors), *Trema* 2001, pp. 245-252.

⁹ *Staatscourant* 2003, 41.

¹⁰ *Staatscourant* 1993, 171.

¹¹ R. Visser, 'Meer aandacht voor discriminatiebestrijding' (Paying more attention to fighting discrimination), *Algemeen Politieblad* 20 March 2004, pp. 16-19.

Discrimination Instruction is almost unknown and that there are problems with the registration system in all the corps, so that almost no reliable figures or overviews are available.¹² On the basis of the quick scan the LBD formulated the following nine recommendations, which were presented to the Board of Chief Commissioners:

1. Put the fighting of discrimination on the agenda of the regional tripartite platform at least once a year;
2. Include the anti-discrimination policy in the corps annual plan;
3. Implement the *Discrimination Instruction* in the corps;
4. Carry out periodic consultations on this subject among the police, the Public Prosecution Service, the Anti-Discrimination Agencies (Anti-Discriminatie Bureaus; ADBs) and municipalities, preferably at least six times a year;
5. Appoint discrimination contact persons per corps;
6. Improve the registration systems;
7. Solve the problem of the unacceptable processing period;
8. Set up a privacy protocol per corps with regard to the exchange of information between the Public Prosecution Service, the police, the ADB and the municipalities;
9. Set up a reaction protocol for cases of discrimination in response to reported incidents.

On 14 January 2004 these recommendations were adopted by the Board of Chief Commissioners.¹³ It was also declared that these recommendations were to be complied with by 1 July 2004 at the latest. In February 2005 the LBD issued its final report,¹⁴ from which it can be inferred that fighting discrimination is still not a high-priority issue for most of the regional corps. Chief procurator general Brouwer changed all this during the police strategy conference held on 19 April 2006. In his speech he said it was urgent that fighting discrimination be put back on the agenda.

We live in a multi-ethnic society, with all the attendant advantages and disadvantages. The government is carrying out a wide-scale integration policy. As part of this, discrimination must be dealt with seriously. After all, the police and the Public Prosecution Service are there for everyone in Dutch society.

Brouwer intends to achieve this in the coming years by implementing a more intensive, programme-based criminal prosecution of discrimination. In this regard he is considering so-called performance contracts, to be entered into with the corps. In the summer of 2006, the Minister of Justice and the Minister of the Interior and Kingdom Relations concluded agreements with the regional police force managers' consultative body on the performance of the Dutch police in 2007. The negotiation agreement, *National Framework for Dutch Police in 2007*, involves the 25 regional corps and the National Police Services Agency (Korps Landelijke Politiediensten; KLPD). One of its main points is fighting discrimination. To this end, process agreements are made and the implementation of the agreements is monitored at corps level. According to the negotiation agreement, these process agreements require the corps regularly to inform the Public Prosecution Service, the local

¹² *Discriminatiebestrijding bij de politie, Een kwestie van sturen, Eindrapportage quickscan discriminatie politie* (How the police fight discrimination: A question of direction; Final report of the police discrimination quick scan), October 2003.

¹³ 'De minister sprak van een mijlpaal' (The minister spoke of a milestone), *Kamerstukken II 2003/04*, 29 200 VI, no. 158, pp. 7-8.

¹⁴ *Discriminatiebestrijding bij de politie, Eindrapport Landelijk Bureau Discriminatiezaken* (How the police fight discrimination; Final report, National Bureau for Discrimination Cases), February 2005.

government and other relevant partners of the current situation with regard to discrimination and criminality. The corps are also required to implement the nine recommendations as set down by the Board of Chief Commissioners in January 2004. This involves keeping an up-to-date list of all discriminatory incidents and reports and issuing an annual overview of this list to the Public Prosecution Service. In this way the recommendations of the LBD are being implemented and an important step forwards is being taken. According to the negotiation agreement, the police have no exclusive responsibility and should therefore stimulate ministers, the local government, the Public Prosecution Service and other relevant partners in a collaborative chain. Procurator General Brouwer's idea behind the prioritising of discrimination is that at this point in time, when extra measures are being taken against terrorism and extremism, the fight against discrimination should also be adequately carried out.

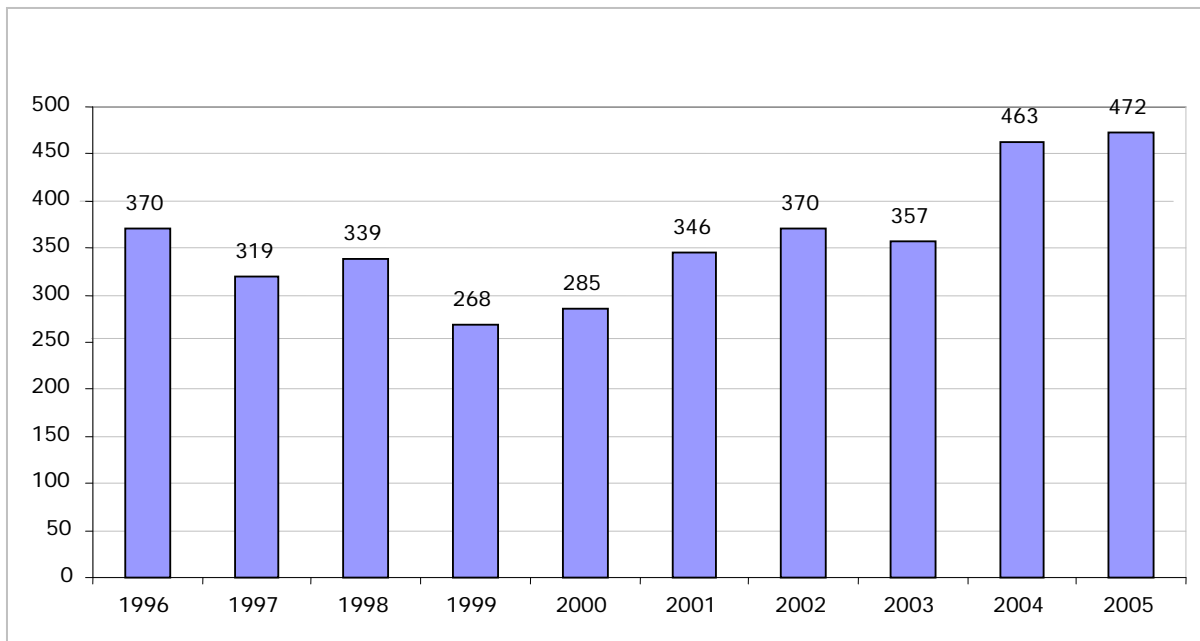
9.4 —

National Police Services Agency

For a long time no national figures were available on the number of reports and complaints of discrimination being made to the police. The General Intelligence and Security Service (Algemene Inlichtingen en Veiligheids Dienst; AIVD) collected data from the police for the *Racism & Extremism Monitor*, but only on violent incidents with a discriminatory background. The AIVD concluded this activity in 2004, however. Since 2005 the National Police Services Agency (Korps Landelijke Politie Diensten; KLPD) has provided the Monitor project with this information.¹⁵ Starting in 2005, the KLPD has also given us national figures on persons suspected of violating the statutory prohibitions of discrimination. This information comes from the Recognition Services System (Herkenningdienst system; HKS) being used by the police. A search was made in this person-based investigation system for arrested persons who were suspected of violating at least one of the statutory prohibitions of discrimination between 1996 and 2005. The HKS is only concerned with felonies, which means no information was obtained on suspects of misdemeanours as described in art. 429quater (non-intentional discrimination in practising a profession, exercising an office or running a business).

¹⁵ Also see the chapter *Racial violence and violence incited by the extreme right in 2005*.

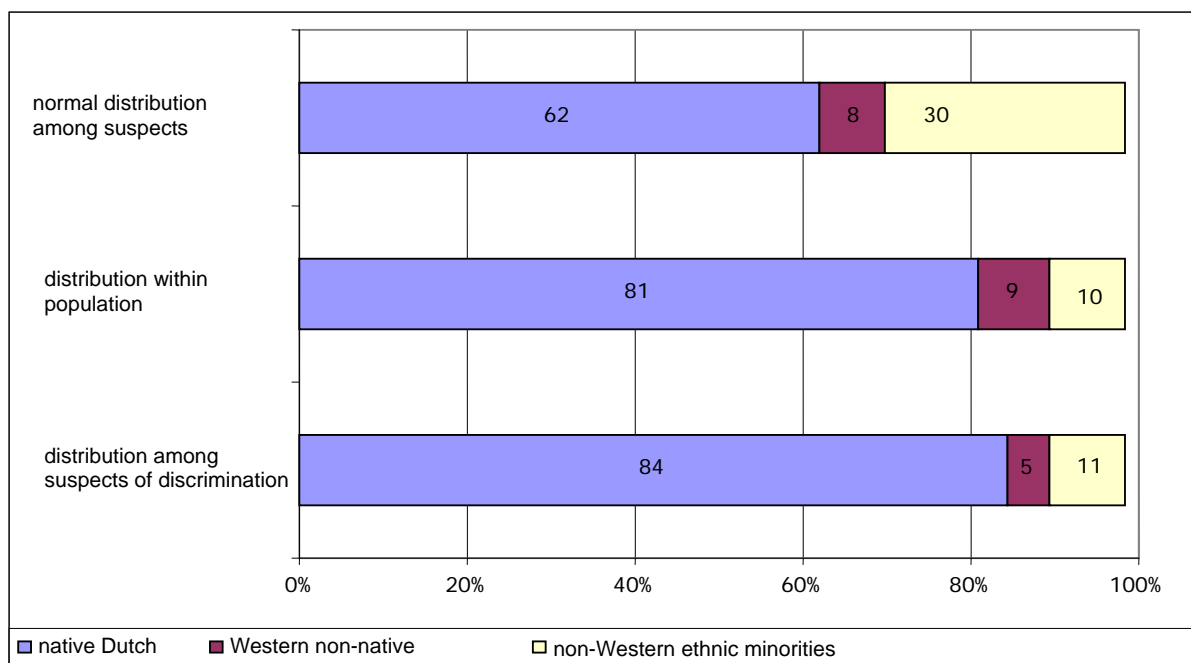
Figure 9.1
Number of arrested persons suspected of violating statutory prohibitions of discrimination: art.137c-g of the Penal Code, 2000-2005



Source: KLPD

The number of arrested suspects is by definition lower than the number of felonies and reports of discrimination that will have to be registered and reported on the basis of the new performance contracts. In addition, the HKS is an investigation system that is focused on persons. As a result, if one and the same citizen has violated the prohibitions of discrimination several times, the system does not count the incidents but only the person involved. The data from the HKS show a gradual increase starting in 1999. A comment should be made concerning the results for 2005. The annual figures are first input into the system as tentative figures. Afterwards a second process takes place in order to remove any backlog among the regional corps. This second processing of the figures for 2005 has not yet taken place. It is therefore probable that the final total for that year will be a bit higher. In addition, the KLPD looked to see whether the growth of the population of suspects cannot be explained by the growth of this population in general. Although the entire population of suspects has grown in recent years, the relative growth for discrimination is greater.

Figure 9.2
Native and ethnic minority perpetrators in incidents of prohibited discrimination



Source: KLPD

The proportion of native Dutch and non-native perpetrators in incidents of prohibited discrimination is also comparable with the normal distribution of suspects. This comparison shows that the proportion of native Dutch is considerably higher (82 per cent) than among the entire population of suspects (62 per cent). This analysis is based on a definition of non-native that is used by Statistics Netherlands.

Table 9.1
Felonies in which an official report of discrimination was made

Year	CBS	HKS
1999	375	268
2000	368	285
2001	530	346
2002	484	370
2003	400	357
2004	516	463

Source: CBS and KLPD

A new element in police statistics is the use of the longitudinal study *Criminality and law enforcement 2004* (Criminaliteit en rechtshandhaving 2004).¹⁶ This has to do with data from the operating systems used by the regional police corps (usually x-pol or BPS). Incidents of

¹⁶ A.T.J. Eggen and W. van der Heide, *Criminaliteit en rechtshandhaving 2004* (Criminality and law enforcement 2004), The Hague: WODC 2005, p. 341, table 4.6.

discriminatory felonies (art. 137c to g of the Penal Code) are registered from these systems. These incidents are only included if an official report of the incident was made.

The HKS data from the KLPD presented here are based on persons, while the CBS figures presented here have to do with the number of discriminatory felonies reported. Since it is far from the case that a perpetrator of a felony is always arrested, the number of reported incidents of a particular felony is always higher in principle than the number of suspects being held for that felony. The differences per year are quite diverse, however, and do not always follow each other in terms of peaks, dips or trends.

9.5 —

National Expertise Centre for Discrimination

The National Expertise Centre for Discrimination (Landelijk Expertise Centrum Discriminatie; LECD) is a knowledge centre of the Public Prosecution Service and is part of the Amsterdam District Public Prosecutor's Office. The goal of the LECD is to promote effective criminal enforcement in cases of discrimination. This goal includes policy formation, investigation, prosecution and reporting. The tasks of the LECD include maintaining a central registry of cases of discrimination, providing advice to public prosecutors' offices and coordinating current investigations. Periodically a digital newsletter is sent to the partners.

Information on discrimination is obtained by the LECD via two routes. The first is the computerised judicial operating system COMPAS. Information about cases coming into and being settled by the Public Prosecution Service and cases being settled by the courts is obtained from this file on the basis of anti-discrimination regulations.

Second, information from the case dossiers is requested (what, where, how) on the basis of a uniform list of questions sent to all district public prosecutors' offices. This is called the Discrimination Registration Code (Discriminatie Registratie Code; DRC). The court of appeals and the Supreme Court fall outside this registry, since only cases in the first instance are considered.¹⁷

When gathering figures on inflow and settlement, the LECD looks at *counts* of discrimination and not at *cases* of discrimination. This is because a case can consist of several counts. For example, a suspect can be accused of both racist defamation (art. 137c of the Penal Code) and of inciting to racial hatred (art. 137d of the Penal Code). The counts are registered when the public prosecutor's office books the case. After that the dossier is studied and articles of the law are assigned to the counts by the public prosecutor's office.

Each year the LECD issues an overview of the body of figures it has obtained.

As a result of the method used by the LECD, counts of discrimination that are registered under other – general – articles of the law alone, such as threats, vandalising or acts of violence, are not included in the total picture. And in COMPASS it is only possible to search for statutory prohibitions of discrimination. In 2004 an experiment to register these offences in the Amsterdam public prosecutor's office was successfully carried out. For a long time now, the Public Prosecution Service has been busy installing an entirely new registration system, the so-called GPS, which is supposed to be introduced in the public prosecutors' offices in the

¹⁷ 'First instance' means the authority before which the case is first brought. Normally these are district and county courts.

course of 2006-2007.¹⁸ GPS will include obligatory coding for offences under general criminal law with a discriminatory character. This adjustment is meant to bring about a substantial improvement in the registration of discriminatory offences, but it will not be able to produce the first national results until 2009.

