

“The Government Believes That History Unfolds as History Unfolds”

In what ways have consecutive Dutch governments sought to address Dutch violence during Indonesia’s independence war of 1945-1949? A study into the approaches applied by Dutch governments over the course of almost seventy years.

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“Wat gebleven is, is de levende erfenis van een langdurig gedeeld verleden”

“What remains, is a living heritage of a long-term shared history”

(Queen Beatrix, Speech in Jakarta, 1995)

“We can no longer afford to take that which was good in the past and simply call it our heritage, [and] to discard the bad and simply think of it as a dead load which by itself time will bury in oblivion.”

(Hannah Arendt, *Origins of Totalitarianism*, ix)

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My family and friends: thank you for all the interest you have shown and the encouraging words. Yes, I am finally done.

Voor opa. Nec timide, nec tumide.

Abbreviations / Terms

Abbreviations

AIVD	Algemene Inlichtingen- en Veiligheidsdienst (<i>General Intelligence and Security Service</i>)
EU	European Union
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICERD	International Covenant on the Elimination of All Forms of Racial Discrimination
IHL	International Humanitarian Law
IHLIA	Internationaal Homo/Lesbisch Informatiecentrum en Archief, (<i>International Homo/Lesbian Information center and Archive, now known in both Dutch and English as IHLIA LGBT Heritage</i>)
IHRL	International Human Rights Law
KITLV	Koninklijk Instituut voor Taal-, Land- en Volkenkunde (<i>Translation: Royal Institute for Language-, Land- and Population Studies. Title Institute in English: Royal Netherlands Institute of Southeast Asian and Caribbean Studies</i>)
KNIL	Koninklijk Nederlands-Indisch Leger (<i>Royal Dutch-Indies Army</i>)
NIMH	Nederlands Instituut voor Militaire Historie (<i>Dutch Institute for Military History</i>)
NIOD	Nederlands Instituut voor Oorlogsdocumentatie, Instituut voor Oorlog, Holocaust- en Genocidestudies (<i>Dutch Institute for War Documentation, Institute for War, Holocaust and Genocide Studies</i>)
PNI	Partai Nasional Indonesia (<i>Indonesian national party</i>)
UN	United Nations
UNGA	United Nations General Assembly
US	United States
VOC	Verenigde Oost-Indische Compagny (<i>United East-Indies Company</i>)
WIC	West-Indische Compagny (<i>West-Indies Company</i>)

Glossary

<i>Kampong</i>	Word used in Indonesia, Brunei, Malaysia, and Singapore for ‘village’. Can also be spelled ‘kampung’. Rémy Limpach defines it as ‘rural village/town’
<i>Tempo Doeloe</i>	Literally: the good old days.

A Note on the Use of Town Names

There are two Indonesian towns that will be mentioned several times in this thesis: *Rawagede* and *Sulawesi*. *Rawagede* was known as such during the independence war, but is currently called *Balongsari*. *Sulawesi* on the other hand was called *South-Celebes*, however this changed post-war.

I have chosen to apply the names as they are used in the (court) cases. The court case lists the widows of the first group as the *widows from Rawagede*. However, the widows who came forward later are referred to as the *widows from Sulawesi*. There is no explanation on why these terms are used as such. However, as all information in the court cases, media, books and articles refers to these two names, I have chosen to do the same in order to maintain clarity and continuity.

Clarification on Language Usage

British spelling is employed throughout the body of this thesis, except when quoting directly from sources produced in American English.

Abstract

Since the end of the twentieth century, more and more countries have been confronted with how to deal with injustice from the past. Current governments are increasingly asked requested to assume accountability for crimes committed by their predecessors. Due to the growth of human rights, the discussion surrounding this, a more conscious society and the empowerment of victims, old cases are increasingly being exposed.

This is also the case for the Dutch government. During the war of independence in Indonesia between 1945 and 1949, the population of this country fought to be released from under the Dutch rule. Later research would show that the Dutch army committed crimes there under the guise of 'an internal mission' to preserve the colony for the kingdom. After the war, it remained undiscussed, and successive Dutch governments even actively 'neutralised' the case. Later, when a clearly defined group of victims emerged, the Dutch government had to deal with it differently. In the spirit of the global developments concerning human rights and interest in history, the Dutch government took some tentative steps in addressing the Indonesian issue. Real changes however were enforced through a lawsuit filed by the aforementioned group of victims. These victims won their case, and the ruling established for the first time that the Dutch state had a responsibility towards the group of victims from Indonesia.

Did this lead to a change in the Dutch governmental approach towards the Dutch violence during the independence war? Has anything actually changed over the years to this approach? This thesis examines the attitude and approach of successive Dutch authorities towards Dutch violence in Indonesia, divided over three periods: the five-decades post-war; the period 1995-2011 (in this last year the lawsuit was filed); and the time post-lawsuit.

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Chapter 1 - Introduction

1.1 Introduction Chapter

*"We can no longer afford to take that which was good in the past and simply call it our heritage, [and] to discard the bad and simply think of it as a dead load which by itself time will bury in oblivion."*¹ This quote by Hannah Arendt describes the struggle many governments have found themselves in since the end of the twentieth century. With the world having become more aware of the possibility of man-made atrocities,² the question of how to deal with a painful past increasingly arose, and the call for recognition, apologies and other reparations for historical injustices grew.³ How must a State approach such injustice?

The Netherlands is such a country that struggles to confront its past. An example of this struggle reflects in the approach to the independence war in Indonesia between 1945 and 1949, which was fought between Indonesian nationalists and the Dutch State. In 2016, Rémy Limpach claimed that the Dutch State had needed 60 years to strike a self-critical tone about the decolonization conflict.⁴ Luttikhuis states that the government of the Netherlands adopted a reactive approach post-war.⁵ Paradoxical is that the Netherlands is known as a country for its tolerance,⁶ respect for international law⁷ and, from the 1960s and 70s onwards, a strong international human rights policy.⁸ This thesis will explore how it is possible that the Netherlands, a country that is so focused on human rights, has long been known as 'tolerant', and is one of the founding fathers of the United Nations, has so much difficulty facing a painful piece of their own past. How did Dutch governments approach the war in Indonesia during those 60 years? And can it be said that there is a new approach, now that the Netherlands has applied a 'self-critical tone', or has it continued a reactive attitude? This thesis shall explore these questions.

1.2 Contextualisation

1.2.1 A Long-Term Shared History

The Dutch had been present in Indonesia since 1596.⁹ It started with several ships sailing eastward in the 16th century after interest in the spice trade had been awakened.¹⁰ Competition with other European powers was immense, but in the end the Netherlands managed to take over the power in the Indonesian archipelago.¹¹

Indonesia was a gold mine for the Netherlands, especially for the Dutch East India Company (VOC^I), the trade company that was established in 1602.¹² This company brought the Netherlands even more wealth, together with another company, the West Indian Company (WIC^{II}).¹³ Together, these two trading companies brought the Netherlands colonies on four continents.

However, from the second half of the eighteenth century, the Dutch trading power deteriorated. The WIC and the VOC ceased to exist in respectively 1791¹⁴ and 1796.¹⁵ Afterwards, the colonies were lost to the Dutch for almost 20 years, after they were transferred to the French-Batavian Republic when Napoleon took over the power in the Netherlands.¹⁶ In 1813 the Dutch regained their independence and established a Kingdom.¹⁷ However, the British had profited from the French take-over in the Netherlands and subsumed several overseas colonies of the Dutch. With the Brits exercising absolute control over the world seas, it was impossible to reclaim colonies by force.¹⁸ The newly established Kingdom of the Netherlands was handed back the rule over several former colonies¹⁹ through the Anglo-Dutch Treaty of 13 August 1814.²⁰ After much delay, Java officially came back in Dutch hands only in 1816, when the control over Java was handed over. Other colonies were only handed back even later.²¹ Finally, through the Treaty of London of 17 March 1824, the Indonesian archipelago was officially demarcated as the Dutch Indies.²²

From then onwards, the relationship became more strained. The Aceh war shows that the Indonesian population was starting to become dominated by Dutch rule.²³ For the Dutch, the Aceh War was a struggle for authority and domination for the Netherlands.²⁴ Indonesia was seen as one of the most important factors for the Dutch economy and the 'worldly status' of the Netherlands, as well as a 'development project' in which the Netherlands did only did good things.²⁵ In 1914, Jonkheer C. Sanders wrote a pamphlet in which he coined the slogan "Indies lost, disaster born".^{III} He also emphasised the economic importance of Indonesia for the Netherlands, both for import and export markets.²⁶

^I In Dutch, the name is 'Verenigde Oost-Indische Compagnie'. The Dutch abbreviation, which is maintained in e.g. English as well, will also be used throughout this paper.

^{II} In Dutch: West-Indische Compagnie.

^{III} Indië verloren, rampspoed geboren – translation by author.

The policy of the Dutch government remained focused on the development of Indonesia, but only conditionally, and for the gain of the Netherlands.²⁷ The Dutch dominator was apprehensive about revolts, but a little bit of co-determination was given to the Indonesians.²⁸ Unbeknownst to the Dutch, a national organisation gained momentum, spearheaded by Sukarno.²⁹ Sukarno and other leaders had been inspired by nationalist ideologies that came over from the West in the twenties and thirties, and with these in mind, wanted to expel their coloniser. In 1927, they established the Partai Nasional Indonesia (the Indonesian National Party, PNI).³⁰ The Dutch paid little to no attention to this movement, instead they imprisoned the leaders and continued to act in a repressive manner. They believed that the nationalists were a small, criminal faction, and that the rest of the indigenous people were enjoying living under their rule.³¹

1.2.2 Change Through War

The Second World War intensified as it spread to Indonesia when Japan took occupation of the archipelago.³² This posed a threat which remained unseen by the Netherlands. While in exile during the war, the government busied itself making plans on how to deal with Indonesia after the war.³³ The focal point was that the archipelago must remain part of the Dutch Kingdom.³⁴ However, the reality turned out to be different. After the capitulation of the Japanese on August 15, 1945, Sukarno and Mohamed Hatta, the later president and prime minister of Indonesia, declared independence.³⁵ The Netherlands did not accept this. Although the government accepted the need for self-determination, it could not let go of its colonial ambitions.³⁶ Between March 1946 and July 1947, thousands of soldiers were sent to the east, with more following in the years after.³⁷ They were told that they were fighting for the homeland, and that it was vital that Indonesia was retained. Sukarno was put down as a terrorist and a deceiver.

The conflict between the Netherlands and Indonesia was very violent and was characterised by the 'police actions'^{IV}: military interventions by the Netherlands in their former colony. Two of these were launched, one in the summer of 1947, and one in late 1948.³⁸

^{IV} 'Police action' is a debated term. According to the government at the time, these actions consisted of restricted police activities, however, it has since become clear that 'police' was a cover for 'military', as it sounded more 'friendly' than terms such as 'war'. By now these actions are acknowledged to be black pages in the Dutch history. See Bart Luttikhuis and Dirk Moses, "Mass violence and the end of the Dutch colonial empire in

Terms such as 'police actions' were used to emphasise that it was an internal matter of law and order.³⁹ However, then the United Nations interfered. In a report by the *Commission on the Question on Indonesia* from 1948, the Dutch specific action in the Indonesian town of Rawagede was condemned as "deliberate" and "ruthless".⁴⁰ The Americans were also starting to put pressure on the Netherlands to end the war after Minister of Foreign Affairs Sumner Welles declared in 1942 that "the age of imperialism is ended."⁴¹ The Netherlands had to make a gesture as an ally, even though she remained attached to the colony for eight more years.⁴²

Finally, the Netherlands handed over the sovereignty over the archipelago to Sukarno on 27 December 1949.⁴³ The subsequent relationship between the two countries remained sensitive. Indonesia soon put an end to the agreements that were made during the sovereignty negotiations, and wanted New Guinea back from the Dutch.⁴⁴ In 1962, this issue was 'resolved', again after a painful war.⁴⁵

1.2.3 Post-War Situation

The Dutch society remained silent for a long time after the war of independence. The Indonesian issue was not discussed as people were busy rebuilding their country after the second world war. In addition, the loss of the colony was experienced as very painful by Dutch society because of the idea of Indonesia as a major development project that had been fought for.⁴⁶ The government's version was that the Netherlands had fought there to 'save' the Indonesians, and if violence had already been used, this would have been 'necessary'.⁴⁷

This image was painfully disrupted in 1969 when Joop Hueting gave an interview about his experiences as a soldier in the former Dutch East Indies.⁴⁸ Hueting gave a detailed account of the human rights violations his unit had committed.⁴⁹ For the first time, the possibility publicly emerged that the Dutch hands were not as 'clean' as had been thought.

Indonesia," *Journal of Genocide Research*, 14, no. 3-4, (2012): 258; Laurens Bluekens, "Wat zijn de politionele acties?" (What are the police actions?), *NPO Focus*, date unknown, accessed 2 April 2018 at <https://npofocus.nl/artikel/7461/wat-zijn-de-politionele-acties>.

During the 1990s, the Indonesian affair regularly garnered publicity. The case received attention around the visa application in 1993 of the veteran-hated deserter Jan 'Poncke' Princen,⁵⁰ and again in the lead-up to the visit of Queen Beatrix to the archipelago in 1995.⁵¹ However, the Dutch government always managed to cover it up by applying different 'neutralising' strategies.⁵²

Successive Dutch governments adopted a reactive approach and reacted only when there was publicity on the war in Indonesia.⁵³ Furthermore, detailed and limited studies were carried out but these always lacked self-criticism.⁵⁴ Apologetic terms were used to preserve the image that the Netherlands tried to solve a domestic issue in Indonesia. Some violence was again assigned the label 'when necessary'.⁵⁵ The matter was also influenced by the veterans, who later became a point of reference for the Dutch government's negligence to act.⁵⁶

1.2.4 Changing Climate Regarding Historical Injustice - Global and National

Only at the end of the twentieth century did change in the thinking regarding human rights and responsibility become visible. The world became more open, individuals received rights, and States were held increasingly liable for human rights violations.⁵⁷ With the human rights discussion and the role of the individual herein, the role of reparations also grew.⁵⁸ Individuals were now in a position where they not only could claim rights, but be awarded various forms of compensation and reparation. These reparations increasingly conquered a place in the international system.⁵⁹

Within this growing human rights / responsibility debate, more attention was also paid to violations from a long time ago.⁶⁰ Population groups, strengthened by the growing number of rights they received, became more assertive. Internationally, a movement started that demanded justice for pain that had been done a long time ago. Societies became more interested in their history.⁶¹ This led, among other things, to an 'age of apology': a growing number of governments apologised for injustices done by previous governments.⁶² Some groups who did not believe an excuse sufficient, or did not get the excuse they were entitled to, took a further step: bringing claims in front of the Civil Court. Attempts were made to literally enforce the reparations. Different types of groups made themselves heard, specifically direct victims of injustice experienced decades ago, as well as descendants of people who had experienced injustice.⁶³

In the Netherlands, a number of these changes were also visible. Successive governments had for a long time been increasingly profiling themselves as human rights defenders.⁶⁴ The Netherlands has always seen itself as a country that was first in terms of tolerance. They started to consolidate this after the Second World War in the form of a human rights focus. They were one of the countries that formed the basis of the United Nations.⁶⁵ In the 1960s and 1970s, a stronger international-oriented policy was created, focused on the protection of human rights and international cooperation.⁶⁶ The country became one of the champions of taking responsibility. Interest in history became most evident in the discussion on slavery, which received attention and came to be remembered nationally.⁶⁷

However, the governmental approach remained limited. Although the abolition of slavery was now commemorated annually, the Dutch government did not participate in the larger 'apology' development, about which the discussion had spread from, for example, the United States (US), where former President Bill Clinton had apologised for the American role in slavery. To this day, Dutch authorities refuse to use the word 'apology' for the Netherlands' share of slavery.⁶⁸

This also applies to the Indonesian case. A more empowered group of Indonesians, outraged by the Dutch violence during the war, and a specific victim group of widows of illegally executed Indonesians, brought more attention to the case. The Dutch government finally expressed regret in 2005 through a representative, who stated his "profound regret for all that suffering".⁶⁹ For the first time it was acknowledged that mistakes had been made during the independence war. In addition, Dutch governmental representatives were present for the first time at memorial days in Indonesia.⁷⁰ This however was the extent of it. In later discussions on reparations, the Dutch government made clear it was not interested in any further actions.⁷¹ Larger changes had to be enforced in court, by the aforementioned victim group.

And change was indeed enforced. The outcome of the lawsuit, filed in 2009, was that the Dutch State had a responsibility to the widows.⁷² The State had to pay compensation. After negotiations between the two parties, apologies were added.

Additionally, after a similar case was brought forward by widows from another part of Indonesia, the Netherlands went a step further by creating a scheme that offered the possibility of compensation to all widows in the same situation.⁷³ This was a step forward in terms of the Dutch government's own initiative.

However, did this indicate a change in the Dutch governmental approach to Dutch violence in Indonesia? The current approaches focus on the widows. Yet there are also children of the executed men alive, as well as victims from other types of violence.⁷⁴ They too have brought a lawsuit, but the Dutch government maintains that limitation is applicable in this case.⁷⁵ The Dutch government is not interested in apologising for or even studying the Indonesian independence war as a whole,⁷⁶ with Prime Minister Mark Rutte stating that no apology would come as “the government believes that history unfolds as history unfolds.”⁷⁷ In 2012, they refused to contribute to a broad research into the Indonesian war, which was initiated by the Dutch organisations KITLV, NIOD, and NIMH. At the time, the government reasoned that there was no role to be played by the Dutch authorities.⁷⁸ Only in 2016, after research by Rémy Limpach had shown that the Dutch violence in Indonesia had been systematic and structural, did the government pledge its support to the study.⁷⁹ Does this show a continuation of the reactive approach that has been applied by Dutch governments for so long?

1.3 Research Questions

The overall research question that this thesis will aim to answer is **In what ways have consecutive Dutch governments sought to address the Dutch violence in Indonesia's independence war?**

To answer this question, several sub-questions will be explored per chapter.

Chapter 2 will deal with the governmental approach post-war, in which the neutralising strategies and other influences on governmental policy will be discussed. The following questions will be explored. First, how did the Dutch government approach the Indonesian situation in the five decades after the war? Second, what were the influences on the behaviour and policy of the Dutch government?

Chapter 3 will explore the global and national developments and the changes in the Dutch governmental approach, and for this use the following questions. First, what were the global developments in dealing with historical injustice? Second, in what way has the Netherlands developed in dealing with historical injustice (in Indonesia) and in how far was that influenced by the global developments?

Chapter 4 focuses on the current approach and whether a change can be detected when comparing it to earlier approaches. What is the current approach of the Dutch government? To what extent has this approach changed compared to the approach in the five decades after the war?

1.4 Methodology

The above considerations will be further explored in the upcoming chapters, using both primary and secondary research. Data for this dissertation was collected through a literature review, research in the Dutch National Archive, and an interview with Jeffry Pondaag, one of the driving forces behind the court case that was brought in 2011.

For this thesis, I have made use of a range of different resources, such as books and articles concerning the history of the relationship between the Netherlands and Indonesia. Furthermore I have made use of court documents and (newspaper) articles about the court cases brought by the Indonesian widows and comments of authors on them. Finally, books and articles written about reparations and all of such resources that cover the broader topic of post-colonial reparations and responsibility have been used.

To compose a broader historical overview as well as analyse the position of the Dutch government, I have travelled to The Hague to do research in the Dutch archives and the Royal Library. At this Library I have acquired information on the Dutch-Indonesian colonial history and how both countries dealt with the shared history in the aftermath (post-1949). In the National Archive I studied governmental documents to gain insight in the position and beliefs of the Dutch State regarding the Indonesian questions.

It also provided me with information about the process of omitting the Indonesian case from a law against the time-barring of war crimes.

Additionally, in 2017 a large-scale, joint research was started by the Royal Institute for Language-, Land- and Ethnology (KITLV), the Dutch Institute for Military History (NIMH) and the Institute for War-, Holocaust- and Genocide Studies (NIOD).⁸⁰

This research is meant to answer persisting questions regarding the structural violence that recent studies (by for example Rémy Limpach) have shown to have been used in Indonesia by Dutch militaries. It is subsidised, yet not commissioned, by the Dutch government and aims to shed light on multiple issues (for example the Moluccan question and the period known as the 'Bersiap'). I was present at the first-year recap in September 2018, where I heard more about the process of the research, as well as the many different viewpoints from the different groups in attendance.⁸¹

Finally, to gain more knowledge about the court cases and Indonesian-Dutch history, I interviewed Jeffry Pondaag, one of the main actors in raising awareness about Dutch atrocities in Indonesia. A Dutch-Indonesian himself, he has been long frustrated with the Dutch attitude towards the colonial past. He has provided me with lots of insights on a contested history, a hard-fought court case and an opinion on the current status of former colonial powers dealing with their past. His contributions have also been very valuable in getting an idea of the widows' motivations.

Chapter 2 – The Post-War Approach: Reactive and Neutralising

2.1 Introduction Chapter

How did Dutch governments address the Indonesian issue during the first five decades post-war? When studying the discussion on the topic, it becomes clear that the government was faced with the Indonesian question mainly through the actions of others, and reacted whenever the case received publicity. The official governmental version remained focused on how the Indonesian people needed the Dutch, and that any violence used had been ‘necessary’.⁸² The Dutch army had tried to ‘free’ the Indonesian people from the ‘extremists’, but had been thwarted in its efforts by Sukarno and his group who had ‘misled’ or even ‘terrorised’ the Indonesian population.⁸³ Limpach observes that the post-war period saw the discussion on the Indonesian issue “resurge and subside” continually.⁸⁴ Luttikhuis chronicles how the post-war Dutch society was at times uprooted by “scandals” consisting of different levels of information (re)surfacing. Yet the issue never became part of the master narrative.⁸⁵ This is partly due to the approach adopted by repeated governments. Both Luttikhuis and Limpach emphasise that their method during those years was “rather reactive than proactive”.⁸⁶ Every disclosure of information would generate momentary outrage and publicity. According to Luttikhuis, this publicity was the only factor that would encourage to Dutch authorities to act, in order to prevent reputational damage.⁸⁷

The Dutch governments’ actions that would follow such publicity are described by Scagliola as “neutralisation”. She argues that through several strategies, consecutive Dutch governments have perpetually attempted to neutralise the Indonesian question.⁸⁸ The governments were ‘assisted’ in their attempt to neutralise the situation through the lack of “memorability” that existed amongst society.⁸⁹

Additionally, several influences on the governmental approach can be detected. From the 1980s onwards, veterans played a large role in how the Dutch government would approach the Indonesian question. They made use of a ‘noble’ self-image that existed in the Netherlands, which in itself will be discussed as the second influence behind the authorities’ behaviour. In order for the Dutch governmental approach and the influences to be considered, the occasions of ‘publicity’ are used to illustrate the explanations of Dutch governmental behaviour.

2.2 A 'Neutralising' Approach

When the Indonesian case received attention, the Dutch government in power at the time had to react. Their approach mainly focused on neutralising 'dangerous' information.⁹⁰ Scagliola outlines three separate strategies that consecutive Dutch governments applied over the years. The first one consists of deliberately silencing the topic, the second, of discussing it solely in apologetic terms, and the third, of focusing on detailed studies only.

2.3.1 Silencing the Issue

The first method consists of silencing the issue. Remco Raben describes this as "a conscious policy of hushing up".⁹¹ It can be observed in the fact that in the first two decades post-war, there was hardly any remembrance of the war in its entirety. This also pertained to the Dutch nationals who had fought in Indonesia. Soldiers of the Dutch side that lost their lives in the independence war have only been officially remembered since 1961.⁹² Up until the end of the 1980s, monuments for the 'Indies' could be counted on one hand.⁹³ The political climate in the Netherlands post-War was characterised by sensitivities within the relationship with Indonesia. Therefore it took several decades for not just the independence war, but also for the Second World War victims that had fallen in South East Asia, to be acknowledged.⁹⁴ It was only in the 1980s that remembrance for the wars in Indonesia started.⁹⁵ These memorials however mainly focused on the soldiers and citizens that had fallen during the Second World War. An example is the Indies Monument, erected in 1988. The monument honours all those who had supported the Netherlands from and experienced the war in the Dutch Indies.⁹⁶ However, in 1988 another monument was revealed which focused on the time period after the Second World War. The monument in Roermond honours all soldiers who have fallen in the years 1945 until 1962, in either the "former Dutch Indies" or New Guinea.⁹⁷ This latter monument includes a bronze bust of General Spoor. He was one of the key generals during the independence war, and oversaw the "police actions". He has since been accused by Rémy Limpach of being immediately aware of the violence committed by his subordinates, yet did not act.⁹⁸ There have been no further consequences of this yet. Media coverage in general does not mention Spoor excessively and no voices as of yet have been raised to remove it.

2.3.2 Apologetic Terms and Empty Research

The other two strategies mainly came out when there was ‘publicity’ that needed to be addressed. The main example of these two approaches being ‘combined’ was when the topic was broached publicly for the first time, in 1969. In that year, Indonesia veteran Joop Hueting was interviewed about his time in the archipelago. Hueting was 19 when he was sent to the Dutch Indies in 1947. He claimed that while there, he witnessed and partook in human rights violations. Hueting believed it was vital for society to be aware of what had happened. He had already tried to garner attention for the case by writing multiple letters to newspapers in the later 1950s.⁹⁹ He first testified on extreme military violence by the Dutch troops in Indonesia in the Dutch newspaper ‘de Volkskrant’.¹⁰⁰ As a result he was invited by the Dutch current affairs programme ‘Achter het Nieuws’ (*Behind the News*), where in a televised interview he recounted his experiences from the independence war in Indonesia. He described in detail the types of excessive violence that was applied by the Dutch army, and in particular how his own unit had killed civilians.¹⁰¹

Hueting’s story came as a complete shock to the Dutch society. Until then they had only heard the official account of the government of the Netherlands, who spoke of the usefulness of the military mission for the Indonesian people. The interview garnered a tremendous response. Due to the great amount of attention the interview received, the network (VARA) decided to dedicate two more broadcasts to the topic, in which a large number of veterans as well as civilian employees, politicians, scientists, war correspondents, and army ministers weighed in. This led to a large amount of newspaper articles being written, which in turn resulted in a broad public debate.¹⁰² It was the first ‘publicity’ the Indonesian case received, and the government had to act. The opposition called for a parliamentary survey, but Parliament was content with Prime Minister de Jong’s proposal of a “limited research”.¹⁰³ This research was performed by civil servants, to study the Dutch behaviour in Indonesia during the Independence war. It was focused on the years 1945-1950 and based on archived documents. Additionally, 110 events were studied.¹⁰⁴ The research was to be an inventory of archive information, and was specifically not designed to pursue a political judgment.¹⁰⁵

The end results were presented in June 1969, bundled in a document referred to as the 'Excess Note'.^v The conclusion of the report, headed by Cees Fasseur, was that extreme violence only happened incidentally, in 'excesses'.^{vi} Prime Minister Piet de Jong wrote the concluding observations in which he stated that the Dutch armed forces "as a whole" had acted correctly in Indonesia, without committing "systematic atrocities".¹⁰⁶

The Excess Note was heavily critiqued,^{vii} yet the debate faded into the background quickly due to the news about a rebellion in Curacao, then still a colony of the Netherlands.¹⁰⁷ On 30 May 1969, a revolt resulted from a conflict of labour, releasing "suppressed feelings on unequally divided prosperity and racial barriers".¹⁰⁸ Dutch marines were flown in to subdue the situation.¹⁰⁹ The resistance movement taking off just before the Excess Note was published, was later referred to by Cees Fasseur as "a gift from heaven for the conclusion of the excess study", since all attention shifted to the deployment of Dutch soldiers in Willemstad, Curacao.¹¹⁰ The opposition in parliament tried to keep attention on the issue, but the government absolutely resisted to further discuss the issue.¹¹¹ As a result, the matter was stalled for the time being.

Use of Apologetic Terms

The second strategy, using apologetic terms to discuss the Indonesian issue, was applied during the war and perpetuated afterwards. During the war, authorities evaded terming the military actions as 'war', instead describing them as 'police actions'.¹¹² After the war, the Excess Note became a prime example of the second strategy, as its title is an apologetic term. For the study, the use of the term 'war crimes' was banned by Prime Minister de Jong. He believed the term, which Hueting used to describe the events, was polarising. He instead insisted on the term 'excesses', which was described by Limpach as a "euphemistic and non-judicial term".¹¹³

^v In Dutch: Excessen Nota

^{vi} 'Excess' is also a debated term. It has been used consistently by the Dutch government to give the impression that the violence happened only 'in excesses', so very rarely, and only when necessary. By now these actions are acknowledged to be black pages in the Dutch history, and it has been shown that the violence was structural and systematic. See Bart Luttikhuis and Dirk Moses, "Mass violence and the end of the Dutch colonial empire in Indonesia," *Journal of Genocide Research*, 14, no. 3-4, (2012): 258; See also Rémy Limpach, *De Brandende Kampongs van Generaal Spoor (The Burning Kampongs of General Spoor)* (Amsterdam: Booms Uitgevers, 2016).

^{vii} For more information, see section *Specific Studies to Satisfy the Public*.

