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The Limits of Tolerance:
The Equal Treatment Act and Discrimination in the Netherlands

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Mr. Vannelli

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The Kingdom of the Netherlands, a small constitutional monarchy in Northwestern Europe, has a reputation for being one of the most liberal and accepting nations in the world. Known for legalized marijuana and prostitution, acceptance of same-sex relationships, and tolerance of medical processes like euthanasia and abortion, at first glance the country appears to be an idyllic haven for open-mindedness. However, when analyzing the cultural traditions, politics, education, and other aspects of everyday life in the country, a long-lasting history of racism and prejudice is revealed. Those of minority religions or of certain origins different than that of the typical Dutch citizen (often stereotyped as tall, white, and blonde) face a challenging life in the country. While developing values and international scrutiny force many nations to work against any still-existing types of inequality due to one’s skin color or beliefs, the Netherlands is moving towards furthering inequality by justifying such problems. The Dutch Constitution was amended to include mention of equal treatment in the 1980s, but the first explicit anti-discrimination legislation in the Netherlands beyond this was the Dutch Equal Treatment Act of 1994.\(^1\) The Act, spurred by a need to adopt the mandates of international treaties into the country’s law, was passed after ten years of debate.\(^2\) While the long-avoided Equal Treatment Act was a major step for the country and in the fight against intolerance, the limitations of the Act have rendered it unsuccessful in curbing discrimination based on race, ethnicity, and religion—challenges still faced by many in the Netherlands, twenty years later.

cultural, and institutional. Individual racism is discrimination in personal aspects of life. A person said to exemplify individual racism may choose to avoid those different than them when looking for places to live, or in their social circles. In the Netherlands, this self-segregation by race or ethnicity contributes to feelings of distrust, and lack of dialogue between those of different racial heritages. The Dutch refer to this phenomena as “pillarization” or verzuiling.

Cultural racism is rampant in the Netherlands. The term is also referred to as ideological racism, and refers to the way those of other races are represented, be it through traditions, language, texts, or other method of depiction. These sources, that often highlight cultural racism, are particularly dangerous since they tend to be aimed at all ages, and can lead to the formation of both conscious and subconscious racism in children. Institutional racism refers to unequal treatment carried out by institutions or people in power, for example government departments, schools, or employment agencies. These definitions can be further expanded upon to include not only race, but religion and ethnicity as well. In short, all of the aforementioned types of discrimination are visible in the modern Netherlands.

There are many possible sources from which racism in the Netherlands may have originated. During the era of colonization, the Netherlands gained control of many colonies in both Asia and Africa. Apartheid, the racial segregation of South Africa by Afrikaners (most often descendants of Dutch settlers) serves as one of the most memorable outcomes of this migration. In other colonies, there was similar division by race. Hundreds of years later, following and

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4 Ibid., 24.
7 Ibid., 18.
during the Holocaust, incidents of discrimination within the nation became far more common. Instead of bonding as a country over this horrific event, in which 75% of all Jewish people living in the Netherlands were murdered, anti-Semitism continued for many years. During this time, the taunting phrase “they have forgotten to gas you,” or jokes describing the difference between a “bun and a Jew—one doesn’t scream in the oven” became relatively commonplace. As recently as the 1980s and 1990s, after the first legislation targeting inequality passed, chants like “death to the Jews” were typical at matches of the popular Amsterdam football club Ajax, a team based out of a traditionally Jewish neighborhood. Another critical event to understand the roots of Dutch prejudice is the surge of immigration in the late twentieth century. In many cases, the Dutch expected that immigrants would return to their native countries after a short time period, and the discovery that most intended to stay surprised and in some instances angered those born in the Netherlands. This xenophobia is still present, and immigration policy within the Netherlands is complex and controversial. The revealed history of the Netherlands is important in understanding the racism and ethnic disputes still existing today.

An important aspect of the history of the Netherlands is the Dutch language, which has developed simultaneously, and now reflects widespread discrimination. The word *Allochtoon* originally referred to a person who had at least one parent who was born abroad. Now, this terminology has expanded to mean something along the lines of “dirty foreigner,” and applies to everyone from immigrants and their descendants, to other people of color or any minority

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9 Ibid.
10 Ibid., 72.
This causes an “us versus them” mindset, which contributes to the divide between native-white Dutch people and those from the Netherlands whose families may have originated in different countries, who are therefore always considered outsiders. Many words used to describe people of color are outdated and have negative connotations. Black people are negers or basterds, both words implying a lesser or evil person. These words often allude to “dirty and bad” while the Dutch word for white, blank, often designates “good and pure.” In the early 2000s, the phrase tot slaaf gemaakt, or “those who have been made slave” was created by a group of Afro-Dutch to convey the word “enslaved.” Despite the nation’s colonial past, the term is yet to be adopted into the Dutch vocabulary, unmistakably another symptom of the country’s refusal to recognize issues of race relations. Many in the Netherlands are reluctant to even mention the word racisme, and avoidance of the term and discussions about discrimination serve only to increase tensions. For true equality in the Netherlands, the Dutch language requires updating, since the words a person has to describe things like a racial group help shape their perception and understanding.