9.6 —

Inflow

In 2005 there were 241 registered discriminatory offences, bringing the level back to that of 2002. Even so, this number of data – the required forwarding of data to the Public Prosecution Service by the police – is low. In the registry of the KLPD for 2004 there are 463 known persons listed against whom an official report was made because of a violation of articles 137c to g of the Penal Code (see section 9.4). Ultimately only 214 of these were registered as discriminatory offences by the Public Prosecution Service.

Table 9.2

Number of discriminatory offences registered by the Public Prosecution Service per article of the law, 2001-2005

Article of the law	2001	2002	2003	2004	2005
137c	167	191	154	165	166
137d	11	22	18	29	46
137e	19	3	13	15	10
137f	1	2	1	0	2
137g	0	20	17	5	9
429quater	0	4	1	0	8
Total	198	242	204	214	241

Source: LECD

It is striking that discriminatory defamation (art. 137c of the Penal Code) has practically the same number as last year but still constitutes the largest category. Inciting to hatred and violence (art. 137d of the Penal Code), however, increased in 2005 by 19 per cent. A cautious conclusion could be that manifestations of discrimination have become harsher. Relatively little use was made of the prohibition on the dissemination of discriminatory remarks (art. 137e of the Penal Code). As usual, the prohibition on supporting discriminatory activities (art. 137f of the Penal Code) led a marginal existence in 2005 as well.

Intentional discrimination in practising a profession, exercising an office or running a business (art. 137g of the Penal Code) was once again a more common occurrence in 2005. That was especially true for the misdemeanour variant of art. 429quater of the Penal Code,

¹⁸ GPS = Geïntegreerd processysteem strafrecht, or Integrated criminal law processing system. Also see *Jaarbericht OM*, 2005, p. 37.

which underwent a veritable upsurge. As has been noted in earlier reports,¹⁹ these provisions are especially important in dealing with night life discrimination. The primary feature in this form of discrimination is not expression but exclusion. The data on the place of the offence seem to suggest that these offences are now being registered more frequently as crimes of exclusion (137g of the Penal Code and 429quater of the Penal Code). Seven offences were registered in 2005 that had to do with admission to places of entertainment: the so-called 'door policy'.

The increased inflow does not coincide with the inflow of all felony cases being dealt with by the police and the courts, where 2005 was a year of slight decline.²⁰ The violence figures did show an increase of 5 per cent for 2005.

9.7 —

Dismissals

A dismissal means that the public prosecutor decides not to prosecute. Two kinds of dismissals are recognised in criminal law.

First is the technical dismissal. This means there are technical faults attached to a case that make prosecution futile. Examples of this are that the perpetrator is not punishable (someone is wrongfully considered a suspect) or the offence is not punishable. Another ground is if prosecution cannot proceed because the case is statute-barred or the perpetrator has died. One technical dismissal that occurs a great deal in practice is the absence of sufficient legal evidence.

Then there is the discretionary dismissal. This includes several exceptions that are linked to the principle of discretionary powers of the Public Prosecution Service, which is the power to decide whether a case can be prosecuted or not. The reasons for a discretionary dismissal may be that other measures have already been taken or that the dismissal is in the national interest, or they may concern the age or health of the suspect. Other grounds for dismissal are that the act is a petty offence, the suspect's participation is minor or the act is not deserving of punishment. An offence that is old but not yet statute-barred can also be reason for a discretionary dismissal.

The *Discrimination Instruction* stipulates that in cases of discrimination, prosecution is appropriate in principle. This means that the decision not to prosecute – dismissal – should be taken with great restraint. Naturally, the public prosecutor's own discretionary consideration does not extend to grounds for dismissal such as petty offence or low punishability, since the decision to prosecute such cases has already been taken by the Procurators General.

¹⁹ J. van Donselaar and P.R. Rodrigues, *Monitor racism en extreem-rechts. Vijfde rapportage* (Monitoring racism and the extreme right. Fifth report), Amsterdam: Anne Frank Stichting/Leiden University 2002, pp. 95-96.

²⁰ *Jaarbericht OM*, 2005, p. 19.

Table 9.3

Type of settlement by the Public Prosecution Service for discriminatory offences, 2001-2005

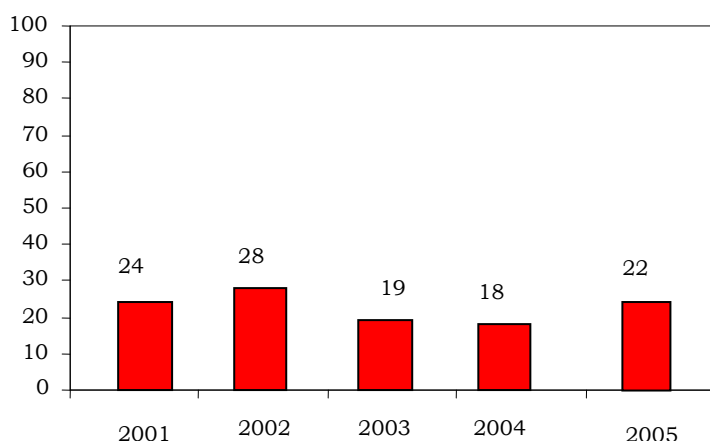
	2001	2002	2003	2004	2005
Summons	133	147	135	145	152
Dismissal	47	70	35	36	49
Conditional dismissal	4	5	9	4	4
Out-of-court settlement	26	47	56	38	35
Total	210	269	235	223	240

Source: LECD

The dismissal percentage has increased in both absolute and relative terms.²¹ With a percentage of 22 per cent in 2005, the dismissal score in cases of discrimination is almost twice as high as the national percentage for all offences, which was 13 per cent in 2005.²²

Figure 9.3

Percentage of dismissals for 2001-2005



Source: LECD

The high percentage of dismissals could indicate that certain cases were wrongfully blocked from a judicial opinion by means of discretionary dismissal. It is our opinion that in cases of discrimination, discretionary dismissal should not be permitted to rise above the national average for all offences.

²¹ Here dismissals and conditional dismissals are counted together.

²² *Jaarbericht OM*, 2005, p. 28.

Table 9.4
Proportion of discretionary and technical dismissals, 2001-2005

	2001	2002	2003	2004	2005
Technical dismissal	33 (65%)	52 (69%)	26 (59%)	21 (52%)	33 (62%)
Discretionary dismissal	18 (35%)	23 (31%)	18 (41%)	19 (48%)	20 (38%)
Total	51	75	44	40	53

Source: LECD

The percentage of discretionary dismissals has fluctuated between 30 and 50 per cent in recent years. Technical dismissals are usually announced on account of ‘insufficient evidence’. In the case of discretionary dismissals, the offence is often statute-barred or double registered. As noted, discretionary dismissals on account of ‘old offence’ does not seem to be in conformity with the official instructions given in the *Discrimination Instruction*. In addition, it is quite conceivable that the offences became ‘old’ through the fault of the Public Prosecution Service.

In 2005 the Public Prosecution Service completed its investigation of dismissals.²³ This study was carried out in response to a motion from the Lower House made in 2001 concerning technical and discretionary dismissals in cases of discrimination and racism. The study dossier reveals that in most of the cases the Public Prosecution Service applies the proper criteria in dismissing cases and that it carries out dismissals with care. The Board of Procurators General brought the conclusions and recommendations to the attention of the chief public prosecutor and discrimination officers, requesting them to take this to heart. The Board considers it essential that the instruction for grounds for dismissal be properly and critically applied, and charges the Public Prosecution Service to be more diligent in monitoring the internal disposal time for cases of discrimination.²⁴

9.8 —

Out-of-court settlements and convictions

The percentage of cases settled by the Public Prosecution Service itself – the out-of-court settlements – dropped once again in 2005, from 17 per cent in 2004 to 15 per cent in 2005. The declining percentage of out-of-court settlements is in line with the relevant instructions in *Discrimination Instruction*. These state the basic assumption that a summons will be issued; only in less serious cases can an out-of-court settlement be offered first, if necessary. The percentage of out-of-court settlements in cases of discrimination is 15 per cent, well below the national percentage for all forms of criminality in 2005 (28 per cent).²⁵

²³ See P.R. Rodrigues, ‘Opsporing en vervolging’ (Investigation and prosecution), in: I. Boog et al. (eds.), *Monitor rassendiscriminatie 2005* (2005 Racial discrimination monitor), Rotterdam: Argus 2006, p. 189.

²⁴ *Kamerstukken II* 2005/06, 30 300 VI, no. 26, p. 2.

²⁵ *Jaarbericht OM*, 2005, p. 28.

Table 9.5
Court settlements 2001-2005

	2001	2002	2003	2004	2005
Conviction	98	94	110	111	131
Acquittal	4	15	12	8	10
Summons invalidated	2	1	0	0	0
Prosecution dismissed	0	1	1	0	0
Discharge from further prosecution	0	0	0	0	0
Conviction without imposing punishment	0	2	1	1	1
Unknown	0	5	4	5	6
Total	104	118	128	125	148

Source: LECD

The number of cases brought before the court in recent years fluctuates around 60 per cent of the incoming cases.²⁶ The Public Prosecution Service is awarded a conviction in almost 90 per cent of the cases. This percentage corresponds with the national average for success in court by the Public Prosecution Service.²⁷ It is my opinion that public prosecutors should not be too cautious about taking cases to court, since the intention has been expressed to actively exercise legal authority as the Public Prosecution Service.²⁸

The category 'Unknown' under court settlements means that in 2005 six judgements were rendered whose contents can no longer be ascertained.

A new regime for out-of-court settlements has been provided by the *Public Prosecution Service Settlements Act*.²⁹ This act will go into effect on 1 March 2007. With the punishment order issued by the public prosecutor that will then be introduced, the Public Prosecution Service will have elbow room to settle cases itself. This goes hand in hand with a drastic change in legal design and procedures. For these reasons, preparations for the phased introduction, which is planned for 1 March 2007 (the expected date on which the act will come into force), were already started in 2005. It is still unclear what the impact of the new act will be for the prosecution and adjudication of discrimination. It goes without saying that attention will be paid to the *Discrimination Instruction*, which is coming up for review. It seems to me that using this authority in cases of discrimination is a less obvious move. Current practice shows only a slight need to opt for out-of-court settlements. In addition, the *Public Prosecution Service Settlements Act* is meant to expedite frequently occurring offences without having to burden the judiciary. Fortunately, discrimination is not a frequently occurring offence. Discrimination is less likely to lend itself to this kind of settlement, including in terms of contents: these are often fundamental cases with a great likelihood of creating a precedent.

²⁶ For all cases this is 50 per cent. See A.T.J. Eggen and W. van der Heide, *Criminaliteit en rechtshandhaving 2004* (Criminality and law enforcement 2004), The Hague: WODC 2005, p. 250, box 8.1.

²⁷ *Jaarbericht OM*, 2005, p. 23.

²⁸ *Kamerstukken II* 2005/06, 30 3000 VI, no. 26.

²⁹ *Staatsblad* 2006, 330.

9.9 —

Suspect, locus delicti and victim

The LECD has drawn up a written questionnaire for the public prosecutors' offices to gather background information on discrimination dossiers: the aforementioned Discrimination Registration Code (DRC). Although this manually obtained information is not conclusive,³⁰ the resulting picture of the inflow of discriminatory offences is full enough. The collected data on the suspect, place of the offence (*locus delicti*) and the victim will be discussed in succession.

Table 9.6
Suspects in incidents, 2001-2005

Suspect	2001	2002	2003	2004	2005
Extreme right-wing	20	8	23	19	30
Religion/Belief	5	2	0	0	0
Political conviction	1	2	2	3	2
Criminal investigator	1	0	0	0	4
Private Surinamese/Antillean	18	2	1	1	2
Private Turkish/Moroccan	9	8	12	15	3
Other non-white private	8	2	4	3	2
White private	109	178	110	149	185
Private: ethnicity unknown	14	11	24	14	8
Overige	1	14	9	6	3
Other	12	15	19	4	2
Total	198	242	204	214	241

Source: LECD.

Suspects

In addition to citizens (private individuals) the registry also includes criminal investigators. In earlier years there had been almost no cases against criminal investigators, but in 2005 suddenly there were four.

In 2005 the number of right-wing extremists among the suspects increased (from 9 to 12 per cent). This increase coincides with the observation that when there is violence, there is an increase in extreme right perpetrators.³¹ Because of the annual fluctuations and the small numbers, these statistics should be approached with due caution. Yet this may be an underestimate because the incidents committed by this group are often registered under articles of the law other than statutory prohibitions of discrimination, such as assault, vandalism or arson. If these general offences are not also booked by the public prosecutor's office as violations of a prohibition of discrimination, such cases will not be detected by the COMPAS operating system. This is why in 2006 general offences with discriminatory backgrounds were still falling outside the registry of the LECD.

³⁰ The numbers under 'Unknown' in the various tables are the result of data that has not been provided.

³¹ Also see the chapter *Racial violence and violence incited by the extreme right in 2005*.

Because of the small quantities, caution should also be exercised when it comes to ethnic minority perpetrators. The data from the LECD show that ethnic minority perpetrators dropped to 3 per cent in 2005. In 2004 that amount was still 8 per cent. Here, too, it should be noted that offences under general criminal law are not included in the registry of the Public Prosecution Service. This may create a distorted picture.

Table 9.7
The place of the incident, 2001-2005

Place of the incident	2001	2002	2003	2004	2005
Against criminal investigator	19	17	14	11	9
Work	8	11	16	1	12
Sports	11	46	18	21	5
School/educational institution				9	7
Night life – general	18	27	21	6	17
Night life – admission refused ³²				4	7
Residential area	18	28	17	30	32
Street/public place	94	83	85	110	139
Internet	4	6	4	13	8
Press (media)	3	3	1	0	2
Other	14	6	9	3	1
Unknown	9	15	19	6	2
Total	198	242	204	214	241

Source: LECD

Locus delicti

The number of discriminatory offences committed on the job fluctuates enormously and increased again in 2005. In a certain sense this is striking, because for victims of discrimination at work the path to the Equal Treatment Commission (Commissie Gelijke Behandeling; CGB) is less confrontational than lodging an official complaint. Elsewhere I have observed that in four cases from 2005 the employee first lodged a complaint before he or she took the case to the CGB.³³ Emotions quickly become heated at work. Discrimination often has a disastrous effect on labour relations and often leads to prolonged absenteeism on account of sickness or termination of employment. The discriminatory offences registered with the Public Prosecution Service are exclusively concerned with discriminatory remarks between co-workers.

The number of registered sports-related offences has decreased. The problem is mainly how to deal with large masses of people who sing discriminatory songs or chants. For the time being, the Royal Dutch Football Association (Koninklijke Nederlandse Voetbal Bond; KNVB) is attempting to control this problem by instructing the referees to stop the game when such

³² New category since 2004.