Choosing this phrase was deliberate, as it needed to neutralise the issue and its impact.¹¹⁴ The term was popularised and was used for all crimes mentioned in the document, thus also the actual war crimes. This made the situation seem less serious.¹¹⁵ Limpach points out that although ‘excess’ does encompass severe violations such as murder, torture, rape, and arson, at the same time it suggests that it concerns single occurrences instead of systematic violence.¹¹⁶

Specific Studies to Satisfy the Public

The third neutralising method was the government initiating studies into information that would (re)appear. Problematically, these would always be extremely detailed source studies, which always lacked a critical self-reflection.¹¹⁷ Again, the main example of this approach is the Excess Note. The conclusion of the report was that extreme violence only happened incidentally, in ‘excesses’, coining the term that would be used for years to come.¹¹⁸ The Excess Note has often been critiqued for being based only on archive research, lacking in information, being done too quickly and having neglected to include the experiences of those involved.¹¹⁹ For example, when asked in an interview in 1995 about the omitting of a case he described from the Excess Note, Joop Hueting stated that “that note contains nothing of what I have told. None of the war crimes I have described have ever led to a case.”¹²⁰ The Note in its entirety is an example of the use of apologetic terms, with the title in itself being one.

The government had a large influence on the research, evident in the fact that Prime Minister Piet de Jong influenced what terms to use, and wrote the concluding remarks for the eventual document, in which he stated that “the government regrets excesses to have taken place, but she asserts her belief that the armed forces as a whole in Indonesia has acted correctly.”¹²¹ Limpach notes how omitted events such as internal critique within the governments and responsibilities for higher ranked officers, strengthen the notion that the Excess note is a condoning governmental customised work, in which “reality, responsibilities, and extensive structural problems within the armed forces that are painful for the government, are deliberately kept out of view”.¹²²

Studies Behind the Decision Not to Prosecute

Alongside the Excess Note, other examples of the third strategy being applied reflect in the returning question of whether to prosecute soldiers who had fought in the war.

At least three times, the issue of prosecuting (former) soldiers was considered by different governments and by other high Dutch officials. However, it has never come to fruition, mostly because of the conclusions of the Excess Note.

A case in which the Excess Note was not of influence, simply because it did not exist yet, was the first time it was discussed, immediately post-war. The decision at the time to not prosecute any of the leaders nor in general was primarily made by Attorney General Felderhof in 1948.¹²³ At the centre of consideration were the two most-known attacks: on Rawagede, and on Sulawesi. The attack on Rawagede was under the leadership of commander Fons Wijnen. Attorney General Felderhof showed great understanding to the soldiers who had been involved in the violence. Together with General Spoor, them being the two main authorities entrusted with the judicial research, he decided not to prosecute any involved militaries, even though both were certain that the relevant authority would be convicted. A high officer of Felderhof wrote “In my view, Wijnen is definitely not a ‘rowdy’ [disorderly] that leaves victims everywhere he goes. I determinedly have the impression that Wijnen is a man who believed to not been able to do anything different in the given circumstances.”¹²⁴ The officer also linked this case to that of Westerling, which according to him “could in a certain way be deemed similar to each other”. The fact that Westerling’s behaviour was “approved” led to the officer concluding that “one can impossibly let Wijnen go down for this.”¹²⁵ Felderhof substantiated the ultimate end to the investigation with the reasoning that there was no further foreign interest or interference; an argument described by Limpach as “judicially irrelevant”.¹²⁶ Limpach further describes how through this decision, the authorities including the Office of the Prosecutor demonstrated that “the judicial interests of both the law enforcement mechanism and the victims were less important than the military and political interests.”¹²⁷

The attacks on Sulawesi can be described as a precursor to the ‘police actions’ and took place between December 1946 and February 1947. Large amounts of men were executed without trial. An official number of victims remains unknown.¹²⁸

Raymond Westerling was the captain who headed the attack on Sulawesi. With a “heavy heart”, General Spoor ended up firing Westerling. However, his company was simply renamed, and continued the violent behaviour.¹²⁹ Westerling was never charged with any crime.¹³⁰ This was due to the belief that his work in the colony had been indispensable, with Spoor describing Westerling’s behaviour as “tough, yet consequent”.¹³¹ He further stated that Westerling had not “randomly” victimised the population.¹³² Even if Westerling had made some “incidental mistakes”, Spoor is quoted saying, these had been necessary in the “prevailing circumstances at the time”.¹³³ Scagliola notes that the decision not to prosecute any crime that did not yet fall under the Statute of Limitations was critical.¹³⁴ It had provided the basis for later times when the question came up.

The second time the question of prosecutions was brought to the foreground was through the Excess Note. The Note was publicly discussed in Parliament on 1, 2 and 3 July 1969. As a result of the discussion, it was decided that there would be no prosecutions initiated for any cases that could potentially still be pursued.¹³⁵ On 3 July 1969, a motion against a further study into governmental and political responsibility was rejected. The government concluded that “in the majority of the cases, and often the most severe ones, no criminal prosecutions can be possible anymore”. They also stated that “in the few cases in which a criminal prosecution still can be considered, this must be refrained from”. The reason they gave for this was that a possibility of prosecution would be based on the coincidental availability of a complete file. In turn, this would lead to these cases being determined on an entirely arbitrary basis.¹³⁶ Most telling of the Dutch government’s attitude was the note written by someone of the Ministry of Justice that is dated 24 June 1969.^{VIII} On it is written: “*Nice, Indonesia solves itself on 1 July*”.¹³⁷

The third time the question of prosecutions was posed was in 1970 and 1971. During that time, a new law was drafted that regulated the non-applicability of statutory limitations. The Act came into force on 8 April 1971, and specified that “Detailed rules regarding the time-barring of the law to prosecute and implementation of punishment in respect of war crimes and crimes against humanity”.¹³⁸

^{VIII} See **Annex 1** for pictured document.

This Act followed a development in the international arena on the topic of non-applicability. Internationally, the *Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity* had been opened for signature in 1968. The Dutch government was considering its signing and ratification.¹³⁹ In the discussion that ensued, it became clear that the Netherlands did believe in benefit of the UN Convention. In an explanatory memorandum from a 1968-1969 sitting, the government wrote “war crimes (...) have, as has been shown, a very long aftereffect in society. The memory of it fades utmost slowly and the societal need for punishment remains substantial in such a manner, that it would lead to great unrest, should the termination of the applicable time-barring terms not lead to punishment anymore.”¹⁴⁰

However, already in August 1968, three months prior to the document being made open for signatures, the Ministry of Justice had issued a note regarding the question of the non-applicability of statutory limitations. In it, it was stated that the national penalty system “would not abide well” when the time-barring of crimes already banned by the Statute of Limitations be reversed.¹⁴¹ The question of Indonesia resurfaced. But again, the conclusion drawn from the Excess Note also led to the time period 1945-1949 in Indonesia being specifically excluded from the 1971 Act.¹⁴² When debating this new law, the Minister of Justice again referred back to the research that had already been done. He wrote that “a research has been configured into misconducts of Dutch militaries in the time period 1945-1949.”¹⁴³ Due to the above, there was no foundation to even mention the period of 1945-1949 in the Act, because they were already deemed unable to be prosecuted.”¹⁴⁴

Thus, consecutive Dutch governments chose not to prosecute any of the soldiers that had been deployed in Indonesia. Initially, the reasoning was focused on it being impossible to have acted differently in the circumstances – the violence had been necessary. Later governments cited the ‘unfairness’ of ‘random’ prosecutions as a reason. The government deciding not to prosecute reflects the general attitude of Dutch governments towards veterans over the years. This and other influences on the Dutch governmental approach will further be explored in the next section.

2.4 Additional Influences on Dutch Governmental Behaviour

2.4.1 The Approach Towards the Veterans

As noted above, it took ca. 11 years before the war in Indonesia was officially remembered. The veterans have had a large influence in changing this.¹⁴⁵ Raben describes the pressure exerted by veterans' groups on governmental policy and society.¹⁴⁶ Other authors, such as Scagliola, van Ooijen and Raaijmakers also point out the Dutch governments' approach which centred around a focus on the Dutch veterans.¹⁴⁷ Supporting the veterans also upholds the governments' constant statements of the violence being 'excesses'. Consecutive governments have maintained that "in general" the veterans' behaviour had been exemplary.¹⁴⁸

The focus on the veterans began with the Excess Note. Scagliola argues that its conclusion had to be brought as "neutral" as possible, in order to avoid "emotional damage" for the veterans.¹⁴⁹ The influence of the veterans really came through during the next moments of publicity which came in 1993 and 1995. In 1993, Jan Princen asked to be issued a visa for humanitarian reasons so he could visit family in the Netherlands.¹⁵⁰ In 1995, Queen Beatrix made the first royal visit to Indonesia since 1971. The visit was under pressure from the start due to the visit coinciding with the celebration of the Indonesian Independence Day on 17 August. Ultimately, to the ire of the Indonesian population, the Queen only arrived several days afterwards.¹⁵¹

Discussion around both events was linked to the veterans. Princen's visa application led to extensive discussion, especially due to lobbying from the veterans' side. Princen was also a veteran, but was sent as a conscript to Indonesia in 1946 against his will. While there, he gradually gained an appreciation for the Indonesian independence struggle.¹⁵² As a result, Princen deserted in October 1948 and offered his services to the Indonesian Republicans.¹⁵³ When Princen first offered his services, his intentions were mistrusted and he was imprisoned at first. Later he was released and provided with the choice to return to the Dutch army, or join the Republican forces. He chose the latter and by this decision, to voluntarily choose the Indonesian side. This made him extremely hated amongst many Dutch veterans.¹⁵⁴

When Princen requested to be issued a visa for humanitarian reasons, the veteran community lobbied extensively with the Parliament and press against the issuing. Subsequently, Princen was denied an entry visa by then Minister of Foreign Affairs Kooijmans who claimed that there was a moral obligation not to provoke or upset the veterans.¹⁵⁵ This resulted in criticism from Rudy Kousbroek, a Netherlands Indies specialist. He believed the government had caved in to the veterans' lobby, and at the same time criticised the veterans' attitude as a whole. Kousbroek said "What is recurrent is a claim on suffering, mental suffering and war traumas, but clearly only one's own suffering, not that of the adversary. The same approach can be seen with regard to Indonesia in general, most of what really went on there is still covered up."¹⁵⁶ Later, Scagliola would describe Princen as being used as a "scapegoat for all the frustrations and traumatic memories of the veterans' community".¹⁵⁷

Similar reasoning was presented when in 1995 the then Queen of the Netherlands Beatrix visited Indonesia with her husband and her eldest son, crown prince Willem Alexander. She had wanted to apologise for Dutch excessive behaviour in Indonesia, but was banned from doing so by the Dutch government. Once again this was due to fear of reaction from the veterans' side and the topic was once more suppressed.¹⁵⁸

Looking back, it seems that the veterans themselves have had a large influence on this change in governmental approach towards them. Upon their return in 1949/1950, the veterans were mostly met with silent contempt.¹⁵⁹ The veterans, either having voluntarily signed up or having been drafted, maintain they fought for the Netherlands.¹⁶⁰ They already felt resentful due to the lacklustre welcome they received upon their return. Instead of having been welcomed back as heroes, they were perceived as "representatives of the controversial decolonisation process".¹⁶¹ They also mourned their fallen comrades, and combined with the above, they perceived their deaths as having happened in vain.¹⁶² With regards to the violence used, the veterans believed that those who had not been there had no idea what it had been like. Therefore, according to the veterans society could not judge force that was used.¹⁶³

Veterans began lodging their case in the 1960s. Van Ooijen and Raaijmakers recount how the veterans used the national myth of the Netherlands having a “unity of resistance” during the Second World War.

They describe this development as “the focus on heroes and national unity in the cultural memory of World War II [that] enabled Indies veterans to articulate and advocate their own interests.”¹⁶⁴ This myth shaped the national commemoration discourse of the time, portraying the Dutch as resistance fighters and heroes. The commemoration discourse further focused on active victims: those who had died for their country.¹⁶⁵ This focus made it possible for the veterans to fight for recognition of their brothers in arms. They argued that these fallen soldiers had been heroes too, linking them to the idea of active victims that had died for their country.¹⁶⁶ Since the 1980s, the remembrance for Dutch soldiers who fell in Indonesia (and New Guinea) has increased, as can be observed in the erection of several monuments in 1988.^{IX}

The veterans thus made use of a self-image of heroes and resistance fighters that lived in the Netherlands at the time. This self-perception is expanded upon in the next section, as Dutch society in general maintained a specific image of themselves. This can also be deemed an influence on the Dutch governments’ approach.

2.4.2 The Issue of Self-Perception

Both Paul Bijl and Scagliola refer to a certain self-image the Dutch have of themselves as the reason behind the lack of a national discourse on Dutch colonial violence in Indonesia. Already during the colonial period, the Dutch liked to perceive themselves as small-scale, non-violent, and ‘modest mediators’. There was a widespread perception that they were doing good work in other parts of the world. It started with the idea of bringing ‘civilisation’ during colonial times. This was later rebranded to ‘modernisation’.¹⁶⁷

With regards to Indonesia, this glorified self-image of the Netherlands’ role began in the nineteenth century. The Dutch viewed their presence in the East Indian colony as beneficial to the local population.¹⁶⁸

^{IX} See earlier section 2.3.1 *Silencing the Issue*.

Burgers describes how from the end of the nineteenth century, a national self-consciousness had been created in which the colonial assets occupied a fundamental place, especially regarding their direct importance for the Dutch economy.¹⁶⁹

The Dutch government believed they needed the important territories in Indonesia to restart their economy, as the Netherlands was running out of financial means.¹⁷⁰ There was also a geopolitical argument to the effort of keeping the colony: the extension that the inclusion of Indonesia would bring was thought to provide the Kingdom with the status of 'World Power'; without it, the Netherlands would degrade to 'the rank of a country such as Denmark'.¹⁷¹ Though without substantive international political power, their overseas territories placed them third on the world ranking of colonial powers, and allowed them a prominent position in the global economy.¹⁷²

Psychologically, Indonesia was of a much greater importance to the Netherlands than for example India was to Great Britain, due to the fact that the latter, like other European colonial giants had many other territories spread over the world, where the Netherlands 'only' had Surinam and the Dutch Antilles alongside Indonesia.¹⁷³ Through Indonesia, the Dutch thus tried asserting their self-importance through the colony, believing that they were "doing something great".¹⁷⁴ They perceived every development as a sign of their own indispensability, deeming themselves responsible for all good things that took place in Indonesia. In doing so, they disregarded the fact that they kept Indonesians out of almost all official, decision-making processes.¹⁷⁵ This feeling of 'responsibility' also was one of the reasons for the independence war to be initiated: the intervention was justified by stating the Dutch had a "responsibility" for the Indonesian people.¹⁷⁶ In this context, the Dutch believed themselves to be the liberator, and not the aggressor.¹⁷⁷

Due to the importance of the Indonesian archipelago for both the economy and the self-image, the loss of the colony was a painful experience for the Dutch. In addition, there was a sudden possibility of having been perpetrators, so shortly after a war in which the Dutch mainly perceived themselves as victims. In general a larger Dutch national narrative was adhered to, which manifested itself in a self-image of being victimised but resilient, as well as a moral beacon.¹⁷⁸ Scagliola attributes this to the fact that the Netherlands has not seen violent revolutions, uprisings, movements pursuing secession, or civil wars.¹⁷⁹

The Dutch perceive themselves as resilient due to their attitude during 80-year war with the Spanish from 1568 until 1648.¹⁸⁰ Furthermore, when looking back on the Second World War, they see themselves as victims and resistance fighters.¹⁸¹ Remembering the deaths that were caused by colonial violence would imply that the Dutch had been perpetrators too.

As they saw themselves as victims instead, this was hard to bear for many.¹⁸² This would mean making a connection between the behaviour of German soldiers on one side and the Dutch on the other, a connection that was always ill-received and often avoided. Scagliola argues that an example of this is the “sub-message” that she believes Prime Minister Piet de Jong wanted to express through the Excess Note. Another reason for leaving out the term ‘war crimes’ in the Excess Note was to avoid undesirable comparisons to German and Japanese crimes of the sort.¹⁸³ By emphasising it had been ‘excesses’, the Prime Minister had wanted to stress that Dutch militaries had not behaved like German soldiers.¹⁸⁴

The pain of losing the colony, something that was perceived as such a grand developmental project, and the factor that gave the Netherlands its status as world power, combined with the self-perception of being victims, not perpetrators, led to Dutch governments steadfastly neutralising the Indonesian issue. This self-image also lived amongst the Dutch population, and there were also in general no questions asked by them. Bijl attributes this to the Indonesian independence war lacking “memorability”.

2.4.3 Lack of Memorability

Bijl believes that the Dutch government has been able to avoid a more in-depth discussion as well as responsibility because the independence war lacked memorability.

In his article on colonial memory and forgetting in the Netherlands and Indonesia, Bijl argues that colonial history is very much present in the Netherlands. However, the problem lies with placing it within a national discourse. He describes how we have to remember something before we can know that we forget about it, and links it to the *paradox of forgetting* conceptualised by Luisa Passerini. She states that in order for us to look for something to forget, we must remember at least parts of it.¹⁸⁵

Bijl connects the lack of discussion and remembering to the concept of *memorability*, which he defines as ‘the degree to which a past is memorable, easy to remember’. Thus the question is no longer whether there is memory, but how there is memory.¹⁸⁶ Something can be remarkable, but still not memorable. He states that critics often forget that people not only need to see to believe, but also need to believe something to actually see it.

Luttikhuis and Moses summarise Bijl’s viewpoint as “rather than repressed or covered up, the memory of colonial violence has not fitted into a larger Dutch national narrative”.¹⁸⁷

Bijl also refers to the use of language being a factor in memorability.¹⁸⁸ He states that this specific use of terms such as ‘excesses’ and ‘police actions’ can again be traced back to the general Dutch self-representation.¹⁸⁹

Lack of Historical Research

The main problem Bijl refers to is the fact that the dominant discourse in the Netherlands has always omitted the time in the Indies. For this history, there is no language available, nor is there a national context that can be referred to.¹⁹⁰ Rémy Limpach notes that both the collective awareness and the position of the studies into the shared history remain in a poor state, especially regarding the “last, dramatic chapter of the Dutch colonial rule in Indonesia”.¹⁹¹

Scagliola points out the role that historians have had in neutralising the topic. She faults the government for conducting too detailed studies and accuses historians of failing to properly research the issue at all. She laments their less than active approach, and writes how historians adopted a “professional code of ‘neutrality’”, which left the field open to journalists and activists.¹⁹² The approach of historians and their contribution to the “slow process of coming to terms with controversial aspects of the 1945-1949 war”¹⁹³ can be seen in the small number of studies that have been undertaken over the past century. Up until the turn of the century, four main researches can be identified. 1970 saw the pioneering historical-sociological research of Jacques van Doorn and Wim Hendrix being published. This work is still perceived as one of the main sources of information on the extreme Dutch violence in Indonesia between 1945 and 1949.

They broke with tradition in that they did not make use of the term ‘excesses’ to cover up heavier violence, as well as turning a blind eye to responsible military and political leaders. They argued that these ‘excesses’ had not taken place coincidentally and sporadically, but were “part of a pattern, results of a process”.¹⁹⁴

Van Doorn and Hendrix’s work received limited response from neither scientific nor societal circles. Four individual case studies followed about some of the most known excesses. First, in 1984, Willem IJzereef’s book regarding mass murders in South-Celebes was published. This was the first one in which extreme Dutch violence was linked to specific time frames, people and places and thus gave it an identity.¹⁹⁵ Subsequently, in 1987 the manuscript of renowned historian Loe de Jong was leaked. For a moment, this manuscript rekindled the debate on violence in Indonesia. This was because de Jong wrote about the war using the term ‘war crimes’ to describe the events.¹⁹⁶ De Jong’s leaked transcript resulted in widespread protests from all layers of society as well as critique from experts. It resulted in de Jong backtracking and changing his final version, in which the term ‘war crimes’ was omitted.¹⁹⁷ In 1997, Ad van Liempt published a study about a fatal transport of prisoners of war on 23 November 1947 that left 46 Indonesian men dead.¹⁹⁸ Even though van Liempt also expressed a critical view, no notable reactions to his work can be found.¹⁹⁹

2.5 Global Perspective

2.5.1 The Netherlands Is Not Unique

The Netherlands is not unique in constructing a certain self-image, nor in neutralising their actions. All European powers maintained their imperialist practice had a noble disposition. Perceiving themselves as saviours, the UK also believe(d) that through their colonial system, they spread the rule of law, “civilisation” and democracy.²⁰⁰ An official narrative has long been maintained in The UK of the idea of the Empire being about the spread of “British values”, which translate to the rule of law, “civilisation”, and democracy.²⁰¹ This is still echoed in recent public statements. Gordon Brown, in his role as then-Chancellor on a visit to Tanzania (2005), stated that “we should celebrate much of our past rather than apologise for it”.

David Cameron, then-Prime Minister, on a visit to India (2013) said that he believed that there is “an enormous amount to be proud of in what the British Empire did and was responsible for”.²⁰² Alan Lester observes how Britons like to tell themselves: “Unlike the other European empires, theirs was an empire founded on humanitarian compassion for colonized subjects.”²⁰³ Additionally, the British government has applied a neutralising, even self-congratulatory rhetoric. They maintain the belief that there should be ‘appreciation’ for what the UK has done around the world, instead of apology. The self-congratulatory beliefs can further be found in the idea that the British have of themselves actually contributing to emancipation and decolonisation.²⁰⁴

Catherine Hall describes how slavery has been displaced by abolition in the national imagination, which allows Britain to imagine itself as liberator, rather than enslaver.²⁰⁵ This was once again reiterated by Prince Charles in his November 2018 speech in Ghana, in which he lauded the role of The UK in abolishing this “shameful trade”.²⁰⁶

Other European Empires also apply nicely phrased terms to their past. France had a “mission civilisatrice” based on the notion of assimilation.²⁰⁷ This was one of the foundational ideas of the French colonial policy: assuring all people in the colonies that they could be considered “French” by teaching them the language and culture.²⁰⁸ A cultural interpretation of the word ‘assimilation’ could refer to the French expansion outside of Europe.²⁰⁹ The concept was based on the idea of French superiority.²¹⁰ Germany spoke of “cultural work overseas” when referring to the colonies.²¹¹

Thus, the Dutch governments are not alone in believing to have done ‘the right thing’, nor in neutralising previous actions at a later time. Discussions on the past are pushed to the background by highlighting the good sides of their presence in other parts of the world. Any ‘violence’ is dismissed by emphasising the necessity of the use of force. However, over the years, the world has seen a change regarding the view on violent pasts. Multiple countries have been faced with calls for justice for violent pasts, and populations have become more aware of them. What changed in the view regarding reparations for historical injustices? And how did the Dutch approach fit into this? This shall be explored in the next chapter.

Chapter 3 – Small Steps in a Changing Environment

3.1. Introduction Chapter

The last two decades of the twentieth century saw a changing climate regarding the approaches towards historical injustices. The human rights movement had been through major developments since the Second World War. This movement came with a growing attention for responsibility and accountability, and the importance of the individual. Possibilities opened up for victims to claim their rights and, when these were violated, claim reparations. Increasingly, people have become ‘conscious of catastrophe’, seeing the harm that has been done, and have come forward to claim justice in the form of reparations. This culminated in what is referred to as ‘the age of apology’. Still however, reparations for historical injustices are a debated topic. These developments are explored in the next sections.

In the Netherlands, similar developments can be detected. Since the Second World War, the country has created and consolidated a self-image of human rights. The consciousness of the past is reflected in the discussion on how to deal with the Dutch role in slavery. Did these developments change the Dutch governmental approach to the violence in Indonesia? Or did they continue a reactive approach?

3.2 A Globally Changing Climate Regarding Historical Injustices

3.2.1 Reaction Post-War

A broader human rights focus started after the end of the Second World War. The atrocities that were committed in the period 1939-1945 forced the world to establish a new approach towards international human rights.¹ The world was craving more communal action. Prior to the Second World War there existed the League of Nations. This organisation was created following the First World War, showing what Shaw describes as a “completely different attitude to the problems of force in international order”.²¹² It was established to “promote international co-operation and to achieve international peace and security”.²¹³ Unfortunately, it did not live up to this goal. Shaw describes how it was “crippled from the start” due to the United States and the Soviet Union not participating.

It failed to confront major aggressors,²¹⁴ and unfortunately, this organisation had not been able to prevent atrocities from taking place. Outraged over the events of the Second World War, States banded together to create the UN, an umbrella organisation that addressed issues such as torture, political oppression, and so forth. The Organisation acts under a Charter obliging States to promote, respect and observe human rights.²¹⁵

Responsibility for States and Towards Individuals

The growing amount of human rights, accepted by an increasing number of States, called for a system that could regulate and define such rights, as well as impose obligations.²¹⁶ Increasingly, States could be held responsible for their actions. This was seen in the expansion on individual rights, but also in for example the creation of the International Court of Justice²¹⁷ and the Security Council in the UN. This latter mechanism has the power to interfere under Chapter VII of the UN Charter. Provisions in this Chapter state that in the occasion of the existence of “any threat to the peace, breach of the peace, or act of aggression”, the Security Council can decide to implement measures or undertake further action against the aggressor State.²¹⁸

Meanwhile, the non-governmental arena has also expanded. There are currently many non-governmental organisations that, with the help of internet and activists, are able to expose unjust and wrongful State behaviour. A further influential factor has been the development of the field of Transitional Justice, which will be further discussed in the section *The Influence of Transitional Justice*.

States now have specific responsibilities towards individuals. The role of such responsibilities was expanded in the post-World War II decades. International law had always solely regulated the relations between States.²¹⁹ This had now changed. International law currently covers individuals, groups and international organisations, both private and public.²²⁰ States now have the responsibility to respect, protect and fulfil the human rights of their subjects. The obligation to respect means States should not harm their subjects’ rights. Finally, to fulfil rights, States must “must take positive action to facilitate the enjoyment of basic human rights”.²²¹

When taking the example of torture, for a State to respect, protect and fulfil the rights of the individual, this means that the State must refrain from torturing its subjects, preventing third parties from torturing, and for example enacting relevant legislation making torture illegal. These State responsibilities result in individuals not only being able to claim rights, but, due to the development of the concept of individual reparations, to also claim reparations when these rights are harmed.

3.2.2 Reparations

Traditional View on Reparations

Traditionally, reparations only happened inter-state and were mainly referred to as 'war reparations'.²²² Defeated States would pay reparations to the victor State, and although this was a standard in peace negotiations, it was never linked to any moral standards; they were simply seen as part of the punishment for the losing State.²²³ They were perceived as a secondary State obligation, under the rules of State responsibility.²²⁴

In line with the expanding reparations of States towards individuals, this 'reparations-between-States' view changed significantly after the Second World War. The idea that States could have responsibilities towards civilians had developed during the negotiations after the First World War.²²⁵ However, the first time reparations were specifically recognised as an individual right in legal document was after the Paris Reparation Conference of 1945. The outcome document included a provision for the allocation of a share of the war reparations to stateless 'non-repatriable' victims who had suffered at Nazi hands.²²⁶ This conference turned out to be a turning point. From then onwards the notion of individual reparations developed further.²²⁷ A movement for the protection of human rights at the highest international level gained momentum.²²⁸ With this came a growing acknowledgement of the importance of individual victims.

Increasing Focus on the Victim

The change in thinking about victims gained currency with the 1984 *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*. Before that, victim rights have been included in several human rights documents, first and foremost in the Universal Declaration for Human Rights (UDHR).

This latter document states that “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law”.²²⁹ Additionally, they were mentioned in the International Covenant for Civil and Political Rights.²³⁰ On a regional level they are included in the European Convention on Human Rights.²³¹ Post-Second World War, international humanitarian law (IHL) also took flight, with the UN addressing issues such as warfare against civilians and rights during war, which were included in the Geneva Conventions of 1949, which also mentions reparations in its first Additional Protocol.²³² Although included in several human rights law and IHL documents, none of them indicate the possibility of individual remedies.²³³

The main international document for reparations for victims is the *Basic Principles and Guidelines on the Right to a Remedy and Reparations for victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (from here onward referred to as the *Basic Principles*). This instrument was adopted by the UN in 2005 and outlines the right to reparations for everyone who has suffered human rights and humanitarian violations. Chapter IX²³⁴ deals with reparations that are recommended to be provided by the Member States. The Chapter states that reparations must be provided for both acts and omissions, if these led to gross violations of international human rights law, or “serious violations of international humanitarian law”.²³⁵ The Basic Principles classify five outcomes or forms that are internationally accepted: restitution,²³⁶ compensation,²³⁷ rehabilitation,²³⁸ satisfaction²³⁹ and guarantees of non-repetition^{240,241}. All of these five forms can use measures or tools to achieve the desired outcome.²⁴² The forms of reparations and their tools listed above were not assigned a hierarchy²⁴³ and differ from each other, yet all share the same inherent qualities: “the demonstration of atonement and the opportunity for the victim to regain dignity”.²⁴⁴

3.2.3 Reparations for Historical Injustice

The post-Second World War world also opened up possibilities to discuss historic harm. Contemporary States and citizens were increasingly called upon to take their responsibility by paying reparations, taking an example from Germany for the Holocaust.²⁴⁵

Dinah Shelton describes such claims as generally involving “survivors or descendants of groups of people targeted for their identity, subjected to genocide, slavery, forced conversions, torture or mass expulsions.”²⁴⁶

Bantekas and Oete state that claims for reparations for past injustices have mainly been made for slavery and colonialism, either as practices in their own right, or in relation to specific incidents.²⁴⁷ Alice Dunham points out that such claims hark back to the 1960s.²⁴⁸ However, Shelton provides the example of the 1946 Indian Claims Commission that was established in the US to deal with indigenous claims on land to show that the discussion on reparation for different types of historical injustices also have a long history.²⁴⁹

The Discussion Opening Up

One reason for why the post-Second World War world became more sensitive to the suffering of others in the past is connected to what Torpey refers to as a “consciousness of catastrophe”.²⁵⁰ He links this to the Holocaust, describing how the atrocities of that time resulted in an acknowledgement of people suffering at the hands of other people.²⁵¹ Benjamin Thompson summarises it as “not only has the post-WWII world come increasingly to recognize human-produced suffering, but it has also come increasingly to evaluate such suffering as unjust and inexcusable by appeal to progress or some utopian future.”²⁵² To conclude, the systematic harms perpetrated upon certain groups and individuals over the last centuries were now perceived as grave injustices.²⁵³

Robert Weyeneth describes something similar when he speaks of a “new sense of connectedness that has entered the picture. Due to becoming a “global village”, the world has become aware of the “wrongs done to nations and neighbours”.²⁵⁴ For this reasoning he cites Elazar Barkan, who points to a “new international emphasis on morality” for countries facing up to their past.²⁵⁵ Additionally, Weyeneth argues we now find ourselves in a time in which history is contested. He states it only started happening recently that “government policies rooted in racism have passed out of favour and that claims of native peoples have begun to be taken seriously”.²⁵⁶ The meaning of history is passionately debated, not just by professional historians, but also by the public. Societies feel compelled to confront their past and ask questions. Moreover, societies aim to rewrite the story “all of us have learned since childhood”.²⁵⁷

That the meaning of past injustice was passionately debated, also showed through the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Sarkin argues that the issue of reparations gained considerable ground through this Conference. During this conference, reparations for colonial times and slavery were high on the agenda, but proved a contested topic.²⁵⁸ In the end, it was recognised that colonialism and slavery had led to long-lasting effects that can still be felt and seen today.²⁵⁹ However, no reparations would be paid.