The importance of language can be seen in the Dutch legislation regarding racism. Article 1 of the Constitution of the Kingdom of the Netherlands states that “all persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever shall not be permitted.” However, this only applies in relationships between the state and individuals, and

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12 Beasley Doyle, “When it Comes to Race.”
was just added to the Constitution in 1983.\textsuperscript{16} The Equal Treatment Act, the first specific civil-rights legislation in the county, was passed in 1994 after ten years of deliberation due to difficulties in getting numerous political groups to support the legislation, and was externally motivated by a need to incorporate international treaty standards into Dutch law.\textsuperscript{17} The Act expands upon Article 1 of the Constitution, and applies the prohibition of discrimination to employment, supply of goods and services, and school and career advice. Exceptions to the Act include that “institutions founded on religious, ideological or political principles are allowed to set special requirements,” “nationality can…be a deciding factor” in cases like national teams, and that affirmative action is permitted.\textsuperscript{18} In order to carry out this new mandate, the Equal Treatment Commission was created. The ETC is part of the nation’s judiciary sector, and is limited in many ways. The Commission “cannot consider complaints about police” and “most of the public sector is excluded.”\textsuperscript{19} Despite the ETC, the “enforcement of Dutch anti-discrimination legislation is left mainly to individual victims of discrimination…[who are] hampered by inadequate knowledge about the legal rules.”\textsuperscript{20} The ETC is unable to successfully fulfill its purpose and instead the duty is thrust upon those often incapable of carrying out the legislation. In 2000, under the direction of the European Union, the Act was eventually updated so that those reporting discrimination could not be punished (for example, an employee reporting unfair treatment by their boss could be fired prior to this update), and so the burden of proof is on

\textsuperscript{16} Janny Dierx and Peter Rodrigues, “The Dutch Equal Treatment Act in Theory and Practice.”
\textsuperscript{17} Ibid.
\textsuperscript{18} Ibid.
\textsuperscript{19} Ibid.
the alleged discriminator, not the reporter.\textsuperscript{21} While the Act and ETC are meant to curb discrimination, many are still reluctant to report instances of inequality, and even the police are known to “refuse to register a report of discrimination, even though [doing so] is mandatory.”\textsuperscript{22} The Act is further limited due to the exceptions in the wording, and the inability of the Equal Treatment Commission to enforce the legislation, and thus the Act is incapable of solving the problems of racism in the Netherlands.

Racism and discrimination by ethnicity and religion in the Netherlands continue to be prevalent despite the Equal Treatment Act. Bias remains in the workplace, and people are still not hired due to their race. The Act directly states that “it shall be unlawful to discriminate with regard to…job placement,” yet this mandate is blatantly ignored.\textsuperscript{23} Employers are two times as likely to hire “‘native’ Dutch…than \textit{allochtoon} candidates.”\textsuperscript{24} In one recent study, over 50\% of employment agencies agreed to not include Moroccan, Turkish, or Surinamese candidates when asked, and some applicants were ignored on the basis of foreign sounding names or addresses in typically ethnic neighborhoods.\textsuperscript{25} The refusal to even consider these candidates has contributed to a gap in the employment rates of those of different races. As of 2012, the unemployment levels of non-whites was two and a half times greater than the national average.\textsuperscript{26} The higher the level of unemployment, the greater levels of ethnic discrimination and resentment, and consequently the minority communities in the Netherlands are victim of a harsh cycle from

\begin{thebibliography}{9}
\bibitem{22} Ibid.
\bibitem{23} States General of the Netherlands, \textit{The Equal Treatment Act}.
\bibitem{24} Beasley Doyle, “When it Comes to Race.”
\bibitem{25} Essed, \textit{Everyday Racism}, 20.
\end{thebibliography}
which it is hard to escape.\textsuperscript{27} Even if a non-white contender is hired, their wages may be lower. “Native” Dutch may make over 40\% more than Moroccans, 36.9\% higher than those from Turkey, and 22.9\% beyond the Surinamese.\textsuperscript{28} The Equal Treatment Act failed to solve issues of race related to employment, and even today, twenty years after its creation, employment in the Netherlands is rife with inequity. While the Act directly addresses the workplace, it is not adequate because the anti-discrimination policies are often ignored, and not enforced.