³³ P.R. Rodrigues, 'Ras en nationaliteit' (Race and nationality), in: S.D.Burri (ed.), *Gelijke behandeling: oordelen en commentaar 2005* (Equal treatment: rulings and commentary for 2005), Utrecht: CBG 2006, p. 33.

chanting occurs. The KNVB has also entered into covenants with the various football clubs on this issue. On 30 March 2006, the International Federation of Association Football (FIFA) made known that heavy fines would be imposed on players, trainers or officials who were found guilty of making racist or discriminatory remarks in the football stadiums.³⁴

The percentage of discriminatory exclusions from cafés and nightclubs seems to have remained relatively low in recent years. One reason may be that this form of exclusion has only been registered separately since 2004. Another problem is that as a form of discrimination it is often registered as a crime of expression (137c or 137d of the Penal Code) rather than a crime of exclusion (137g or 429quater of the Penal Code).

In 2005 Minister for Alien Affairs and Integration Verdonk expressed her views about night life discrimination.³⁵ In addition to the repressive approach through criminal law she also recommended a preventive approach. The so-called 'panel door policy' is a good example of this. This policy is based on a joint representative panel for hearing complaints and an integrated approach by those involved: bouncers, patrons, local government, police, the Public Prosecution Service and the Anti-Discrimination Agency. Enforcement can be carried out in different ways: self-regulation (the panel), administrative law, civil law and, as *ultimum remedium*, criminal law.

The door policy maintained by cafés and nightclubs still frequently results in public uproar. Young people feel they are being wrongfully refused or even discriminated against. Club owners stress the importance of safety regulations. And governments demand that safety be maintained in combination with an open door policy. The tension in this area has been constant for many years. The Rotterdam Anti-Discrimination Agency RADAR published *Tussen uitsmijters and doorbitches* (Between bouncers and door bitches).³⁶ This publication is an account of the search for solutions to the problem of night life discrimination. In another study, Komen and Schram discuss the effects of night life discrimination on young people.³⁷ They allow both young people and bouncers to have their say in their report, and observe that discrimination in nightclubs and cafés constitutes a major threat to integration and social cohesion.

Although less popular in 2005, lodging a complaint with the Equal Treatment Commission still seemed to be a good option for victims.³⁸

Most discriminatory offences have to do with remarks or displays, and these can often be heard or seen on the street, in public places or in residential neighbourhoods. The vast majority (71 per cent) of the incidents take place there. This percentage has never been so high. This tendency cannot be found in the report *Kerncijfers 2005* (Key figures for 2005), in which the annual statistics from the ADBs are published. In 2005 the number of complaints about the neighbourhood and district decreased (once again) to 521.³⁹ The decline took place despite a rise in the total number of complaints among the ADBs.

³⁴ *NRC Handelsblad* 30 March 2006.

³⁵ *Kamerstukken II* 2004/05, 29 800 VI, no. 165.

³⁶ C.E.T. Triesscheijn and M.P. Maris, *Tussen uitsmijters en doorbitches* (Between bouncers and door bitches), Rotterdam: RADAR 2005.

³⁷ M. Komen and K. Schram, *Etniciteit en uitgaan* (Ethnicity and night life), Amsterdam: Het Spinhuis 2005.

³⁸ P.R. Rodrigues, 'Oordelen Commissie Gelijke Behandeling 2005', *Tijdschrift voor Consumentenrecht* 2006, no. 6.

³⁹ *Kerncijfers 2005, Klachten en meldingen over ongelijke behandeling* (Key figures for 2005: Complaints and reports of unequal treatment), Landelijke Vereniging van Anti-Discriminatie Bureaus en Meldpunten, Amsterdam: 2006.

Eight internet cases were booked by the public prosecutors' offices in 2005. There were thirteen such cases in 2004. Five of these thirteen cases were dismissed, four were settled out of court and four were taken to court.⁴⁰ For 2004, in view of the official instructions from the *Discrimination Instruction*, this means an overly high proportion of internet cases were settled by out-of-court settlement or dismissal. The number of reports registered by the Internet Discrimination Reporting Centre (Meldpunt Discriminatie Internet; MDI) in 2004 was 30 (6 from the MDI and 24 from complainants); less than half of these can be found in the records of the Public Prosecution Service (13).⁴¹ It is unclear whether the police passed these reports on to the Public Prosecution Service or whether the reports were actually made at all. In its 2005 annual report, the MDI noted that ever since it was founded the criminal law approach to discrimination on the internet has been problematic. Despite the visible improvements, the settlement period for reported incidents is still long. In addition, the reporting process is often extremely laborious. In 2005 the MDI made seven reports, three of which have so far resulted in a convictions.⁴² This is encouraging, but there are still 20 ongoing reports from the MDI in which no final decision has yet been made. In the judgement of the MDI, there is an apparent absence of priority, and too little capacity is made available to deal quickly with cases of discrimination on the internet. The MDI also feels that there is too little expertise on hand among the police and judiciary.

The fact that in 2005, 96 per cent of the cases of discriminatory remarks on the internet were removed at the request of the MDI is in need of nuance.⁴³ In 2004 less than half the requests made by the MDI to remove material it regarded as discriminatory were successful.⁴⁴ The other cases usually had to do with notorious persistent offenders or foreign locations. These cases are sometimes passed on to the Public Prosecution Service and sometimes stay with the MDI. It is to be expected that this proportion was not much different in 2005. Relevant figures are absent from the newly launched annual report.⁴⁵

In the letter *Fighting discrimination and enforcing the law*, the Minister of Justice indicated that the Public Prosecution Service was trying to stimulate development of law by means of an active prosecution policy.⁴⁶ According to the minister this means that even if the Public Prosecution Service becomes aware of punishable remarks or displays in other ways, criminal investigation may be indicated. Not only are sports mentioned as an example but also crimes of expression in generally accessible media, such as the internet. At the risk of repeating myself, I believe specific patrolling of the internet is called for, in response to complaints or tips, for example.⁴⁷ Knowing that the police are also patrolling the web will make most internet users think twice.

⁴⁰ These concerned one conditional dismissal, three dismissals based on lack of evidence and one dismissal due to a non-punishable offence.

⁴¹ P.R. Rodrigues, 'Opsporing en vervolging' (Investigation and prosecution), in: I. Boog et al. (eds.), *Monitor rassendiscriminatie 2005* (2005 Racial discrimination monitor), Rotterdam: Argus 2006, p. 191.

⁴² Amsterdam district court 25 January 2006, *LJN AV2201*, Rb 24 May 2006 (Housewitz) and Amsterdam district court 1 June 2006, public prosecutor's office no. 13/124393-04.

⁴³ *Jaarverslag 2005* (2005 Annual Report), Meldpunt Discriminatie Internet: Amsterdam 2006, p. 4.

⁴⁴ *Jaarverslag 2004* (2004 Annual Report), Meldpunt Discriminatie Internet: Amsterdam, March 2005, p. 8.

⁴⁵ The MDI confirms that in 2005 the percentage was comparable. In 2005 requests for removal were made for 54 per cent of the punishable remarks.

⁴⁶ *Kamerstukken II 2005/06*, 30 300 VI, no. 26.

⁴⁷ J. van Donselaar and P.R. Rodrigues, *Monitor racisme en extreem-rechts. Zesde rapportage* (Monitoring racism and the extreme right. Sixth report), Amsterdam: Anne Frank Stichting/Leiden University 2004, p. 104.

In the spring of 2006, the *Cybercrime Reporting Centre* (Meldpunt Cybercrime) was started, where reports can be made of radical and terrorist remarks and displays.⁴⁸ So far I do not know whether complaints of discrimination have been made to this reporting centre as well.

Table 9.8
Grounds for discrimination per incident, 2001-2005

Grounds for discrimination	2001		2002		2003		2004		2005	
Several grounds present	22	11%	54	22%	24	12%	35	16%	0	0%
Anti-Semitism	41	21%	60	25%	50	25%	58	27%	65	23%
Surinamese/ Antillean	6	3%	7	3%	21	10%	4	2%	7	3%
Turks/Moroccans	46	23%	40	17%	43	21%	43	20%	41	15%
Blacks/coloured	52	26%	47	19%	31	15%	45	21%	80	29%
Homosexuality	10	5%	6	2%	3	1%	5	2%	7	3%
Religion/Belief	4	2%	3	1%	0	0%	1	0%	2	1%
Islam	0	0%	0	0%	8	4%	8	4%	16	6%
Sex	1	1%	0	0%	0	0%	1	0%	1	0%
Other grounds	7	4%	10	4%	5	2%	10	5%	58	21%
Unknown	9	5%	15	6%	19	9%	4	2%	3	1%
Totaal	19		24	100	20	100	21	100	28	100
	8	100%	2	%	4	%	4	%	0	%

Source: LECD

Victims

The first striking feature in Table 9.8 is that in 2005 there were no longer any incidents listed in the category 'several grounds'. Starting in 2005, the LECD decided to input a maximum of three grounds when several grounds were involved. The category 'several grounds' has therefore lost its significance. This change immediately explains why in 2005 the total number of grounds differs from and is higher than (280) the number of discriminatory offences (241). Personally, I wonder whether the advantages of the change outweigh the disadvantages. Starting in 2005, the figures can no longer be properly compared with those of previous years – only the percentages at the most.

In 2005, anti-Semitism no longer had the most registrations of all the grounds for discrimination; it came in second following the category 'Blacks/coloured' (65). Relatively speaking there was a decrease (23 per cent) with regard to 2004 (27 per cent).

The new ground 'Islam', added in 2003, was 6 per cent (previously 4 per cent) and underwent a slight growth with respect to 2004. The national figures from the Anti-Discrimination Agencies (Anti-Discriminatie Bureaus; ADBs), however, indicate that the percentage of complaints of religious discrimination decreased in 2005. Apparently, members of the Islamic community are defending themselves from Islamophobia by reporting incidents more frequently than in the past. Reports made to the ADBs are lagging behind.

⁴⁸ *Kamerstukken II* 29 754, no. 73, p. 9. See <http://www.meldpuntcybercrime.nl/> (06.09.2006).

The discrimination percentage in the category 'Surinamese/Antillean' was very low in 2005 (3 per cent). The same was true in 2004 (2 per cent). The percentage in the category 'Blacks/coloured', however, rose to a new high: 29 per cent. The number of incidents registered in the category 'Turks and Moroccans' underwent a relative decline (from 20 to 15 per cent). The category 'other grounds' skyrocketed in 2005. According to the LECD this has to do with 'foreigners and gypsies', for example, which means this could also be regarded as an 'ethnic' category.

It is unclear to what extent the differences between 2004 and 2005 were caused by the new methodology. There is also the question as to whether the methodology caused contamination, as when a large number of suspects in a particular case violate several grounds for discrimination in the same way. In 2005 such a case occurred during Carnival. During the parades in Wernhout and Achtmaal, a float was decorated with slogans such as 'full=full', 'Negro chair 100 volts' and neo-Nazi slogans. This resulted in 30 official complaints. Ultimately eight young people had to appear in court.

In earlier reports we observed that the division into different ethnic groups is not successful. The decision to create the categories 'Blacks/coloured' in addition to 'Surinamese/Antillean' is, in my estimation, extremely unfortunate. In addition, a considerable number of discriminatory offences appear to fall under the (ethnic) category 'other grounds'. But what about grounds for discrimination that do not fall under criminal law? Take nationalism, for example. It would be better to resort to the notion of race as set out in the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD). Art. 1 of the ICERD states that race must be understood to include skin colour, origins, descent and national origins.⁴⁹

Discrimination on the ground of sex is almost never registered. One reason for that is that this ground is missing from the category that is most important in terms of volume: discriminatory defamation (art. 137c of the Penal Code). The reason given by the legislature for not including this ground at the time was that including it would interfere with the emancipation debate.⁵⁰

The number of registered cases of discrimination against homosexuals has again shown a slight uphill trend since 2003. Public trust in the prosecution of homophobic statements seems to have declined sharply as a result of a number of high-profile court rulings made at the beginning of this century in which such expressions were considered admissible. Examples are the criminal proceedings against Van Dijke⁵¹ and El Moumni,⁵² which were probably responsible for the subsequent decrease in the willingness to report such incidents. In addition, a relatively large number of cases of homophobic discrimination have the appearance of general criminal offences: assault, vandalism or threats with a discriminatory background. As noted earlier, these offences are still absent from the registry of the Public Prosecution Service.

⁴⁹ In the same sentence HR 24 June 1975, *NJ* 1975, 450 esp. Mulder.

⁵⁰ A.J. Molhoek, Gewijzigde anti-discriminatie bepalingen in het Wetboek van Strafrecht (Altered anti-discrimination provisions in the Penal Code), *LBR-Bulletin* 1992, no. 1, p. 5.

⁵¹ HR 9 January 2001, *NJCM-Bulletin* 2001, pp. 741-753, esp. Loof.

⁵² The Hague Court of Appeals, 18 November 2002, *NJCM-Bulletin* 2003, pp.461-470 esp. De Blois.

Comments on law enforcement

Penal provisions for structural forms of discrimination went into effect on 1 February 2004. This legislation stipulates that someone for whom discrimination is a professional activity or habitual behaviour can be given sentences with double the severity. Similarly, police and the judiciary also have more severe investigative measures at their disposal. So far this law has not been used in legal proceedings. When it was drafted, the main idea was that it would be useful in fighting discrimination on the internet and discrimination by the extreme right.

Earlier Monitor reports have already noted that what the *Discrimination Instruction* needs is not so much to be tightened up as to be complied with.⁵³ Since it has been observed that such compliance is structurally inadequate, I think it would be especially useful to find out why the *Discrimination Instruction* is not being sufficiently carried out in practice. It may be that its content and purpose is not consistent with realistic implementation. It is also possible that factors such as capacity, priority and mentality stand in the way. Moreover, inventories of the LBD suggest that the police have only a limited knowledge of the *Instruction Discrimination*. In my opinion there are other important sticking points:

1. Most police corps do not maintain an adequate registry for cases of discrimination, and as a result there is no national overview of the number of such cases being reported to the police;
2. The police are not sufficiently heedful of their obligation to record a complaint or notification as an official report and to tell the informant of the progress or termination of the investigation of his case;
3. The police are not sufficiently aware of offences under general criminal law that have a discriminatory background; the public prosecutors' offices do not recognise or register these offences; and the public prosecutors do not comply with the instruction in the *Discrimination Instruction* to increase the sentence in these cases by 25 per cent.

Solutions can be found by discussing the right to non-discrimination and the related *Discrimination Instruction* as part of the training in the police academy. As for the corps, knowledge of the *Discrimination Instruction* can be increased by means of information (protocol or instruction on the internet) or education (courses or training programmes). The Public Prosecution Service should maintain and tighten up knowledge of the *Discrimination Instruction* by means of its newsletter, by promoting internal expertise during joint meetings of discrimination officers and by inter-collegiate testing in discrimination cases. The Public Prosecution Service should also make sure that technical or psychological barriers do not interfere with tackling discrimination on the internet and keep it from lagging behind the social abuse of the medium. Finally, there should be compliance with the official instruction that in offences under general criminal law with a discriminatory background the penalty must be increased by 25 per cent.⁵⁴

In connection with the *Settlement by the Public Prosecution Service Act*, which went into effect on 1 January 2007, it should be recommended that the desired implementation practice

⁵³ See J. van Donselaar and P.R. Rodrigues, *Monitor racism en extreem-rechts: Opsporing en vervolging in 2002* (Monitoring racism and the extreme right: Investigation and prosecution in 2002), Amsterdam: Anne Frank Stichting/Leiden University 2003, p. 37.