The Influence of Transitional Justice

Finally, another reason for the discussion of how to deal with historical injustice is Transitional Justice. The opinions on when this field originated differ, the discussion on this is too broad to explore in this thesis;²⁶⁰ however, what is agreed upon is that the main basis was created during the 1980s, when many countries wrestled out from under a dictatorial regime.²⁶¹

Transitional Justice is referred to as a “field of activity and inquiry focused on how societies address legacies of past human rights abuses, mass atrocity, or other forms of severe social trauma, including genocide or civil war, in order to build a more democratic, just or peaceful feature”.²⁶² The system values assigning responsibility as one of its core principles; it is “rooted in accountability”.²⁶³ It further leans on four pillars: truth; justice; reparation; and institutional reform.²⁶⁴ Accountability is mentioned in the pillar of justice. Assigning accountability shows that atrocities will not go unpunished, resulting in the deterrence of future abuses.²⁶⁵

The rise of Transitional Justice in the post-Cold War era opened up new opportunities to discuss reparations. The growth of the reparations concept was given a fresh boost by the debates and measures surrounding the many political transitions.²⁶⁶ Often such transitions followed a period of dictatorship or conflict, marked by gross human rights violations on a large scale, and in such transitional processes, reparations could play a key role. The concept shows that rights are accepted, acknowledges suffering, restores civic trust, and indicates solidarity with the victims.²⁶⁷ Reparations are now widely recognised as one of the four main pillars of Transitional Justice,²⁶⁸ having been included by then UN Secretary-General Ban Ki-moon in his 2010 Guidance Note.

Herein he assigned mechanisms to reparations such as monetary compensation, medical and psychological services, health care, educational support, return of property or compensation for loss thereof, but also official public apologies, building museums and memorials, and establishing days of commemoration.²⁶⁹

It is argued by Balint, Evans and McMillan and Vesuki Nesia that Transitional Justice can and has helped historical injustices in a colonial context to be brought out in the open, especially focused on the general discussion of colonialism. In their article on Transitional Justice and structural violence, Balint, Evans and McMillan argue that even though Transitional Justice is “traditionally located in moments of political change to enable and shape political transition through legal measures”, its “flexibility” as well as its “potentiality as a broader justice model” makes it appealing to address historical injustices that have not yet been dealt with under the label of ‘harms’.²⁷⁰ As mentioned, their argument focuses on settler colonialism, however, in general they argue that Transitional Justice “now constitutes a dominant international framework for conceptualising and pursuing redress for systematic violations of human rights”,²⁷¹ which would also include other types of historical injustices in a colonial context. Nesia argues that the field of Transitional Justice has been influential for the colonial issue; with the evolution of the field came also the opportunities for cases of historic injustice to be brought forward.²⁷²

Reparations for Historical Injustices: A Debated Concept

The notion of reparations for historical injustices remains contested. Shelton has listed arguments both in favour and against such reparations.

Those in favour argue that in some cases, international law already existed prohibiting such crimes. Also, the perpetrators have unjustly profited from the crimes for years.²⁷³ Additionally, many examples of historical injustices have a “compelling moral dimension”.²⁷⁴ This is because the crimes often took place “during or after the emergence of the concept of basic guarantees of human rights to which all persons are equally entitled”.²⁷⁵ Therefore, the payment of compensation could be presented as a moral condemnation of the past abuses.²⁷⁶ Furthermore, the proponents of reparations reject the idea that generations of the present have no responsibility for the past.

They state that international law, which recognises institutions and States, provides for changes of government not leading to the absolve of responsibility for wrongful conduct.²⁷⁷ The responsibility for historical injustices is a difficult matter, because it concerns an inherited responsibility. Often the government that was in charge of the injustices, is no longer in power. Thus, it would be a political responsibility that is taken on by current governments for crimes committed by their predecessors. It is because of the political link that such entities can still be expected to take responsibility for past events. Furthermore, it is argued by Lu that a political responsibility is inherited when political structures of injustice are inherited – and it continues to exist for present and future generations until their social structures become reasonably just.²⁷⁸

Finally, those in favour especially believe in the importance of apology, as it can lead to acknowledgement of suffering, which in turn can be restorative.²⁷⁹ It is stated by Olick and Coughlin that “The discourse of universal human rights is tied directly to a politics of regret because its advocates believe that only gestures of reparation, apology, and acknowledgement can restore the dignity of history’s victims and can deter new outbreaks of inhumanity.”²⁸⁰

The arguments of the opponents to the idea of reparations for historical injustices are as follows. First, they refer to the general principle of non-retroactivity of the law. It is argued that just because we now understand that slavery was wrong, does not mean we are responsible for the people not seeing this as wrong hundreds of years ago, in the sense of ‘We were not the ones who voted the wrong system into power, and should thus not be held accountable for it’.²⁸¹ Bantekas and Oete are examples of authors bringing forward this argument. They problematise the idea that the current international law would have to be applied retroactively, which is not allowed.²⁸² This argument is countered by Tan, who states that “Reparative demands can be meaningfully made in the colonial context when the nations which were the historical antagonists still exist qua nations. That the individuals making up these groups are not identical to those at the scene of the injustice does not render reparative demands meaningless. (...) It is an institution that is held morally culpable for the past wrong, not the individual who is occupying the office presently.”²⁸³

Furthermore, opponents argue that it would be unfair on present generations to take responsibility and carry the burden this responsibility will come with.

Other legal obstacles that are mentioned are the questions of determining victims and perpetrators, and the amount of reparations. States argue that claims rooted in international law can only be brought by other States, thereby disregarding population groups and individuals.²⁸⁴

A point not mentioned by Shelton but is by Robert Weyeneth, is that “it’s time to look forward, not backward”.²⁸⁵ He describes how opponents concede that history may have effects on the present, but “because it can be inconvenient, we should work to minimize the implications.”²⁸⁶ Rhetoric is used to make the point that although what happened in the past was horrible, we must now look to the future and should no longer discuss such concepts as apologies.²⁸⁷ This argument has been applied by several political authorities of which apologies or reparations are requested. Former President of France, Nicolas Sarkozy, emphasised the ‘pastness’ of the colonial history.²⁸⁸ Gordon Brown in his then role as Chancellor of the Exchequer stated that “we should move forward ... the days of Britain having to apologise for its colonial history are over”.²⁸⁹

3.2.4 Age of Apology

At the end of the twentieth century, one form of reparations was abundantly applied by governments: apologies. Robert Weyeneth argues that even though they are not “unique to the modern ear”, its pervasiveness is relatively recent: there definitely seems to be an outpouring of “intense apologising these days”.²⁹⁰

In 1997, Shapiro referred to the ‘Age of Apology’, describing it as the development of public remorse having “become the refuge of middle-aged politicians too timid for body piercing”.²⁹¹ As examples he mentions the apologies from President Bill Clinton for the US involvement in the slave trade and Tony Blair’s apology for the potato famine.²⁹²

Since then, many authors have claimed the advent of an age of apology.²⁹³ Eric Litwack states that “one of the most characteristic features of our age is the search for recognition and moral equality.”²⁹⁴ Harris, Grainger and Mullany refer to “a proliferation of demands for public apologies, particularly from politicians, over the last decade or so across the political spectrum and across the globe”.²⁹⁵

In addition to the examples of Clinton and Blair, they list the British Queen's apology for the seizure of Maori Land, the pressure placed upon the Japanese Emperor Akihito to apologise for how the Japanese behaved towards British prisoners of war, and the demand for an apology in Australia for the Aboriginal children which were 'stolen' in the time period 1950-1972.²⁹⁶ This latter apology has since been given by Prime Minister Kevin Rudd.²⁹⁷ Augoustinos, Hastie and Wright argue that this apology "demonstrates the increasing willingness of nation states to apologize for past wrongs to aggrieved groups".²⁹⁸ Other examples of apologies are the 2002 Belgian apology to the Congo for their part in the 1961 assassination of Congo's first Prime Minister Patrice Lumumba²⁹⁹ and the Canadian apologies to indigenous people in 2008³⁰⁰ and 2017.³⁰¹

In 2010, Alice MacLachlan claimed that since the late twentieth century, over 50 official apologies have been offered by heads of state and government representatives, but also by church leaders, corporations, and other non-governmental organisations.³⁰² She also states that the list of apologies demanded is much longer.³⁰³ Subsequently, she argues that "Apologies and their absence have emerged and remained in focus within broader efforts to respond morally and politically to historical injustices, postcolonial legacies, and authoritarian rule, as well as the atrocities of genocide, crimes against humanity, and the violence of civil and ethnic conflict."³⁰⁴

3.3 The Dutch Approach to Dealing With Historical Injustices

3.3.1 The Netherlands and Human Rights

Post-World War Two, the Netherlands also became very much focused on human rights. The 'moral beacon' self-image of the nineteenth century was expanded after the war, especially in the form of an element of being 'human rights defenders'.

The country is a founding member of the UN.³⁰⁵ It has signed and ratified all main human rights treaties.³⁰⁶ Since the 1960/70s, human rights have played a main role in shaping Dutch foreign policy³⁰⁷ at a time during which the Netherlands started to play an exponentially active role in stimulating human rights as an intrinsic part of the international legal arena.³⁰⁸

An example of Dutch efforts are the negotiations initiated by the country on establishing an individual complaints procedure to the ICCPR and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).³⁰⁹ Progressive governments, proactive civil servants, and a supportive population resulted in human rights becoming fundamental for the Dutch foreign policy. On top of this, in the early 1970s a progressive think tank accentuated the important role for the Netherlands in changing the world, using International law as the main lever to attain this.³¹⁰ In 1973, Bas de Gaay Fortman wrote about the Netherlands as needing to be a “guiding nation”³¹¹, a term that would resurface over the years when discussing the Dutch role in the global debate on the international legal order, for example in the 2010 policy report by the Scientific Council for Government Policy, which argued for a strong role by the Netherlands in developing the international legal order.³¹² In arguing this, it referred to Article 90 from the Dutch Constitution which states “The Government shall promote the development of the international legal order.”³¹³ The Netherlands has always been focused on international law; Since 1953, the Dutch Constitution explicitly states that the international legal order should be promoted. At the time, it was the role of the king.³¹⁴ During the complete revision of 1983, it was changed to ‘the government’.³¹⁵

The assumption of the Netherlands’ role of ‘human rights champion’ has been strengthened by hosting several international courts and having many international organisations based in the city of The Hague. This resulted in the city being dubbed “the legal capital of the world” by former Secretary-General of the UN Boutros Boutros-Ghali.³¹⁶ The International Criminal Court (ICC) and the International Court of Justice (ICJ) are based here, as was the International Tribunal for Former Yugoslavia (ICTY).³¹⁷ Currently, approximately 160 international organisations are based in the city,³¹⁸ and the Dutch government provides support to many human rights initiatives. This includes the Human Rights Fund from which money is divided over several human rights focal points.³¹⁹ Annually, the Netherlands allocates €4,5 million to promote human rights causes globally.³²⁰

Additionally, the Netherlands is highly involved in Transitional Justice processes. In a letter dated 15 December 2009, the government stated its belief in justice being of “the highest importance (...), indispensable for sustainable peace.”³²¹ The AIVD^x emphasises that the notion of Transitional Justice strongly connects with the most important priorities of the Dutch foreign- and development cooperation-policy, as it has supported and still supports local mechanisms, several truth-finding and reconciliation commissions and tribunals.³²²

Although the Netherlands identifies as a promoter of human rights, several Dutch scholars such as Barbara Oomen en Nicole Immler point out that this is mainly in the context of ‘international’ and ‘export’ – hardly any introspection is applied.³²³ Oomen states how “human rights, above all, play a role in foreign policy but hardly figure in political and societal discourse on pressing domestic social problems.”³²⁴ Immler describes human rights in the Netherlands as “namely considered as something that others lack rather than something that has to be actively cultivated at home”.³²⁵ It is also significant that the Dutch State emphasises the importance of Transitional Justice, but has remained unwilling for so long to look critically at its own history. The discussion has mainly revolved around slavery.

3.3.2 Growing Appreciation For the Meaning of History

The Netherlands has seen an increase in questions regarding how to understand its past. A major part of this discussion is dedicated to slavery. It came over around 1998 from the United States, as in that year President Bill Clinton had apologised for the American role in slavery.³²⁶ The Dutch joined the slave trade in the seventeenth century.³²⁷ They managed to conquer territory in Brazil and Ghana from the Portuguese.³²⁸ From then onwards, the Dutch actively participated in the organised slave trade. In total, the Netherlands has shipped around 550.000-600.000 people.³²⁹ In the eighteenth century, the Dutch started to lose the competitive struggle from the English.³³⁰ The Dutch then focused on Surinam, where there was a large need for slaves on the plantations. Around 200.000-300.000 were shipped to Surinam.³³¹ The Netherlands abolished the slave trade, on 1 July 1863.³³² It was one of the last European countries to do so.³³³ The slave owners were compensated, but the slaves received nothing.³³⁴

^x Algemene Inlichtingen- en Veiligheidsdienst: *General Intelligence and Security Service*.

The painful history of slavery is now increasingly remembered in the Netherlands. There is a rising interest in the celebration of Ketikoti (Sranan Tongo for 'broken chains'³³⁵) on 1 July. This day commemorates the abolition of slavery and has been officially celebrated in the Netherlands since 2002 with a national memorial service held at the Slavery monument in Amsterdam.³³⁶ Cities are free to organise their own commemoration, which is increasingly done so.³³⁷

The question remains how influential this discussion has been for the Indonesian question. Unfortunately the history of Dutch involvement in Indonesia continued to lack a broader discussion. In 2005, historian Gert Oostindie observed that "The average Dutch person knows disappointingly little about Indonesia, Surinam or the Antilles, and even less about the role of Dutch colonialism. (...) When in the German context one cannot even speak of a true processing of the past (even though concerning dealing with the past, Germany is perceived as exemplary), then that is even more true for the Netherlands. It would already be a big leap forward if the colonial past would even receive a place in the image of the national history that does it justice."³³⁸

3.3.3 Influence on the Dutch Approach?

The question of whether the changing perception of human rights and violations had an influence on the Indonesian question has been discussed by several authors, who provide competing views. Luttikhuis and Moses argue that the Indonesian case benefitted from what they call "the growing public sensibility about violations of human rights and the laws of war that developed in the wake of UN ad hoc criminal tribunals based in The Hague".³³⁹ In his article on the case, Bart Luttikhuis explores the opinions of Katharine McGregor and Chris Lorenz. McGregor believes that the current public sensitivity for human rights violations has led to cruelties like the ones on Sulawesi no longer being "interpreted as part of national histories".³⁴⁰ Instead they increasingly viewed within the context of individual victimhood.³⁴¹ McGregor places the focus on activists and victim representation, who grabbed the opportunity granted by the human rights discourse to place the Indonesian case in the limelight.

Lorenz on the other hand focuses on the actions by the Dutch authorities, who, according to him, did all that was possible to limit the applicability of the human rights perspective.³⁴² What is clear, is that certain things started changing in the Dutch governmental approach, although in a very slow pace. The lead-up to an eventual court case brought by Indonesian victims was a back-and-forth with Dutch expressions of regret, discussions of reparations in Parliament which were rejected by the government, and victims becoming more organised and empowered.

An Expression of Regret

The first official acknowledgement by a Dutch government of the Indonesian issue and contrition for the harm done, came in 2005.³⁴³ In that year, the Minister of Foreign Affairs Ben Bot spoke at the Indies monument in the Netherlands, as well as in Jakarta, Indonesia. Even though 2005 marked the 60th anniversary of the Indonesian independence declaration, this was the first time a Dutch governmental official was present at a celebration on Indonesian soil. During his speech in Jakarta on 16 August 2005, Bot “on behalf of the Dutch government” expressed his “profound regret for all that suffering”. With “that suffering” he referred to “a large number” of Indonesian people that “are estimated to have died as a result of the action taken by the Netherlands”.³⁴⁴ This expression of regret marked the first time that a Dutch government recognised that mistakes had been made during the independence war in Indonesia. Lorenz on the other hand believes that the human rights perspective only had a limited influence. He argues that “we can conclude that the Dutch “coping” with the massacre of Rawagede has shown at best a very strategic way of handling human rights”.³⁴⁵

On 9 December 2008 the Dutch Ambassador in Indonesia Nikolaos van Dam was present in Rawagede when the executions that took place 60 years prior were remembered. He was the first Dutch representative attending such a remembrance day.³⁴⁶ His presence had been enforced in Parliament by parliamentarian Harry van Bommel, who had submitted a motion to this end.³⁴⁷ It passed with the smallest of majority; 76 voted in favour, 75 against.³⁴⁸

During his speech at the Remembrance day, van Dam expressed his regret for the events in Rawagede, and referred to the “earlier, sincere apologies from the Dutch government”. After his speech, van Dam told the assembled press to “feel free to call it apologies; for me it is the same” in response to the question whether the statement of regret amounts to apologies.³⁴⁹

Both the speech by Ben Bot and the one by Nikolaos van Dam had been statements of regret, and there is a difference between that and an apology. A statement of regret acknowledges the hurt, but “sidesteps the central issue of fault and does not satisfy the aggrieved party”.³⁵⁰ It leaves out an identification as an offender, whereas an apology takes on that “performative task”.³⁵¹ Shelton notes that an apology can serve different purposes.

First, it can acknowledge the suffering of others. Secondly, it can express regret and solidarity over events that are outside the control of the speaker. Finally, it can contain an acceptance of fault. Only in the last instance can an apology carry any legal implications, as it causes a link between the action of the speaker and the injury suffered.³⁵²

Why was the Dutch government so hesitant to make formal apologies, instead restricting itself to expressions of regret? Multiple authors argue it was because of the fear for compensation claims.³⁵³ Even Ambassador van Dam noted in 2011 that the Dutch government had been unhappy with his statement in 2008: “I suspect because of fear for compensation claims.”³⁵⁴ Bilder believes some States are wary to express collective remorse on behalf of their citizens due to concerns over litigation before international tribunals, and a desire to keep other options open, such as diplomatic initiatives unencumbered by admissions of guilt.³⁵⁵ In general, one can conclude that States are hesitant to apologise due to the fear of the consequences. During 2008 and 2009, the Dutch State cemented an approach that firmly rejected the idea of further reparations. The government provided different arguments to justify this course.

Rejection of Reparation

The 2005 expression of regret was significant, and fitted within the current context of a growing appreciation for human rights, as well as the development referred to as the ‘age of apology’ and the growing discussion on how to deal with an unjust past. Yet further action remained absent, until the topic resurfaced in public governmental discussions at the beginning of 2008.

Now, it no longer concerned 'just' apologies: The question within the Dutch politics had now turned to whether the Netherlands should pay any type of reparations to Indonesian nationals.^{x1} It soon became clear that the Dutch government would adopt a dismissive attitude to the concept of reparations.

In February 2008, MP Krista van Velzen submitted a motion for the surviving relatives of the victims of Rawagede to be awarded Dutch financial support in their livelihood.³⁵⁶ The motion that van Velzen brought in 2008 was rejected the very next day.³⁵⁷ It was argued by the Minister of Foreign Affairs Maxime Verhagen that this motion should not carry, due to three reasons. First, the Netherlands and Indonesia had both agreed on an amnesty regulation in 1949. Second, the two countries had also entered a Financial Agreement, which ended in 2003. These two agreements, so argued Verhagen, had settled all matters between the countries. Thirdly, Verhagen stated that in agreement with the Indonesian government, no compensation would be granted in general. According to Verhagen, the issue of compensation was one between the Indonesian population and their government.³⁵⁸ Most importantly, Verhagen stated that through these developments, both Indonesia and the Netherlands had "drawn a line below the past".³⁵⁹ In the end only four out of eleven parties voted in favour of the motion.

In March 2009, the question was posed in Parliament as to whether the development aid paid by the Netherlands to Indonesia could be labelled as 'compensation'. This was shot down by Verhagen, who reused his arguments of previous agreements and stating that reparations were now an issue between the Indonesian government and its subjects.³⁶⁰ In his argumentation, he stated that he followed the Dutch government's policy in not believing this is or should be seen as any type of compensation. For this reason he emphasised any development aid should not be interpreted as compensation and, by extension, not as any type of reparations for the colonial times in Indonesia. He instead referred to it as development projects, deeming it a case of 'humanity'.³⁶¹

^{x1} See next alinea.

On this matter, he argued that “development aid in general is never meant as compensation or reparation, (...) but through the concept of humanity it can be used to contribute to the development in a certain territory.”³⁶² Verhagen also reiterated how the Netherlands and Indonesia had put an end to the painful past in 2005,³⁶³ thus reapplying his “the past is the past” argument.

Thus while the global developments in human rights and transitional justice described above were thus also visible in the Netherlands, it was at a much smaller scale than in the international arena. As a part of the international community, the Netherlands could not lag behind and has placed an increasing focus on human rights. The government has expressed several statements of regret through representatives. Yet, as previously discussed, an expression of regret is only a watered down version of an apology. The Dutch government avoided the more formal version, afraid of legal consequences and by extension taking responsibility. In doing so, they behaved in similar fashion to other European powers such as France and the UK.^{xii} Further change with regards to acknowledgement and potential reparations had to be enforced. This change was ultimately reached through victim empowerment. Victims from the Dutch violence in Indonesia came forward and ended up pressing their case through Court.

Victims Coming Forward

While Minister Verhagen, in name of the Dutch government, was rejecting the notion of further reparations for Indonesia in Parliament, a significant development had taken place. On 8 September 2008 the current affairs programme ‘Netwerk’ (Network) announced that a group of eight Indonesian widows and one man, all from the town of Rawagede (now Balongsari^{xiii}) held the Dutch State liable for consequences of actions undertaken by the Dutch military in Rawagede during the independence war during which Indonesia wrestled out from under the Dutch colonial rule.³⁶⁴ The attack on the village of Rawagede took place on 9 December 1947.

^{xii} See earlier section 2.5.1 *The Netherlands Is Not Unique*.

^{xiii} See *A Note on the Use of Town Names*.

A unit of the Dutch military consisting of 80 to 90 men began an assault on the kampong early in the morning, looking for a local rebel leader who had actually left the *kampong* the day before. When the rebel leader could not be found, the unit started killing the men of the village. Their widows now requested reparations. In a letter to the government of the Netherlands, Gerrit Jan Pulles, the widows' lawyer at the time, asked for both payment of compensation based on a "State-based contract in matters relating to acts of tort", and "a natural contract" to provide satisfaction and restorative justice.³⁶⁵

On 21 November 2008, the Dutch government responded in writing by stating that although they acknowledged men to have been killed during unlawful executions,³⁶⁶ they were not going to grant compensation.³⁶⁷ The letter has not been made public, however, according to the lawyer of the victims, the main reason for not wanting to grant compensation was that the case was time-barred by the Statute of Limitations.³⁶⁸

After their call for reparations outside of Court had been rejected, the group decided to go to Court. This development had been in the making for ca. 15 years, but was set in motion after the request for reparations was turned down by the Dutch government in 2008. The case had been pieced together by people living in the Netherlands with a personal interest in the colony. They wanted to confront the former colonial dominator regarding its behaviour. A main figure is Jeffry Pondaag. He had been indignant over the way the Dutch approached their history in Indonesia ever since he came to live in the Netherlands in 1969.³⁶⁹ Pondaag helped establish the Stichting Comité Nederlandse Ereschulden (K.U.K.B.) (*Foundation Committee of Dutch Debts of Honour*) in 2005.³⁷⁰ Over the years, he attempted to contact several government officials as well as journalists to have his story heard. After being dismissed at all attempts, he decided to approach a lawyer to see whether it could be made into a case. In 2008 he met with Liesbeth Zegveld. She, together with her students at the University of Amsterdam (UVA), concluded that the best way to tackle the issue was through civil law.

For this approach to work, it was paramount that a specific group of victims was assembled. Jeffry and the Committee had been present in Indonesia for some time, and decided to start contacting widows of victims of unlawful executions.

This particular victim group was chosen because the Committee already had information on several of these executions as well as the locations, so they knew where to go to find these widows. Additionally, this victim group had already been shown to the Dutch public in 1995. In that year, the broadcasting company RTL, who were in Indonesia already to report on an upcoming visit from Queen Beatrix, decided to travel to Rawagede. RTL returned with testimonies by various villagers, which were aired as a documentary on 17 August 1995.³⁷¹ As a result of this, the people from Rawagede were consciously chosen to be the victim group.³⁷²

Reparation Claims for Historical Injustice in Court

The Indonesian victims found “an alternative path to enforce recognition from the former colonial power: the civil court”.³⁷³ They were not the only ones. Other population groups had preceded them. Two examples are the Herero from Namibia and the Mau Mau from Kenya. Both these population groups brought cases against their former colonial dominator: the Herero against Germany, and the Mau Mau against the British. Both deal with conflicts arising over colonial domination, just like the Dutch-Indonesian war. The Mau Mau have achieved some success in the British courts: the first case resulted in compensation for all 5,228 individuals that were involved. A subsequently brought case has so far been less successful and is ongoing.³⁷⁴ The Herero case has not seen any success yet. The German government claims it is negotiating with the Namibian government and will not negotiated with the Herero directly.³⁷⁵

Unfortunately due to spatial issues neither case can be discussed in length. They simply serve as examples of reparation claims for historical injustice brought in front of a Court. Luttikhuis describes the cases as examples of opportunities for victim groups to have their voices heard, through making claims based on violated (human) rights. Through the judicial route, they forced both the authorities and societies of a former coloniser to reconsider their guilt and responsibilities.³⁷⁶

Ever since the end of World War II, Germany has been perceived as a shining example with regards to dealing with a violent past. However, any attempt at discussing the colonial past, another pitch-dark chapter of German history, has been met with resistance.³⁷⁷

Limpach notes that when in the German context one cannot even speak of a true processing of the past, then that is even more true for the Netherlands.³⁷⁸ For the Netherlands, it would already be “a big leap forward when the colonial past would even receive a place in the image of the national history that does it justice.”³⁷⁹

3.4 Enforcing a Change

3.4.1 The Indonesian Widows v. The Dutch State in Court

On 30 November 2009, the victims’ lawyers^{XIV} summoned the Dutch State to Court in the case *Wisah Binti Silan v. the Netherlands*, suing the Netherlands for compensation of both material and immaterial damage resulting from the unlawful conduct of Dutch militaries in Rawagede during the independence war between the Netherlands and Indonesia.³⁸⁰ The material damage consists of the loss of income as a result of the widows’ husbands being shot. Additionally, they suffered immaterial damage because the shooting of their husbands severely infringed on their personal integrity, their family life and their mental health.³⁸¹

The claimants in *Wisah Binti Silan* argued that the State had acted wrongfully on two counts: first, by executing the husbands of seven widows, the father of one daughter, and shooting and hurting one man; and second, by failing to organise a proper criminal investigation into the case or prosecute those responsible for the executions.³⁸²

In their defence, the Dutch State conceded that these executions of the men of Rawagede on 9 December 1947 and the shooting of the men had been unlawful. However, the government appealed to the Statute of Limitations.³⁸³ The Lawyer of the State argued that “the claimants cannot by way of these executions legally lodge any claims against it [the State] now that the legal procedure that provides compensation for the damages resulting from the executions has been time-barred.”³⁸⁴ The State linked the importance of observing the Statute of Limitations to the “protection of the interests of the perpetrator”.³⁸⁵ The application of the Statute of Limitation was the main argument employed by the State.³⁸⁶ This argument is often used by opponents of reparations for historical injustices. Critics of such reparations believe that Statutes of Limitations “promote efficiency and certainty by ensuring claims are fresh and reasonably connected in time and space to a particular act”.³⁸⁷

^{XIV} Now: Liesbeth Zegveld and Anne Scheltema Beduin.