Challenges are not limited to the workplace, and extend to issues of housing. Those of minority races may face similar difficulty in finding accommodation, a problem also targeted by the Equal Treatment Act. The European Monitoring Centre on Racism and Xenophobia has found that the housing of “ethnic minorities is on average of lower quality than that of the mainstream Dutch population.”\textsuperscript{29} Often, these homes are subsidized, in part due to the previously mentioned difficulty in finding employment and low wages. According to “distribution policy,” there is a limit on the number of non-white families that can live in public housing, and because of this, the time it takes for a white family to receive subsidized housing may be much less than the time it takes for a non-white family, since there are more homes available to them.\textsuperscript{30} If a family can afford to rent or buy an apartment or home, they may face discrimination by private homeowners or landlords who are prejudiced against immigrants or other non-whites, thus

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\item \textsuperscript{30} Essed, \textit{Everyday Racism}, 21.
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embodying individualized racism.\textsuperscript{31} The Equal Treatment Act is difficult to enforce in these private transactions, and subsidized housing is controlled by the state, which falls under Constitutional protection. Oddly, despite the limits on the number of non-white families in a housing unit, which seemingly falls under the Constitution’s protection against inequality because of race, this problem of institutional racism is still unaddressed in the Netherlands today.

Additional inequalities are revealed when examining education. In the Netherlands, students and families are given the choice of which school to attend, causing a \textit{de facto} segregation between “black schools” and “white schools” due to a tendency of minority students to attend urban schools, and white students to in turn choose others.\textsuperscript{32} Beginning at a young age, students may be subject to subliminal culturally racist messages, which can be found in many books used in schools, such as comparisons of blacks to animals, typically monkeys.\textsuperscript{33} Even learning to count can take a discriminatory route, with a popular song being “Ten Little N*****s,” which was reportedly sung in schools in the Netherlands as recently as 2001, and possibly after.\textsuperscript{34} Following elementary school, teachers will recommend students for different educational paths, and these, along with the results of a standardized test, will determine the remainder of a child’s educational track. On one test, the CITO, non-Western ethnic minorities in the Netherlands tend to score significantly lower, and this in turn alters the number destined for the higher level education trajectory.\textsuperscript{35}

\textsuperscript{31} Ibid.
\textsuperscript{32} Gary Dworkin and Peter Stevens. \textit{The Palgrave Handbook of Race and Ethnic Inequalities in Education}, 522.
\textsuperscript{33} Essed, \textit{Everyday Racism}, 14.
\textsuperscript{35} Gary Dworkin and Peter Stevens. \textit{The Palgrave Handbook of Race and Ethnic Inequalities in Education}, 526.
Moroccan Dutch, 27% of the Antillean Dutch and 30% of the Surinamese Dutch” were on the same track, yet the portion of minority students on the high level path are more likely to continue their education than their white peers.\textsuperscript{36} Those who do achieve higher education are reported to face discrimination more often than those who do not.\textsuperscript{37} This may be because non-whites with higher education threaten the status quo and conflict with predetermined racial roles. Thus, those who overcome the racial hurdles in their path to success are rewarded with more intolerance. The Equal Treatment Act is therefore not effective in reducing prejudice in the field of education, despite its significant focus in this area.

Education from outside sources can be similarly discriminatory. The Dutch Christmas tradition of Sinterklass (Santa Claus) and Zwarte Piet (Black Pete) is taught and passed down to children throughout the country, and has gained widespread attention in recent years. Every year on December 5\textsuperscript{th}, Sinterklass arrives in the Netherlands by boat and is greeted with parades and TV coverage while he hands out presents and treats. He is accompanied from his home in Spain by the Zwarte Piets, former slaves who were rechristened “friends” in the 1950s, an unquestioned transition. Despite the change in title, the characters maintain a slave-like image, which may have first emerged in \textit{St. Nicholas and His Servant} by Jan Schenkman, written in the 1850s.\textsuperscript{38} Zwarte Piet is characterized by his black skin, large red lips, curly hair, gold earrings, and a clown-like costume.\textsuperscript{39} Almost always, this role is played by a white Dutch person in full-on