⁵⁴ Also see the chapter *Sentencing in cases of racial violence*.

for cases of discrimination settled by the Public Prosecution Service be included in the rewrite of the *Discrimination Instruction* due to be issued in 2007. It is my opinion that it will not have to be used very often.

The police corps are a vital link in the prosecution of discrimination. Indeed, in their role as gatekeepers the police determine whether cases are going to end up with the Public Prosecution Service at all. This still seems like a good moment to improve the handling of cases of discrimination. In addition, earlier research shows that in the event of discrimination people are twice as likely to go the police as to the ADBs.⁵⁵ If these cases of discrimination were dealt with in conformity with the *Discrimination Instruction*, the inflow of cases going to the Public Prosecution Service would also be substantially increased.

With the priority that chief procurator general Brouwer has given to the prosecution of discrimination, extra measures may have to be taken. Including the recommendations of the LBD in performance contracts is a good example. It is striking that the ADBs are not mentioned by name in the supplement to the performance contracts. Given the effort being made to raise the level of professionalism, this seems like a missed opportunity.⁵⁶ According to the text of the negotiation agreement, the police have no exclusive responsibility in cases of discrimination. This seems realistic, but as a result of the shared responsibility now being proposed the chain partners may start blaming each other. This brings me to the point of collaboration between the police and the Public Prosecution Service, two separate and independent organisations with a common task. In the practical dealings with discrimination, parties still tend to pass the buck to each other. This problem is probably not confined to discrimination alone. Yet it is advisable that attention be paid to it. When cases are finalised, police and the Public Prosecution Service rely on each other. If cultural differences in organisational structure or decision-making methods between the two organisations get in the way of effective implementation, appropriate measures should be taken.

9.11—

Conclusion

After chief procurator general Brouwer's prioritisation of discrimination in the spring of 2006, it is to be regarded as a breakthrough that LBDs recommendations were included in the performance contracts of the police corps. This will make it possible to meet not only the requirements of the *Discrimination Instruction* but also those of the practical statutory approach to discrimination. If the performance contracts become operational at the beginning of 2007 it will be an important step forward. Naturally we will have to wait and see whether these words are transformed into deeds. If radicalism and extremism are to be fought effectively, a good protection against discrimination will have to be in place. Similar advice has already been presented by the Blok Commission, which was commissioned by the government to study the integration policy of the past few decades.⁵⁷

In expectation of the results of the new performance contracts, it is encouraging that the KLPD has begun to take seriously the collecting of data on discrimination. For the first time, general police data from the Recognition Services System (HKS) are also being generated by the

⁵⁵ P.R. Rodrigues, 'Opsporing en vervolging' (Investigation and prosecution), in: I. Boog et al. (ed.), *Monitor rassendiscriminatie 2005* (2005 Racial discrimination monitor), Rotterdam: Argus 2006, pp. 192-193.

⁵⁶ See the report *Perspectief op gelijke behandeling*, (Perspective on equal treatment), *Kamerstukken II* (Parliamentary Papers II) 2005/06, 30 000 VI, no. 117.

⁵⁷ *Kamerstukken II* 2003/04, 28 689, no. 9, p. 522.

KLPD. This once again clearly shows that for a realistic look at the material, it is essential that general offences with a discriminatory background also be visible. Both the police and the Public Prosecution Services are struggling here with a stubborn omission regarding the *Discrimination Instructions*: that the Netherlands has not included discrimination in the law as an aggravating circumstance. There is also no reason to do so if the official instruction is complied with. In view of the fact that such compliance will not be included for a long time, an amendment should be considered.

The dismissal percentage has risen in both absolute and relative terms. At 22 per cent in 2005, the dismissal score for cases of discrimination is almost twice as high as the national percentage for all offences, 13 per cent for 2005. In addition, given the appropriateness of prosecution in cases of discrimination, as expressed in the *Discrimination Instruction*, a lower percentage would have been the more obvious result. I think the dismissal percentage in cases of discrimination should not be allowed to exceed the national average for all offences. In 2005, the proportion of right-wing extremists among the suspects increased from 9 to 12 per cent. As far as perpetrators are concerned, anti-Semitism – given the relatively small minority group – was high once again (23 per cent), and there was also a striking increase in the number of incidents directed against Muslims (6 per cent).

Sentencing in cases of racial violence

Willem Wagenaar and Peter R. Rodrigues

After the murder of Theo van Gogh on 2 November 2004 a wave of violence occurred that was aimed mostly at Muslims and Islamic institutions. The legal system was decidedly shocked, both by the assassination of Van Gogh and by the violent reactions that followed. But how did the judiciary respond to this shock? Did public prosecutors and the judiciary try to reduce the intensity of the reactive violence by demanding and imposing severe punishments? Or did they sympathise with the violence?

Several cases having to do with violence of a discriminatory character went to court before and after the murder of Van Gogh. A systematic comparison of these cases can provide some clarity on the way punishment is determined.

The central question in this study is whether different punishments were imposed for comparable violent offences of a discriminatory character in the period around the murder of Van Gogh. In investigating this question we looked at factors that may have influenced the sentence and at their role in the various criminal proceedings. We also looked into the possibility of a relationship between the severity of the punishment and the passage of time around the murder of Van Gogh. For this study we looked at 16 criminal cases from the period 2004-2006 that are relevant to our investigation.

10.1 —

Investigation and approach

In March 2005, four suspects stood trial before the three-judge criminal section in Roermond. This was four months after they had been arrested, suspected of attempted arson. During the session, the lawyer of one of the suspects argued that the punishment being demanded was too high. She then took two sentences imposed in comparable cases – 24 months imprisonment (six months of which were suspended) and one year imprisonment (nine months of which were suspended) – and asked the judge to impose the average of these two sentences, 16 months imprisonment, on her client. The judge refused to follow this line of reasoning and imposed a prison sentence of three years, one of which was suspended.¹ The lawyer's attempt to reduce the sentence raises an interesting question. How can three persons, all of whom were suspected of failed attempts to burn down a mosque during the period after the murder of Van Gogh, receive three different prison sentences?

After the murder of Van Gogh there was a brief wave of violence largely directed towards Muslims and the buildings housing Islamic institutions, which resulted in a considerable number of criminal cases concerning violent offences of a discriminatory character.² A wide range of punishments were imposed in these cases, and after undertaking a preliminary examination of those punishments we noted two things.

¹ Roermond district court 9 May 2005, *LJN AT5625*.

² See: J. van Donselaar and P.R. Rodrigues, *Annex bij de Monitor racisme en extreem-rechts. Zesde rapportage: Ontwikkelingen na de moord op Van Gogh* (Appendix to Monitoring racism and the extreme right. Sixth report: Developments after the murder of Van Gogh), Amsterdam: Anne Frank Stichting, 2004. The Appendix can be found at www.monitorracisme.nl.

First, there is a striking difference in sentences imposed for apparently comparable cases. Many of the cases had to do with attempts (successful or otherwise) to burn down mosques and other buildings of an Islamic nature. Various penalties were imposed on the perpetrators, from community service to long nonsuspended prison sentences.

Second, there seemed to be a difference in the punishments imposed for acts of violence of a racist or extreme right-wing character before and after the murder of Van Gogh.

To determine whether these observations made after a preliminary examination are correct, two questions must be answered.

1. What factors influenced the way and degree in which violent offences of a discriminatory character were punished?
2. Is there an observable difference in the severity of the punishment before and after the murder of Van Gogh?

To answer these questions, we gathered data from 16 criminal cases from the period 2004-2006. In all these cases, persons were sentenced for serious violent crimes (arson, gross maltreatment, threats and acts of violence in public places). The data concern written judgements or notes taken during oral judgements, media reports of legal proceedings or our own reports of legal proceedings.

Based on these data we looked at what was said about the sentencing during the legal proceedings, in this case what facts or circumstances tended to mitigate or aggravate the sentences being imposed.

A number of problems arose in the course of this study. The available information was not optimal in all cases. Rendering a judgement and deciding on the accompanying sentence is a complex process, and in complicated cases lengthy dossiers are often used. Only a limited portion of the dossiers are discussed in the actual court session. Then only a small portion of the material dealt with in the courtroom ends up in the final judgement. Because we have not used the case dossiers, and did not have reports of the court sessions at our disposal in all cases, the material was sometimes incomplete. Nevertheless, we believe that the aforementioned questions can be answered.

10.2 —

Legal framework

In this study we looked at the severity of the punishment in the judgements of a number of violent offences in which a discriminatory background was present. In order to make sound statements, we mainly focused on serious crimes such as arson and grievous forms of assault. To provide the necessary insight into the context of these cases it is important to discuss their legal framework.

10.2.1 —

Sections of the law and descriptions of the offence

In the cases we studied the incidents were often similar, so in many cases the same articles of criminal law were applicable. This involves the following articles:

Art. 141 of Penal Code: Act of violence in a public place
Art.157 of the Penal Code: Arson or causing an explosion
Art.285 of the Penal Code: Threatening violence, arson and the like
Art.287 of the Penal Code: Homicide
Art.302 of the Penal Code: Aggravated assault
Art.350 of the Penal Code: Vandalism

In one instance someone was convicted of violating a number of articles from the *Firework Decree*. He was making a bomb and had illegal fireworks in his home for that purpose. In another case two men were involved in a shooting incident and were also convicted under articles from the *Weapons and Ammunition Act*.

Frequently the conviction has to do with an attempt (described in art. 45 of the Penal Code) or preparations (described in art. 46 of the Penal Code). For example, if the perpetrators were arrested before actually committing an act of arson, they are charged with *preparing* to commit arson. In a shooting incident in which the firearm is aimed but not fired, the charge is attempted homicide. In a number of cases a principal perpetrator was assisted by others in the background (who lent the perpetrator a moped, for example). In such cases the charge was being an accessory to a crime (described in art. 48 of the Penal Code). In the case of attempted acts or of being an accessory to an act, the principal sentence is reduced by one third. In the case of preparing to commit an act it is reduced by one half.

In several cases the person in question was also charged with other crimes apart from the discriminatory incident which is of primary interest to our study (theft, embezzlement, receiving stolen goods, drug offences). In most cases, however, these were minor in comparison with the violence committed. In such cases these additional incidents played only a minor role, if any, in determining the sentence. In two cases, however, the incidents had a strong impact on the sentence.

The first case had to do with a man convicted of preparing to bomb a mosque who was convicted of violating the *Opium Act* at the same time. During a house search, he was found to have the components needed for a bomb as well as large quantities of hard drugs. His final sentence (two and a half years imprisonment, of which six months suspended) was based on both major offences.

In the other case, a man was convicted of being an accessory to throwing a fire bomb into the home of an Iraqi family. He was charged with several other acts (theft, vandalism, acts of violence in a public place). Because a total of 26 different offences were involved, this could have influenced the sentence. It is not clear what the influence exactly was, however, since the total resulted in an apparently low sentence of twelve months in prison of which six were suspended.

10.2.2 —

Maximum penalties

The maximum sentence that a judge may impose for a particular offence is laid out in the Penal Code. There are no minimum penalties in Dutch criminal law. Table 10.1 shows the maximum penalties for the articles of criminal law as well as two special laws as used in the cases being investigated.

Table 10.1
Maximum penalty per offence

Article	Description	Maximum penalty
141-1	Violence in a public place	4 years imprisonment
141-2 1 ^e	Violence in a public place with injuries	6 years imprisonment
141-2 2 ^e	Violence in a public place with grievous injuries	9 years imprisonment
157 1 ^e	Arson/causing an explosion with danger to goods	12 years imprisonment
157 2 ^e	Arson/causing an explosion with danger to persons	15 years imprisonment
285-1	Threat of violence, arson	2 years imprisonment
287	Homicide	15 years imprisonment
302-1	Aggravated assault	8 years imprisonment
Weapons and Ammunition Act art.55	Possession of or transferring firearms (cat. 3)	4 years imprisonment
Economic Offences Act art. 6	Failure to comply with the Fireworks Decree	1 year imprisonment

These maximum penalties are also subject to preconditions. In attempted offences, preparing to commit an offence or being an accessory to an offence, only a portion of the maximum penalty can be imposed: two thirds, one half and two thirds of the maximum penalty respectively.

If someone is charged with several punishable offences, the maximum penalty is the sum of all the penalties but not more than one third more than the highest maximum penalty.

Other norms apply to persons being tried under juvenile criminal law. Up to the age of 16 a person can be given a maximum of 12 months juvenile detention; for those aged 16 and above the penalty is 24 months. In addition, minors are not given lower maximum sentences in the case of attempt, preparation or being an accessory, as in the adult criminal law.³

Since the Crimes of Terrorism Act went into effect on 10 August 2004, crimes committed with ‘terrorist intent’ are more heavily punished.⁴ In introducing this law, the Netherlands is following the European guidelines for fighting terrorism. The maximum prison sentences for crimes such as homicide, aggravated assault, hijacking or abduction are higher if they were committed with terrorist intent. In most cases the sentence is increased by half. If the highest penalty for a particular crime is 15 years (such as homicide), the penalty is raised to life or a maximum of 20 years.

In the cases under investigation the court did not avail itself of this possibility. In one case, attempted arson in a mosque in Venray, the law was used. During the investigation of this case, the Public Prosecution Service is said to have announced its desire to make use of the Crimes of Terrorism Act.⁵ In the end this was not done.

³ Art. 77gg of the Penal Code.

⁴ See articles 83a and 114a of the Penal Code.

⁵ B. Oostra, ‘Lonsdalers terreurverdachten’ (Lonsdalers terror suspects), *De Limburger* 29 November 2004.

10.2.3 —

Guidelines

Besides the maximum penalties as laid out in the Penal Code, there are other guidelines available for determining a sentence. At least as important are various guidelines and instructions drawn up by the Board of Procurators General.

In a number of areas – crimes of a discriminatory nature, football vandalism and domestic violence, for example – the Board of Procurators General has drawn up instructions for prosecution. These state how public prosecutors must conduct their prosecution of crimes in this specific context. In the context of this study, the *Discrimination Instruction* is of primary importance.⁶ This document gives the police and the Public Prosecution Service mandatory instructions concerning the investigation and prosecution of cases of discrimination. With regard to offences under general criminal law, it stresses that if a discriminatory background is present, the public prosecutor must emphasise it in his or her demand. In addition, the sentence must be increased by 25 per cent. These criminal cases – offences under general criminal law of a discriminatory nature – are the focus of this chapter.

The Board of Procurators General has drawn up a number of other guidelines for prosecution. These guidelines indicate how a sentence for each punishable offence must be constructed. For our chapter, only the sentencing guidelines for violence in a public place,⁷ assault⁸ and vandalism⁹ are of importance. With regard to arson (the subject of most of the criminal cases studied), no separate sentencing instruction has been formulated.