Additional arguments were based on an earlier agreement, and a requirement that a claim for liability should be brought within a reasonable amount of time.³⁸⁸

With regards to the first argument, the Lawyer of the State referred to the Financiële Overeenkomst (Financial Agreement) of 1966,³⁸⁹ in which Indonesia and the Netherlands officially agreed to close the book on the past,³⁹⁰ and “(...) in which the claims of the plaintiffs must be considered to be included as well.”³⁹¹ With this, the State lawyer continued an argument first applied by Verhagen in 2008.^{xv}

The second argument was constructed around the notion of the widows’ own responsibility to bring the claim at an earlier time. The Lawyer of the State argued that the plaintiffs were well aware of their injuries and loss as well as who were responsible for it, and therefore should have come forward sooner.³⁹² In short, the Dutch State argued that the plaintiffs were aware of their injuries and loss as well as who were responsible for it, but did not bring a claim for liability within a reasonable amount of time.³⁹³

In response, the widows countered this argument by stating that they were only able to enforce their claim in 2008, when they became aware of their rights. Jeffry Pondaag explained that the widows were not aware of their rights and the possibility of filing a claim until the KUBK foundation arrived in Indonesia.³⁹⁴

3.4.2 The Outcome

On 14 September 2011, the verdict was read. The Civil Court ruled that the Dutch State had indeed acted wrongfully on 9 December 1947 towards the widows by executing their husbands and towards the man³⁹⁵ by shooting him,³⁹⁶ dismissing the Statute of Limitations argument. The Court found that it was unreasonable of the Dutch State to call on the Statute of Limitation, because they had been aware of the gravity of the situation due to their own knowledge and the UN Report of 1948 in which the executions have been marked as ‘deliberate and ruthless’.³⁹⁷ The Dutch State as such should have recognised that it could be addressed for the compensation for damages in the future.³⁹⁸

^{xv} See earlier section *Rejection of Reparation*.

The Court deemed the State liable for the resulting harms that have been and will be suffered by the claimants. The State was ordered to pay damages, “further to be established by the State and to be settled according to the law”, as well as costs incurred through bringing the claim.³⁹⁹ The two parties entered into further, Court-ordered negotiations on the amount of said compensation. On 5 December 2011 it was announced that the State would pay €20.000 in compensation to each widow as well as the male victim. On top of this, the Netherlands would apologise to the victims.⁴⁰⁰ This was a reparational outcome that was not ordered by the Court. The widows received monetary compensation in December 2011.⁴⁰¹ In that same month Dutch Ambassador to Indonesia Tjeerd de Zwaan apologised to the victims.⁴⁰² These marked the first official apologies of the Dutch government towards victim of Dutch violence during the independence war in Indonesia.

All of the above ‘changes’ in the Dutch government’s approach have been forced upon them as a result of global developments, actions by the victims, and ultimately, the Court. None of the steps was made on the initiative of the government. They thus adopted a ‘reactive’ approach. This approach was specifically criticised by the Court: they rebuked the State for adopting a “wait-and-see” attitude, especially in the light of the State knowing the facts and its own responsibility for them.⁴⁰³

For the first time, the Dutch responsibility to pay reparations for historical injustice was confirmed judicially. It was the opening of an opportunity for the victims, to be heard in the country of the perpetrators.⁴⁰⁴ Has this led to a change in their ‘reactive’ approach?

Chapter 4 – A Changed Future or a Continued Past?

4.1 Introduction Chapter

“The government perpetrators and victims were identifiable, direct causation was established, damages were certain and limited, and payment meant finality.”⁴⁰⁵

Although they might have hoped so, the above citation was not the case for the Dutch government. The previous chapters have illustrated the Dutch government’s reactive approach to the Indonesian case. First, they reacted with neutralising strategies whenever the subject received attention. Subsequently, when the view on reparations for historical injustice changed globally, these changes were also visible in the Dutch government’s approach; albeit only very slightly. Regret was expressed, but the government of the Netherlands failed to undertake further steps to address the consequences of Dutch violence during the independence war in Indonesia. Moreover, ‘real’ reparations had to be legally forced upon them. Subsequently it transpired that for other Indonesian victims, this was only the beginning. More cases have been brought since the outcome of the Rawagede court case. What has been the Dutch governmental approach since then?

4.1.1 A Short Overview

In May 2012, a new case against the Dutch government was brought by Indonesian victims. A group of ten people from the town of Sulawesi sued the Dutch State for damages inflicted through the death of their husbands and fathers.⁴⁰⁶ In August 2013, the State settled directly with the widows from the group outside of the Court.⁴⁰⁷ However other descendants were excluded from this settlement. In August 2013, the Netherlands decided to meet the widows’ wishes, after negotiations had broken down previously.⁴⁰⁸ The State now promised a compensation of €20.000, plus public apologies made by the Dutch Ambassador in Indonesia.⁴⁰⁹ Liesbeth Zegveld continued with the case of the children in Court.⁴¹⁰

In light of the *Wisah Binti Silan* case and the Sulawesi widows, the Netherlands took an unusual step. In 2013, they created a Settlement Agreement that provides compensation to all women who find themselves in a similar position to those from Rawagede and Sulawesi. Once the women have proven this, they can claim the same amount of €20.000 in damages.⁴¹¹

In the next section, first the apologies will be discussed, after which the Agreement is explored. This latter point is linked to the current court cases on the question of whether the current approach of the Dutch government is too limited.

4.2 Apologies

4.2.1 Introduction

The Dutch State has offered apologies on two occasions. The first apology was made to the Rawagede women, in December 2011.⁴¹² The second one was made to the widows of Sulawesi in September 2013, and should be perceived as a general apology to all future widows coming forward.⁴¹³

This reparational outcome was not Court-ordered, acknowledgement for the atrocities was welcomed in Indonesia. When they were first announced in 2011, the chairman of the Foundation *Rawagede* mr. Sukarman believed that the fact that apologies would be made was “important and good”. He said “the direct relatives will now receive money, but for those children whose parents have already passed away, or for the grandchildren, the apologies will be a form of compensation”.⁴¹⁴

Several authors emphasise the immense value of apologies. For example, Brooks believes apology is central, and perceives monetary and other reparations as necessary just to make apologies credible.⁴¹⁵ Roht-Arriaza claims moral reparations including apologies are as or sometimes even more important than material ones.⁴¹⁶ Urban Walker describes an apology as “the most minimal but unambiguous and foundational gesture of repair”.⁴¹⁷ She further states that “not to apologise is to fail to accept, and refusal to apologise is to deny, the fact of the wrong, the seriousness of the wrong, responsibility for the wrong, repudiation of the wrong, or all of these”.⁴¹⁸ Apologies have a psychological attraction for victims and perpetrators, also for those “living in the shadow of historical injustice”.⁴¹⁹ Barkan and Karn argue that the exercise of apologising and going through history, often criticised for ‘drowning in the past’, is often undertaken in the hope to be released from the grip of this history. Injustices of the past should be visited, to become free from them.⁴²⁰ They view apologies as being able to unlock the door to a more peaceful and secure future.⁴²¹ Even more important are the apologies made by States. These fall into the category of ‘political apologies’.

A political apology is when a leader or other official apologises on behalf of the State or another organisation.⁴²² Governmental apologies often are more comprehensive than those made interpersonally. This is because the harms governments apologise for, are generally more severe.⁴²³

To analyse the apologies made by the Dutch government, use will be made of Matt James' list of judging the authenticity of political apologies, as well as work by Mark Gibney and Erik Roxstrom, supplemented with other authors.

4.2.2 Political Apologies v. Dutch Governmental Apologies

What Constitutes a Political Apology?

According to Matt James, a proper apology demonstrates the perpetrator's remorse, as well as the willingness to acknowledge what his/her actions have caused. For an apology to do this, it requires offenders to take full responsibility for their actions as well as ensure non-repetition.⁴²⁴ Vital to apologies is their empathetic notion. Should an apology lack an appreciation of the victim's anger, suffering, and/or mistrust, it is often not well-received.⁴²⁵

James has also drafted a concise list of the conditions a political apology should meet to be authentic. It must be recorded in official writing and list the wrongs in question. It must also accept responsibility and express regret. Furthermore, it should promise non-repetition and refrain from demanding forgiveness. It cannot not be arbitrary or hypocritical. Finally, it must undertake "to engage morally those in whose name the apology is made and to assure the wronged group that the apology is sincere".⁴²⁶ Having these criteria in place can help States to produce more meaningful apologies and enhance the long-term reconciliatory prospects; they can also evaluate the strength of (elements of) the political apology, show distinction between the qualitatively different instances of apology; and the moral consistency of "cumulative apology records of particular states" can be evaluated using them.⁴²⁷

The Dutch Apologies Analysed

The apologies to the widows of Rawagede were made in 2011 by Dutch Ambassador to Indonesia de Zwaan.

Luttikhuis noted that the apologies to the widows of Rawagede were received well, both in Indonesia and by the victims representatives in the Netherlands.⁴²⁸ An Indonesian widow is quoted saying “This [the apologies] gives me the feeling that my struggle for justice has not been in vain”.⁴²⁹ Still, the apologies have also been criticised. Wouter Veraart judged the apologies to have been “measured” and “scanty”.⁴³⁰ Limpach argues the apologies were problematic due to them only applying to the specific executions. He states the Dutch government should have apologised for the war in its entirety, emphasising that this conflict is still seen as unlawful by many Indonesian nationals.⁴³¹ However, when Prime minister Mark Rutte was asked whether the Dutch government would apologise for the ‘police actions’ in general, he answered negatively, stating that the government would not offer such apologies because “the government believes that history unfolds as history unfolds.”⁴³²

When measured to James’ list, the following can be said about these first Dutch apologies. It mentions the wrongs for which the apology is made. The ambassador declared that they were there today to remember “your family members and fellow villagers, who lost their lives 64 years ago during an action of Dutch militaries in your village.”⁴³³ The apology also shows an acceptance of responsibility, stating “In this context I, in name of the Dutch government, wish to offer you our apologies for this tragedy”. Additionally, it engages those responsible through the sentence “I stand here on behalf of not just the Dutch government: my presence here today is also supported by the Dutch parliament and by most of society”. Finally, it is not arbitrary as it specifically points to the crimes for which the apology is made.

Problematic however is that the apology is not recorded in official writing. They were expressed orally by the Dutch ambassador in Jakarta. The text was initially made public on the website of the Dutch embassy in Indonesia.⁴³⁴ However, it was deleted by February 2012 and the website no longer exists.⁴³⁵ The document cannot be found in any other governmental database, and the only source offering a copy now is the law firm representing the widows.⁴³⁶ Furthermore, the apology does not specifically express regret, nor does it promise non-repetition. Finally, even though the ambassador’s speech did not ask for forgiveness, it does point towards a wish to ‘close the books’.

This is reflected in the hope the ambassador expresses that “facing these events together will allow us to look to the future”.⁴³⁷ Veraart and Limpach point out that de Zwaan avoided qualifications such as ‘war crimes’ or even ‘crimes’.⁴³⁸

The Sulawesi apology took place in September 2013. Similar to the Rawagede apology, the apologies made in Sulawesi met several requirements. It lists the wrongs more specifically by literally naming the “unlawful executions”. It also mentions a ‘special responsibility’ for the widows of the victims. However, no specific responsibility is assumed for the crimes themselves. The apology did not demand forgiveness, but also did not explicitly express regret (“I apologise”, not “I am sorry and I apologise”). Additionally, it does not promise non-repetition, and, like the Rawagede text, it also cannot be found in writing in official government records.

All these elements make the apology fail to fulfil the criteria of a full political one. One of the main reasons for why the apology was ill-received. I argue that this was because it failed to ‘morally engaged the victims’. Both Liesbeth Zegveld and Rémy Limpach emphasised the importance of time and place for apologies.⁴³⁹ Zegveld maintains that these were chosen incorrectly in the Sulawesi case. For widows of Rawagede, the ambassador had travelled to Rawagede. However, he did not travel to South-Celebes for the widows of Sulawesi, instead expressing the apologies from the embassy in Jakarta.⁴⁴⁰ This led to the widows not being present when the apologies were made as they were unable to travel due to their age.⁴⁴¹ Zegveld had requested the Dutch Minister of Foreign Affairs to change the location to South-Celebes, but the State decided to continue with the original plan.⁴⁴² It was promised that the Ambassador would travel to the widows to relay the message personally, but there is no proof that this actually happened.

The time at which they were made was also not appreciated. The widows would have preferred to hear the apologies on 11 December, when the yearly remembrance day of the events takes place on South-Celebes.⁴⁴³ Instead of heeding these wishes, the ambassador apologised on 12 September.⁴⁴⁴ Limpach criticises the Dutch governmental approach to have rushed the apologies.

He argues that the Dutch State wanted it taken care of as soon as possible, and especially before the trade visit Prime Minister Mark Rutte would undertake in November 2013.⁴⁴⁵ To conclude, the Dutch neglecting to take into consideration where and when the widows wanted the reparations to take place, points to a lack of moral engagement. Zegveld argues that the general apologies were made in a Dutch interest.⁴⁴⁶

There is also a hypocritical element to the apology due to the use of the term ‘excesses’ by the ambassador. The fact that the Dutch government still used this term shows a perpetuation of the strategy of neutralisation discussed in Chapter Two. That they got away with it at the time, can be explained by the fact that the main research on Dutch structural violence in Indonesia was only published in 2015. This study by Rémy Limpach is referred to as the “first time a historian concludes that the violence [by the Dutch army] against the population was structural”.⁴⁴⁷ Even though the issue of potential structural Dutch violence had been suggested before, this research was the first to make it an issue that could not be ignored. This can also be seen in the broad coverage it received in the media.⁴⁴⁸

Several authors also emphasise the importance of the right person offering the apology. Erin Wilson and Roland Bleiker state that for some, an apology becomes more effective, and gains symbolical value, if pronounced by a Head of State.⁴⁴⁹ No Dutch Head of State or Government has made any official apologies. Prime Minister Rutte has said on this matter that the ambassador in Indonesia is the highest representative of the Netherlands in that country. Therefore it was unnecessary for him to ‘repeat’ the apologies.⁴⁵⁰ The call for this is rising, for example by Dave Ensberg-Kleijkers. He wrote that Rutte should refrain from “cowardice talk of an unfortunate combination of circumstances with the knowledge of the present”. Instead, Ensberg-Kleijkers calls for “just clear apologies addressed to Indonesia, its population and the relatives of the victims of colonial terror”.⁴⁵¹

An additional question posed by Luttikhuis is whether court-ordered reparations have the same impact as self-initiated ones. That is to say, how much value do such reparations have, if they are not offered voluntarily? Luttikhuis refers to this issue as the “double-edged sword”.

On the one hand, the juridification of historical apologies is positive because it provides the victims with the opportunity to be heard and to claim their rights; on the other, the juridification limits the public debate by describing the crimes as ‘excesses of violence’, and blocks the way for more broad reparations.⁴⁵²

Finally, Bijl worried that the apologies in Rawagede would only result in isolating the massacre and overwriting the colonial legacies in both Indonesian and Dutch society, stating that “instead of breaking through Dutch colonial aphasia and making colonial violence memorable, they [the apologies] seem to only reinforce dominant Dutch self-conceptions by framing Rawagede as a single black page in an otherwise white book.”⁴⁵³ In its other approaches, the Dutch government has shown that it focuses on the first case: the widows. The current approaches all seem to be focus on containing the issue, and not expanding it to other victim groups. This shall be explored through the next two sections.

4.3 The Settlement Agreement

The second approach applied by the Dutch government was to acknowledge one specific victim group and potential extra members of this group. It was for this reason that they created the Settlement Agreement.

The “*Bekendmaking van de Minister van Buitenlandse Zaken en de Minister van Defensie van 10 september 2013, nr. MinBuZa.2013-256644, van de contouren van een civielrechtelijke afwikkeling ter vergoeding van schade aan weduwen van slachtoffers van standrechtelijke executies in het voormalige Nederlands-Indië van vergelijkbare ernst en aard als Rawagedeh*”,⁴⁵⁴ (“Announcement of the Minister of Foreign Affairs and the Minister of Defence of 10 September 2013, nr. MinBuZa.2013-256644, of the contours of a civil settlement as compensation for the damages to widows of victims of unlawful executions in the former Dutch Indies of similar severity and nature as Rawagedeh”, hereafter referred to as the ‘Agreement’) was announced on 10 September 2013. It was created as a private law settlement agreement, in order to circumnavigate further court cases.⁴⁵⁵

The Agreement grants women in similar positions as the widows from Rawagede and Sulawesi the same amount of monetary compensation. According to the Dutch State, the amount of €20.000 covers “all possible damage claims of the claimant towards the State, including the possible costs incurred during the application process”.⁴⁵⁶

The document states the Dutch State’s acknowledgement of the unlawfulness of the mass executions at the latter place. It however also emphasises the Dutch State’s continued conviction that these crimes were time-barred. With regards to the created Settlement Agreement, the document notes^{XVI}: “After the ruling of the Court in The Hague, other widows whose husbands had been killed by unlawful executions have submitted claims with the State. Against this background the State has decided to examine whether a similar amicable arrangement can be achieved with the claimants who demonstrably find themselves in an equal position to the widows of Rawagede. (...) The State in such cases is willing to arrange by agreement receivables based on unlawful acts of this group of claimants by concluding a private law settlement.”⁴⁵⁷ The original final date for bringing claims was set on 11 September 2015.⁴⁵⁸ It has since been extended twice, and the final date was set for 11 September 2019.⁴⁵⁹

The Agreement is a unique reparation programme in the Netherlands. Janet van de Bunt states that this is the first reparation programme created by a Dutch government to meet a responsibility based on a criminal offence.⁴⁶⁰ Room for reparation schemes became available after the Second World War,⁴⁶¹ but it took several decades for them to be established. When the war ended, the Dutch government commissioned two studies into the issue of what was due to the Jewish population.⁴⁶² The conclusion of the Commissions Kordes and Scholten, in respectively 1998 and 1999, was that both the government and society in general had too little comprehension of what the Jews had been through during the war, and that restoration of rights was necessary.⁴⁶³ Only in March 2000 the Prime Minister, the Minister of General Affairs, and the Ministers for respectively Public Health, Well-Being and Sport, and Finance wrote a letter announcing money would be made available.⁴⁶⁴

^{XVI} Translated by Author.

Arrangements were first created for Jews, and after research by specified committees, also for Sinti, Roma, homosexuals, and victims of the Japanese occupation in the Dutch Indies.⁴⁶⁵ In total, the Dutch government has paid €181,5 million to the Jewish community.⁴⁶⁶

The Dutch State had already been confronted with these programmes during the *Wisah Binti Silan* case.

The Court dismissed the time-barring argument, mainly because it believed the case concerns a period of time in Dutch history that “has not yet been dealt with”.⁴⁶⁷ Additionally, the Court referred to the “expanded restitution policy” that has been in use since the end of the previous century regarding Jewish victims.⁴⁶⁸ These victims have been awarded generous reparations, even though these cases date from an earlier period and ‘should’ also have been time-barred. The State in this context chose to waive the Statute of Limitations.⁴⁶⁹ This unequal view on the two time periods is linked to the 1971 Act that ruled no war crimes or crimes against humanity could ever fall under a Statute of Limitations. It excludes the period in Indonesia.^{xvii} However, the Court ruled that when the Dutch State can be so generous in that case, it is very strange it would not be so courteous in this case, where it concerns the same time period.⁴⁷⁰

The Agreement was praised by the widows’ lawyer, labelling it a “broad regulation”.⁴⁷¹ It allows not just the women who brought the case to be reimbursed, but also other widows in similar positions. It was perceived as a “sympathetic, almost noble” agreement.⁴⁷²

What stands out in the Agreement is that it only provides for monetary compensation. The Dutch government has chosen to focus on the monetary aspect of reparations. Van den Herik worries that the general reparations field focuses too much on monetary compensation. She references the opinion of Judge Cançado Trindade, who in the 2003 case *Bulacio v. Argentina* said on this matter: ‘*What we witness today, the reductionist approach that tends to assimilate them [reparations] to mere pecuniary compensations (indemnifications) for damage suffered, in my view constitutes a regrettable distortion of their true meaning.*’⁴⁷³ This is also visible in the case at hand.

^{xvii} See Chapter Two, section *Studies Behind the Decision Not to Prosecute*.

The Settlement Agreement only lists the €20.000 in financial compensation. With regards to the apologies, the Dutch State has restricted itself into one general apology that was made to the widows of Sulawesi.⁴⁷⁴

A focus on monetary reparations does not need to be a problem. De Greiff contends that it can be easier to administer than alternative distribution methods, and it can satisfy certain needs and preference, as such improving the quality of life of the beneficiaries.

Furthermore, it has the potential to recognise individual victims.⁴⁷⁵ However, De Greiff also emphasises the importance of not quantifying harm, as this will lead to reparations always being perceived as unsatisfactory and inadequate.⁴⁷⁶

So far, there has been limited criticism over the Dutch State's failure to apologise in the Agreement. However, other critiques soon arose. Janet van de Bunt outlines three main problems with the Agreement. First, she states that it is difficult to meet the conditions that the Dutch government have set. Secondly, she deems the group of entitled too limited. Thirdly, she argues that the processing takes too long.⁴⁷⁷ The second argument will be dealt with last.

The first and third critiques are linked. The accompanying document to the Agreement lists the requirements for widows to meet in order for them to be granted compensation: women must "have been married to a person who was executed without a trial by Dutch militaries; the unlawful execution during which the husband of the claimant has been killed has to have been of a comparable nature and severity; the unlawful execution during which the husband of the claimant has been killed must have been named in already published public sources".⁴⁷⁸ To prove their 'victimhood', the women must submit a minimum^{XVIII} of the following documents: "a valid identification document of the claimant with (at least) her full name, her place of residence and her date of birth; a transcript of the local population registration, no older than one month; proof of marriage between the claimant and the executed man^{XIX}; proof that the deceased husband of the claimant has indeed been killed by an execution such

^{XVIII} This list is not limited to the provisions mentioned here; the widows have to provide as much proof of the qualifications as possible.

^{XIX} Which can be through at least two statements, one of which may be made by the widow.

as described above^{xx}; and a Dutch translation of all the above mentioned documents”.⁴⁷⁹ The Dutch State then decides whether a woman is eligible for compensation:^{xxi} “Should she, according to the State’s opinion, have made a sufficiently reasonable case for her meeting all the above requirements, she will be eligible for a compensation of the damage suffered by her due to the passing away of her husband.”⁴⁸⁰

The Settlement Agreement is thus a reparations programme. Such a programme is created to systematically mete out reparations. Bantekas and Oete proclaim that a proper reparations scheme has to go further than just efficient administration. Important for a successful reparations scheme is that it is capable of providing meaningful and victim-oriented reparations. Often victims become disoriented and disheartened by bureaucratic schemes, that are often insensitive to their traumatic experiences. Therefore such schemes should take into account the role of the victim and consider the procedure, as well as the reparational form to be provided.⁴⁸¹ It could be argued that the Agreement does not properly take into account the victims, in the context of both the difficulty in gathering evidence after 60 years, as well as their age.

The passing of time is a major factor in the complexity of proving a case. It is difficult to gather trustworthy information 60 years after the fact.⁴⁸² Additionally, the women are already old and do not have time to wait for a long process. Yet, the Dutch State allowed itself ten months to decide on the outcome of 17 claims brought forward after the Agreement was announced. Two widows had already passed away before a decision was reached.⁴⁸³ Their lawyer accused the Dutch State of “deliberately dragging its feet” in paying the widows.⁴⁸⁴ She claimed the Dutch government suddenly requested many extra details when the widows inquired into the status of their claims.⁴⁸⁵ The Dutch State meanwhile argues that the conditions are less harsh then during the court case.⁴⁸⁶ Instead of having to prove the facts like in a judicial case, the widows have to make their case “sufficiently plausible”.⁴⁸⁷ With regards to the seventeen widows, the Ministry of Foreign Affairs maintained that “they could not conclude that in those cases, the conditions had been met”.⁴⁸⁸

^{xx} Again: through at least two statements, of which one may be of the widow.

^{xxi} Translated by Author.

Van de Bunt believes the Dutch State could have been more lenient with regards to the rules of evidence. This could have led to the undesired effect of ‘undeserving individuals’ receiving compensation.⁴⁸⁹ However, she points to the fact that the mode of application of the rules of evidence can serve legal-political ends, implying sometimes ‘the end justifies the means’.⁴⁹⁰ She also accredits the slow processing and many rejections by the Dutch government to the inexperience they have with the new regulation. She therefore hopes that the Dutch government will form some sort of stronger policy as more cases come in.⁴⁹¹ There is little information to be found regarding the processing of the claims, therefore no further reports can be made on whether the Dutch State has done so.

The second critique that the Agreement is too limited in acknowledging victims is a difficult one. Neither the earlier court case, nor the Agreement, have led to a broad acknowledgement of victims of Dutch violence by the Netherlands. One could argue that the fact that the Settlement agreement only covers widows in similar conditions is a logical result of the court case. This is another context in which the Court is limiting – their decisions create borders. Still, Van de Bunt lists three reasons for why the Agreement should apply to children as well. First, the Agreement seems inconsistent, as it acknowledges the unlawfulness to the widows, but denies the unlawfulness to the children due to time-barring. Second, Van de Bunt argues that children are actually also directly involved, and should therefore be awarded at least monetary compensation. Third, she claims that the widows and children should be included in the same category because of their connection to the cases. The second and third argument deal with the question of who is deemed a victim. At the time of van de Bunt’s writing, this issue was still fought over in Court. The approach of the Dutch State focusing on the widows as victims only and leaving out the children from the Agreement and fighting their general victim status, will therefore be discussed as a separate section.

4.4 The Continuing Court Cases

4.4.1 Focus on One Victim Group – Limited Definition of Victimhood

The approach of the Dutch government focusing on one victim group only is very much visible in their approach regarding new claims being brought.

For this, they adhere to a limited definition of how a 'victim' is defined, as well as fight every new case in court to show they do not perceive the Rawagede-case as a precedent.

After having installed the Settlement Agreement, several more claims were brought. This includes cases concerning respectively the rape of a woman, the torture of a man, and the children of the executed men.⁴⁹² The Dutch State has been fighting all of these in Court. There is no conclusive evidence of either party attempting to negotiate the cases outside the judicial route. The Dutch State has continued the use of its main argument during the Rawagede case: they deem all cases time-barred by the Statute of Limitations. The question in cases of historical injustices remains: for how long can they continue to garner reparations?⁴⁹³ Where does one stop, if ever?

Which groups or individuals can and should still receive reparations for historical injustices? The arguments by both proponents and opponents have already been discussed in the previous chapter. In this next section, the opinions of several authors will be used to explore the question of which claims should still be awarded reparations and why.

Additionally, this approach applied by the Dutch State links to the question of when and who is acknowledged as a victim. One of the main cases is that of the children of the executed men. In 2015, children of the executed men and more widows sued the Dutch State for damages due to the unlawful execution of their fathers and husbands in the case *South-Sulawesi widows, children & Foundation Komite Utang Kehormatan Belanda v. The State of the Netherlands*.

The Court had pushed aside the Statute of Limitations in the Rawagede case, and the Dutch government decided not to appeal this decision. Yet, they continue to apply it to the children, therefore perceiving them as separate from the widows. Are the children, especially those that were alive during the executions, not victims in their own right?

4.4.2 Which Cases Should Receive Reparations?

Both Eric Yamamoto and Dinah Shelton come to the conclusion that to strengthen the chances of reparations being afforded, the victims should be identifiable and mostly still alive, or their immediate descendants should be present.⁴⁹⁴ Jana Thompson answers the question by dividing the claimants for reparations for historical injustice in three categories.

First, there are the individuals who were victims of an injustice that was committed many years ago. Second, there are the members of communities, who claim reparations for injustices committed upon the community itself. An example is the request for return of land. These two are often perceived as having legitimate claims. Finally, there are the claims by individuals who are the descendants of victims of injustice.⁴⁹⁵ For this last category, she speaks of something that she labels the “exclusion principle”, which states that individuals or collectives being entitled to reparations only if they were the ones suffering the injustice.⁴⁹⁶ Descendants are to make a legitimate claim for reparations, and to do so, they must be able to demonstrate that the injustice has affected their rights and/or interests in a negative way. They can do this by either presenting clear evidence of the negative effects, or by submitting proof they are the rightful heirs to possessions wrongly expropriated from their ancestors.⁴⁹⁷ This is where ‘automatic effects’ come into play. She emphasises the importance of ‘automatic effects’, on which the “scope of injustice” is based. All harms and disadvantages are ‘automatic effects’ from the injustice and fall under the “scope of justice”: they are supposed to be repaired.⁴⁹⁸

The children fall either in the first, or in the third category that Thompson describes: they are victims of an injustice done to them a long time ago, or they suffered the effects of an injustice imposed on a family member. Similarly, they could be deemed both first- and second-generation victims. It would be easy to label them as second-generation victims, simply because they are of a later generation. Nevertheless they can also be perceived as first-generation victims, simply by being family members. The idea of family members or dependents of the victims also being victims, has been gaining ground.

4.4.3 What Is a ‘Victim’?

International Discussion

Globally, there is no conclusive definition yet of the term ‘victim’.⁴⁹⁹ Mostly, victims have been understood as those directly affected by ‘conventional’ predatory crimes that have been committed by personal offenders.⁵⁰⁰ However, that view has changed over the years. A ‘victim’ is a cultural construct. In some African and Asian societies, a ‘victim’ is perceived in a broad manner, also encompassing the harmed person’s family and community.⁵⁰¹

This idea is gaining more ground internationally; increasingly it is recognised that often the effect of a crime extends beyond the person having experienced the actual crime.⁵⁰²

Often, the distinction between a 'direct' victim and an 'indirect' one is made to distinguish between 'levels' of victimhood. A direct victim is characterised as someone who has "suffered the direct effects of violence (...) They have been killed, or physically and psychologically abused, detained, discriminated against and so on."⁵⁰³ Indirect victims on the other hand are "those who are linked to direct victims in such a way that they too suffer because of that link".⁵⁰⁴ Indirect victims are not yet universally acknowledged as being actual victims, although international support is growing.