\textsuperscript{36} Ibid.
\textsuperscript{37} European Network Against Racism, “Responding to Racism in the Netherlands.”
\textsuperscript{39} See Appendix Image 1.
blackface, with painted on red lips. The caricature-like persona speaks with an uneducated accent, is often portrayed as a fool, and is known to sing songs highlighting the belief that dark skin color means being bad, for example “I may be black as soot but I have good intentions!” Zwarte Piet encourages a childhood fear of black people, since he is said to stuff children in a bag, kick them (or in more recent retellings, pretend to kick them), and take them back home to Spain if they are bad. Ninety one percent of Dutch citizens surveyed in a recent poll thought the tradition should not change, and ninety two percent agreed that they do not see the connection between Zwarte Piet and slavery.

However, those who do see the correlation have started speaking up about the issue. Recently, a small portion of Dutch citizens have begun fighting against the tradition, and the country is coming under international criticism. At protests against Zwarte Piet, protesters have faced brutality from both police and other citizens. When Quincy Gario, one of the main figures in the debate, wore a “Zwarte Piet is racism” shirt to a rally, police asked him to leave, and when he asked why, he was tackled and pepper spray was rubbed into his face, before being arrested. As a ploy to catch holiday thieves, police in Rotterdam dressed in full Zwarte Piet garb, and issued citations for anyone who snubbed or made rude remarks about their highly racist costumes, essentially entrapping those who disagreed with the tradition. Politicians also defend

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40 See Appendix Image 2.
41 Essed, Everyday Racism, 17.
44 Bruno Waterfield, “Dutch Police Don ‘Racist’ Black Peter Disguise to Catch Christmas Thieves,” The Telegraph, December 5 2012,
the custom, embodying institutional racism. After a United Nations committee on minority rights called the practice “a throwback to slavery” and advocated for its rejection, millions of Dutch were outraged and many issued threats against the committee members.\textsuperscript{45} To outsiders, the practice is clearly offensive and contrary to the Constitution and Equal Treatment Act, yet the nation is complacent and continues to defend Zwarte Piet, with easily refutable claims like “he is black because of the soot in the chimney” (why aren’t his clothes soot covered then?), or “it’s simply a children’s tradition” (further contributing to cultural racism).\textsuperscript{46} With politicians and police defending the tradition, it is hard to say how it could possibly change, even with supposed protections against inequality in place. The Equal Treatment Act lacks sufficient focus and ability to correct cultural issues such as the Zwarte Piet tradition, a breeding ground for preconceptions and crude stereotypes about those of different races.

The negative portrayal of blacks is not limited to Zwarte Piet. Derogatory stories, art, and songs are easily found, for example a children’s tales about the horror of being turned into a “negro” after talking with a black man called \textit{Hoe dat ik in een Neger Veranderde}, or \textit{How I Changed into a Negro}—further contributing to cultural racism.\textsuperscript{47} Unfortunately, this imagery is not relegated to the past. Black people have “only very recently [since around the early 1990s] been ‘permitted’ to participate in film or television commercials and serious news can only be


\textsuperscript{47} Allison Blakely, \textit{Blacks in the Dutch World}, 195.
announced by whites."\(^{48}\) This reinforces the idea that only a white person is a credible source. In 2011, a popular fashion magazine published an article about dressing like “n****b***h” Rihanna. When confronted with backlash for this racial slur, the magazine’s editor laughed off the event, and called it a “joke."\(^{49}\) These crude portrayals by the media lead to unfair assumptions about those of other skin colors, and further divide the Netherlands by race. The depictions of non-whites are obviously affecting preconceptions, since in a recent study random passersby were found to help a white man steal a bike (assuming it was his), while calling the police on a Black and Moroccan man pretending to commit the same crime.\(^{50}\) Racism in the Netherlands can not be remedied by the Equal Treatment Act, or even the Constitution, if the general population refuses to recognize the seriousness of racism and the harmful representations of those of different heritage or ethnicity that continue to prevail.