As far as violence in a public place is concerned, the guidelines note a number of aggravating and mitigating circumstances. Aggravating circumstances include a discriminatory background, recidivism, violence at a sporting event, causing personal injury and use of weapons. In addition, a heavier sentence must be demanded if violence is used against a civil servant, guard, peace officer or a random victim. In the case of a discriminatory background, the guidelines stipulate that the sentence must be increased by 25 per cent.

In the guideline for the prosecution of assault, the sentence depends to a certain extent on the nature of the injury inflicted and the use of a certain kind of weapon, if any. Also applicable are factors comparable to those in the guideline for violence in a public place: choice of victim, discriminatory aspects, recidivism or violence at a sporting event.

In the guideline with regard to vandalism there are also comparable factors influencing the sentence: choice of a particular victim, discriminatory background, background of the sporting event and recidivism are all aggravating circumstances.

10.3 —

Cases

To determine what conditions were decisive in fixing the punishments in the 16 cases studied here, we looked at the factors that might have contributed to the aggravation or the mitigation of the sentences. This was based on a number of factors that may be expected to have been influential:

⁶ *Staatscourant* 2003, 61.

⁷ *Staatscourant* 1999, 62.

⁸ *Staatscourant* 125, 62.

⁹ *Staatscourant* 1999, 62.

1. Age of the suspect;
2. Ethnicity of the perpetrator;
3. First offender or recidivist;
4. Use of alcohol or other kind of drug;
5. Expression of regret;
6. Complicity or acting alone;
7. Right-wing extremist background.

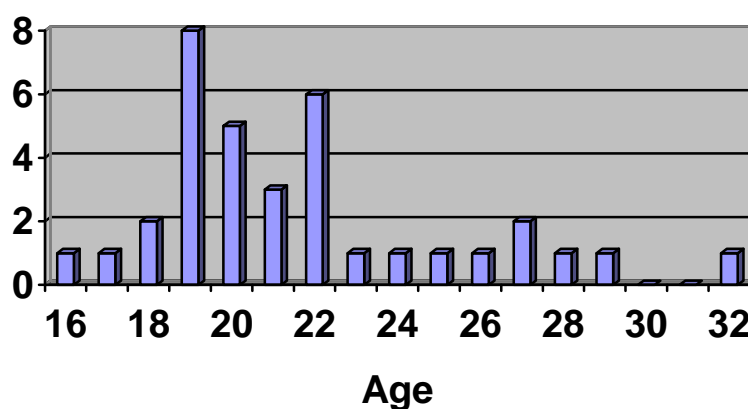
We also looked to see if other factors had come to light in the criminal cases under examination that may have influenced the sentencing. Finally we examined the role played by time: whether there was any perceptible change between the sentences issued before and after the murder of Theo van Gogh.

10.3.1 —

Age of the suspect

In the 16 cases, the ages of 35 of the suspects have become known. They were between 14 and 30 years of age. A large majority (22 out of the 35 known perpetrators) were between the ages of 17 and 20. Within this distribution there are ages that occur with striking frequency (see Figure 10.1). This leads to the conclusion that these cases often involve relatively young perpetrators. Twelve of the 35 were even under age during their trials.

Figure 10.1. Number of convictions per age



There appear to be differences in the sentences when compared with the ages of those convicted. Of all those convicted, none of the youngest minors (14-16 years of age) had to return to detention despite the extreme gravity of some of their crimes. They were given either nonsuspended prison sentences equivalent to time on remand or suspended prison sentences supplemented by a community punishment order or training order. In a number of cases these young people had already spent quite some time on remand.

In the case against five young people suspected of having set fire to an Islamic primary school in Uden, all of them were minors (14-17 years of age). This arson resulted in great commotion throughout the Netherlands. Given the seriousness of the case, it was not a foregone conclusion that juvenile criminal law would be applied. The public prosecutor emphasised, however, that he had let himself be guided by juvenile criminal law in this

case.¹⁰ The five were sentenced to unsuspended juvenile detention for more than a month, which coincided with their time on remand. They were also given suspended juvenile detention and a community punishment order.¹¹

When a person reaches the age of 17, another regime seems to come into force. Starting at that age, the young people are also given custodial sentences that are longer than their time on remand, which means they have to return to detention. Two young people of 17 were given unsuspended juvenile detention for serious crimes (attempted arson in a school and throwing a fire bomb into a house).

At the age of majority the sentencing increases even further. Heavy sentences (or more than one year unsuspended imprisonment) were given to six suspects. The youngest of these was 19, but this case involved shooting at a number of persons. All the other cases involved arson or preparing to commit arson and one bombing. All these perpetrators were between 20 and 30 years of age.

After the first incident of arson in an Islamic school in Uden, in which the building was burned to the ground, an attempt was made four months later to set fire to the school's temporary quarters. The four perpetrators were arrested and taken to court. The Public Prosecution Service demanded higher punishments than in the first case of arson, partly because the perpetrators in this second case were older (17 and 18 years of age).¹² The judge did not take up this demand. He sentenced the second group of perpetrators to juvenile detention that coincided with their time on remand, suspended juvenile detention and community punishment orders in which he explicitly referred to the young ages of the perpetrators as a mitigating factor.¹³

To summarise: the age of the suspects does influence the sentence. The older the suspect, the heavier the penalty.

10.3.2 —

Ethnicity of the perpetrator

In considering the selected cases we learned that all the perpetrators were of native Dutch origin. So no comparison can be made between different ethnicities, and nothing can be said about the role of ethnicity in determining sentences.

10.3.3 —

First offender or recidivist

It is difficult to say anything about recidivism because of an absence of data. Prior confrontations with criminal law are often recorded in a criminal file and mentioned in the courtroom, but they are not included in a sentence or report of the case. When recidivism – or the lack of it – is mentioned, it is usually with respect to one of four things:

¹⁰ A. Rijken, 'Branden gesticht uit wraak' (Fires set out of revenge), *Brabants Dagblad* 19 May 2005.

¹¹ 's-Hertogenbosch district court 1 June 2005, *LJN* AT6449, AT6453, AT6457, AT6462 and AT6466.

¹² 'Jeugddetentie geëist om brandstichtingen Bedir' (Juvenile detention demanded in Bedir arson case), *De Telegraaf* 16 August 2005.

¹³ 's-Hertogenbosch district court 30 August 2005, *LJN* AU1642, AU1664, AU1666 and AU1674.

1. The perpetrator is a first offender;
2. The perpetrator came in contact with criminal law on a previous occasion but for a non-relevant offence;
3. The perpetrator came in contact with criminal law in a case that the Public Prosecution Service or judge regards as relevant to the present case;
4. The perpetrator was given a suspended sentence and is still on probation.

In 7 of our 16 cases the perpetrator had a criminal record that was known and relevant. In these cases the criminal record was undoubtedly considered in determining the penalty, but nothing about it is mentioned in the sentence. In one case, however, an explicit reference was made. A man who had been brought to trial for preparing to bomb a mosque, and who was also in possession of a large quantity of hard drugs, was given a heavy prison sentence. This penalty was partly based on his 12-page criminal record, which included earlier convictions for acts of violence and drug-related offences: ‘Apparently this was not enough keep the suspect from reoffending.’¹⁴

In the aforementioned case of the second incident of arson in a school in Uden, a heavier penalty was also imposed because of the presence of a criminal record. The suspect had been convicted shortly before and was still on probation.¹⁵

Not only are earlier convictions taken into account in determining the sentence, but so is the absence of such convictions. This was explicitly mentioned in some of the sentences.

In the case against a man who tried to burn down a mosque in Breda, the court said, ‘It is in the suspect’s favour that he has never had any previous contact with the police or judiciary.’¹⁶

In three cases, the sentences imposed on a group planning to burn down a mosque in Venray mentioned that the judge had taken into account the fact that the perpetrators had no previous convictions. The fourth suspect, however, did have an earlier conviction (including theft and theft with violence). Interestingly enough, this was also mentioned as a *mitigating* circumstance in the sentence, because the perpetrator ‘has never before been convicted of a similar offence’.¹⁷

In just once case, an earlier suspended sentence was implemented. This gave a distinct turn to the case of an IJsselstein arsonist. His earlier suspended custodial sentence was converted into a community punishment order. At the same time, this man received a new suspended custodial sentence as a final warning.¹⁸

To summarise: contrary to what one might expect, recidivism does not lead to aggravated sentences in all cases.

¹⁴ Alkmaar district court 8 March 2005, *LJN* AT1707.

¹⁵ 's-Hertogenbosch district court 30 August 2005, *LJN* AU1674.

¹⁶ Breda district court 7 April 2005, case list no. 2679-04.

¹⁷ Authors’ report of the trial, Roermond district court 9 March 2005. Roermond district court 23 March 2005, case list no. 04/060767-04.

¹⁸ Authors’ report of the trial, Utrecht district court 3 May 2005. Utrecht district court 3 May 2005, case list no. 16/370524.

10.3.4 —

Alcohol and drug use

The use of drugs and alcohol was a frequent feature of the cases studied here.¹⁹ Many perpetrators appear to have acted under the influence of or had a problem with alcohol or drugs. In one case of attempted arson, a judge remarked that the suspect's drug use would make a junkie jealous.²⁰

So in several cases a suspended sentence was linked to an order to learn how to handle alcohol and drugs. Often, however, it is difficult to tell what role alcohol or drugs played in determining a sentence. In two cases the perpetrators were seriously drunk. One man in IJsselstein drove to a petrol station while totally inebriated, filled a Coke bottle with petrol and thanked the attendant for his contribution to the act of arson. He then threw the fire bomb at a mosque. When he was done he called his friends to boast about his accomplishment. He was given five months imprisonment, three of them suspended, and was ordered to enter a treatment programme for alcohol addiction.²¹

Another man was under the influence of alcohol, soft drugs and cocaine when he decided to burn down Rotterdam's Mevlana Mosque. He stole firewood and lighting fluid from a petrol station and set off for the mosque by car. After getting lost he asked directions from a pedestrian, telling her he wanted to burn down the mosque. He then set fire to the front door of the imam's house. Startled after almost being caught in the act, he abandoned his car. The court came to the conclusion, based on various investigative reports, that his addiction and use of drugs and alcohol were mitigating factors. The man was given a suspended sentence, however, on the condition that he enter an addiction treatment centre.²²

Having an alcohol problem is not always a mitigating factor. This came to light during the trial of an arsonist convicted of setting fire to a school in Uden. The fact that he was under the influence was counted against him, even though it was known that he was troubled by 'demon liquor': 'While committing the offence the suspect was under the influence of alcohol. He knew or must have understood the negative effect it would have on his behaviour, yet he used it anyway.' This suspect was also ordered to attend a course in alcohol delinquency.²³

Drugs played a role in the case against the Venray boys who wanted to burn down a mosque. The two main suspects, who were caught red-handed, used large quantities of hard drugs. One of the two had swallowed eight XTC pills the evening before his arrest. Both were ordered to enter into treatment for their drug problem in addition to a stiff prison sentence.²⁴

To summarise: the use of alcohol and drugs can influence sentencing in different ways. It can have a mitigating effect if the perpetrator was no longer able to control his behaviour. In that case, mandatory treatment for addiction is often involved in the sentence. In other cases the

¹⁹ For the relationship between racial violence and alcohol use, also see: T. Bjørge, *Racist and rightwing violence in Scandinavia*, Otta: Tano Achehoug, 1997. This publication reports alcohol use among 40 to 80 percent of the known perpetrators of racial violence. In addition, two thirds of the cases of racial violence in Scandinavia occur in the weekend.

²⁰ Authors' report of the trial, Roermond district court 9 March 2005.

²¹ Utrecht district court 3 May 2005, case list no. 16/370524.

²² Rotterdam district court 13 June 2005, case list no. 10/031338-04.

²³ 's-Hertogenbosch district court 30 August 2005, *LJN* AU1664.

²⁴ Authors' report of the trial, Roermond district court 9 March 2005. Roermond district court 23 March 2005, case list no. 04 /060767-04. Roermond district court 9 May 2005, *LJN* AT5625.

use of alcohol is an aggravating factor, however, if the perpetrator knew he would lose control and consciously took the risk.

10.3.5 —

Expression of regret

There were expressions of regret in almost all the cases we studied. Declarations were made in the courtroom and to the police in which regret was expressed, and perpetrators also sent their victims letters of regret and flowers.

In the 16 cases there was only one in which regret was explicitly withheld. A man accused of having successfully set fire to a Rotterdam mosque told both the police and the court that he had nothing to do with the case. He had told the police, however, that he was happy it had happened.²⁵

In a number of cases the perpetrator's expression of regret played a special role. The two men who tried to set fire to a Breda mosque offered the mosque their profuse apologies. The parents of the perpetrators also visited the mosque. In return, the mosque council appeared at the trial to offer the perpetrators forgiveness. They also invited the perpetrators to be present at the re-opening of the mosque.²⁶ In issuing the sentence the judge then said that in passing the sentence he was taking the regret and remorse into account.²⁷

Things were quite different in the case of a man who tried to set fire to a mosque in Heerenveen. This perpetrator sent a letter of regret and flowers to the mosque. The Public Prosecution Service dismissed the letter as mere crocodile tears and called it a 'socially desirable answer'.²⁸ The court did not attach much value to the apology either and did not let it influence the sentence.²⁹

In other cases, expressions of regret did play an important role. In the trial of several young people who tried to set fire to a mosque in Huizen, the judge imposed a considerably lower punishment than was demanded. The reason was the expression of regret that had been conveyed to the mosque.³⁰

A striking form of regret that occurs with quite some regularity has to do with getting to know 'good ethnic minorities'. In their trials several defendants said they had become acquainted with ethnic minorities in prison and had come to the realisation that they are not all bad. After such an experience, the man from IJsselstein who was mentioned earlier told the court,

Now I understand that I cannot hold the entire community responsible. Naturally they aren't all bad people. Later I wrote a letter of apology to the imam.

Also in this case the expression of regret was taken into account in the sentence.³¹

²⁵ Authors' report of the trial, Rotterdam district court 3 April 2006.

²⁶ C. Rosman, 'Moskeebestuur milder dan rechter' (Mosque council more lenient than the judge), *BN/De Stem* 4 March 2005.

²⁷ Breda district court 7 April 2005, case list no. 2679-04.

²⁸ Authors' report of the trial, Leeuwarden district court, 22 February 2005.

²⁹ Leeuwarden district court 8-3-2005, *LJN* AS8862.

³⁰ 'Taakstraf voor plan brandstichting bij moskee in Huizen' (Community punishment order for plan to commit arson to Huizen mosque), *De Telegraaf* 22 september 2005. Amsterdam district court 21 September 2005, case list nos. 13/067533-04, 13/067534-04 and 13/067535-04.

³¹ Authors' report of the trial, Utrecht district court, 3 May 2005. A. Schouten, 'Brandstichter krijgt spijt

A young man from Stadskanaal had to face charges for throwing a fire bomb into the home of an Iraqi family. He also learned from his fellow prisoners: 'I was exposed to their culture and now I have respect for them. Even though they have another skin colour, they're just normal people, too.'³² Whether the expression of regret had any impact on the sentence in this case cannot be deduced from the court ruling.