The UN in their Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) include four types of victims in its definition: (1) those individuals who directly suffer harm; (2) dependents or family of a direct victim who suffer indirectly because of the primary victimisation; (3) individuals injured while intervening to prevent violations; and (4) collective victims such as organisations or entities.⁵⁰⁵ In this definition, 'indirect' victims are thus recognised as actual victims.⁵⁰⁶

This view on victims has since been confirmed by both the ICC and the European Court of Human Rights (ECtHR). In the Thomas Lubanga Case, the ICC's Appeals Chamber determined that 'victims' would encompass "those persons who have suffered directly or indirectly from the charges against the accused".⁵⁰⁷ With this, the Court overruled the earlier decision of the Trial Chamber stating that 'victims' are persons who have suffered from any crime within the jurisdiction⁵⁰⁸ of the Court.⁵⁰⁹ Additionally, the ECtHR in the case Turkey v. Cyprus determined that "there has been a continuing violation of Article 3 of the Convention in respect of the relatives of the Greek-Cypriot missing persons".⁵¹⁰ Article 3 prohibits torture or inhuman or degrading treatment or punishment.⁵¹¹

Dutch Law

Dutch law largely follows the UN definition. In article 51a of the Dutch Criminal Code, a 'victim' is defined as "those who have experienced damage to property or any other disadvantage as the result of a criminal offence".⁵¹²

In the same article, the second paragraph acknowledges family as being victims, stating “family members of a person whose passing is directly caused by a criminal offence”.⁵¹³ Family members are further defined in article 51b: “The spouse, registered partner or other life companion of the victim, relatives in a direct line, collateral relatives with consanguinity to the fourth degree, and persons who are dependent on the victim”.⁵¹⁴ Thus, the Dutch Criminal Code acknowledges both the direct victim of the crime as well as its family as ‘victims’.

In the case *Wisah Binti Silan*, the Dutch government refused to acknowledge the children as victims, stating that “at any rate, the children could not make a claim for any compensation”.⁵¹⁵ The State was backed up on this by the Court.⁵¹⁶ The Court stated that “descendants of a next generation are often affected in a lesser manner”.⁵¹⁷

This is a strange claim to make, when considering both the globally and nationally accepted definitions of a ‘victim’.

It implies that the children in this case are seen as later/second-generation victims. Research has shown that children, and sometimes even grandchildren, of first-generation victims (“those who have been victimized during their lifetime”⁵¹⁸), often carry the consequences of what has taken place and may feel like they are victims. Luc Huyse argues that second generation victims especially retain pain and grief.⁵¹⁹ Thus, apart from the fact that these children suffered from losing their father at a very young age and with that often their livelihood, and for this alone should be seen as direct victims,⁵²⁰ they also tend to carry the trauma with them. This is not always acknowledged internationally. However, should the children not be perceived as victims in their own rights, when looking at both the Dutch and the UN definition?

In the end, the 2015 case was lost over the issue of time-barring. At first, the Court ruled in an interim verdict that the Dutch State was also liable for damages of children of the executed men of Sulawesi.⁵²¹ In its judgement, the Court determined that the children lost their livelihood due to them being born before their fathers were killed but of an age that they were still supported by their fathers.⁵²² It also recognised that the death of their fathers did cause a life-long impression and damage on the children, especially in those cases in which they were witnesses of their father’s execution.⁵²³

Yet in 2017 this was undone through the final verdict: the Court decided that the Netherlands was right in claiming the case for the children was time-barred.⁵²⁴ It stated that the children who brought the case had waited too long. According to the Court, the plaintiffs already knew in 2013 that the Dutch State could be held liable, yet they waited until December 2016 to subpoena.⁵²⁵ Because of their demand not being submitted within a reasonable period of time, their claim was denied.⁵²⁶ However, Jeffry Pondaag points out that it was only in 2015, through the interim case, that the children knew they could actually bring a case. Liesbeth Zegveld commented that she was very much surprised by the judgement and announced she would appeal. She also maintains that it is unjust for the State to escape liability in such an important case on the basis of a questionable 'reasonable' term.⁵²⁷

The cases of the children are continuing. During the September 2018 talk, Liesbeth Zegveld stated that "now they are faced with issues of solid evidence. Every detail is contested in Court. The end seems to be getting nearer."⁵²⁸

4.4.4 A Focus on One Victim Group – Taking Every New Case to Court

Linked to the above described approach is the fact that the Dutch government pursues a judicial verdict on every new case brought. The widows have been determined to be victims through court order. In line with this, the Dutch State wishes to see this determined in a separate judicial process per newly brought case. A positive reasoning behind this could be that the government wants to make sure no undeserving victims receive reparations.⁵²⁹ The Dutch State is willing to go until the end to keep the payments it has to provide as limited as possible. Regardless of possible precedents set by the Rawagede case and the extensive research on Dutch war crimes in Indonesia, the Dutch government chooses to fight every new case in Court. On this decision, Stef Scagliola and Anne Lot Hoek argue that in the Netherlands politicians do not strive for generosity and magnanimity. Instead the government maintains a tradition of 'formalistic solutions': "the scale of the gesture must be in balance with the scale of Dutch liability." For every new case, this liability must first be determined in Court. In their article, Hoek and Scagliola compare the Dutch political approach to the strategy now pursued by the French President Emmanuel Macron, who has acknowledged French responsibility for torture in Algeria during the Algerian war of 1954-1962.⁵³⁰

Macron also personally visited the widow of an Algerian mathematician who was allegedly executed or tortured to death in 1957.⁵³¹ In comparison to these events, Scagliola and Hoek refer to the Dutch moral approach with the past as continuing to be “meagre”.⁵³²

An example of the approach is the case of mr. Yaseman. In 2014, Mr. Yaseman sued the Dutch State for torture he had endured at the hands of Dutch soldiers during an interrogation at the time of the independence war in Indonesia. At 89 years old, he was too old to travel to the Netherlands to appear in Court, but in July 2017 he became the first victim being interviewed by the Dutch Court over Skype.⁵³³ Mr. Yaseman passed away in September of that year, but his family continued the case, demanding acknowledgement for his suffering and financial compensation.⁵³⁴

On 18 July 2018, the Court declared the Dutch State “liable for the damage he [mr. Yaseman] has suffered as a result of the unlawful acting that can be assigned to the State”,⁵³⁵ ordering the State to pay €5000 in compensation as well as the covering of the legal costs.⁵³⁶ On 11 October 2018 it was announced that the Dutch State would appeal this decision.⁵³⁷ Liesbeth Zegveld expressed her disappointment, stating that “it is well-known that the Netherlands has tortured on a large scale during the independence war. Of all the victims, just one has announced himself at the Court, this is mr. Yaseman. It is a pity that even for this one case, the State is unwilling to assume responsibility.”⁵³⁸

A General Reluctance of the Dutch to Discuss Historical Injustices Out of Court

In general, however, the Dutch government is not affable with the payment of reparations for historical injustices. An example is the case of Srebrenica. Dutch military personnel were in charge of overseeing the area by order of the UN. In 1995, the enclave of Srebrenica fell, resulting in thousands of Bosnian Muslims seeking refuge in the compound of the ‘Dutchbat’ soldiers from the Netherlands.⁵³⁹ When Bosnian Serb forces removed the male Muslim population there, Dutchbat allegedly cooperated. These men and boys were subsequently murdered by the Bosnian Serbs.⁵⁴⁰

In 2007, the Dutch State, together with the UN, was sued by the ‘Mothers of Srebrenica’ Foundation. This foundation represents the interests of the surviving relatives of the men who had been murdered.

The summons states that the foundation had previously brought the matter under the attention of both the Dutch State and the UN, but that neither of them was willing to negotiate the matter.⁵⁴¹ Therefore, a lawsuit was brought. In 2017, the Dutch State was deemed liable for 30% of the damages and ordered to pay.⁵⁴² The State disagreed and appealed. The High Council is now working on the case, which will conclude on 19 April 2019.⁵⁴³

The above also reflects the reluctance of the Dutch government regarding payment for or even discussion about how to deal with historical injustices. Additionally, a focus on the veterans is visible. In December 2006, members of Dutchbat had received an insignia, "as a symbol of recognition for the approximately 850 soldiers who have functioned in good conscience and have been put in a negative light for an extended period of time".⁵⁴⁴ This decision led to great outrage among the next of kin of the victims.

Again, the general strategy of the Dutch State seems to be that guilt must be proven, only for the Dutch government to do its duty.

4.4.5 The Ambiguity in Acknowledgement

The Dutch government thus makes it clear that no broader responsibility shall be taken regarding Dutch violence during the Indonesian independence war. By applying two different measures to what is defined as a victim, the authorities create ambiguity within the case. However, the main example of ambiguity kept in place by the Dutch State, concerns the Indonesian date of independence. The Netherlands remains unclear on whether they accept the date proclaimed by the Indonesians, or the date on which they handed over sovereignty. The Netherlands officially handed over sovereignty on 27 December 1949. However, the Indonesians celebrate their independence on 17 August, referring to the date in 1945 when Sukarno and Hatta proclaimed Indonesia to be independent.⁵⁴⁵ In 2005, Minister of Foreign Affairs Ben Bot was present in Jakarta at the 60th anniversary of Indonesian independence. This was the first time a Dutch official representation frequented such a celebration. Bot stated that the Netherlands would accept "politically and morally" the fact that Indonesian independence de facto began on 17 August 1945.⁵⁴⁶ The issue here is the use of the term 'de facto', meaning "a state of affairs that is true in fact, but that is not officially sanctioned". It differs from a situation of 'de jure': a state of affairs that is in accordance with law.⁵⁴⁷

Stating that one has acknowledged something *de facto*, thus means that lawfully, the situation can still be different. This is the case in this specific situation. Keeping this ambiguity in place shows a lack of conviction from the Dutch side in their responsibility-taking.

4.5 Concluding Remarks

4.5.1 An Attempt at Control?

The question remains, however, why the Dutch government, leading a country that is so adamant about its protection of human rights, has such difficulty in facing its own mistakes in this area. Is it still this self-image that keeps them from acting in a broader manner? And do they use the reparations that they provide now as an attempt to further this image? Reparations are always requests of dominant cultures to atone for wrongs.⁵⁴⁸

Gibney and Roxtrom make the argument that a process of forgiveness often leads to a perpetuation of the power imbalances that initially caused the violence, especially when the process is dominated by the State.⁵⁴⁹ They state that “the powerful state not only decides if and when an apology will be given (or whether a near apology will be provided instead), but also the manner in which all this will be done.”⁵⁵⁰ Luttikhuis describes the threshold that stops countries from making broad apologies as the fear of uncontrollable judicial consequences.⁵⁵¹

This sheds light on a contrast in the approach. On the one hand, States do not wish to apologise for fear of judicial consequences. On the other hand, Courts often only order apologies for the specific victim group bringing the case. This ‘helps’ the State in limiting the cases, focusing it on ‘excesses’ only.⁵⁵² The Dutch authorities have never specifically said they would refrain from apologising broadly due to the fear of further judicial consequences. As mentioned in an earlier section, when Prime Minister Mark Rutte was asked the question whether the Dutch government did not want to apologise for the ‘police actions’ in general, he answered that the government would not offer such apologies because “the government believes that history unfolds as history unfolds.”⁵⁵³ However, the stance becomes relatively clear from a statement made by parliament member of the ruling party Han ten Broeke,^{xxii} who said that “the box of Pandora will be opened once we start apologising for all kinds of mistakes from the past”.⁵⁵⁴

^{xxii} Translated by Author.

Eric Yamamoto links the idea of keeping control to the ideology behind reparations. To explain why self-interest is an influential factor in whether States make apologies, Yamamoto uses Derrick Bell's work on interest-convergence. Bell's theory suggests that "dominant groups only recognize "rights" of minorities when the recognition of those rights benefits the dominant group's larger interests. That is, a government will rarely simply do the right thing; rather, it is likely to confer reparations only at a time and in a manner that furthers the interests of those in political power."⁵⁵⁵ Yamamoto further alleges that "underlying systems of beliefs and values which serve particular interests" are influential in shaping "whether, when and how reparations will be awarded".⁵⁵⁶

Indonesia expert Nico Schulte Nordholt accused the Dutch government of making use of the court cases to deliberately delay the process: "soon, there will be no more people bringing claims, for they have passed away".⁵⁵⁷ This, in addition to the 2013 apologies made on Dutch terms, might be examples of self-interest reflected in the Dutch reparations process.

4.5.2 How to Proceed?

The General Discussion in the Netherlands on How to Deal with Historical Injustice

Since the end of the 1990s, Dutch society has been critically assessing its history, increasingly paying attention to the darker pages. It started with the Dutch role in slavery, ever since the discussion spread to the Netherlands due to the apologies made by Bill Clinton in 1998.⁵⁵⁸

However, since 2016 other debates have received attention. An example is the debate about Zwarte Piet. Zwarte Piet (Black Pete) is the soot-black helper of Sinterklaas, the Dutch version of Santa Claus.⁵⁵⁹ The figure is protested against for perpetuating negative (colonial) stereotypes of black people. Examples are a large afro, big red lips, and golden hoop earrings. It had come under fire before,⁵⁶⁰ and an enlarged version of this discussion resurfaced in 2013.⁵⁶¹ The Zwarte Piet debate has turned into a hard-fought battle between proponents and opponents. The first groups argues it is a children's holiday that should not be ruined by the current "political correctness". The group against Zwarte Piet believes the figure is racist and allows for perpetuation of racist stereotypes.⁵⁶²

The discussion escalated when in November 2017 proponents blocked a highway to ensure protesters would not reach their destination.⁵⁶³ In October 2018, several of these proponents were served with sentences differing from months of conditional prison time, or they were ordered to pay a fine. 19 out of 34 of them appealed.⁵⁶⁴

A further discussion is being held regarding the stance of colonial 'heroes' and terms. Several municipalities are dealing with the question of whether they should rename streets that now carry names of colonial strongmen such as Michiel de Ruyter and Witte de With.⁵⁶⁵

Museums have started reconsidering their use of potentially 'colonial' terms, whether they should return certain artefacts, and whether busts should be removed.⁵⁶⁶ The Mauritshuis, a prestigious museum, removed the bust of Johan Maurits van Nassau-Siegen from its foyer.

It stated that the decision was made as part of a greater process of becoming aware of the slavery past of Johan Maurits, as well as the museum's information provision regarding this issue.⁵⁶⁷ Later the management denied removing the bust from the museum. It argued that it was replaced because it was of a "lesser quality" and did not find itself in "the right context".⁵⁶⁸

Strong reactions followed the decision to remove the Maurits bust; an MP of one of the ruling parties of the Netherlands, commented that "we are importing the American trend of hypersensitivity". Another MP, of the right-wing Partij voor de Vrijheid (PVV, Party for the Freedom) deemed it a "politically incorrect iconoclasm against our history and our culture".⁵⁶⁹

The growing interest in the discussion on historical injustices committed by the Dutch can also be seen in the surge of literature that has been published concerning the topic. Gloria Wekker is but one of several prominent writers denouncing Dutch colonial history. Having studied a wide variety of resources spanning the 400 years of Dutch colonialism, in her book 'White Innocence' Wekker challenges "Dutch racial exceptionalism" by chipping away at the dominant narrative of the Netherlands as a "gentle" and "ethical" nation.⁵⁷⁰

The Discussion on Indonesia

Still, the discussion on Indonesia remained peripheral, and this was reflected in the absence of the history of Dutch colonisation and the independence struggle in the national curriculum.

A 2017 study was commissioned by the National Committee of 4 and 5 May and executed by Marc van Berkel a historian from the Institute for Teacher and School at the College of Arnhem and Nijmegen. His research has shown that the Dutch-Indonesian history, especially the independence war, is not represented well in educational materials, which give an outdated and one-sided portrayal.⁵⁷¹ Limpach notes that both the collective awareness and the position of the studies into the matter remain in a poor state, especially regarding the “last, dramatic chapter of the Dutch colonial rule in Indonesia”.⁵⁷²

Few researches have been conducted on the broader Indonesian question. Harm Scholtens wrote a thesis in 2007 that was used in the Rawagede case.⁵⁷³ Marjolein van Pagee wrote a very informative thesis on the responsibility of the Dutch government.⁵⁷⁴

Then of course there is the study by Rémy Limpach, which made widely public for the first time how the Dutch violence in Indonesia was structural and systematic.⁵⁷⁵

Still, opportunities for further research are left unused, showing a continuation of historians’ lack of action as described by Scagliola.⁵⁷⁶ The letters written after Hueting’s interview form an important and valuable resource for historians and can be found in the archives of the VARA, the network that broadcasted the interview. Yet, this archive has, bar a few exceptions, remained unexploited.⁵⁷⁷

Janet van de Bunt points out the role of the Dutch State and its duty of care. The State has the duty to gather the necessary knowledge about the relevant facts and circumstances. Should the State find information about other possible victims, for example a list of the names of the victims of an execution, then the question is whether the State should share this information. The obligation of due care does not extend to the fact that the State itself has to conduct an investigation in order to discover the facts.⁵⁷⁸ However, such lists of names of executed men have been found and publicised: Jasmijn de Nood wrote about her discovery of documents listing 180 names of Indonesian men who have been killed by the Dutch army 1947 on Sulawesi.⁵⁷⁹ This discovery however did not lead to a further reaction from the Dutch government, until the research by Limpach was published.

As a reaction, the Dutch government has stated that it commissioned a large-scale research into the Indonesian history by the KITLV, NIOD and NIMH.^{xxiii} This research is meant to answer persisting questions regarding the structural violence that the recent study by Rémy Limpach shows to have been used in Indonesia by Dutch militaries.⁵⁸⁰

Contrastingly, when visiting an evening talk regarding the state of the research one year after its start, it was emphasised by Director of NIOD Frank van Vree that the Dutch government only financially supports the research, but does not determine the research goals nor outcomes.⁵⁸¹ This was doubted by several attendants.

That the Indonesian issue still lives amongst certain groups also became clear during the visit to this evening talk. Present were Indonesian people living in the Netherlands; descendants of soldiers having been part of either the regiments sent from the Netherlands or the KNIL; and (part of) the Moluccan population. Indignation came from all sides, and often people neglected to listen to each other. Still, the evening showed the importance of the issue still being discussed and studied – it remains an open wound.

Over the second part of 2018, a discussion ensued after an opinion piece written by Kester Freriks, a journalist who during his youth lived in colonial Indonesia. He lamented how in his eyes the Dutch history in the territory was destroyed by only observing it with feelings of “contemporary guilt”, evoked several outraged reactions. Freriks described how many had experienced their time in Indonesia as “possibly the happiest of their lifetime”, stating that the colonial rule had also impacted positively on the lives of the Indonesian population, and how there is a need for “the defense of and for the colonial past (...). No longer the one-sided perspective of violence, war and exploitation, but a renewed consideration and evaluation, no conviction.”⁵⁸²

His words conjured many horrified reactions. Reza Kartosen-Wong, a publicist with Indonesian roots, pointed out that the history has mainly been written from a white, limited, and non-critical perspective, lacking Indonesian experiences, and stated Freriks confused personal remembrance with collective memory.

^{xxiii} See *Abbreviations*.

He calls out Freriks' inability to see the Dutch colonials as perpetrators, instead labeling them as innocent benefactors and even victims (due to them now not being able to "happily remember their time there). For this Kartosen-Wong refers to what Gloria Wekker calls 'white innocence': the dominant Dutch attitude of a "passionate denial of racial discrimination and colonial violence, coexisting alongside aggressive racism and xenophobia".⁵⁸³

In their reaction to Freriks' article, historians Thomas Smits, Klaas Stutje en Suze Zijlstra argue that he should remember that the colonial welfare and happy times did not exist detachedly from the oppression of the Indonesian population; on the contrary, the times of *tempo doeloe* (literally: the time of the past; often understood by former Dutch colonialists living in Indonesia as 'the good old times') were made possible because of the oppression. Who, for example, harvested the tea in the plantations that Freriks mentions with such fondness?⁵⁸⁴ The current discussion thus focuses mainly on how the history should be perceived. However, the responsibility of the Dutch for the specific timeframe of 1945-1950 is not mentioned in these articles.

These discussions do show that society is active. In general, it is clear that governments do not easily get away with misconduct anymore, whether it be their own or their predecessors'. At the base of this are a more involved and critical society and empowered victims, who bring issues to the attention. Especially now that social media has expanded at such a rate, it is difficult to keep misbehaviour under wraps or, especially, undiscussed. In the case of Indonesia, social media did not play as notable a role and is therefore not expanded upon.

Chapter 5 – Conclusion

During the first five decades after the independence war, consecutive Dutch governments applied neutralising strategies to the Indonesian question. In general, governments silenced the issue, only addressing it when it received publicity. This reflects a reactive approach. Whenever the case received public attention, Dutch governments would either address it in apologetic terms such as 'excesses', or commission studies that were too detailed and lacked self-criticism. Acting under a self-image of victims, not perpetrators, and influenced by veteran lobbies, authorities of the Netherlands never entertained the possibility of further discussion regarding potential Dutch violence during the independence war in Indonesia.

After the Second World War, the human rights system as we know it was created, focusing on the individual. This attention resulted in individuals both having rights and being able to claim compensation should a right be violated. Together with a growing consciousness of the individual, at the end of the twentieth century, there was also a greater awareness of what people can do to each other: "consciousness of catastrophe". Among society, the general interest in the past grew, with an increasing interest for historical injustices. The discussion on how current governments should deal with wrongful conduct of their predecessors has led to calls for different types of reparations. One of such reparations has been increasingly used since the end of the twentieth century: it is argued that an 'age of apology' has started. An increasing amount of governments have apologised for injustices from the past.

The Netherlands has taken small steps in this zeitgeist. In general, the country has had a long-term focus on human rights, and has portrayed itself increasingly as such since the 1960s/1970s. Dutch society has also become more aware of its country's past, which reflects in the discussion on slavery and the resulting commemoration day, which is celebrated nationally since 2002. With regards to apologies in general however, the Dutch government remained reluctant. This also applies to the Indonesian case; in 2005, an expression of regret was uttered, yet in subsequent years the calls for actual apologies and further reparations were steadfastly refused and shot down in parliament.

It was only through a court case, filed by a group of victims that had become more empowered since the end of the 1990s, that actual change ensued.

These victims, widows of men illegally executed by Dutch soldiers, sued the Dutch State for both material and immaterial damage. They won the case. This meant that for the first time, a Dutch governmental responsibility for injustices during the independence war was officially determined. The widows were awarded both money and apologies, which was expressed in 2011. When more widows presented themselves, the Dutch government decided to create a Settlement Agreement, acknowledging all women in the same situation as the first group to have a right to the same amount of reparations. Another apology was made in 2013, which was supposed to cover all present and future widows presenting themselves.

Do these latter developments show a difference in the general approach adapted by the Dutch government? Or is the process still flawed?

I conclude that consecutive Dutch governments have perpetuated a neutralising and reactive approach for which the basis was created in the first five decades post-war, and that this did not change post-court case. Moreover, it has even become limiting as well. The Dutch governments over the years have marginally joined in the global developments of (partly) addressing historical injustice, but always in response to others and in a very limiting manner.⁵⁸⁵

First, the neutralising approach is reflected in how the issue remains largely underdiscussed in politics and in that it is continually addressed with apologetic terms. By now, the police actions and the executions that took place are acknowledged to be black pages in the Dutch history.⁵⁸⁶ Yet, the term ‘excesses’ is still applied. Prime Minister Mark Rutte used the term as recent as 2013⁵⁸⁷ and 2016.⁵⁸⁸ Even more regrettable is the fact that Ambassador Tjeerd de Zwaan applied the term in 2013 while actually apologising to Indonesian victims of Dutch violence.⁵⁸⁹ By making use of such vocabulary, the government continues to downplay and gloss over Dutch violence in Indonesia.

Furthermore, in a 2016 speech before the Indonesian parliament, Rutte spoke of “the painful separation” between the Netherlands and Indonesia after the Second World War. He referred to it as “a bitter process marked by intense violence”.⁵⁹⁰ He neglects to specifically label them as crimes from the Dutch State, nor does he refer to the court cases and apologies that since have been expressed by the Dutch government. Herein he continues to fail to properly label what has happened.

Additionally, the Dutch government continues to adjust their approach to the Indonesian case with the veterans in mind. In doing so, they perpetuate the impression that Dutch soldiers behaved properly and violence happened in ‘excesses’. Shortly before the court case in 2009, parliamentarian and member of the ruling party VVD Hans van Baalen stated that “Dutch soldiers have grosso modo behaved excellently [when in Indonesia]”. He continued: “For this reason we support those veterans, those people that have been sent [to the archipelago]”.⁵⁹¹ Prime Minister Mark Rutte praised the veterans and their behaviour in 2015. In a Remembrance Day speech, he spoke to the veterans, stating that “There is no doubt in my mind that soldiers who have been deployed by the government of their country, deserve nothing but support, respect and appreciation”.⁵⁹² While I do not want to create the impression that all Dutch soldiers misbehaved, there is now plenty of evidence that the violence was structural and systematic. Therefore praising the veterans without adding a critical note results in the Dutch government seeming to perpetuate the belief in ‘excesses’.

Secondly, the Dutch government continues to address the Indonesian issue only when it receives public attention at the hands of other parties, thus holding on to the reactive approach lamented by both Luttikhuis and Moses and the Court. The 2005 expression of regret, the 2011 and 2013 apologies, and the Settlement Agreement; all of these were the result of Dutch governmental reactions to the actions of other parties.

The Dutch government especially adheres to its reactive approach with regards to conducting research. No new investigations have been initiated by the government, even after it became clear that there are still victims alive and the pain has not yet been resolved. No governmental reaction came when ‘death lists’ were revealed. Further research was held off; only in 2016 did the authorities agree to support a broad Dutch-Indonesian research initiated by KITLV, NIOD and the NIMH.⁵⁹³ The government had previously refused to do so in 2012, but was forced into a reaction after the ground-breaking research by Rémy Limpach. His study showed that the violence by the Dutch in Indonesia had been structural and systematic. The fact that the Dutch government changed its mind only after Limpach’s research garnered national attention, again reflects the reactive approach of only addressing the issue when others bring it to the foreground.

This leads to the third point: the limiting aspect to the Dutch governmental approach. The fact that the authorities refuse to apologise for the broader (parts of the) war in Indonesia, shows that the Dutch government restricts its reactions to court-ordered reparations. However, even these have their flaws. The apologies in 2011 and 2013 were deemed meagre, were limited in their content and no original text can be found. The apologies made in 2013 were made on conditions set by the Netherlands, without taking into account the wishes of the victims. Moreover, it is problematic that these were not pronounced by the Head of State or Head of the Government, something that always gives an excuse more power and depth.

With the Agreement, the government took a proactive step as it was not part of the Court judgement. However, it is a very limited scheme, only including widows, and excluding the children of the executed men. No willingness has been shown to expand this Agreement, which is reflected in the governmental approach adopted during the court cases that were brought by the children. This can be a direct consequence of the legal lines that are set out by a Court, which in this case is a limiting mechanism.

The idea behind the strategy that is currently applied seems to be that guilt must be proven per case, after which the Dutch government will fulfil its duty. In the meantime, the old argument "the past is the past" reigns supreme during the court cases. This argument presents a discrepancy in the Dutch governmental attitude. By applying this argument to the children, the authorities show they are adhering to a double standard with regards to victimhood. The Dutch government has always maintained that the children are not victims in the same class as the widows, as they are always 'less affected'. The Court entertained this possibility during the 2011 case, which has led to it being very difficult for the children being recognised as victims deserving of similar reparations as their mothers.

This is even more painful because both international documents and national law do acknowledge the children as victims. The Dutch law clearly states that family members in a direct line, and dependents, are deemed 'victims'. Therefore, in arguing that the children of the executed men do not have a legitimate claim, both the State and the Court deciding on the *Wisah Binti Silan* case neglected to label the children as victims. As a result, they forewent both the UN and the Dutch Criminal Code definition of victims.⁵⁹⁴

By differentiating the children from the women through the Statute of Limitations argument, the Dutch government applies an unequal definition of victimhood.

Additionally, by focusing on the widows as victims, and refusing to address the Indonesian independence war as a whole, the government of the Netherlands perpetuates the idea of 'excesses' instead of acknowledging that the war was wrongful to begin with.

Why is it then, that governments of a country so involved in human rights, is so unwilling to address this black page in history? One potential answer is the fear of creating a precedent. As has been explained in an earlier section, some countries are hesitant to even apologise out of fear of large claims. Once an apology has been made, guilt is acknowledged, and claims for compensation can arise. The Dutch government goes to great lengths to keep their involvement in addressing the lingering pain of the Indonesian independence war as small as possible. With regards to Indonesia however, the Dutch government would have little to fear, according to Liesbeth Zegveld. Most victims have passed away, and the chance of descendants winning court cases is reducing. Yet even in the one case brought by a survivor of torture at Dutch hands, the Dutch government refuses to make amends and has appealed the Court's ruling of a €5000 compensation. The smallest cases are being fought until the end, and all in Court. This reflects the Court-focused approach described by Hoek and Scagliola that is based on liability being determined judicially.