Politicians and the Dutch Government also contribute to the problem of discrimination, due to their failure to recognize some of the largest instances of racism in the country. For example, numerous Mayors and the Prime Minister defend and participate in the blackface Zwarte Piet tradition. When asked about the custom in 2014, Prime Minister Mark Rutte stated “my friends from the Dutch Antilles are actually happy they don’t have to paint their faces…when I play Zwarte Piet, it takes me days to wash that stuff off my face.”\(^{51}\) In response to the UN’s statements on Zwarte Piet, the Dutch government issued a statement declaring that they

\(^{48}\) Essed, *Everyday Racism*, 16.
recognized Zwarte Piet is “considered to be offensive” but that those who had a problem with it could “report [it] to their local anti-discrimination office,” an office which often is unable or unwilling to help.\textsuperscript{52} Mark Rutte recently stated that dealing with the controversy surrounding Zwarte Piet is “not a task for politics,” yet in order to effectively curb racism, political involvement will be necessary.\textsuperscript{53} In a recent lawsuit, an Amsterdam judge issued a decision stating that Zwarte Piet is “an infringement on the lives of black people.”\textsuperscript{54} However, the Mayor of Amsterdam appealed this case to the highest judicial power, the Council of State, which refused to rule on Zwarte Piet and whether the tradition is or is not racist.\textsuperscript{55} This effectively prohibits discussion of Zwarte Piet in court, much like the American Gag Rule prior to the Civil War. In many cases, politics support racism in the Netherlands, rather than restricting it. How can a government properly carry out anti-discrimination legislation when it itself ignores and perpetuates the issue?

Politicians are equally reluctant to deal with issues of immigration. In the 1970s, the Dutch government proclaimed that “the Netherlands are not an immigration country,” and immigration policy today still reflects this statement.\textsuperscript{56} Immigration laws require potential citizens to pass a test proving Dutch fluency, with risk of deportation if they are unable. In 2011, the government increased the difficulty of the exam, thus increasing the challenges facing immigrants.\textsuperscript{57} Tension is especially high in relation to Muslim immigrants. Geert Wilders is

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\item \textsuperscript{52} Beasley Doyle, “When it Comes to Race.”
\item \textsuperscript{53} Howard Koplowitz, “Black Pete Racist?”
\item \textsuperscript{54} Beasley Doyle, “When it Comes to Race.”
\item \textsuperscript{55} Ibid.
\item \textsuperscript{56} Gary Dworkin and Peter Stevens. The Palgrave Handbook of Race and Ethnic Inequalities in Education, 522.
\item \textsuperscript{57} Jenny Wilson, “Netherlands to Immigrants: Learn Dutch or Fear Deportation,” \textit{Time}, April 12, 2011, http://newsfeed.time.com/2011/04/12/netherlands-to-immigrants-learn-dutch-or-fear-deportation/
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among the most infamous Dutch politicians, and an ardent supporter of the “anti-Islamisation” movement. In March of 2014, Wilders promised fewer Moroccans in the Netherlands to his supporters, leading passionate cries of “fewer, fewer!” Wilders’s agenda includes banning the Qur’an, prohibiting immigration from Muslim countries, and forcing deportation of all Muslim citizens. Feelings of xenophobia undermine the potential success of the Equal Treatment Act. By discouraging immigrants, the country avoids having to include those of other races and backgrounds who would be protected by this document.

The Equal Treatment Act should in theory have rid the Netherlands of most race-related issues. Unfortunately, it has not. The focus of the Act is not broad enough to encompass the countless areas in which discrimination is exemplified, and although significantly improved by the 2000 alteration, the document still could be expanded. Due to newfound and negative international press on the Zwarte Piet tradition, the country claims to be making changes, which may be a first step in the path towards acceptance and inclusion. 2014 is the first year some Zwarte Piets were not in full blackface. However, a new Zwarte Piet costume was recently revealed on National TV in response to complaints, and this new costume is nearly the same, just with brown face paint rather than pure black. If a new law were to be created, it would need to target cultural racism as well as other forms of discrimination to effectively end practices like Zwarte Piet. However, more than a new amendment or increased legislation, public opinion must

change. The Dutch must recognize the inequality of minority groups in the Netherlands, no matter how difficult this may be. The Accept Pluralism Project encourages schools to “practice tolerance and clearly focus on non-discrimination” as a way to educate young Dutch people about relations between various groups, which would certainly be a useful step.\(^6\)

The Dutch Equal Treatment Committee noted in 2003 that in order for the Equal Treatment Act to achieve results, “an environment in which minority issues can and will be discussed with respect” is vital.\(^2\) Its been over ten years since this assessment, and the Netherlands is still far from fulfilling this goal. Conversations about discrimination are relatively taboo and are avoided, and instances of bias are prevalent throughout all aspects of life. Once the country is willing to openly acknowledge that racism and other forms of discrimination are problems, and work to change the issues of inequality, the Netherlands may for the first time fully live up to its reputation for tolerance.


Appendix

Image 1:


Image 2:

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