To summarise: it can be said the expressions of regret do have a mitigating effect on the sentence as long as the court is convinced that the expression is sincere.

10.3.6 —

Complicity or acting alone

It is quite conceivable that whether an offence is committed by a group or an individual can influence the sentence. On the one hand it can be an aggravating factor if a group is used to camouflage the offence or to commit violence in instalments. In some offences such as theft, the involvement of two or more persons can increase the sentence.³³ On the other hand, experienced group pressure on the part of one perpetrator can have a mitigating impact. In our study there is no indication that committing a crime as a group or as an individual had any demonstrable impact on the sentence. In one case attention was paid to the role played by group dynamics, but there was no clear link between this and the sentence. There, a group of Dokkum youths were planning to set fire to an asylum seeker centre; the group consisted of a large group of minors and three adult young men. The adults functioned as informal leaders and instigators in the group. The Public Prosecution Service gave the adults full blame for influencing the boys to commit violence.³⁴ But that did not result in a noticeably heavier punishment.

To summarise: acting alone or in a group while committing a general offence of a discriminatory nature does not have any noticeable impact on the sentence.

10.3.7 —

Extreme right-wing background

In the majority of the cases there were indications of an extreme right-wing background. Often the perpetrators had extreme right-wing ideas or sympathies, or their motive was distinctly extremist. This was usually reflected in the arguments put forward by the Public Prosecution Service or in the sentence handed down by the court.

The question, however, is to what extent the consequences of such a background are attached to the determination of the sentence. Apparently it is difficult for the Public Prosecution Service to assign an extreme right-wing background to an offence as a discriminatory background and to include it as an aggravating factor in formulating a demand for

na contact in cel met Marokkanen' (Arsonist is sorry after contact with Moroccans in jail), *Utrechts Nieuwsblad* 4 May 2005.

³² C. Klomp, 'In gevangenis krijgt "neonazi" respect voor buitenlanders' (In prison 'neo-Nazi' learns respect for foreigners), *Dagblad van het Noorden* 19 January 2005.

³³ Art. 311, paragraph 1, subparagraph 4 of the Penal Code.

³⁴ Authors' report of the trial, Leeuwarden district court 27 April 2004.

punishment. The margin for judging whether the perpetrators, most of whom are young, should be labelled right-wing extremists is problematic for the Public Prosecution Service in actual practice. In our opinion this does not alter the fact that in many cases the discriminatory background of an offence was satisfactorily demonstrated.

According to the *Discrimination Instruction* and the Public Prosecution Service's guidelines for prosecuting cases of violence in public places, assault and vandalism, the demand for a sentence should be increased by 25 per cent if a discriminatory background is present in an offence under general criminal law.³⁵

In several of the cases studied, extreme right-wing ideas and a discriminatory background do figure in the demand made by the public prosecutor. What is not visible in any of the cases, however, is a direct connection between the demand for punishment and the discriminatory background, because none of the demands make explicit reference to this guideline. The *Discrimination Instruction* states:

In cases of offences committed under general criminal law [...] a discriminatory background should be emphasised in the demand made by the public prosecutor and should be included in the demand as an aggravating factor. The demand must be increased by 25 per cent.

From this it can be inferred that the demand for an increased penalty must be explicitly mentioned, which did not happen in these actual cases.

To see whether the Public Prosecution Service is implicitly applying the guidelines on this point, we would have to look at the level of the demanded penalty itself. But this is where a problem arises. The Public Prosecution Service has issued prosecution guidelines for a number of crimes, which include the fixed sentences for several offences. But for most of the offences that occur in the criminal cases under investigation here (cases having to do with arson), there is no such guideline. Not only that, but the demanded penalties are widely divergent. So we have no choice but to conclude that it is almost impossible to determine whether the *Discrimination Instruction* was tacitly followed by the Public Prosecution Service on this point.

In a case against four arsonists who set fire to a primary school in Almere, it is at least unlikely that this was the case. Both the public prosecutor and the court indicated that they had been affected by the extreme right-wing character of the act. The public prosecutor said the dossier was imbued with extremism. Both the public prosecutor and the court observed extreme right-wing ideas in two of the four perpetrators. One of the other perpetrators flatly denied having such ideas. Because of the absence of further proof, the court concluded that in this case of vandalism the motive was not extremism. For one of the perpetrators with extremist ideas, the same judge concluded that while this extreme right-wing motive counted heavily, the young man was also the product of a difficult childhood. Remarkably enough, the court sentenced these two young men to the same penalty despite the different motives: suspended imprisonment and a stiff community punishment order. The Public Prosecution Service had already demanded equal penalties but did not mention the perpetrators' different motives.³⁶ In this case the Public Prosecution Service had trouble recognising the consequences of the discriminatory background, and in any case the *Discrimination Instruction* was not complied with.

³⁵ Aanwijzing discriminatie (Discrimination Instruction), *Staatscourant* 2003, 61.

³⁶ Authors' report of the trial, Zwolle-Lelystad district court 27 January 2006.

After concluding that the *Discrimination Instruction* was not explicitly followed in these cases, we need to ask whether an extremist background influenced the penalty in any other way. In a number of cases such a background is at least referred to in the public prosecutor's demand or in the verdict.

That happened in two different ways:

- In a number of cases the motive for the act was used to demonstrate the extremist background.
- In a number of cases the extremist ideology of the perpetrator was discussed.

In a few cases the motive for the act was used to demonstrate the extremist background. In the judgement against a man involved in throwing a fire bomb into a family's home, the court said the fact that the arson was based on racist motives must be regarded as an aggravating factor.³⁷

In the case of a man who threw a fire bomb at a mosque in IJsselstein but missed his target, the Public Prosecution Service charged him with 'racially motivated threat'. The public prosecutor may have meant that he had followed the *Discrimination Instruction* and for this reason demanded a higher penalty.³⁸

In other cases, a perpetrator's extremist ideology is emphasised in order to demonstrate that the ideology was important in the decision to commit the crime. In the case of an arsonist from Joure, his extreme right-wing ideas were specifically addressed. This man was known locally for his neo-Nazi sympathies. A house search revealed an array of materials that confirmed these sympathies.³⁹ The public prosecutor concluded that the action was a consequence of 'pent-up hatred against everything and everyone who was not Dutch'. The judge agreed with this view, and in his sentence he said, 'The court counts this heavily against the defendant. Indeed, the very circumstances were such that the emotional damage suffered by the Islamic community in particular was great.'⁴⁰

In the incidents of arson following the murder of Van Gogh, another point played a role. In the cases resulting from these incidents of arson, a distinction was made between the political motives (often absent) and the rage over the murder of Van Gogh as a motive. It was also noted that the perpetrators were not extremists but had acted out of rage and emotion. In a case of arson committed against a mosque, the Breda district court ruled that the arsonist's motives did not have their basis in political ideology but in the murder of Van Gogh and the incidents of arson and threats that followed.⁴¹

To summarise: it is difficult for the Public Prosecution Service to assign a discriminatory background to an offence if extreme right-wing perpetrators are involved. Often it is unclear whether this background should have any bearing, and if so, what it should be. As a result of this practice, the *Discrimination Instruction* was not being clearly complied with in any of the cases with regard to increasing the sentence by 25 per cent for offences with a discriminatory background. In a number of cases, however, the extremist background did influence the sentence by increasing it. Sometimes this was done on the initiative of the public prosecutor and sometimes on the initiative of the judge.

³⁷ Groningen district court 1 February 2005, case list no. 18/070485-04.

³⁸ Authors' report of the trial, Utrecht district court 3 May 2005.

³⁹ Authors' report of the trial, Leeuwarden district court 22 February 2005.

⁴⁰ Leeuwarden district court 8 March 2005, *LJN AS 8862*.

⁴¹ Breda district court 7 April 2005, case list no. 2679-04.

10.3.8 —

Other factors

In addition to the aspects that may be presumed to have had an influence on the sentence, we became aware of a number of other aspects during our study that were also influential:

- The defendant's personality (psychological disorders, addiction, inadequate upbringing, etc.);
- Risks taken of serious injury or death;
- The creation or exacerbation of social unrest.

One obvious aspect is the person of the defendant. In many cases studies were carried out of the personalities of the various perpetrators. These studies often revealed psychological disorders or other behavioural problems such as addiction or immaturity, which had a mitigating effect on the sentence.

It was also quite common to see the perpetrators of an offence being heavily blamed if lives were endangered by his act. Generally speaking, in the cases we studied the defendants who were charged with heavy custodial sentences were all held responsible for endangering people's lives. Four of the cases concerned arson (and attempted arson) to a mosque where people were present or where people in adjacent buildings were asleep. In two cases an imam and his family were asleep, in one case a group of people guarding the mosque were present, and in another case the mosque was located in a residential area. In other cases where lives were endangered (a shooting incident and an attempt to set a fire to a house), stiff sentences were also imposed.

Although this seems like an important point when we look at the various sentences, it does not occur in every case. In the case against three suspects arrested for attempted arson in Huizen, the perpetrators were given relatively mild punishments (one community punishment order and suspended imprisonment). These three suspects were apprehended by guards who were present in the mosque and who would certainly have been in serious danger if the arson had succeeded.⁴² A man involved in throwing a fire bomb into the house of an Iraqi family was also given a relatively light sentence (six months in prison and a suspended custodial sentence).⁴³ But these two cases are apparently exceptional.

One aspect that occurs as an aggravating factor in a great many cases is creating or exacerbating social unrest or fear. In the case of arsonists who committed their offences after the murder of Van Gogh this was almost always mentioned as an aggravating factor, sometimes by the public prosecutor, sometimes by the judge, and sometimes by both.

One last aspect that was unquestionably influential but of a different order than the previous factors has to do with the choices made by the Public Prosecution Service. The article chosen from the Penal Code that used to charge the suspect is of great importance here. A man who threw a fire bomb at a mosque in IJsselstein but missed his target was not charged with attempted arson but with threats. Naturally this resulted in a correspondingly lower penalty.⁴⁴

⁴² Amsterdam district court 21 September 2005, case list nos. 13/067534-04, 13/067533-04, 13/067535-04.

⁴³ Groningen district court 1 February 2005, case list no. 18/070485-04.

⁴⁴ Utrecht district court 3 May 2005, case list no. 16/370524.

10.3.9 —

Penalty and momentum

One last factor that can influence the penalty is the factor of time. Under the influence of specific events, or because of, say, public discussions of sentencing practices, different sentences may be imposed at different times.

One of the two main questions in this chapter has to do with the influence of the murder of Theo van Gogh on penalties for racial violence. Is there a noticeable difference in the severity of the penalty before and after the murder of Theo van Gogh? In the previous sections we have already seen that a great number of very diverse factors are involved in determining the sentences in apparently equivalent cases.

But in order to determine whether the murder of Theo van Gogh was of influence in the sentences imposed in the cases we studied, we grouped cases together that have many things in common. The sentences in these cases were compared in terms of the time the offence was committed (before the murder, shortly after the murder, long after the murder) and in terms of the time the judgement was made (before or after the murder of Van Gogh).

Of the 37 verdicts studied – resulting from the 16 cases – 22 have to do with offences that were committed within three weeks of the murder of Van Gogh. Nine were committed before the murder of Van Gogh and six at least one month after the murder.

In the verdicts of the 22 cases from the period after the murder of Van Gogh, references were made to the murder, the violent actions that followed it and the consequent social unrest and feelings of fear. In the vast majority of the verdicts, it was also stated that these points were of influence in determining the sentence.

So the question whether references were made to the murder of Van Gogh and the period of unrest can be answered in the affirmative. The next question is whether such references can be seen in the sentences as well.

With regard to acts of violence in which people are endangered, we see no clear shift during the three periods (committed before the murder, shortly after the murder, and more than a year after the murder). With regard to acts of violence without danger to persons, there does seem to be a slight shift. After the murder of Van Gogh, community punishment orders and training orders were always combined with (suspended) custodial sentences, whereas a shift also took place from the number of suspended sentences to unsuspended sentences.

The same question can also be asked differently. Is there a noticeable development in the sentence if we look not at the date of the *offence* but at the date of the *judgement* in relation to the date of the murder of Van Gogh? The figures show that the murder of Van Gogh did have some influence on the sentence. If we look at the judgements without danger to people, we see that in the year after Van Gogh a clear shift did take place. While the sentences before the murder were still a community punishment order or suspended punishment at the most, in the year after the murder most of the sentences were unsuspended imprisonment.

At the beginning of this study, we expected to find a visible change in the sentences before and after the murder of Theo van Gogh. The social unrest, the wave of violence and the call to come down harshly on offenders, as well as the long prison sentences imposed in a number of cases, all seemed to point in that direction.

On the basis of the investigated material, however, we cannot draw this conclusion. There are visible shifts, but they are too small to base any conclusions on them. Nevertheless, it does

seem that after the murder of Van Gogh the assigning of penalties changed. In cases involving lesser violence of a discriminatory nature, heavier sentences were imposed after the murder of Van Gogh. To some extent this also applied to felonies committed after the murder of Van Gogh, but it was also true of felonies committed before that date.

10.4 —

Conclusion

After the murder of Theo van Gogh, the Netherlands was confronted with a wave of reactive violence. In many cases this violence involved Islamic targets. These acts of violence led to arrests and criminal indictments.

The social unrest caused by this violence, the call for more severe punishments and the stiff sentences imposed in a number of high-profile cases gave rise to the impression that punishments after the murder of Theo van Gogh were heavier than those imposed before the murder. Because in a few other cases the sentencing was much lighter, the impression also arose that not only were the punishments heavier in general but little consistency was involved in determining them.

In this chapter we attempted to analyse the factors that had an impact on the sentences imposed in 16 cases. In all the cases, references were made by the Public Prosecution Service or the court to aggravating or mitigating factors. In a number of cases it was also apparent that these factors had a concrete impact on the penalty. When all the cases and sentences are laid side by side, there is almost no consistency in the way these factors are taken into account.

The factors that influence sentencing can be divided into three categories.

1. The legal framework.

In addition to the sentencing regulations laid down in the law there are also a few guidelines that are compulsory for a public prosecutor in formulating his demand for punishments. According to our investigation, the *Discrimination Instruction* should have had a strong impact on the cases studied. The instruction obliges the public prosecutor to raise the demand for punishment by 25 per cent in the case of offences under general criminal law of a discriminatory nature. In the cases investigated here, however, there is no noticeable indication of such an increase. In each instance, the rules in the instruction for increasing the penalty were not explicitly followed.

2. Factors that are connected with the perpetrator of the offence.

Here the main influences on sentencing are age, expression of regret and endangering people's lives. Younger age and expression of regret result in a lower penalty; endangering people's lives results in a higher penalty.

3. Relation in time with the murder of Theo van Gogh.

There is hardly any noticeable relationship between the penalties imposed and the relation in time with the murder of Van Gogh. Only in the case of relatively minor incidents (without danger to people's lives) is there a visible shift in the sentencing, with the sentences after the murder of Van Gogh being heavier. One striking detail is that this influence also applies to cases in which the offence took place before the murder but the trial occurred afterwards.