Is it really monetary pay-outs that the Dutch government is afraid of? Does it fear victims from other historical injustices created by Dutch hands? Or is another reason behind the Dutch approach simply that they are not able to unite the self-image of human right supporter with that of a human rights violator? Are they afraid of reputational damage by admitting to a flaw in the past? This begs the question whether failing to admit to past flaws does not result in even greater reputational damage – is it not worse to not acknowledge the harm done by past governments? Would it not show greater courage and human rights support if the government acknowledges and repairs such harms? By adhering to an approach that was started by the government that was responsible for the harms, subsequent governments also perpetuated and still perpetuate the idea that the past does not have to be addressed to deal with the future. It is obvious however, that because of the continuous resurfacing of the Indonesian case, the issue still lives and the pain is still present.

The Dutch government will continue to have to deal with the painful side of the history as long as the entire history remains unaddressed.

This might be the main problem. For the Dutch government to not have to 'deal' with a continuous resurfacing of the issue, it might want to address the war in its entirety. Of course, it is good that for a number of victims of the excesses there is now an arrangement, no matter how limited it is. The victims are old, both widows and children, and it is important that they receive the recognition while still alive. However, it remains insignificant if the Netherlands is not prepared to examine its broader history.

I believe it should start with education. The discussion has been broken open and what is important now, is that this discussion remains. We must always learn from the past, to prevent future mistakes. The limited space within the Dutch curriculum dedicated to the war in Indonesia, is one of the main issues that needs to be dealt with. The first line of this thesis is a quote from Hannah Arendt, who said that "we can no longer afford to take that which was good in the past and simply call it our heritage, [and] to discard the bad and simply think of it as a dead load which by itself time will bury in oblivion."⁵⁹⁵ I believe that to discard the bad, we must know the bad. This is precisely what is currently still lacking in Dutch education, policy and research, and where most progress can be made. To my belief, knowing the past is a vital step to a society moving forward.

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Annex

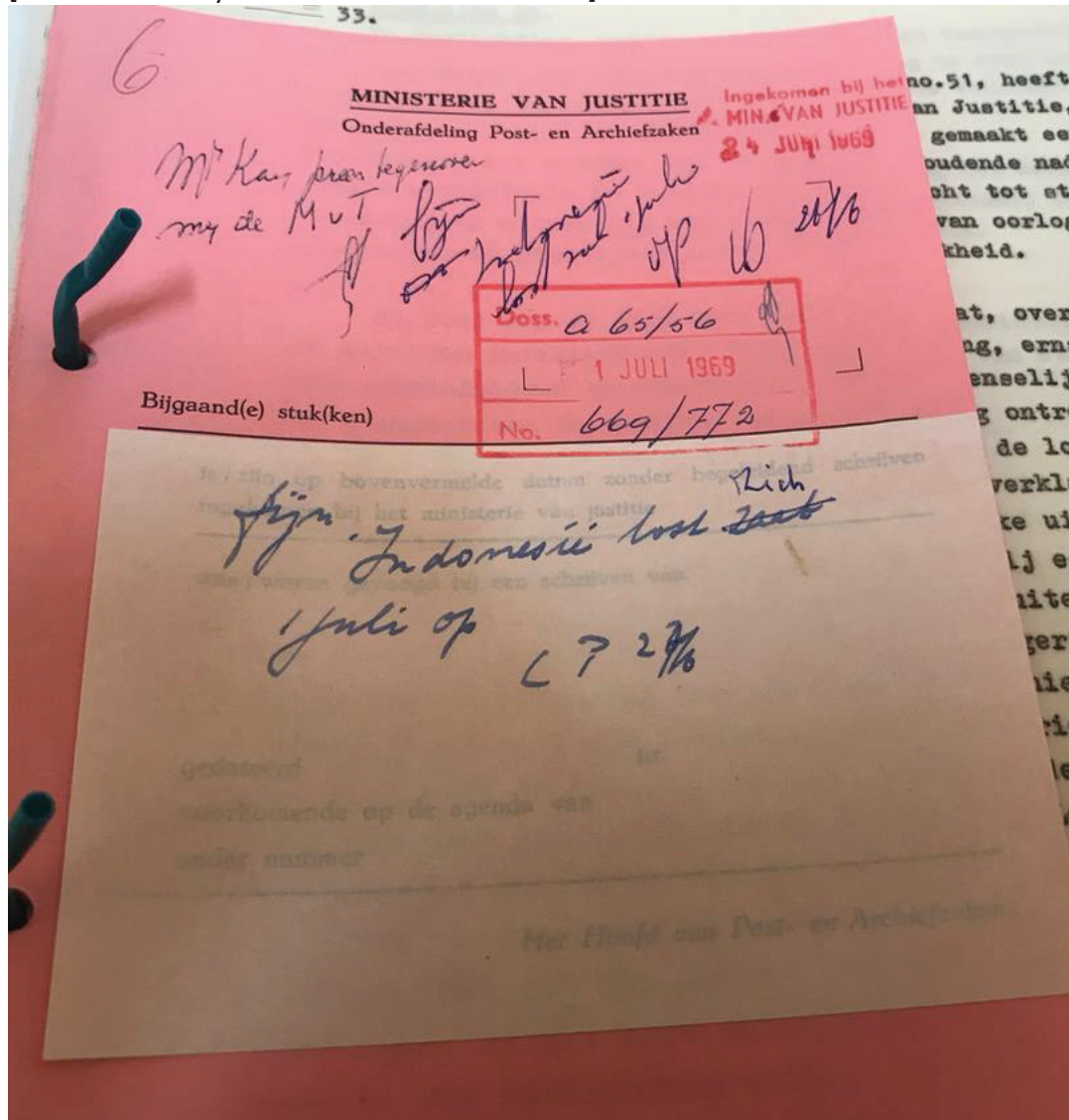
Annex 1: Note on File Ministry of Justice, Subsection Post- and Archive Affairs

File A65/56, No. 669/772, 1 July 1969

On the white part is written: "Nice. Indonesia solves itself on 1 July" (Original Dutch text: *Fijn. Indonesië lost zich 1 juli op*).

Accessed on 30 March 2018 and 19 October 2018. Royal Dutch Archive. Archive Inventory 2.09.47. Inventory Number 2479. Ministry of Justice, Legislation Department, Legislation Files.

[Picture taken by Author on 19 October 2018]



Endnotes

- ¹ Hannah Arendt, *The Origins of Totalitarianism*, (San Diego: Harcourt, Barce, Jovanovich, 1973), ix.
- ² Malcolm N. Shaw, *International Law*, Seventh Edition, (Cambridge: Cambridge University Press, 2014), 32-33.
- ³ See for example John Torpey, "Making Whole What Has Been Smashed: Reflections on Reparations," *The Journal of Modern History* 7, no. 2 (June 2001): 333-358; Robert R. Weyeneth, "The Power of Apology and the Process of Historical Reconciliation," *The Public Historian* 23, no. 3 (2001): 9-38; Elazar Barkan, *The Guilt of Nations: Restitution and Negotiating Historical Injustices*, (New York: W.W. Norton, 2000).
- ⁴ Rémy Limpach, *De Brandende Kampongs van Generaal Spoor (The Burning Kampongs of General Spoor)* (Amsterdam: Booms Uitgevers, 2016), 19.
- ⁵ Bart Luttikhuis, "Juridisch afgedwongen excuses. Rawagede, Zuid-Celebes en de Nederlandse terughoudendheid" (Judicially enforced apologies. Rawagede, South-Celebes and the Dutch reluctance), *BMGN – Low Countries Historical Review* 129, no. 4 (2016): 18.
- ⁶ The Netherlands has always been very proud of its 'tolerance' (see Anouk Smeekes, "Nationale identiteit, nationale geschiedenis en de acceptatie van nieuwkomers in Nederland," (National identity, national history and the acceptance of newcomers in the Netherlands), *Migrantenstudies*, no. 2 (2011): 170-171. This tolerance however has been doubted by for example James Kennedy, who, although he did concede the Netherlands were more tolerant during e.g. the 17th century, stated that this 'tolerance' in general is much less broad and much more hierarchical than the Dutch like to believe. James Kennedy, *Een beknopte geschiedenis van Nederland (A brief history of the Netherlands)*, (Amsterdam: Prometheus, 2017), 12, 385-386.
- ⁷ Ministerie van Binnenlandse Zaken en Koninkrijksrelaties (Ministry of the Interior and Kingdom Relations), *The Constitution of the Kingdom of the Netherlands*, "Article 90", in Chapter 2 (Miscellaneous Provisions), Constitutional Affairs and Legislation Department, <https://www.rechtspraak.nl/SiteCollectionDocuments/Constitution-NL.pdf>, art. 90.
- ⁸ Barbara Oomen, "The Rights for Others: The Contested Homecoming of Human Rights in the Netherlands," *Netherlands Quarterly of Human Rights* 31, no. 1 (2013): 48-49.
- ⁹ John Jansen van Galen, *Afscheid van de Koloniën (Saying Goodbye to the Colonies)*, (Amsterdam: Uitgeverij Atlas Contact, 2013), 33.
- ¹⁰ Jansen van Galen, *Afscheid van de Koloniën*, 33; Jacob Jan van Goor, *De Nederlandse Koloniën; Geschiedenis van de Nederlandse Expansie 1600-1975 (The Dutch Colonies; History of the Dutch Expansion 1600-1975)*, (Den Haag: Sdu Uitgevers, 1997), 32; Femme Gaastra, *Geschiedenis van de VOC (History of the VOC)*, (Zutphen: Walburg Pers, 2009), 13, 15; Henk Wesseling, *Europa's Koloniale Eeuw (Europe's Colonial Century)*, (Amsterdam: Uitgeverij Bert Bakker, 2003), 23-24.
- ¹¹ Herman Burgers, *De Garoeda en de Ooievaar: Indonesië van kolonie tot nationale staat (The Garoeda and the Stork: Indonesia from colony to national state)*, (Leiden: KITLV Uitgeverij, 2011), 19, 27; See also Wesseling, *Europa's Koloniale Eeuw*, 22.
- ¹² Goor, *De Nederlandse Koloniën*, 32.
- ¹³ Simon Black, "This was the most valuable company in history," *Sovereign Man*, 1 December 2014, accessed 13 December 2018 at <https://www.sovereignman.com/trends/when-adjusted-for-inflation-its-highest-market-capitalization-would-be-worth-over-7-trillion-today-15654/>; W. Van Elderen, "The Dutch East India Company," *European Heritage*, accessed 13 December 2018 at <http://european-heritage.org/netherlands/alkmaar/dutch-east-india-company/>. Marco Ramerini, "The Dutch West India Company. WIC," accessed 13 December 2018 at <https://www.colonialvoyage.com/dutch-west-india-company-wic-west-indische-compagnie/>.
- ¹⁴ For a short but proper overview of the WIC's ceasing of existence, see Goor, *De Nederlandse Koloniën*, 175-177.
- ¹⁵ Goor, *De Nederlandse Koloniën* 181.
- ¹⁶ During this time, the Netherlands were called the Batavian Republic, supposedly as "independent" and an ally, but it was required to hand over much money and many assets. The country was led by the brother of Napoleon, Louis, who was crowned king of the Netherlands for four years (1806-1810). The Netherlands were part of the French kingdom for three more years after that. For more information on how the Netherlands experienced the French time, became independent and got back its overseas territories, see J. Roelevink, *Onderzoeksgids Bestuur en administratie van de Bataafs Franse tijd (Study guide governance and administration during the Batavian French time)*, (Den Haag: Huygens ING, 2012); Ido de Haan, *Een nieuwe staat: het begin van het Koninkrijk der Nederlanden (A new state: the start of the Kingdom of the Netherlands)*,

(Amsterdam: Prometheus, 2014); or the very informative website created by the Dutch National Archive/Royal Library: René Roodhevel, “200 jaar koninkrijk” (200 years of kingdom), *Nationaal Comité 200 jaar koninkrijk*, at <http://www.200jaarkoninkrijk.nl/>.

During the French era (1795 – 1813, also referred to as the French-Batavian time, when most of the Netherlands was part of France. This republic lasted until 1806, after which the first Kingdom was created under the rule of Lodewijk Napoleon. This kingdom did not last long (until ca. 1813). See Het Koninklijk Huis, “Ontstaan van de monarchie” (Formation of the Monarchy), *Koninkrijk der Nederlanden*, accessed 13 December 2018 at <https://www.koninklijkhuis.nl/onderwerpen/koninkrijk-der-nederlanden/ontstaan-van-de-monarchie>.

¹⁷ Kees Schulten, *Oranje Boven! Holland is vrij! (Long live Orange! Holland is free!)*, (Den Haag: Uitgeverij De Nieuwe Haagsche, 2013), in particular 143.

¹⁸ Wesseling, *Europa's Koloniale Eeuw*, 26.

¹⁹ These were Java, Moluks, India, Malakka, Surinam and six Caribbean islands; see Goor, *De Nederlandse Koloniën*, 202.

²⁰ *Anglo-Dutch Treaty of 1814*, Convention of London, 13 August 1814; See also H.R.G. Wright, “The Anglo-Dutch Dispute in the East, 1814-1824,” *The Economic History Review* 3, no. 2 (1950), 229-240.

Wesseling, *Europa's Koloniale Eeuw*, 321; Burgers, *De Garoeda en de Ooievaar*, 74

²¹ The Moluks were only given back in 1817, the former VOC-establishments in India and Malakka in 1818, and the one in Sumatra in 1819. See Burgers, *De Garoeda en de Ooievaar*, 31-32.

²² Wesseling, *Europa's Koloniale Eeuw*, 321.

²³ The context and course of this war is too extensive to discuss here. See for an excellent overview of this war: Anton Stolwijk, *Atjeh (Aceh)*, (Amsterdam: Prometheus, 2016). An older reference work that is still praised for its social consciousness and proper overview of the course of the war is Paul van 't Veer, *De Atjeh-Oorlog (The Aceh War)*, (Amsterdam: De Arbeiderspers, 1969). For more information regarding the Dutch cruelty during this war, see Emmanuel Kreike, “Genocide in the Kampongs? Dutch nineteenth colonial century warfare in Aceh, Sumatra,” *Journal of Genocide Research* 14, no. 3-4 (2012): 297-315; see also Frans Glissenaar, *Indië verloren, rampspoed geboren (Indies lost, disaster born)*, (Hilversum: Uitgeverij Verloren B.V., 2003), 23.

²⁴ John Jansen van Galen, “Afscheid van de Koloniën” (*Saying Goodbye to the colonies*) (PhD diss., Universiteit van Amsterdam, Year Unknown), 16.

²⁵ Limpach, *De Brandende Kampongs van Generaal Spoor*, 19.

²⁶ Glissenaar, *Indië verloren, rampspoed geboren*, 7.

²⁷ *Ibid.*, 10.

²⁸ *Ibid.*, 27.

²⁹ See for an overview of the Indonesian nationalist Gert Oostindie and Inge Klinkers, *Decolonising the Caribbean; Dutch Policies in a Comparative Perspective*, (Amsterdam: Amsterdam University Press, 2003), 66-71; Burgers, *De garoeda en de ooievaar*, 204-206.

³⁰ Burgers, *De garoeda en de ooievaar*, 204.

³¹ Oostindie and Klinkers, *Decolonising the Caribbean*, 70.

³² *Ibid.*, 65. See also Ministerie van Defensie, “1945-1949: Van Nederlands-Indië naar Indonesië” (1945-1949: From the Netherlands to Indonesia), *Tijdschrift militaire geschiedenis*,

<https://www.defensie.nl/onderwerpen/tijdschrift-militaire-geschiedenis/1945-1949-van-nederlands-indie-naar-indonesie>.

³³ Oostindie and Klinkers, *Decolonising the Caribbean*, 64.

³⁴ Van Galen, “Afscheid van de Koloniën,” (phd diss.), 29.

³⁵ Burgers, *De garoeda en de ooievaar*, 355; See also Janet van de Bunt, “Een regeling voor weduwen van slachtoffers van Nederlands geweld in Indonesië” (A Settlement Agreement for widows of victims of Dutch violence in Indonesia), *Nederlands Juristenblad*, 43, (2014): 3048.

³⁶ *Officiële Bescheiden van de Nederlands-Indische betrekkingen 1945-1950 (Official Notes of the Dutch-Indies relations 1945-1950)*, NIB, deel 5, no. 20; see also Hubrecht W. Van den Doel, *Afscheid van Indië. De val van het Nederlands imperium in Azië (Saying goodbye to the Indies. The fall of the Dutch emperium in Asia)*, (Amsterdam: Prometheus, 2000), 161.

³⁷ Van Galen, *Afscheid van de Koloniën*, 225.

³⁸ Oostindie and Klinkers, *Decolonising the Caribbean*, 71.

³⁹ Bart Luttikhuis and Dirk Moses, “Mass violence and the end of the Dutch colonial empire in Indonesia,” *Journal of Genocide Research* 14, no. 3-4 (2012): 266.

⁴⁰ United Nations Security Council, *Commission on the Question on Indonesia Report on Indonesia*, S/AC.10/85 (12 January 1948), 8.

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- ⁴¹ J.J.P. de Jong, *Diplomatie of strijd (Diplomacy or conflict)*, (Amsterdam: Boom Uitgevers, 1990), 36.
- ⁴² Van Galen, "Afscheid van de Koloniën," (phd diss.), 29-30.
- ⁴³ Van Galen, *Afscheid van de Koloniën*, 270; see also Ministerie van Defensie, "1945-1949: Van Nederlands-Indië naar Indonesië".
- ⁴⁴ Burgers, *De Garoeda en de Ooievaar*, 660-665, 749-754.
- ⁴⁵ Ibid., 749-754.
- ⁴⁶ Oostindie and Klinkers, *Decolonising the Caribbean*, 71.
- ⁴⁷ Limpach, *De Brandende Kampongs van Generaal Spoor*, 29.
- ⁴⁸ Ibid., 21; See also Mirjam Keunen, "Een spoor van brandende kampongs en stapels lijken" (A trail of Burning kampongs and heaps of bodies), *EenVandaag*, 2016, <https://eenvandaag.atavist.com/brandendekampongs>.
- ⁴⁹ Limpach, *De Brandende Kampongs van Generaal Spoor*, 21; See also Keunen, "Een spoor van brandende kampongs en stapels lijken".
- ⁵⁰ Stefania I. Scagliola, "Cleo's 'unfinished business': coming to terms with Dutch war crimes in Indonesia's war of independence," *Journal of Genocide Research* 14, no. 3-4 (2012): 430, see also Limpach, R., (2016), *De Brandende Kampongs van Generaal Spoor (The Burning Kampongs of General Spoor)*, Booms Uitgevers, Amsterdam, 28.
- ⁵¹ Limpach, *De Brandende Kampongs van Generaal Spoor*, 28.
- ⁵² Scagliola, "Cleo's 'unfinished business'," 419-439.
- ⁵³ Luttikhuis, "Juridisch afgedwongen excuses," 98; Limpach, *De Brandende Kampongs van Generaal Spoor*, 18.
- ⁵⁴ Scagliola, "Cleo's 'unfinished business'," 419-439.
- ⁵⁵ Limpach, *De Brandende Kampongs van Generaal Spoor*, 29.
- ⁵⁶ Scagliola, "Cleo's 'unfinished business'," 419; Remco Raben, "On genocide and mass violence in colonial Indonesia," *Journal of Genocide Research* 14, no. 3-4 (2012): 486; Iris Van Ooijen and Ilse Raaijmakers, "Competitive or multidirectional memory? The interaction between postwar and colonial memory in the Netherlands," *Journal of Genocide Research* 14, no. 3-4 (2012): 463-483.
- See also Steve Peté and Max Du Plessis, "Reparations for Gross Violations of Human Rights in Context," in *Repairing the Past? International Perspectives on Reparations for Gross Human Rights Violations*, eds. Steve Peté and Max Du Plessis (Antwerp: Intersentia, 2007), 11.
- ⁵⁸ Steve Peté and Max Du Plessis, "Reparations for Gross Violations of Human Rights in Context" in *Repairing the Past? International Perspectives on Reparations for Gross Human Rights Violations*, eds. Steve Peté and Max Du Plessis (Antwerp: Intersentia, 2007), 11.
- ⁵⁹ See Peté and Du Plessis, "Reparations for Gross Violations of Human Rights in Context," 11.
- ⁶⁰ Torpey, "Making Whole What Has Been Smashed," 334; Thompson, "Reparations for Historical Social Injustice," 5-6.
- ⁶¹ Torpey, "Making Whole What Has Been Smashed," 334; Thompson, "Reparations for Historical Social Injustice," 5-6; Weyeneth, "The Power of Apology and the Process of Historical Reconciliation," 36.
- ⁶² Weyeneth, "The Power of Apology and the Process of Historical Reconciliation," 36.
- ⁶³ Dinah Shelton, *Remedies in International Human Rights Law*, Third Edition, (Oxford: Oxford University Press, 2015), 263; Jana Thompson, "Historical Injustice and Reparation: Justifying Claims of Descendants," *Ethics* 112, no. 1 (2001): 115-116.
- ⁶⁴ Oomen, "The Rights for Others," 48.
- ⁶⁵ United Nations, "UN Member States – Founding Member States", accessed 28 January 2019, <http://www.un.org/depts/dhl/unms/founders.shtml>.
- ⁶⁶ Oomen, "The Rights for Others," 49.
- ⁶⁷ Natasja Gibbs, "Steeds meer gemeenten organiseren een officiële slavernijherdenking" (A growing amount of municipalities now organises an official slavery remembrance), *Caribisch Netwerk*, 26 June 2018, accessed 12 December 2018 at <https://caribischnetwerk.ntr.nl/2018/06/26/steeds-meer-gemeenten-organiseren-een-officiële-slavernijherdenking/>.
- ⁶⁸ Rob Hadders and Tom Kiel, "Excuses voor slavernijverleden: al twintig jaar onderwerp van discussie" (Apologies for slavery past: topic of discussion for twenty years), *EenVandaag*, 2 July 2018, <https://eenvandaag.avrotros.nl/item/excuses-voor-slavernijverleden-al-twintig-jaar-onderwerp-van-discussie/>; ANP, "Kabinet maakt geen excuses voor slavernijverleden ondanks oproep Aboutaleb" (Cabinet will not apologise despite call from Aboutaleb), *NU Politiek*, last updated 1 July 2018, <https://www.nu.nl/politiek/5340125/kabinet-maakt-geen-excuses-slavernijverleden-ondanks-oproep-aboutaleb-.html>.

⁶⁹ Bernard Bot, "On the 60th anniversary of the Republic of Indonesia's independence declaration," (Speech, Jakarta, Indonesia, 16 August 2005), at <http://indonesiadutch.blogspot.com/2009/10/speech-by-minister-bot-on-60th.html>; See also Limpach, *De Brandende Kampongs van Generaal Spoor*, 18.

⁷⁰ Limpach, *De Brandende Kampongs van Generaal Spoor*, 18; Patrick van IJzendoorn, "Rawagede' herdacht" ('Rawagede' remembered), *De Groene Amsterdammer*, no. 50 (12 December 2008), at <https://www.groene.nl/artikel/deze-week--128>; Elske Schouten, "Haarkloverij over spijt of excuus op West-Java" (Hair-splitting over regret or apology on West-Java), *NRC*, 9 December 2008.

⁷¹ Maxime Verhagen (CDA), in Tweede Kamer der Staten-Generaal, *Verslag van een Algemeen Overleg (Report of a General Meeting)*, Kamerstuk 26049, nr. 68, 2 April 2009, accessed at <https://zoek.officielebekendmakingen.nl/kst-26049-68.html>, 27, 34.

⁷² *Wisah Binti Silan e.a. v. De Nederlandse Staat (Wisah Binti Silan e.a. v. The Netherlands)*, 354119 / HA ZA 09-4171, Rechtbank Den Haag (Court The Hague), 14 September 2011, ECLI:NL:RBSGR:BS8793, at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBSGR:2011:BS8793>, §2.10, 4.11.

⁷³ Koninkrijk der Nederlanden (Kingdom of the Netherlands, *Bekendmaking van de Minister van Buitenlandse Zaken en de Minister van Defensie van 10 september 2013, nr. MinBuZa.2013-256644, van de contouren van een civielrechtelijke afwikkeling ter vergoeding van schade aan weduwen van slachtoffers van standrechtelijke executies in het voormalige Nederlands-Indië van vergelijkbare ernst en aard als Rawagedeh en Zuid Sulawesi (Announcement of the Minister of Foreign Affairs and the Minister of Defence of 10 September 2013, nr. MinBuZa.2013-256644, of the contours of a civil settlement as compensation for the damages to widows of victims of unlawful executions in the former Dutch Indies of similar severity and nature as Rawagedeh*", *Staatscourant* Nr. 25383 (10 September 2013), Nr. MinBuZa.2013-256644, at <https://zoek.officielebekendmakingen.nl/stcrt-2013-25383.html>; "Weduwen Sulawesi krijgen twee ton en excuses" (Widows Sulawesi to receive two hundred thousand euro and apologies), *NRC Next*, 9 August 2013, accessed 15 April 2018 at <https://www.nrc.nl/nieuws/2013/08/09/weduwen-sulawesi-krijgen-twee-ton-en-excuses-1281898-a346531>.

⁷⁴ Examples cases: "Staat aansprakelijk voor verkrachting in Nederlands-Indië" (State liable for rape in Dutch Indies), *Historiek*, accessed 15 April 2018 at <https://historiek.net/staat-aansprakelijk-voor-verkrachting-in-nederlands-indie/56471/>; "Staat draait bij in rechtspraak over verkrachting in Indonesië" (State changes mind in jurisdiction regarding rape in Indonesia), *NRC Next*, 2 May 2016, accessed 15 April 2018 at <https://www.nrc.nl/nieuws/2016/05/02/staat-draait-in-rechtspraak-over-verkrachting-in-i-1614679-a320601>; "Drie vonnissen over misdragingen van Nederlandse militairen in Nederlands-Indië in 1946-1949" (Three judgments regarding misconduct of Dutch soldiers in Dutch Indies in 1946-1949), *Rechtbank Den Haag (Court The Hague)*, 27 January 2016, accessed 15 April 2018 at <https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Rechtbanken/Rechtbank-Den-Haag/Nieuws/Paginas/Drie-vonnissen-over-misdragingen-van-Nederlandse-militairen-in-Nederlands-Indie-in-1946-1949.aspx>; and of course the children.

⁷⁵ *Stichting KUKB e.a. v. De Nederlandse Staat (KUKB Foundation v. The Dutch State)*, C/09/428182 / HA ZA 12-1165, Rechtbank Den Haag (Court The Hague), 11 March 2015, ECLI:NL:RBDHA:2015:2442, at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2015:2442>, §3.7.

⁷⁶ Limpach, *De Brandende Kampongs van Generaal Spoor*, 18.

⁷⁷ "Geld voor alle 'Indische weduwen'" (Money for all 'Indies widows'), *NOS Politiek*, 30 August 2013, accessed 5 February 2019 at <https://nos.nl/artikel/545977-geld-voor-alle-indische-weduwen.html>.

⁷⁸ Annemarie Kas, "Nieuw onderzoek naar dekolonisatie Indonesië" (New research into decolonisation Indonesia), *NRC Next*, 2 December 2016.

⁷⁹ Natalie Righton, "Kabinet akkoord met groot onderzoek naar geweld Indië" (Cabinet agrees to broad research into violence Indies), *de Volkskrant*, 2 December 2016.

⁸⁰ See KITLV, NIMH, and NIOD, "Onafhankelijkheid, dekolonisatie, geweld en oorlog in Indonesië, 1945-1950" (Independence, decolonization, violence and war in Indonesia, 1945-1950), accessed 1 May 2018 at <https://www.ind45-50.org/> for more information on the study.

⁸¹ See Kayleigh Goudsmit, "Dekolonisatie, Geweld en Oorlog in Indonesië 1945-1960" (Decolonisation, Violence and War in Indonesia 1945-1960), *Report on Theme Evening*, at <https://www.ind45-50.org/verslag-publieksbijeenkomst-dekolonisatie-rekolonisatie> for a report on the evening (in Dutch).

⁸² Limpach, *De Brandende Kampongs van Generaal Spoor*, 29.

⁸³ Kester Freriks, "Na zijn bekentenis kantelde het beeld over Indië" (After his confession the view on the Indies changed), *NRC Next*, 20 January 2016.

⁸⁴ Limpach, *De Brandende Kampongs van Generaal Spoor*, 28.

⁸⁵ Luttikhuis, "Juridisch afgedwongen excuses," 99.

⁸⁶ *Ibid.*, 98; Limpach, *De Brandende Kampongs van Generaal Spoor*, 18.

- ⁸⁷ Luttikhuis, "Juridisch afgedwongen excuses," 98-99.
- ⁸⁸ Scagliola, "Cleo's 'unfinished business'," 430; See also Limpach, *De Brandende Kampongs van Generaal Spoor*, 419-439.
- ⁸⁹ Paul Bijl, "Colonial memory and forgetting in the Netherlands and Indonesia," *Journal of Genocide Research* 14, no. 3-4 (2012): 441-461.
- ⁹⁰ Scagliola, "Cleo's 'unfinished business'," 424-427, 434.
- ⁹¹ Raben, "On genocide and mass violence in colonial Indonesia," 486.
- ⁹² Elsbeth Locher-Scholten, "Van Indonesische urn tot Indisch monument: vijftig jaar Nederlandse herinnering aan de Tweede Wereldoorlog in Azië" (From Indonesian urn to Indies monument: fifty years of Dutch remembrance to the Second World War), *BMCN* 2, (1999): 194.
- ⁹³ Locher-Scholten, "Van Indonesische urn tot Indisch monument," 194.
- ⁹⁴ "Indisch monument" (Indies monument), *Nationale Herdenking 15 Augustus 1945*, accessed 17 December 2018 at <https://www.indieherdenking.nl/indisch-monument/>.
- ⁹⁵ Frank Hendrickx, "Aandacht voor het koloniale verleden van Nederland groeit, maar het herdenken ervan blijft toch moeilijk" (Attention for the colonial past of the Netherlands increases, but remembering it remains difficult), *de Volkskrant*, 14 August 2008.
- ⁹⁶ "Uitgebreide Monumentbeschrijving" (Extensive Monument Description), 'Indisch monument', Den Haag, *Archief Oorlogsmonumenten*, accessed 19 December 2018 at <https://web.archive.org/web/20070211020157/http://www.oorlogsmonumenten.nl/omn/zoeken/monument/en/6355/?nav=detail>.
- ⁹⁷ "Nationaal Indië-monument 1945-1962" (National Indies-monument 1945-1962), *Stichting Nationaal Indië-monument 1945-1962*, accessed 19 December 2018 at <https://www.nim-roermond.nl/monumentnim.html>; Anita van Stel, "Inhaalslag: Indische monumenten zijn relatief nieuw" (Catch-up: Indies monuments are relatively new), *Nationaal Comité 4 en 5 mei*, 2016, accessed 19 December 2018 at https://www.4en5mei.nl/oorlogsmonumenten/achtergronden/inhaalslag_indische_monumenten_zijn_relatief_nieuw.
- ⁹⁸ Limpach, *De Brandende Kampongs van Generaal Spoor*; Bart Luttikhuis, Abdul Wahid, Robert Cribb and Harry Poeze, "Debate on De brandende kampongs van General Spoor by Rémy Limpach," *Journal of the Humanities and Social Sciences of Southeast Asia* 173, no. 4 (1 January 2017): 559-579.
- ⁹⁹ Rik Wassens, "Indië-klokkenluider Joop Hueting overleden" (Indies-whistleblower Joop Hueting passed away), *NRC NEXT*, 13 November 2018.
- ¹⁰⁰ M. De Ruyter, "En jullie schieten op alles wat beweegt" (And you shoot at everything that moves), *de Volkskrant*, 19 December 1968.
- ¹⁰¹ Limpach, *De Brandende Kampongs van Generaal Spoor*, 21; See also Keunen, "Een spoor van brandende kampongs en stapels lijken"
- ¹⁰² Veteran J.M. Baumann conceded that the Dutch army "had not behaved much better" than to what the "Nazi's did to us here in the war and the French did in Algiers", concluding that people will quickly lose their civilisation in a strange environment (Beeld en Geluid (Image and Sound), Archive *Achter het Nieuws*, ingezonden brief J.M. Baumann, nummer 2115 (submitted letter, number 2115), 21 January 1969). B.J. Blenkers, veteran of the Royal Airforce, confessed "to his disgrace and shame" that he had personally taken part in arson, torture and the murdering of kampong inhabitants (Beeld en Geluid (Image and Sound), Archive *Achter het Nieuws*, ingezonden brief B.J. Blenkers, nummer 2026 (submitted letter, number 2026), 20 January 1969). Yet other veterans denounced Hueting as a traitor and the network as extremely left-oriented, believing their and the army's reputation had been dragged through the mud, while at the same time denying such violations had ever taken place.¹⁰² Veteran W.A. de Grys writes: "This bribed 'loser' and traitor, liar without any proof, called Huetink (sic), has tarnished, smeared and offended a large part of the Netherlands' best sons (...). I also speak from experience because I was present at these two police actions, and the opposite is true. What Hueting means is merely a single sporadic occurrence from the hundreds as in every war." (Beeld en Geluid (Image and Sound), Archive *Achter het Nieuws*, ingezonden brief W.A. de Grys, nummer onleesbaar (submitted letter, number unreadable), 21 January 1969) Less strong in his dismissing attitude was W. Barentz, who did acknowledge Dutch 'excesses' to have taken place, yet strongly rejected the notion of burdening the complete army with the label of (war)crimes (Beeld en Geluid (Image and Sound), Archive *Achter het Nieuws*, ingezonden brief W. Barentz, nummer 2006 (submitted letter, number 2006), 20 January 1969). Limpach, *De Brandende Kampongs van Generaal Spoor*, 22.
- ¹⁰³ Karin van den Born, Yfke Nijland and Martijn Blekendaal, "De excessennota" (The excessnote), *Andere Tijden*, VPRO/NTR/NPO, 9 April 2002, accessed 15 April 2018 at <https://anderetijden.nl/afllevering/551/De-excessennota>.

¹⁰⁴ Ministerie van Algemene Zaken (Ministry of General Affairs), “De Excessennota” (The Excess Note), *Nota betreffende het archiefonderzoek naar de gegevens omtrent excessen in Indonesië begaan door Nederlandse militairen in de periode 1945-1950* (Note concerning the archival investigation into the data concerning excesses in Indonesia committed by Dutch soldiers in the period 1945-1950), Tweede Kamer 1968-1969, Kamerstuk 10 008, published June 1969, reprint available at

<https://start7mei.files.wordpress.com/2013/01/excessennota.pdf>; See also Born, Nijland and Blekendaal, “De excessennota”; Keunen, “Een spoor van brandende kampongs en stapels lijken”

¹⁰⁵ Born, Nijland and Blekendaal, “De excessennota”.

¹⁰⁶ Ministry of General Affairs, “De Excessennota,” Kamerstuk 10 008, 31.

¹⁰⁷ It would only become its own country within the Kingdom of the Netherlands on 10 October 2010, when a law went into force that established Curacao, as well as Sint Maarten, as countries within the Kingdom, stating in its first Article that “Curacao and Sint Maarten each have the capacity of State in the Kingdom; (...) The country the Dutch Antilles has been dissolved.” See *Rijkswet wijziging van het Statuut voor het Koninkrijk der Nederlanden in verband met de wijziging van de staatkundige hoedanigheid van de eilandgebieden van de Nederlandse Antillen* (Act amending the Statute for the Kingdom of the Netherlands in connection with the change of the political status of the island territories of the Netherlands Antilles), 7 September 2010, entry into force 10/10/2010, accessed at <https://zoek.officielebekendmakingen.nl/stb-2010-333.html>, arts. I (1 and 3).

¹⁰⁸ The uprisings were focused on the salary maloperation of Royal Shell. See Oostindie and Klinkers, *Decolonising the Caribbean*, 96-97.

¹⁰⁹ Oostindie and Klinkers, *Decolonising the Caribbean*, 97-98.

¹¹⁰ Cees Fasseur in Born, Nijland and Blekendaal, “De excessennota”.

¹¹¹ Born, Nijland and Blekendaal, “De excessennota”.

¹¹² Limpach, *De Brandende Kampongs van Generaal Spoor*, 581-582.

¹¹³ Limpach, *De Brandende Kampongs van Generaal Spoor*, 29.

¹¹⁴ Scagliola, “Cleo’s ‘unfinished business’,” 424.

¹¹⁵ Ibid., 425.

¹¹⁶ Limpach, *De Brandende Kampongs van Generaal Spoor*, 29.

¹¹⁷ Luttikhuis and Moses, “Mass violence and the end of the Dutch colonial empire in Indonesia,” 270.

¹¹⁸ See Ministry of General Affairs, “De Excessennota,” Kamerstuk 10 008, e.g. p 30-32.

¹¹⁹ Joeri Boom, “De Excessennota moet opnieuw” (The Excess note must be done again), *De Groene Amsterdammer*, no. 49 (5 December 2008), <https://www.groene.nl/artikel/de-excessennota-moet-opnieuw>.

¹²⁰ Joop Hueting, “Je moet je trauma’s niet romantiseren” (You should not romanticise your traumas), interview by Rob Ruggenberg, last modified 10-03-1995, accessed 12 April 2018 at <http://www.ruggenberg.nl/artikelen/hueting.html>.

¹²¹ See Prime Minister Piet de Jong’s concluding observations in Ministry of General Affairs, “De Excessennota,” Kamerstuk 10 008, 32 (complete observations 31-33); See also Limpach, *De Brandende Kampongs van Generaal Spoor*, 29-30.

¹²² Limpach, *De Brandende Kampongs van Generaal Spoor*, 31.

¹²³ ANP/Redactie, “Excuses en schadevergoeding voor nabestaanden bloedbad Rawagede” (Apologies and compensation for survivors bloodbath Rawagede), *De Volkskrant*, 5 December 2011.

¹²⁴ NA, PG, 1304, “Zaak Majoor Wijnen” (Case Major Wijnen), 27 July 1948, in Limpach, *De Brandende Kampongs van Generaal Spoor*, Footnote 237, Ch. 4.

¹²⁵ Ibid.

¹²⁶ Limpach, *De Brandende Kampongs van Generaal Spoor*, 760.

¹²⁷ Ibid., 760.

¹²⁸ NOS, “Wat gebeurde er destijds op Zuid-Sulawesi?,” (What happened on South-Sulawesi?), *NOS Binnenland*, 11 March 2015, accessed 17 April 2018 at <https://nos.nl/artikel/2024092-wat-gebeurde-er-destijds-op-zuid-sulawesi.html>.

In general it is unclear of how many Indonesians died during the war. In their 2017 article ‘Who counts the dead Indonesians?’ (*Wie telt de Indonesische doden?*), Christiaan Harinck, Nico van Horn and Bart Luttikhuis mention several amounts citing different sources, e.g. Willem IJzereef (1984), who mentioned 6500 deaths, and Loe de Jong (1988), who came to 100.000. Harinck, van Horn and Luttikhuis come to the conclusion that 100.000 must be seen as the ‘lower threshold’. See Christiaan Harinck, Nico van Horn and Bart Luttikhuis, “Wie telt de Indonesische doden?” (Who counts the dead Indonesians?), *De Groene Amsterdammer*, no. 30 (26 July 2017), <https://www.groene.nl/artikel/wie-telt-de-indonesische-doden>

¹²⁹ Limpach, *De Brandende Kampongs van Generaal Spoor*, 741.

¹³⁰ Ibid. 309-310.

- ¹³¹ NA, AS, 3742, Spoor to Van Mook, 7 June 1948, cited by Limpach, *De Brandende Kampongs van Generaal Spoor*, 310, note 199.
- ¹³² Ibid.
- ¹³³ Ibid.
- ¹³⁴ Scagliola, "Cleo's 'unfinished business'," 425.
- ¹³⁵ Minister of Justice, *Memorie van antwoord inzake het ontwerp van wet houdende nadere regels betreffende de verjaring van het recht tot strafvordering en uitvoering van straf terzake van oorlogsmisdrijven en misdrijven tegen de menselijkheid* (Memorandum of reply concerning the draft law laying down further rules concerning the limitation period for the right to siege and execution of criminal offenses relating to war crimes and crimes against humanity), 17 March 1971, stafd. Wetgeving Publiekrecht Nr. 164/671.
- ¹³⁶ Ministerie van Justitie (Ministry of Justice), *Nota 10251*, 6 April 1971, from Mr. W. Breukelaar, regarding Wetsontwerp uitsluiting verjaring voor oorlogsmisdrijven (Bill exclusion time-barring war crimes).
- ¹³⁷ Ministry of Justice, Subsection Post- and Archive Matters, received a note on 24 June 1969, with a note stating: 'nice, Indonesia solves itself on 1 July' (translation from original text: 'fijn, Indonesie lost zich 1 juli op'. See Annex 1 for pictured document.
- ¹³⁸ *Wet houdende vaststelling van nadere regels betreffende de verjaring van het recht tot strafvordering en uitvoering van straf terzake van oorlogsmisdrijven, en misdrijven tegen de mensheid* (Act laying down further rules concerning the limitation period for the right to prosecute and execution of criminal offenses relating to war crimes and crimes against humanity), 210, A b5/5b, 8 April 1971.
- ¹³⁹ UNGA, *Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity*, 11 November 1970, at http://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.27_convention%20statutory%20limitations%20warcrimes.pdf.
- ¹⁴⁰ Tweede Kamer der Staten-Generaal, *Memorie van Toelichting, nadere regels betreffende de verjaring van het recht tot strafvordering en uitvoering van straf terzake van oorlogsmisdrijven en misdrijven tegen de menselijkheid* (Explanatory Memorandum, further rules concerning the limitation period for the right to prosecution and execution of criminal offenses relating to war crimes and crimes against humanity), no. 3, zitting 1968-1969, 13.
- ¹⁴¹ Ministry of Justice, *Nota over vraagstuk van de verjaring bij oorlogsmisdrijven en misdrijven tegen de menselijkheid* (Note on the issue of the limitation period for war crimes and crimes against humanity), no. 374/668, 27 August 1968.
- ¹⁴² Rogier Ormel, "Voor het kwaad dat is geschied" (For the harm that has been done), *de Volkskrant*, 8 December 2010.
- ¹⁴³ Minister of Justice, *Memorie van antwoord*, Nr. 164/671.
- ¹⁴⁴ Ibid.
- ¹⁴⁵ Scagliola, "Cleo's 'unfinished business'," 419.
- ¹⁴⁶ Raben, "On genocide and mass violence in colonial Indonesia," 486.
- ¹⁴⁷ Scagliola, "Cleo's 'unfinished business'," 419-439; Van Ooijen and Raaijmakers, "Competitive or multidirectional memory?," 463-483; Raben, "On genocide and mass violence in colonial Indonesia," 486.
- ¹⁴⁸ See for example Ministry of General Affairs, "De Excessennota," Kamerstuk 10 008; Han ten Broeke cited in Emilie van Outer, "Breeduit sorry zeggen is nog een stap te ver" (Apologising broadly is a step too far), *NRC Handelsblad*, 20 August 2013.
- ¹⁴⁹ Stefania I. Scagliola, *Last van de oorlog, De Nederlandse oorlogsmisdaden in Indonesië en hun verwerking* (The war as a burden, The Dutch war crimes in Indonesia and their processing), (Amsterdam, 2002), 178.
- ¹⁵⁰ Scagliola, "Cleo's 'unfinished business'," 430; Limpach, *De Brandende Kampongs van Generaal Spoor*, 28.
- ¹⁵¹ Limpach, *De Brandende Kampongs van Generaal Spoor*, 28.
- ¹⁵² Scagliola, "Cleo's 'unfinished business'," 430.
- ¹⁵³ Burgers, *De Garoeda en de Ooievaar*, 625-626.
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- ¹⁵⁶ Rudy Kousbroek, "Princen en de doofpot van onze Indische historie" (Princen and the Silencing of our Indies History), *NRC Handelsblad*, 20 August 1993, translation of quote from Dutch to English by Scagliola, "Cleo's 'unfinished business'," 430.
- ¹⁵⁷ Scagliola, "Cleo's 'unfinished business'," 430.
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- ¹⁵⁹ Gerlof Leistra, "1949 – De Indiëganger: Den vaderland getrouwe" (1949 – The Indies soldier: Faithful tot he motherland), *Elsevier*, no. 43 (24 October 2015), <https://www.elsevierweekblad.nl/nederland/article/2015/10/1949-de-indiganger-den-vaderland-getrouwe-2700617W/>.
- ¹⁶⁰ See for example "Homepage," *Indiegangers.nl*, accessed 6 November 2018 at <http://www.indiegangers.nl/>; Born, Nijland and Blekendaal, "De excessennota".
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- ¹⁶² *Ibid.*, 469-470.
- ¹⁶³ Limpach, *De Brandende Kampongs van Generaal Spoor*, 29.
- ¹⁶⁴ Van Ooijen and Raaijmakers, "Competitive or multidirectional memory?," 465.
- ¹⁶⁵ *Ibid.*, 472.
- ¹⁶⁶ *Ibid.*, 467, 472.
- ¹⁶⁷ Luttikhuis and Moses, "Mass violence and the end of the Dutch colonial empire in Indonesia," 261.
- ¹⁶⁸ Oostindie and Klinkers, *Decolonising the Caribbean*, 69-70.
- ¹⁶⁹ Garoeda en Ooievaar, 113.
- ¹⁷⁰ Ministerie van Defensie, '1945-1949: Van Nederlands-Indië naar Indonesië' (1945-1949: From the Netherlands to Indonesia), *Tijdlijn militaire geschiedenis*, retrieved from <https://www.defensie.nl/onderwerpen/tijdlijn-militaire-geschiedenis/1945-1949-van-nederlands-indie-naar-indonesie>
- ¹⁷¹ Oostindie and Klinkers, *Decolonising the Caribbean*, 69
- ¹⁷² Burgers, *De Garoeda en de Ooievaar*, 362.
- ¹⁷³ *Ibid.*, 113.
- ¹⁷⁴ *Ibid.*, 113-114.
- ¹⁷⁵ *Ibid.*, 113-114.
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- ¹⁷⁹ Scagliola, "Cleo's 'unfinished business'," 420-421.
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- ¹⁸² Bijl, "Colonial memory and forgetting in the Netherlands and Indonesia," 450.
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- ¹⁸⁴ Scagliola, "Cleo's 'unfinished business'," 435.
- ¹⁸⁵ *Ibid.*, 442.
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- Luttikhuis and Moses, "Mass violence and the end of the Dutch colonial empire in Indonesia," 270.
- ¹⁸⁸ Bijl, "Colonial memory and forgetting in the Netherlands and Indonesia," 444.
- ¹⁸⁹ *Ibid.*, 444.
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- ¹⁹¹ Limpach, *De Brandende Kampongs van Generaal Spoor*, 19.
- ¹⁹² Scagliola, "Cleo's 'unfinished business'," 420.
- ¹⁹³ *Ibid.*, 419.
- ¹⁹⁴ See Jacobus A.A. Van Doorn and Willem J. Hendrix, *Ontsporing van geweld: Over het Nederlands/Indisch/Indonesisch conflict*, (Rotterdam: Universitaire Pers, 1970), 222.
- ¹⁹⁵ See Limpach, *De Brandende Kampongs van Generaal Spoor*, 35.
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- ²¹² Shaw, *International Law*, 813.
- ²¹³ Bantekas and Oette refer to Henig, R., & Sharp, A., *Makers of a Modern World Subscription: The League of Nations* (London: Haus Publishing, 2010), in Ilias Bantekas and Lutz Oette, *International Human Rights Law and Practice*, (Cambridge: Cambridge University Press, 2013), 17, footnote 32.
- ²¹⁴ Shaw, *International Law*, 22.
- ²¹⁵ United Nations General Assembly (UNGA), *Charter of the United Nations*, 24 October 1945, art. 1(3).
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- ²³⁴ UNGA, Resolution 60/147, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, A/RES/60/147 (16 December 2005), articles 15 – 23.
- ²³⁵ UNGA, *Basic Principles*, Art. 15.
- ²³⁶ Restitution is meant to restore the victim to his or her 'original situation', thus the situation before the crime was committed. It can be achieved through measures and tools that aim to restore 'liberty, enjoyment

of human rights, identity, family life and citizenship', and employment; the return to one's place of residence as well as the return of property. See UNGA, *Basic Principles*, Art. 19.

²³⁷ Compensation is meant to repair 'economically assessable damage' incurred through physical or mental harm, lost opportunities (also through for instance loss of employment or education), 'material loss or loss of earnings', also including the earning potential, any moral damage, and the 'costs required for legal or expert assistance, medicine and medical services, and psychological and social services'. See Article 20.

²³⁸ Measures of rehabilitation includes the provision of medical and psychological care, together with legal and social services. See UNGA, *Basic Principles*, Art. 21.

²³⁹ With regards to the category of satisfaction, there are many measures that can be applied alone or together, ranging from those aiming at the "cessation of violence" to seeking the truth (see van Boven, T., 39), searching for those who have disappeared, finding and identifying bodies, reburials, et cetera, et cetera; but also measures such as (and many others) restoring the dignity and rights of the victims and those related through an official declaration or a judicial decision; issuing a public apology; judicial and administrative sanctioning those who are liable; and victim commemoration and tributes. See UNGA, *Basic Principles*, Art. 22.

²⁴⁰ Finally, guarantees of non-repetition must be focused on preventing the crime of ever happening again and can include options such as (amongst others) ensuring all proceedings, military and civilian, to adhere to international standards of due process, fairness and impartiality and promoting mechanisms that prevent and monitor social conflicts and their resolution. See UNGA, *Basic Principles*, Art. 23.

²⁴¹ UNGA, *Basic Principles*, Art. 18.

²⁴² Theo van Boven, "Victims' Rights to a Remedy and Reparation: The New United Nations Principles and Guidelines," in *Reparations for Victims of Genocide, War Crimes and Crimes Against Humanity: Systems in Place and Systems in the Making*, eds. Carla Ferstman, Marianna Goetz and Alan Stephens (Leiden: Martinus Nijhoff, 2009), 38-39.

²⁴³ Larissa Van den Herik, "Addressing 'Colonial Crimes' through Reparations?," *Journal of International Criminal Justice* 10, no. 3 (2012): 702.

Theo van Boven emphasised that they are not mutually exclusive and that flexibility is possible and offered the possibility of parallelly applying the elements (see Theo van Boven, "Victims' Rights to a Remedy and Reparation," 22-24, 39).

²⁴⁴ Herik, "Addressing 'Colonial Crimes' through Reparations?," 703.

²⁴⁵ Torpey, "Making Whole What Has Been Smashed: Reflections on Reparations," 334; Benjamin Thompson, "Reparations for Historical Social Injustice," (MA Thesis, McGill University Montreal, 2009), 5, 6.

²⁴⁶ Shelton, *Remedies in International Human Rights Law*, 263.

²⁴⁷ Bantekas and Oette, *International Human Rights Law and Practice*, 534.

²⁴⁸ Anna Dunham, "Should there be reparations to postcolonial states?," United Nations Fourth Committee: Special Political and Decolonization, *ODUMUNC 2017 Issue Brief*, at <https://www.odu.edu/content/dam/odu/offices/mun/2017/ib-2017-fourth-reparations-final.pdf>, (2017): 2.

²⁴⁹ Dinah Shelton, "The World of Atonement: Reparations for Historical Injustices," *Netherlands International Law Review* 50, no. 3 (2003): 299.

²⁵⁰ Torpey, "Making Whole What Has Been Smashed," 334.

²⁵¹ Ibid.

²⁵² Thompson, "Reparations for Historical Social Injustice," 5-6.

²⁵³ Ibid., 6.

²⁵⁴ Weyeneth, "The Power of Apology and the Process of Historical Reconciliation," 36.

²⁵⁵ Elazar Barkan, *The Guilt of Nations: Restitution and Negotiating Historical Injustices* (New York: W.W. Norton, 2000).

²⁵⁶ Weyeneth, "The Power of Apology and the Process of Historical Reconciliation," 38.

²⁵⁷ "Fresh Air," 18 March 1998, National Public Radio, in Weyeneth, "The Power of Apology and the Process of Historical Reconciliation," 38.

²⁵⁸ Jeremy Sarkin, "Should Reparations for massive human rights abuses perpetrated on African victims during colonial times be given?," in *Justice for Victims*, eds. Inge Vanfraechem, Antony Pemberton and Felix Mukwiza Ndahinda (London/NY: Routledge, 2014), 89.

²⁵⁹ World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, *Declaration*, Durban, 31 August to 8 September 2011, at <http://www.un.org/WCAR/durban.pdf>, 7.

²⁶⁰ Some authors argue that Transitional Justice started as a field directly after the second World War with the Nuremberg and Tokyo trials. For this, see Louis Bickford, "Transitional Justice," in *The Encyclopedia of Genocide and Crimes Against Humanity*, vol. 3, eds. Louis Bickford and Dinah Shelton (USA: Macmillan Reference, 2004), 1045; see also Vesuki Nesiah, "Transitional Justice Practice: Looking Back, Moving Forward,"

Research Report, Scoping Study, Impunity Watch, (May 2016): 6. Both Vesuki Nesiah and Ruti Teitel describe the first phase of Transitional Justice starting after the Second World War (see Nesia, "Transitional Justice Practice," 6; Ruti Teitel, "Transitional Justice Genealogy," *Harvard Human Rights Law* 16, no. 69 (2003): 70). Many others believe the field officially emerged in the 1980s, as a response to the Latin American painful transitions after dictatorships (Heather McRobie, "Introduction," in *Transitional Justice*, Chapter 15, (2015), accessed at <https://ohrh.law.ox.ac.uk/wordpress/wp-content/uploads/2015/08/Chapter15.pdf>, 356). David describes how the paradigm started to shift in the 1980s and 1990s, with different patterns of mass human rights violations, "different dynamics of regime change, and different power constellations after transition" resulted in a variety of alternative measures of justice being devised (see Roman David, "What We Know About Transitional Justice: Survey and Experimental Evidence," *Advances in Political Psychology* 38, no. 1 (2017): 152).

²⁶¹ David, "What We Know About Transitional Justice," 152; Heather McRobie, "Introduction," 356.

²⁶² Bickford, "Transitional Justice," 1046.

²⁶³ "What is Transitional Justice?", International Center for Transitional Justice, accessed 12 August 2018 at <https://www.ictj.org/about/transitional-justice>.

²⁶⁴ United Nations, *Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice*, 10 March 2010, https://www.un.org/ruleoflaw/files/TJ_Guidance_Note_March_2010FINAL.pdf; Wendy Lambourne, "What are the pillars of Transitional Justice?," *Macquarie Law Journal* 13, (2014): 43.

²⁶⁵ Trial International, "What is Transitional Justice?."

²⁶⁶ Bantekas and Oette, *International Human Rights Law and Practice*, 525.

²⁶⁷ Pablo de Greiff, "Justice and Reparations" in *The Handbook of Reparations*, ed. Pablo de Greiff (Oxford: Oxford University Press, 2006), 451-477.

²⁶⁸ See for example "What is Transitional Justice?", ICTR; Nesia, "Transitional Justice Practice," 10; David, "What We Know About Transitional Justice," 153-154.

²⁶⁹ UN, *Guidance Note of the Secretary-General*, 8-9.

²⁷⁰ Jennifer Balint, Julie Evans, and Nesam McMillan, "Rethinking Transitional Justice, Redressing Indigenous Harm: A New Conceptual Approach," *The International Journal of Transitional Justice* 8, no. 2 (2014): 196.

²⁷¹ Balint, Evans, and McMillan, "Rethinking Transitional Justice, Redressing Indigenous Harm," 198.

²⁷² Nesia, "Transitional Justice Practice," 11.

²⁷³ Shelton, "The World of Atonement," 305.

²⁷⁴ Ibid.

²⁷⁵ Ibid., 305-306.

²⁷⁶ Ibid., 306.

²⁷⁷ Ibid.

²⁷⁸ Catherine Lu, "Colonialism as Structural Injustice: Historical Responsibility and Contemporary Redress," *The Journal of Political Philosophy* 19, no. 3 (2011): 278.

²⁷⁹ Shelton, "The World of Atonement," 306.

²⁸⁰ Jeffrey K. Olick and Brenda Coughlin, "The Politics of Regret: Analytical Frames," in *Politics and the Past*, ed. John Torpey (Lanham, Md.: Rowman & Littlefield Publishers, 2003), 42.

²⁸¹ Glen Pettigrove, "Apology, Reparations and the Question of Inherited Guilt," *Public Affairs Quarterly* 17, no. 4 (2003): 324; see also Elazar Barkan and Alexander Karn, "Group apology as an ethical imperative," in *Taking Wrongs Seriously: Apologies and Reconciliation*, eds. Elazar Barkan and Alexander Karn (Stanford: Stanford University Press, 2006), 6.

²⁸² Bantekas and Oette, *International Human Rights Law and Practice*, 534.

²⁸³ Kok-Chor Tan, "Colonialism, Reparations, and Global Justice," in *Reparations: Interdisciplinary Inquiries*, eds. Jon Miller and Rahul Kumar (Oxford: Oxford University Press, 2007), 302.

²⁸⁴ Shelton, "The World of Atonement," 306-307.

²⁸⁵ Weyeneth, "The Power of Apology and the Process of Historical Reconciliation," 26.

²⁸⁶ Weyeneth, "The Power of Apology and the Process of Historical Reconciliation," 27.

²⁸⁷ Chiara De Cesari, "The paradoxes of colonial reparation: Foreclosing memory and the 2008 Italy-Libya Friendship Treaty," *Memory Studies* 5, no. 3 (2012): 319.

²⁸⁸ For an unofficial translation of Sarkozy's speech see Nicolas Sarkozy, "Address at the University of Cheikh Anta Diop," (Speech, Senegal, 26 July 2007), at <https://www.africaresource.com/essays-a-reviews/essays-a-discussions/437-the-unofficial-english-translation-of-sarkozys-speech>. The link to the speech in French on the French government's website has expired.

- ²⁸⁹ For Brown's speech while on tour through Africa in 2005, see Benedict Brogan, "It's time to celebrate the Empire, says Brown," *Daily Mail*, 15 January 2005, accessed 15 April 2019 at www.dailymail.co.uk/news/article-334208/Its-time-celebrate-Empire-says-Brown.html#ixzz1OylFyfk0.
- ²⁹⁰ Weyeneth, "The Power of Apology and the Process of Historical Reconciliation," 36.
- ²⁹¹ Walter Shapiro and Kathleen Adams, "Mama Mia, That's A Mea Culpa," *Time Inc.* 149, no. 26 (1997): 18.
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⁴⁵⁴ Koninkrijk der Nederlanden, *Staatscourant* Nr. 25383.

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⁴⁵⁶ Ibid., §3.

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⁴⁶¹ Veraart, "Uitzondering of precedent?," 255.