The factors mentioned here can be used to explain why the sentencing in certain legal actions turned out to be higher or lower. But not in all cases. It is striking that in a few cases the

sentences imposed were quite light, while those in comparable cases were considerably heavier. This difference may have to do with factors that escaped our notice because we were not given access to the trial dossiers. These differences may also have been based on factors not indicated here, such as the personal contribution of the judges, public prosecutors or lawyers.

The guidelines for criminal proceedings for several kinds of offences are a clear attempt to achieve uniformity and transparency in the demands for penalties per type of offence, including those of a discriminatory nature. It is therefore unfortunate that such a guideline does not exist for arson, which in our view would make a desirable addition.

Finally it should be noted that the role of an extreme right-wing or racist background in criminal prosecutions results in a lack of clarity. This background recurs with quite some regularity in the public prosecutor's demand or in the final judgement. In a number of cases there is evidence of an aggravating effect, but the degree of influence is not clear. In many other cases it is no clear indication that such a background had any influence at all on the severity of the demand or the ultimate sentence. The Public Prosecution Service seems to have difficulty attaching consequences to a perpetrator's extreme right-wing background. In most of these cases we have the impression that a discriminatory background is obvious. Recognising that background seems problematic for the Public Prosecution Service, especially if it involves persons with an extreme right-wing impulse.

Not attaching any importance to this background contrasts sharply with the *Discrimination Instruction*, in which a penalty increase of 25 percent is prescribed for an offence under general criminal law of a discriminatory nature. It would make for more transparency in the development of a demand for punishment, verdict and sentence if this instruction were more strictly complied with.

Concluding remarks

Jaap van Donselaar and Peter Rodrigues

The intended purpose of *Monitoring Racism & Extremism* is to follow several forms of racism, extremism and anti-Semitism – and reactions to these phenomena – and to write about them in periodic reports. First the phenomena themselves are examined: how are racism, extremism and anti-Semitism manifested in Dutch society? This might involve looking at forms of expression, such as politically organised racism, and forms of exclusion, such as discrimination in nightlife. Some phenomena by their very nature are not limited to the territory of the Netherlands, such as discrimination via the internet. In such cases the extra-territorial context is taken into account. A fixed pattern in this monitoring research is the attempt to identify different kinds of victims and perpetrators as closely as possible. This exercise may involve both native Dutch people and ethnic minorities, with the latter being subdivided into various minority groups. The responses to racism, extremism and anti-Semitism can be quite different in nature, from educational to legal. Usually the nature of the response depends on the type of discrimination, the category of victims and the background of the perpetrators. In addition, some forms of response function in tandem or even reinforce each other. This periodical monitoring of the phenomena, the victims, the perpetrators and the response serves many purposes. It is an attempt to add to the insight that is being gained in the fight against racism, extremism and anti-Semitism. The fact that the system is fixed and the research is periodical also results in an accumulation of knowledge. In the end a picture is produced of long-term developments, and suggestions for future solutions can be made based on experiences from the past.

The *Monitoring Racism & Extremism* research project was started ten years ago at Leiden University. In 1997 the first report was issued, and now – December 2007 – seven general, broad reports have appeared. Four monographs have also been published: shorter research reports on specific topics. All the reports can be found on our website: www.monitorracisme.nl. Since the fourth report (2001), the monitoring project has been carried out jointly by Leiden University and the Anne Frank House.

In the present, seventh *Monitoring Racism & Extremism* report the following topics are discussed.

- Racial violence and violence incited by the extreme right in 2005
- The use of ethnic or religious profiles
- Anti-Semitism in 2005: patterns and trends
- Islamophobia
- Extreme right-wing configurations in the Netherlands
- The radicalisation of Muslim young people
- Deradicalisation: lessons from Germany, options for the Netherlands?

- Investigation and prosecution in 2005
- Penalties for racial violence

The results and conclusions are reported in the individual chapters. They will not be repeated *in extenso* in this chapter but will be briefly summarised.

Racial violence and violence incited by the extreme right in 2005

After a sharp increase in racial violence and violence incited by the extreme right at the end of the nineties and in 2000, Wagenaar and Van Donselaar have noted a striking decrease since 2001. In 2002 they observed another drop, which seemed to have stabilised in 2003. Problems in data collection on the part of the police led to stagnation, and as a result there unfortunately are no data available for the year 2004. The authors listed 296 cases of violence for all of 2005. Compared with 2003 that means there was an increase in the number of violent incidents in 2005 (from 260 to 296 listed cases). This rise was mainly the result of an increase in the number of assaults and confrontations. Violence against refugees decreased. Anti-Semitic violence and violence against Muslims increased. An increasing involvement of the extreme right was noted for 2005, marking the continuation of a trend that had been pointed out earlier on.

Investigations of the nature, size and backgrounds of racial violence and violence incited by the extreme right can be carried out in a variety of ways: by taking inventories and by means of surveys. The use of both methods is advisable. Both approaches should also be expanded to include forms other than right-wing extremism alone, especially forms of Islamic radicalism that contain a racist element.

The use of ethnic or religious profiles in preventing and investigating punishable offences that are a threat to public order and safety

Profiling is used to protect both citizens and society. It is a means of safeguarding citizens' human rights. Yet whenever profiles are employed there is a danger that other fundamental rights may be violated – and in such a way that the risk of discrimination on the grounds of race, origins or religion is considerable. Goldschmidt and Rodrigues are of the opinion that *profiling* is only permissible if a number of cumulative guarantees are met. These guarantees ensue from the requirements that have been set on the limitation of fundamental rights: the requirements of legitimacy, necessity and proportionality. Imposing an effectiveness test by means of an evaluation and curtailing competence over time by fixing the horizon are not new in the curtailing of basic rights either. Other guarantees have to do with the special character of the method of ethnic profiling. Thus the authors attach particular importance to the requirement of contextuality so that profiling does not proceed on the basis of ethnicity or religion alone. Also connected to the special character of ethnic profiling are the criteria of sufficient specificity, being publicly recognisable and being verifiable by legal testing. Finally, it is argued that formal legislation in a far-reaching methodology such as profiling offers insufficient guarantees for citizens if demands are not subjected to scrupulous execution. The thoughtless application of profiling can lead to stigmatisation and can thereby endanger the intended goal: preventing extremism and terror.

Anti-Semitism in 2005: patterns and trends

Hondius and Tanja show that compared with previous years, figures on anti-Semitism for the year 2005 suggest a descending trend, at least in part. The organisations that register and carry out inventories of complaints of anti-Semitism all have low figures for the year 2005. On the other hand, the figures concerning the criminal prosecution of anti-Semitism showed an increase for 2005. The figures on violent anti-Semitic incidents also show a slight increase. In some extreme right-wing groups anti-Semitism is given a high priority, and expressions of anti-Semitism have become quite common on a few web forums.

Research focused on Amsterdam has provided a few striking results. A relatively high number of complaints of anti-Semitism from non-Jewish sources were found in the file of the Amsterdam Discrimination Reporting Centre. In addition, few of the anti-Semitism dossiers suggest a connection with the conflict between Israel and the Palestinians. Research carried out among teachers in the Amsterdam school system shows that almost one out of three teachers is sometimes or often confronted with extreme anti-Jewish and anti-Israel sentiments.

Islamophobia

This is one of the first scholarly treatments of Islamophobia in the Netherlands. Bovenkerk discusses the origins and development of the concept of Islamophobia, which is not without its problems. Islamophobia can sometimes be rooted in a general, broader kind of discrimination, while in other cases there is no evidence of a phobia at all but of other motives varying from hatred to an undirected sense of rejection. In short, appearances can be deceptive.

In the mind of the public, immigrants from Turkey and Morocco are particularly problematic. In the Netherlands, more than in other European societies, there is a tendency to ethnicise the major social questions. After 2001 this resulted rather unexpectedly in the pinpointing of religion as the explanation for many of the country's problems. With the shift in attention from 'culture' to the religion of Islam, the problem of national integration took on a worldwide dimension. Influenced by a series of international events (including terrorism and the conflict between Israel and the Palestinians), Islam was put in a bad light. Also around the turn of the millennium the Netherlands began to 'shift' in internationally comparable opinion polls. In the most recent *Eurobarometer* survey the Netherlands was found to have the highest level of racial and ethnic antipathy of all the measured countries in the EU. As far as violent incidents are concerned, there were peaks after 11 September 2001 and after the murder of Van Gogh, and recently there has been evidence of increasing Islamophobic violence. All in all, hardly positive developments.

Extreme right-wing configurations in the Netherlands

Wagenaar and Van Donselaar show that in the Netherlands extreme right-wing political parties are of little significance in terms of electoral importance. One explanation that keeps popping up is the 'profiling problem'. Ever since the 'Fortuyn revolt', politicians have been taking harder stands with regard to the 'aliens question', and this also applies to government policy. In their response, extreme right-wing parties would have to develop even more radical profiles, but radicalisation also involves risks such as the risk of acquiring a criminal image or of judicial interference. Apparently there is a tendency on the far right to balk at such risks. On the street it's a different story. The problems created by extreme right-wing 'gabbers' – the 'Lonsdalers' – have risen sharply in recent years, and radicalisation in the gabber scene has given rise to harder neo-Nazi groups with violent tendencies.

The Dutch branch of the skinhead organization Blood & Honour has been given a powerful stimulus. Reason for considerable concern.

The radicalisation of Muslim young people

This investigation is based on a study that was published earlier this year: *Strijders van eigen bodem. Radicale en democratische moslims in Nederland* (Home-grown warriors: Radical and democratic Muslims in the Netherlands; Amsterdam, 2006). Buijs, Demant and Hamdy identify several different currents, then concentrate on three 'salafis' in the Netherlands: 'apolitical salafis', 'political salafis' and 'jihadi salafis'. The causes for the spreading of radical Islamic ideas among young Muslims in Western Europe can be found at different levels: that of international relations (including the conflict between Israel and the Palestinians), the national social level (disadvantage, discrimination), the level of the second generation of Muslim young people and finally factors at the individual level. The authors argue that openness to radicalism increases as (a) a disadvantaged position and discrimination are not seen as mistakes in a good system but expressions of an essentially bad system; (b) a disadvantaged situation is seen as an expression of a cultural-religious contrast and of power politics; (c) the idea exists that Islamic identity must be developed in an enclave that is opposed to Western society; (d) there is no faith in the political institutions and the democratic system.

Deradicalisation: lessons from Germany, options for the Netherlands?

There is a danger, argue Grunenberg and Van Donselaar, that today's thinking on right-wing extremism as a problem is overly determined by the primary focus on organised, electorally focused variants of right-wing extremism, such as the ones that existed until the end of the nineties. The problem of groups of diffuse, extreme right-wing young people has become quite significant in the Netherlands. The changed manifestation compels us to take another approach. While retaining the existing set of instruments, which were primarily aimed at the core of formal organisations, strategies must be sought that are not aimed at the core so much as the peel. Because the Netherlands has little experience in this area, a number of deradicalisation programmes in Germany have been examined. What can be learned from these programmes in terms of a similar policy in the Netherlands is discussed in the chapter. This does not mean that any concrete deradicalisation project is underway. But if that should happen – which is advisable according to Grunenberg and Van Donselaar – then these points of interest could be taken into account. A few local pilot projects, still limited in scope, could be created that would also be subject to evaluation. Deradicalisation is not a miracle drug, but it can serve as a valuable supplement to existing strategies such as restraint and educational programmes.

Investigation and prosecution in 2005

According to Rodrigues, the fact that the recommendations made by the police's National Bureau for Discrimination Cases have been incorporated in the regional police force's performance contracts for 2007 should be regarded as a breakthrough. This may serve as a means not only for meeting the requirements of the *Guideline on Discrimination* but also for satisfying the practical demands for the adequate criminal prosecution of discrimination. The one condition, of course, is that words be converted into deeds.

The police data show that offences under general criminal law that are discriminatory in nature are still a problem. Both the police and the Public Prosecutor have to deal

with stubborn negligence when it comes to compliance with the instructions contained in the *Guideline on Discrimination*. Since compliance with the rules for these crimes has been so slow – including the raising of the sentences demanded – a change in the law should be considered.

The percentage of dismissals increased in 2005 and is almost twice as high as the national percentage for all crimes. No explanation has been provided. It should be added that given the expediency in discrimination cases, a lower percentage should be expected. In 2005 the proportion of extreme right-wing suspects increased. As far as victims are concerned, anti-Semitism scored high once again (given the relatively small minority group), and there was also a striking growth in the number of incidents directed against Muslims.

Penalties for racial violence

In the study of penalties for racial violence, Wagenaar and Rodrigues tried to find out what factors were influential in the setting of penalties. They concluded that none of the factors mentioned was influential in all the cases. The factors of age, expression of regret and endangering of persons do have an impact on penalties. Although the wave of racial violence after the murder of Theo van Gogh was expected to be influential, almost none of this materialised. The influence that did become visible was the slight rise in penalties for minor crimes. It is striking that crimes committed before the murder were given tougher sentences after the murder. In the cases that were examined, the purpose of drawing up guidelines for prosecution – to make sentences uniform and transparent – did not seem to be sufficiently realised. This was due to the absence of a guideline for the prosecution of arson, but it was due even more to the failure to apply the *Guideline on Discrimination*. This guideline ought to provide increased penalties for offences under general criminal law of a discriminatory nature. Neither the guideline nor increased penalties clearly came up for discussion in any of the cases under examination, however. One possible cause is the difficulty the Public Prosecutor has with the consequences of extreme right-wing backgrounds among the perpetrators.

This concludes the brief summary of the most important results. It is fair to ask what did and did not change, generally speaking, during the past monitoring period. We believe that a few remarks and conclusions should be added to the results noted above.

The first theme concerns the *multiplicity of forms* of the subjects studied and a few existing *blind spots*. In doing the research for the *Monitoring Racism & Extremism* project we tried systematically to follow and to report on a variety of forms of racism and extremism and on the response to these phenomena. Both the phenomena and the responses are becoming increasingly complex. The fact that this is no longer a simple ‘black and white’ issue is now well known. For this reason the contents of the present, seventh monitoring report includes a whole range of ‘old’ and ‘new’ subjects; in both the scope is often more limited than would be desirable when dealing with these problems. This conclusion is not new and can be found in earlier reports as well. Parts of the problem are not visible due to underreporting, which is a bad business. Not only is the view of the abuses themselves inadequate, but so is the view of the damage caused by those abuses and of the consequences for inter-ethnic relations. There are information gaps that are addressed in the separate chapters of this monitoring report, and we will not repeat them here. Instead we want to spotlight two subjects that stand

out more than any others in terms of their lack of systematic information. The first concerns the racist treatment of native Dutch people and the second concerns Islamic radicalism.