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⁴⁶³ “Teruggave geld Tweede Wereldoorlog” (Return money Second World War), *Rijksoverheid*, accessed 12 April 2018 at <https://www.rijksoverheid.nl/onderwerpen/tweede-wereldoorlog/teruggave-tegoeden-tweede-wereldoorlog>.

⁴⁶⁴ Tweede Kamer der Staten-Generaal, *Brief van de Minister-President*, 25 839, 8 – 12.

⁴⁶⁵ This amount, following the recommendations made by the Commission which suggested a collective payment to the Jewish society, see Tweede rapport Commissie van Onderzoek Liro-archieven 9 december 1998, 12; The amount was split in €159.7 million for payments to Dutch Jews and Jewish charities/organisations, and €21,8 in support to Jewish communities in Europe. €1.6 million has been paid in support to the International Gay/Lesbian Information Centre and Archive (Internationaal Homo/Lesbisch Informatiecentrum en Archief, IHLIA). €13.6 million has been granted to the Sinti- and Roma community. Finally, over €174 million was made available for individual payments and donations to charities for the victims of the Japanese occupation in Dutch-Indies (see Rijksoverheid, “Teruggave geld Tweede Wereldoorlog” (Refunding money Second World War), *Rijksoverheid*, accessed 22 March 2018 at

<https://www.rijksoverheid.nl/onderwerpen/tweede-wereldoorlog/teruggave-tegoeden-tweede-wereldoorlog>). €158.8 million was made available for individual payments to people with the Dutch nationality who experienced the Japanese occupation, and another €15.9 was paid to in collective payments to charities (see “De ‘afronding’ van het naoorlogse rechtsherstel” (The ‘completion’ of the postwar restorative justice), *Oorlogsgetroffenen WO2, terugkeer, opvang, nasleep*, accessed 22 March 2018 at http://www.oorlogsgetroffenen.nl/thema/rechtsherstel/08_De_afronding_van_het_naoorlogs_rechtsherstel).

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⁴⁶⁷ *Wisah Binti Silan e.a. v. De Nederlandse Staat*, ECLI:NL:RBSGR:2011:BS8793, §4.16

⁴⁶⁸ *Ibid.*, §4.16

⁴⁶⁹ *Ibid.*, §4.10.

⁴⁷⁰ *Ibid.*, §4.16-4.19; See also Veraart, “Uitzondering of precedent?,” 255.

⁴⁷¹ Redactie, “Advocaat Zegveld blij met brede erkenning voor weduwen Indonesië” (Lawyer Zegveld happy with broad recognition for widows Indonesia), *de Volkskrant*, 12 September 2013.

⁴⁷² Emilie van Outeren, “‘Sympathieke’ regeling levert stokoude weduwen nog niets op” (‘Sympathetic’ agreement has not produced anything yet for the widows), *NRC Next*, 22 May 2014.

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⁴⁷⁴ “Rutte: excuus voor alle ‘Indische weduwen’,” *NOS Politiek*.

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⁴⁷⁶ Greiff, “Justice and Reparations,” 469.

⁴⁷⁷ Bunt, “Een regeling voor weduwen,” 3051-3054.

⁴⁷⁸ Koninkrijk der Nederlanden, *Staatscourant* Nr. 25383, 2, §2.

⁴⁷⁹ *Ibid.*

⁴⁸⁰ *Ibid.*, §3.

⁴⁸¹ Bantekas and Oette, *International Human Rights Law and Practice*, 556.

⁴⁸² Bunt, “Een regeling voor weduwen,” 3051.

⁴⁸³ Bunt, “Een regeling voor weduwen,” 3054.

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- ⁵⁰⁹ David Taylor, “Victim Participation in Transitional Justice Mechanisms: Real Power or Empty Ritual?,” *Discussion Paper*, Impunity Watch, April 2014, 10-11.
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- ⁵¹⁵ *Stichting KUKB e.a. v. De Nederlandse Staat*, ECLI:NL:RBDHA:2015:2442, §3.7.
- ⁵¹⁶ *Wisah Binti Silan e.a. v. De Nederlandse Staat*, ECLI:NL:RBSGR:2011:BS8793, §4.1.
- ⁵¹⁷ *Stichting KUKB e.a. v. De Nederlandse Staat*, ECLI:NL:RBDHA:2015:2442, §4.19.
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- ⁵¹⁹ *Ibid.*, 55.
- ⁵²⁰ See for this also the Appeals Chamber in Thomas Lubanga Case: “The Appeals Chamber considers that the harm suffered by a natural person is harm to that person, i.e. personal harm. Material, physical, and psychological harm are all forms of harm that fall within the rule if they are suffered personally by the victim. Harm suffered by one victim as a result of the commission of a crime within the jurisdiction of the Court can give rise to harm suffered by other victims.” *The Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06-1432, OA9 OA10, Judgment on the appeals of The Prosecutor and The Defence against Trial Chamber I’s Decision on Victims’ Participation, 18 January 2008, §39.
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- ⁵³⁰ “Macron admits French guilt in torturing activist in Algeria War,” *France24*, 13 September 2018, accessed 28 September 2018 at <https://www.france24.com/en/20180913-macron-admits-france-guilt-maurice-audin-torture-activist-algeria-war-battle-algiers>; Angelique Chrisafis, “France admits systematic torture during Algeria war for first time,” *The Guardian*, 13 September 2018, accessed 28 September 2018 at <https://www.theguardian.com/world/2018/sep/13/france-state-responsible-for-1957-death-of-dissident-maurice-audin-in-algeria-says-macron>; Belia Heilbron, “Macron erkent Franse martelingen tijdens Algerijnse oorlog” (Macron acknowledges French torture during Algerian war), *NRC Next*, 13 September 2018.
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- ⁵³³ Meindert van der Kaaij, “Meneer Yaseman doet zijn verhaal vanuit Indonesië in Nederlandse rechtszaal” (Mr. Yaseman tells his story in Dutch courtroom live from Indonesia), *Trouw*, 7 July 2017.
- ⁵³⁴ Christiaan Paauwe, “Indonesiër die Nederland aanklaagde voor marteling overleden” (Indonesian man who sued the Netherlands for torture has passed away), *NRC Next*, 18 September 2017.
- ⁵³⁵ *Zegveld (vertegenwoordiger) v. De Nederlandse Staat (Zegveld (representation) v. The Dutch State)*, C/09/483033 / HA ZA 15-201, Rechtbank Den Haag (Court The Hague), 18 July 2018, ECLI:NL:RBDHA:2017:13556, at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2018:8525>, §3.1.
- ⁵³⁶ *Zegveld (representation) v. De Nederlandse Staat*, ECLI:NL:RBDHA:2017:13556, §3.2 and 3.3.
- ⁵³⁷ See Stichting K.U.K.B., “Nederlandse Staat in Hoger Beroep Martelingszaak Yaseman” (Dutch State appeals Torture Case Yaseman), *Press release*, 11 October 2018, accessed 11 October 2018 at <https://historibersama.com/dutch-state-appeals-yasemans-case-of-torture/?lang=nl>; see also ANP, “Staat in beroep tegen veroordeling voor folteren Indonesiër in 1947” (State appeals conviction for torturing Indonesian man in 1947), *NU.nl*, 11 October 2018, accessed 11 October at <https://www.nu.nl/binnenland/5509298/staat-in-beroep-veroordeling-folteren-indonesier-in-1947.html>. Interesting to note: only nu.nl and some smaller websites make mention of this fact. Larger Dutch news websites and newsletters (such as NOS, NRC, Trouw, de Volkskrant, de Telegraaf) make no mention of the Dutch State appealing the decision.
- ⁵³⁸ See Stichting K.U.K.B., “Nederlandse Staat in Hoger Beroep Martelingszaak Yaseman”.
- ⁵³⁹ It is not possible for the entire history and case of Srebrenica to be discussed here. For further information, I refer the reader to for example Jan Willem Honig and Norbert Both, *Srebrenica: Record of a war crime*, (London: Penguin Books, 1996); David Rohde, *Endgame: the betrayal and fall of Srebrenica, Europe's worst massacre since World War II*, (London: Penguin, 2012); André Nollkaemper, “Dual attribution: liability of the Netherlands for conduct of Dutchbat in Srebrenica,” *Journal of International Criminal Justice* 9, no. 5 (2011): 1143-1157.
- ⁵⁴⁰ NOS, “Advies: Staat niet aansprakelijk voor Srebrenica” (Advice: State not responsible for Srebrenica), *NOS Binnenland*, 1 February 2019, accessed 1 February 2019 at <https://nos.nl/artikel/2270026-advies-staat-niet-aansprakelijk-voor-srebrenica.html>.
- ⁵⁴¹ *Stichting Mothers of Srebrenica, Fejic e.a. v. De Staat der Nederlanden (Ministerie van Algemene Zaken) en De Verenigde Naties (Mothers of Srebrenica Foundation, Fejic e.a. v. The State of the Netherlands (Ministry of General Affairs) and the United Nations)*, Dagvaarding (Subpoenae), 4 June 2007, accessed at <https://www.vandiepen.com/wp-content/uploads/2017/03/1-dagvaarding-4-juni-2007.pdf>, §286.
- ⁵⁴² *Stichting Mothers of Srebrenica e.a. v. De Staat der Nederlanden (Mothers of Srebrenica foundation e.a. v. The State of the Netherlands)*, 200.158.313/01 and 200.160.317/01, Court The Hague, 27 June 2017, accessed at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHDHA:2017:1761>; “Nederland deels aansprakelijk voor schade van Moeders van Srebrenica” (The Netherlands partly liable for damage of Mothers from Srebrenica), *Gerechtshof Den Haag (Court The Hague)*, 27 June 2017, accessed 2 February 2019 at <https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Gerechtshoven/Gerechtshof-Den-Haag/Nieuws/Paginas/Nederland-deels-aansprakelijk-voor-schade-van-Moeders-van-Srebrenica.aspx>.
- ⁵⁴³ NOS, “Advies: Staat niet aansprakelijk voor Srebrenica”.
- ⁵⁴⁴ George Marlet, “Verbijstering over lintje Dutchbat Srebrenica” (Bewilderment over decoration Dutchbat Srebrenica), *Trouw*, 4 November 2006. There are no further official documents from the Dutch State confirming this. The websites containing information regarding the issuing of the acknowledgement give errors when trying to open them. See for example <https://www.defensie.nl/actueel/nieuws/2006/12/04/blijk-van-erkenning-voor-dutchbat-iii>; <https://www.nmm.nl/zoeken-in-de-collectie/detail/889263/>.
- ⁵⁴⁵ Burgers, *De garoeda en de ooievaar*, 355.
- ⁵⁴⁶ Bernard Bot, “Toespraak ter gelegenheid van de 15 augustus-herdenking bij het Indië-monument” (Speech for the occasion of the 15 August-memorial at the Indies-monument), (Speech, Den Haag, 15 August 2005), at <http://indonesiadutch.blogspot.com/2009/10/toespraak-ter-gelegenheid-van-de-15.html>.
- ⁵⁴⁷ “De Facto/De Jure,” *Washington University in St. Louis, School of Law*, 28 December 2012, accessed 20 October 2018 at <https://onlinelaw.wustl.edu/blog/legal-english-de-factode-jure/>.
- ⁵⁴⁸ Ediberto Román, “Reparations and the Colonial Dilemma: The Insurmountable Hurdles and Yet Transformative Benefits,” *Berkeley La Raza Law Journal*, 13, (2002): 369.
- ⁵⁴⁹ Mark Gibney and Erik Roxstrom, “The Status of State Apologies,” *Human Rights Quarterly*, 23 (2001): 911–912.
- ⁵⁵⁰ Gibney and Roxstrom, “The Status of State Apologies,” 911-912.

⁵⁵¹ Luttkhuis, "Juridisch afgedwongen excuses," 104.

⁵⁵² This latter point is a problem Luttkhuis illustrates in his article, at 103-104.

⁵⁵³ Yuri Visser, "Schadevergoeding mogelijk voor meer Indische weduwen" (Compensation possible for more widows from the Indies), *Historiek*, Date Unknown, accessed 22 March 2018 at <https://historiek.net/schadevergoeding-mogelijk-meer-indische-weduwen/35657/>.

⁵⁵⁴ Han ten Broeke cited in Emilie van Outeren, "Breeduit sorry zeggen is nog een stap te ver" (Apologising broadly is a step too far), *NRC Handelsblad*, 20 August 2013.

⁵⁵⁵ See Derrick A. Bell, jr., "Brown v. Board of Education and the Interest-Contingence Dilemma," *Harvard Law Review*, 93, (1980): 518, 523; See also Yamamoto, "Racial Reparations," 497.

⁵⁵⁶ Yamamoto, "Racial Reparations," 498.

⁵⁵⁷ "Kinderen geëxecuteerden Zuid-Sulawesi eisen schadevergoeding" (Children of executed men South-Sulawesi demand compensation), *Indonesienu*, 28 August 2014, accessed 20 October 2018 at <http://www.indonesienu.nl/nu-actueel/kinderen-geexecuteerden-zuid-sulawesi-eisen-schadevergoeding>; Jan Ponsen and Ferry Stoop, "Nabestaanden politionele acties in Nederland" (Survivors police actions in the Netherlands), *EenVandaag*, 27 August 2014, accessed 20 October 2018 at <https://eenvandaag.avrotros.nl/buitenland/item/nabestaanden-politionele-acties-in-nederland/>.

⁵⁵⁸ Hadders and Kiel, "Excuses voor slavernijverleden."

⁵⁵⁹ The figure was protested against for perpetuating negative (colonial) stereotypes. The United Nations even seemed to become involved – Verene Shepherd, chair of the United Nations' Working Group of Experts on People of African Descent (WGEPA) investigated Zwarte Piet and maintained it to be a 'return to slavery' that should be abolished (see Sally McGrane, "The Netherlands Confronts Black Pete," *The New Yorker*, 4 November 2013, accessed 15 November 2018 at <https://www.newyorker.com/culture/culture-desk/the-netherlands-confronts-black-pete>; "VN-Onderzoeker wil af van de Sint" (VN-researcher wants to get rid of Sinterklaas), *NOS Binnenland*, accessed 15 November 2018 at <https://nos.nl/artikel/565503-vn-onderzoeker-wil-af-van-de-sint.html>). UNESCO later got involved saying there would be no interference in the Dutch tradition (see Bruno Waterfield, "UN drops Black Pete 'racism' charge against the Dutch," *The Telegraph*, 24 October 2013, accessed 15 November 2018 at <https://www.telegraph.co.uk/news/worldnews/europe/netherlands/10402662/UN-drops-Black-Pete-racism-charge-against-the-Dutch.html>; Sven Spoormakers, "Verenigde Naties doen niets tegen sinterklaasfeest" (United Nations do not act against Sinterklaas holiday), *AD Binnenland*, accessed 15 November 2018 at <https://www.ad.nl/binnenland/verenigde-naties-doen-niets-tegen-sinterklaasfeest~a6e6e782/>). However, in 2015 a new UN report was published in which Zwarte Piet was again called a negative stereotype of people of African descent as well as a remnant of slavery, and in general the Dutch were chastised for ethnic profiling and discrimination. They were (amongst others) to put into place a national plan of action against racial discrimination, and pay more attention to the slavery past, i.e. in education (see Committee on the Elimination of Racial Discrimination, *Concluding observations on the nineteenth to twenty-first periodic reports of the Netherlands*, CERD/C/NLD/CO/19-21, 28 August 2015, at <http://content1a.omroep.nl/urishieldv2/l27m66117fa25de510da005b0fccc1000000.af2a39d5384ea0515ed43b24604367f3/nos/docs/cerd.pdf>).

⁵⁶⁰ Isabel Hoving, Hester Dibbits and Marlou Schrover write that the first objections against Zwarte Piet came up during the sixties of the twentieth century (Isabel Hoving, Hester Dibbits and Marlou Schrover (eds.), *Cultuur en migratie in Nederland. Veranderingen van het alledaagse 1950-2000* (Culture and Migration in the Netherlands. Changing everyday life 1950-2000) (Den Haag: Sdu Uitgevers, 2005), 253. 1981 saw the first action: "Sinterklaas viert zonder Zwarte Piet" (Celebrating Sinterklaas without Black Pete), organised by the Surinam-Dutch population, headed by the Solidariteits Beweging Suriname (Solidarity Movement Suriname). Further action was taken by Suriname Links (Surinam Left) in 1981 (Hoving, Dibbits and Schrover, 256). See also "Geschiedenis van strijd tegen zwarte piet" (History of fight against Black Pete), *Stop Blackface*, accessed 15 November 2018 at <http://stopblackface.com/kozp/geschiedenis-van-strijd-tegen-zwarte-piet/>.

⁵⁶¹ "De grote Zwarte Piet-controverse: hoe het allemaal begon" (The big Black-Pete-Controversy: how it all started), *RTL Nieuws*, accessed 15 November 2018 at <https://www.rtlnieuws.nl/nieuws/binnenland/de-grote-zwarte-piet-controverse-hoe-het-allemaal-begon>.

⁵⁶² "Kick Out Zwarte Piet," *Stop Blackface*, accessed 15 November 2018 at <http://stopblackface.com/kozp/>.

⁵⁶³ Mitchell van de Klundert, "Voorstanders Zwarte Piet: 'We zijn met man en macht naar de A7 gereden'" (Proponents Black Pete: 'We went all out driving to the A7'), *NOS Binnenland*, 18 November 2017, accessed 17 November 2018 at <https://nos.nl/artikel/2203505-voorstanders-zwarte-piet-we-zijn-met-man-en-macht-naar-de-a7-gereden.html>. The people who blocked the highway were later prosecuted for endangering traffick, see

“Demonstranten ‘Sint-blokkade’ A7 bij Joure voor de rechter” (Protesters ‘Sint-blocking’ A7 at Joure appear in Court), *NOS Binnenland*, 19 April 2018, accessed 15 November 2018 at <https://nos.nl/artikel/2228069-demonstranten-sint-blokkade-a7-bij-joure-voor-de-rechter.html>.

⁵⁶⁴ Floor Bouma, “Jenny Douwes en 18 andere ‘blokkeerfriezen’ in hoger beroep” (Jenny Douwes and 18 other ‘blocking Frizians’ appeal), *NRC Next*, 23 November 2018.

⁵⁶⁵ There are many media articles reflecting this discussion. See for example: Petra Steenhoff, “Wat moeten we nu met de helden van toen?” (What do we do now with the heroes of the past?), *NOS Binnenland*, 17 January 2018, accessed 14 June 2018 at <https://nos.nl/artikel/2212417-wat-moeten-we-nu-met-de-helden-van-toen.html>; “Heldendaden of wandaden – moeten we straatnamen veranderen?” (Heroics or atrocities – do we need to change street names?), *Over Straatnamen met Name*, 7 February 2018, accessed 14 June 2018 at <https://www.overstraatnamen.nl/2018/02/heldendaden-wandaden-discussie.html>; Zico Ruiter and NU.nl, “Klassieke Nederlandse helden onder vuur: ‘Het is een botsing van culturen’” (Classic Dutch heroes under fire: ‘It is a clash of cultures’), *NU.nl*, last updated 27 January 2018, accessed 14 June 2018 at <https://www.nu.nl/weekend/5105216/klasseke-nederlandse-helden-vuur-het-botsing-van-culturen.html>; “NIDA wil discussie over straatnamen omstreden helden” (NIDA wants discussion regarding streetnames controversial heroes), *RTV Rijnmond*, 25 October 2017, accessed 14 June 2018 at <https://www.rijnmond.nl/nieuws/160675/NIDA-wil-discussie-over-sstraatnamen-omstreden-helden>; Lasse van den Dikkenberg, “Foute namen voor straten en tunnels moeten wél weg” (Bad names for streets and tunnels do have to go), *Het Parool*, 2 December 2016, accessed 14 June 2018 at <https://www.parool.nl/opinie/-foute-namen-voor-straten-en-tunnels-moeten-wel-weg~a4426503/>; Tom Kieft, “Kan een straatnaam zomaar worden gewijzigd?” (Can a streetname be changed like that?), *Het Parool*, 14 November 2016, accessed 14 June 2018 at <https://www.parool.nl/amsterdam/kan-een-sstraatnaam-zomaar-worden-gewijzigd~a4414990/>; Mark van Harreveld, “Waarom koloniale straatnamen juist moeten blijven” (Why colonial streetnames must remain), *Het Parool*, 18 November 2016, accessed 14 June 2018 at <https://www.parool.nl/opinie/waarom-koloniale-sstraatnamen-juist-moeten-blijven~a4417812/>.

⁵⁶⁶ The Rijksmuseum has decided to cease the use of the words ‘negro’, ‘Eskimo’ and ‘Indian’ from the texts that accompany paintings and statues (see “Terminologie” (Terminology), *Rijksmuseum*, accessed 22 September 2018 at <https://www.rijksmuseum.nl/nl/onderzoek/terminologie>). The National Museum of World Cultures has published a language guide on words used in the museum that are often experienced as offensive, explaining the backstory of the use of certain words, such as ‘Mohammedan’ and ‘head hunter’ (see Tropen Museum, “Objecten zijn tijdloos, maar ons taalgebruik niet” (Objects are timeless, our language is not), *Press release*, 19 June 2018, accessed 19 June 2018 at <https://www.tropenmuseum.nl/nl/objecten-zijn-tijdloos-maar-ons-taalgebruik-niet>). See in general Lambert Teuwissen, “Omstreden woorden in musea: ‘we gaan niet de geschiedenis schoonboenen’” (Controversial terms in museums: ‘we are not going to scrub clean our history’), *NOS Binnenland*, 26 June 2018, accessed 26 June 2018 at <https://nos.nl/artikel/2238826-omstreden-woorden-in-musea-we-gaan-niet-de-geschiedenis-schoonboenen.html>).

The Rijksmuseum has hosted several debates on a museum of slavery and how this should be handled, and on whether pieces from the collection should be handed back to heirs/countries of origin, see Bas Blokker, “Wie beslist over slavernijmuseum?” (Who decides on slavery museum?), *NRC Next*, 25 January 2018.

⁵⁶⁷ Huib de Zeeuw, “Buste Johan Maurits weg uit foyer Mauritshuis” (Bust Johan Maurits removed from Mauritshuis), *NRC Next*, 12 January 2018.

⁵⁶⁸ “Mauritshuis ontkent verwijderen buste Johan Maurits van Nassau Siegen” (Mauritshuis denies removing bust Johan Maurits van Nassau Siegen), *NU.nl*, 22 January 2018, accessed 12 December 2018 at <https://www.nu.nl/cultuur-overig/5097443/mauritshuis-ontkent-verwijderen-buste-johan-maurits-van-nassau-siegen.html>.

⁵⁶⁹ Elif Isitman, “Politiek correcte beeldenstorm’: jacht op koloniale beelden en namen laait op” (‘Politically correct iconoclasm: the hunt for colonial statues and names increases’), *Elsevier*, 16 January 2018, accessed 15 December 2018 at <https://www.elsevierweekblad.nl/nederland/achtergrond/2018/01/jacht-op-koloniale-beelden-en-namen-laait-weer-op-576734/>.

⁵⁷⁰ Gloria Wekker, *White Innocence*, (Durham, US: Duke University Press, 2016).

⁵⁷¹ Marc van Berkel, *Welk verhaal telt? De oorlogen in Nederlands-Indië 1942-1949 in het geschiedenisonderwijs* (Which story counts? The wars in the Dutch-Indies 1942-1949 in the historical education), Nationaal Comité 4 en 5 mei, (2017), accessed at <https://www.4en5mei.nl/onderzoek/publicaties/welk-verhaal-telt>, 45.

⁵⁷² Limpach, *De Brandende Kampongs van Generaal Spoor*, 19, 27.

⁵⁷³ Ibid., 35.

⁵⁷⁴ Pagee, “De Nederlandse politieke verantwoordelijkheid en oorlogsmisdaden in Indonesië (1945-2016)”.

- ⁵⁷⁵ Limpach, *De Brandende Kampongs van Generaal Spoor*.
- ⁵⁷⁶ Scagliola, "Cleo's Unfinished Business," 420.
- ⁵⁷⁷ Limpach, *De Brandende Kampongs van Generaal Spoor*, 22.
- ⁵⁷⁸ Ymre. E. Schuurmans, *Bewijslastverdeling in het bestuursrecht* (thesis Vrije Universiteit Amsterdam), (Deventer: Kluwer, 2005), 53, 215; Bunt, "Een regeling voor weduwen," 3052.
- ⁵⁷⁹ Jasmijn de Nood, "Hoe Nederlandse militairen binnen een maand meer dan duizend Indonesiërs vermoordden" (How Dutch soldiers killed over a thousand Indonesians within a month), *De Correspondent*, 5 October 2015, accessed 5 February 2019 at <https://decorrespondent.nl/3447/hoe-nederlandse-militairen-binnen-een-maand-meer-dan-duizend-indonesiers-vermoordden/170641477215-57a4128c>.
- ⁵⁸⁰ See KITLV, NIMH and NIOD, "Onafhankelijkheid, dekolonisatie, geweld en oorlog in Indonesië, 1945-1950," for more information on the study.
- ⁵⁸¹ Frank van Vree during "Dekolonisatie of Rekolonisatie?" (Decolonisation or Recolonisation?), *Second Meeting for discussing the research Onafhankelijkheid, dekolonisatie, geweld en oorlog in Indonesië, 1945-1950* (Independence, decolonization, violence and war in Indonesia, 1945-1950), 13 September 2018, accessible at <https://www.youtube.com/watch?v=qspj4SMQyQI>.
- ⁵⁸² Kester Freriks, "Tempo doeloe – ook een mooie tijd" (Tempo doeloe, a beautiful time too), *NRC Next*, 5 October 2018.
- ⁵⁸³ Wekker, *White Innocence*.
- ⁵⁸⁴ Thomas Smits, Klaas Stutje and Suze Zijlstra, "Koloniaal geluk is niet los te zien van koloniaal leed" (Colonial happiness cannot be separated from colonial harm), *NRC Next*, 9 October 2018.
- ⁵⁸⁵ It is said the Netherlands joined in marginally – it is no exception with regards to other countries, who also examined their history in a limited manner, by for example choosing only parts of their history to explore. The 'global trend' that I speak of here is simply that countries *have* started looking at their history, in however marginal a manner. See also section 2.5.1, *The Netherlands is Not Unique*.
- ⁵⁸⁶ See Luttikhuis and Moses, "Mass violence and the end of the Dutch colonial empire in Indonesia," 258; see also NOS, "Wat gebeurde er destijds op Zuid-Sulawesi?"; Bluekens, "Wat zijn de politionele acties?"
- ⁵⁸⁷ "Nederland betuigt spijt voor oorlogsmisdrijven in Nederlands-Indië" (The Netherlands expresses regret for war crimes in Dutch Indies), *de Volkskrant*, 30 August 2013, accessed 28 September 2018 at <https://www.volkskrant.nl/nieuws-achtergrond/nederland-betuigt-spijt-voor-oorlogsmisdrijven-in-nederlands-indie~b5f8ad3a/>.
- ⁵⁸⁸ For 2016 discussion, see Mark Rutte, "Inleidend statement van minister-president Rutte" (Introductory statement from prime minister Rutte), *Press Conference*, 2 December 2016, accessed 13 January 2019 at <https://www.rijksoverheid.nl/documenten/mediateksten/2016/12/02/persconferentie-na-ministerraad-2-december-2016>.
- ⁵⁸⁹ Tjeerd de Zwaan, "Toespraak ambassadeur in Indonesië" (Speech ambassador in Indonesia), (Speech, Jakarta, 12 September 2013), at *BN DeStem*, <https://www.bndestem.nl/overig/toespraak-ambassadeur-in-indonesie~a8a93a96/>; "Dutch apologise for Indonesian executions," *Al Jazeera*, 12 September 2013, accessed 12 January 2019 at <https://www.aljazeera.com/news/asia-pacific/2013/09/20139126854278821.html>.
- ⁵⁹⁰ Mark Rutte, "Toespraak minister-president Rutte in het parlement van Indonesië" (Speech prime minister Rutte in the parliament of Indonesia), (Speech, Jakarta, 23 November 2016), at <https://www.rijksoverheid.nl/documenten/toespraken/2016/11/23/speech-minister-president-rutte-in-het-parlement-van-indonesie>.
- ⁵⁹¹ Martijn Eickhoff, "Weggestreept verleden?" (The past struck out?), *Groniek: historisch tijdschrift* 194, (2013): 53; Stichting K.U.K.B., "Rawagede EenVandaag", accessed 29 May 2018 at <http://www.kukb.nl/videos.php?id=5>.
- ⁵⁹² "But one thing is very clear to me: soldiers that have been deployed by their country, deserve support, respect and appreciation." (Author's translation of: "Maar één ding staat voor mij als een paal boven water: militairen die door de regering van hun land worden uitgezonden, verdienen steun, respect en waardering.") – Mark Rutte, "Toespraak van minister-president Mark Rutte bij de herdenking bij het Nationaal Indië-monument 1945-1962" (Speech of prime minister Mark Rutte at the remembrance ceremony at the National Indies-monument 1945-1962), (Speech, Roermond, 5 September 2015), at <https://javapost.nl/2015/09/06/toespraak-minister-president-rutte/>.
- ⁵⁹³ Kas, "Nieuw onderzoek naar dekolonisatie Indonesië".
- ⁵⁹⁴ UNGA, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, A/RES/40/34.
- ⁵⁹⁵ Hannah Arendt, *The Origins of Totalitarianism*, (San Diego: Harcourt, Barce, Jovanovich, 1973), ix.