In earlier reports on racial violence and violence incited by the extreme right, attention was paid to the 'ethnic orientation' of violent acts (in this case against Jews, Muslims and refugees). This time there is a fourth category to be added: racial violence against white people. The reasons for this are (a) a number of striking incidents of anti-white violence in 2005 and (b) a recent research finding that in 2005 approximately 2% of the native Dutch had had an experience of discrimination. Results like these should be dealt with cautiously, but even if we refrain from jumping to conclusions the picture is alarming. Indeed, if we estimate the native population (16 years and older) at 10,000,000, the proportion that had had experiences of discrimination – approximately 2% – would be 200,000. For an unknown number of these people the experience of discrimination probably had a violent aspect. Because the racist treatment of native Dutch people is a relatively new theme and the significance of the problem is still not being properly recognised, there is probably a sizeable amount of underreporting of this form of racism. In our opinion, gaining more insight into the nature and extent of the discriminatory and racist treatment of native Dutch people is an urgent issue.

Racism against native Dutch people is not a new phenomenon, but in the fight against discrimination there is often still a taboo on the subject, resulting in unnecessarily prolonged neglect. On our part, we recognise the beam in our own eye: in the *Monitoring Racism & Extremism* project we have not taken the problem of racism against native Dutch seriously enough. Of course, discrimination against ethnic minorities is much more serious when viewed *statistically*. The 'approximately 2%' quoted above can run up to a far higher percent when it comes to the discrimination of ethnic minorities. Extrapolating, however, results in great numbers for both ethnic minorities *and* native Dutch. Besides a difference in the attributed level of seriousness, the neglect of discrimination of native Dutch as a problem may be due to the fact that for quite some time those drawing attention to it have been voices from the extreme right. Their approach is often not very gentle – sometimes it's even racist – resulting in a message that is garbled and messengers who cannot be regarded as 'whistle blowers'. But no matter how it is publicised, the racist treatment of native Dutch people is a problem that deserves more attention than it has been given thus far. Then there's Islamic radicalism. The monitoring report contains a chapter on this topic that is based on *Strijders van eigen bodem* (Home-grown warriors) mentioned above. This study marks the beginning of direct empirical research on Islamic radicalism in the Netherlands. It is to be hoped that more will follow, since there are a great many urgent research questions to be answered. We would very much like to know more in quantitative terms about radicalism among Muslim young people, for example. In addition, not only are the processes of radicalisation important, but those of deradicalisation are, too. We know relatively little about deradicalisation, and from the point of view of policy that is understandable: those who cool themselves off are less intriguing than those who ignite themselves. Yet gaining a better understanding of how deradicalisation can take place can be useful in the struggle against radicalisation. A third important question concerns the possible connection between Islamic radicalism and right-wing radicalism. Is there evidence of some kind of interplay? To what extent do they reinforce each other?

Besides paying attention to these questions, attention should also be paid to Islamic radicalism in existing data collections so they can be used for research and policy. It is

striking that there is almost no systematically obtained data in this area. Because of the points of connection that monitoring research can offer in the search for solutions, we believe it is important that this omission quickly be rectified.

A second general theme that we want to discuss here is the *penal response to discrimination and racism*. To begin with, this theme is inextricably linked to the balance between freedom of expression and crimes of expression. At the end of 2004 we ended our previous monitoring report with the conclusion that the balance had changed: more room had been allowed for freedom of expression than in the past. Today, late 2006, we come to the same conclusion based on the various sub-studies that went into the present report: more room is being allowed for freedom of expression than in the past. This leads to the question about the current situation concerning the balance between freedom of expression and crimes of expression. Is there still a reasonable balance, or is the method for tackling crimes of expression proving inadequate? We believe the latter is the case. But, it can be argued, hasn't the inflow of discriminatory offences registered by the Public Prosecution Service increased as well, and aren't these primarily crimes of expression? Certainly, the number of registered discriminatory offences grew from 214 in 2004 to 241 in 2005, but there's nothing peculiar about that since this level had already been reached in 2002. And judging from the police data for 2004, the number of discriminatory offences registered by the Public Prosecutor should have been substantially higher than 241. What we are concerned about is that in addition to the cases contained in the court figures there has been a flood of racist utterances on the internet, and far too little has been done, relatively speaking, to deal with it. Corrective action by means of digital patrolling is still urgently needed, although the practice of the last few years – intended prosecution – has resulted in relatively few internet cases being taken to court. Every now and then there is an announcement that action is being taken by the judicial authorities with regard to racism on web forums. But we find it hard to avoid the impression that many of these cases never get any further than the announcement. The failure of the announced action to actually take place has been noticed on the web forums themselves, so that a certain sense of inviolability has taken hold. It is partly due to this absence of regulation that the outlines of a terrorist discourse have emerged. Not only are these utterances discriminatory and racist but increasingly they are utterances that justify or even encourage political and racial violence.

Less numerous but perhaps more salient are the extreme right-wing demonstrations. For a long time these demonstrations were usually suppressed by preventative prohibitions, but that is no longer the case. One striking development is that more and more is being tolerated by the police and the courts during these demonstrations. Their focus is mainly on maintaining order, while violations of the legal order such as forbidden discrimination are hardly dealt with at all. Because of this the limits of the acceptable have shifted and racist expressions are regularly heard and seen during such demonstrations – all under the watchful eye of the police. We think this development should be reversed and that action should be taken against criminal statements expressed during such public demonstrations. A manual on the problem of extreme right-wing demonstrations, written in 1996 by the Board of Procurators General, may be of use here.

Then there's the *Guideline on Discrimination*. It is often noted that the criminal prosecution of discrimination, racism and right-wing extremism leaves much to be desired. During the past twenty years, the Board of Procurators General has issued various instructions and guidelines meant to improve investigation and prosecution in cases of discrimination. The most recent *Guideline on Discrimination* went into effect

in 2003 and will expire in 2007. The Public Prosecution Service is planning to evaluate the present guideline before it expires. That is important because, as the current monitoring report implies, compliance with the guideline has been structurally inadequate. In general, the issuing of formal regulations does not suffice if such regulations are not actually carried out. In the evaluation it should be recommended that these and other findings from the monitoring study be taken into account. Important problem areas are: (1) the absence of an adequate registration system for cases of discrimination among most police forces, (2) the failure of the police to sufficiently comply with the requirement to record complaints or reports and to explain the rest of the procedure to the person submitting the report, (3) the failure of the police and the courts to adequately identify discriminatory offences under general law, and the failure to comply with the instruction in the *Guideline on Discrimination* to increase the demanded penalty by 25% in these cases.

In addition to these difficulties, attention should be focused on a more deep-set problem: the existence of a gap between the contents and scope of the *Guideline on Discrimination* on the one hand and the prevailing practice in the criminal prosecution of discrimination, racism and extremism (including right-wing extremism) on the other. In practice the Public Prosecutor often fails to identify the discriminatory aspect of discriminatory offences under general law. As a result, the *Guideline on Discrimination* never enters the picture, although it should. This problem is not expected to be solved by ordering that the official instructions be more strictly enforced or that the guideline be tightened up. Identifying discriminatory, racist, extremist or extreme right-wing motives is a complex matter in practice and lends itself to a variety of assessments. This phenomenon is not confined exclusively to the police or the courts; it is more general and can be observed in the response to racism and extremism by other actors such as the public administration, schools and the news media. Somehow, the way discriminatory motives can and should be recognised by the police and the courts must be examined and made explicit based on the free interpretation that is current today.

The third theme has to do with *dealing with right-wing radicalism today*. The extreme right-wing political parties in the Netherlands are of little significance at the moment from an electoral point of view. All the more important today are the radical right-wing digital phenomena, the problem of extreme right-wing 'gabbers' (the 'Lonsdalers') and the radicalisation that has its roots in the gabber scene and is giving rise to neo-Nazi groups with violent proclivities. In the background two other developments are playing a role: (a) a tendency to broaden the freedoms of expression and (b) threats of Islamic terror and the rise of Islamic radicalism. In the previous section, the toleration of extremist utterances on the internet and of criminal utterances during extreme right-wing public demonstrations was discussed. An earlier chapter (on deradicalisation) discussed the danger that today's ideas about right-wing extremism as a problem are too strongly determined by a fundamental orientation towards the kind of organised, electoral variants of right-wing extremism that existed up until the late nineties. The problem of diffuse groups of extreme right-wing young people has grown to significant proportions in the Netherlands, but often it is not seen as an extreme right-wing phenomenon. In addition, the extreme right as a problem has been given a lower priority, not least of all by the recognition of another, possibly greater danger: Islamic radicalism.

Against this background – the tendency to assume a highly relativistic stance when it comes to the extreme right as a problem – we would like to assess the danger of right-wing radicalism in the Netherlands today on its own merits. As we said, the problem

is not a matter of direct, extreme right-wing political influence. There is no extreme right-wing political movement today that is exercising a significant power of attraction on voters. The extreme right-wing gabbers do form a problem, however. The number of confrontations with ethnic minorities is steadily rising, and more and more they seem to have become a firmly rooted evil. In these confrontations, the border between perpetrator and victims is often unclear. Many of these cases involve a series of incidents and actions that provoke reactions. So the Lonsdale problem is mainly a problem of tension between native Dutch and ethnic minority young people. In practice most of the attention often goes to the role of the Lonsdale youth, while that of the ethnic minorities is much less clear. In this regard the name 'Lonsdale problem' is one-sided and gives a false impression. What we see here is a strong overlapping of an extreme right-wing phenomenon (the extreme right-wing gabbers) with the broader phenomenon of inter-ethnic tension between mostly young people. These inter-ethnic tensions are problematic not only because of the proportions they have now reached but also because of their 'flammability'. There's a very real danger that they could escalate at any moment. Such an escalation could be the result of an *internal* cause related to the tensions themselves, such as the falling of fatal casualties after a confrontation. Such an escalation could also have an external cause, such as a terrorist attack. Escalation as a consequence of an 'internal' dynamic has already occurred, and so has escalation after an 'external' event, an example being the series of violent incidents following the murder of Van Gogh in late 2004.

This brings us to another extreme right-wing phenomenon: radical groups rooted in the gabber scene. The willingness of members of these neo-Nazi groups to become involved in violence is probably stimulated by 'external' events. These groups give rise to involvement in more or less spontaneous skirmishes as well as specifically organised attacks. Examples of both are known. We assume that these neo-Nazi groups, which are growing in number, are being followed intensively by the police and the intelligence services, and that this monitoring will also be extended to include digital forms of the phenomenon. As was already stated in the previous section, the outlines of a terrorist discourse are already visible on the internet.

In addition to the *direct* dangers emanating from the extreme right, as sketched here, we also want to point to an *indirect* danger: the possibly stimulating influence of various forms of right-wing radicalism on Islamic radicalism. Little is known about this influence, however, much less than its reverse; the fact that right-wing extremism is stimulated by Islamic radicalism is obvious.

And how to tackle right-wing extremism? Obviously recognising the significance and threat of current forms of right-wing extremism is the first necessary step. Earlier we indicated that criminal prosecution leaves room for improvement. In addition, a start could be made on the implementation of a specific deradicalisation policy.

Undertaking research to explore deradicalisation, which we have done in the context of our monitoring project, can be of assistance in this regard.

Combating radicalisation – extreme right-wing as well as Islamic – means that opposing strategies will have to be utilised at the same time. The hard core of the radicalised individuals should be isolated, literally and figuratively – preferably before they do any harm and mainly to prevent them from spreading their ideas to others. But the more we move away from that hard core – and certainly this is true for the hangers on – the more the opposite strategy should be applied: bringing individuals out of the isolation in which they increasingly find themselves because of the process of radicalisation. Isolating them would advance the radicalisation process.

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Edited by Jaap van Donselaar and Peter R. Rodrigues

So combating radicalisation mainly has to do with finding the right balance between isolation and de-isolation.

Appendix 1

Penal prohibitions of 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:
 - a. 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.
 - b. 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^o, para. 1 WvS, or if two or more persons infringe upon Article 137e, 1^o, 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^o, para. 1 WvS, or if two or more persons infringe upon Article 137g, 1^o, 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.

About the authors

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Jaap van Donselaar is a cultural anthropologist, senior lecturer at Leiden University and researcher with the Anne Frank Stichting. For many years he has been conducting research on racism, radicalism and the response to these phenomena. In 1996 Van Donselaar founded the Racism & Extremism Monitor (see www.monitorracisme.nl). Van Donselaar also directs the Dutch Monitoring Centre on Racism and Xenophobia (DUMC), which makes reports to the European Union on a regular basis.

Jenny E. Goldschmidt has been Professor of Human Rights Law at the University of Utrecht since 2004 as well as deputy Director of the Human Rights Study and Information Centre there. Before this she served as the chairman of the Equal Treatment Commission and professor of Equality and Diversity in Law at Leiden University. Among her various positions she is member of the board of the EUMC, member of the International Commission of Jurists, member of the Human Rights Commission of the Advisory Council on International Affairs and is active in many organisations having to do with equal treatment and human rights in the Netherlands.

Sara Grunenberg studied psychology at the University of Amsterdam and the Universidad Nacional Autónoma de México. The theme of her final research project was why Islamic women do or do not wear headscarves. She is now working on her Master's degree in Peace and Conflict Studies at the Philipps-Universität Marburg in Germany. As part of this programme she is doing an internship in the Research & Documentation Department of the Anne Frank Stichting. At the moment she is writing her Master's thesis there on the role of deradicalisation programmes and individual initiative in terminating involvement in extreme groups.

Atef Hamdy is a political scientist and a translator-interpreter of Arabic. He is a researcher with the Institute for Migration and Ethnic Studies of the University of Amsterdam. He also works in the Arabic department of the Netherlands World Service and serves as an interpreter for the Ministry of Foreign Affairs and the Clingendael Institute. Hamdy is co-author of *Strijders van eigen bodem. Radicale en democratische moslims in Nederland* (Homegrown warriors: Radical and democratic Muslims in the Netherlands; Amsterdam, 2006).

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Peter R. Rodrigues is a lawyer and head of the Research and Documentation Department of the Anne Frank Stichting. He has frequently published on Dutch and European non-discrimination law, group actions, discrimination across borders and denial of the Holocaust. From February 1995 to October 2000 he served as a committee member of the Equal Treatment Commission. During this period he also held an appointment at the University of Utrecht, where in September 1997 he successfully defended his dissertation *Anders niets? Discriminatie op grond van ras en nationaliteit bij consumententransacties* (Will that be all? Discrimination based on race and nationalism in consumer transactions).

Jaap Tanja is a publicist and exhibition organiser who has been working with the Anne Frank Stichting since 1984. In 2003 he organised an international conference on anti-Semitism which was held at the Amsterdam debating centre De Rode Hoed. His most recent publication is the book *Vijftig vragen over anti-Semitisme* (Fifty questions about anti-Semitism) (Uitgeverij Boom, 2005), which has also appeared in English. His most recent exhibition is Free2choose, an interactive film presentation on conflicting freedom rights. This exhibition is not only being shown at the Anne Frank House but is also travelling to several European countries.

Willem Wagenaar is a researcher with the Anne Frank Stichting. For many years he has been conducting research on racism and the extreme right in the Netherlands. More recently he has been connected with the Racism & Extremism Monitor (see www.monitorracisme.nl). Wagenaar is project secretary of the Dutch Monitoring Centre on Racism and Xenophobia (DUMC), which reports to the European Union on a regular basis.