

National Analytical Study on Racist Violence and Crime

RAXEN Focal Point for THE NETHERLANDS

Dutch Monitoring Centre on
Racism and Xenophobia – DUMC

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EXECUTIVE SUMMARY

The DUMC views a 'racial crime' as a crime with a 'racial' basis; racial violence is a racial crime that involves violence. This Raxen4 report will provide more precise and operational definitions of these concepts. As for the recent 'political climate', the following can be noted. The significance of activities by the extreme right in the Netherlands today can be regarded as modest, especially in comparison with the nineties. It is true that other political groups not from the extreme right have exerted an attraction on extreme-right organisations and activists, mainly by means of Islamophobic statements. Although the results of research on public opinion are not unambiguous, the climate of opinion towards ethnic minorities seems to have hardened.

Racial crime has been placed in a criminal framework in a number of ways. In the Netherlands there are no specific statutory provisions concerning racial violence. Violent, racist incidents are punishable on the basis of violent offences under ordinary law, such as those included in Dutch criminal law. Racial crimes that are non-violent, as well as threats and inciting to violence, are set forth in criminal prohibitions on discrimination. The gathering of data on racial violence, as well as the preparation of statistical material, has been developed as part of the project entitled *Monitoring racism and the extreme right*, and has been part of this project for quite some time. The procedures used in data collection will be reported later in detail. Racial crime itself has also been made a permanent part of *Monitoring racism and the extreme right* in the form of the sub-study 'racial discrimination: investigation and prosecution'. The procedures followed in data collection and analysis will be dealt with in the appropriate chapter.

At this point it is important to emphasise that dealing with racial crime and racial violence has involved consulting two different sources of data as well as two different collections, means of processing and analyses. This is why racial violence and racial crime are handled separately, i.e. in chapters 4 and 5.

Racial violence

Our view of racial violence is limited by *underreporting*. In addition, one special situation that occurred in the year 2002 should be mentioned. After the murder of Pim Fortuyn a considerable number of threats were made, some of them racially motivated or from the extreme right. Due to the absence of any systematic investigation, these threats have not been included in our report.

After a sharp rise in the incidents of racial and right-wing violence at the end of the nineties and in 2000, we saw a striking decrease in the year 2001. Striking, because this decrease took place against the backdrop of a wave of violent incidents after the terrorist attacks of 11 September 2001. One important finding of our research is that another drop has taken place: from 317 incidents of racial and right-wing violence in 2001 to 264 incidents in 2002. Of the 264 incidents in 2002 there were 2 cases of right-wing violence that were not racially motivated. That puts the number of cases of racial violence in 2002 at 262.

Victim patterns in 2002:

- Up until now there have been more reports of violence against objects than against persons within the framework of the *Monitoring racism and the extreme right* project. In the year 2002 the balance was clearly reversed for the first time. In absolute figures there was more violence against persons (139) than objects (91); in terms of percentage this was 53 and 34 percent of the total respectively.
- During the previous year, 2001, the investigated violent incidents were dominated by the after-effects of September 11th: a series of violent incidents aimed at Muslims and objects associated with Muslims, especially mosques, which began almost immediately after September 11th and continued until some time around December. All these incidents together amounted to about 60% of the total number in 2001. In 2002 this percentage dropped to about 26% of the total (absolute number: 68).
- Some 12% of the violence (31 incidents) was aimed at refugees or objects associated with refugees.
- In 2002, no incidents of racial violence were committed against Roma and Sinti as far as we know.
- Approximately 17% of the investigated incidents of 2002 had to do with anti-Semitic violence (46 incidents). This is a striking increase in comparison with the anti-Semitic violence in 2001, which was 6% (18 cases). Nineteen of the 46 cases of anti-Semitic violence in 2002 can be labelled 'new anti-Semitism': either the perpetrator was believed to have been an ethnic minority or there was a clear connection with the violence between the Israelis and the Palestinians.

Perpetrator patterns in 2002:

- It has long been recognised that the preponderance of cases of racial and right-wing violence have not been solved. Earlier monitor reports found percentages of solved incidents of less than 10. In 2002, the exact identity of the perpetrator(s) could be established in only 8% of the cases. The chance of apprehension is small and would probably be considerably larger if more investigative capacity was made available.
- Racial violence can be committed by both *native Dutch people* as by *ethnic minorities*. Of the 21 perpetrators whose identity could be established, 17 were native Dutch and 4 were ethnic minorities. In 79 cases there was enough information to identify the native or ethnic minority (suspected) perpetrator by name: 55 native Dutch and 24 ethnic minorities.
- Of the 264 violent incidents that took place in 2002, 12 were definitely or presumably of *extreme right-wing origin*. This makes the portion of incidents perpetrated by the extreme right striking small: approximately 5%. In the year 1998 this figure was 19%, and in 1997 it was 20%.

To conclude. There are as yet no statistical data on racial and right-wing violence for the year 2003. So far we do not have the impression that the nature and scale of the problem in 2003 presents a radically different picture. The most serious incident so far as been a case of arson in an Islamic primary school in Eindhoven on 15 June 2003.

Racial crime

The number of registered discriminatory incidents for the year 2002 rose to 242. This increase of 22% in comparison with 2001 exceeds even the total increase of incidents in the criminal justice chain. The incidents were no longer registered exclusively under offences involving discriminatory utterances (137c-e) but also under exclusionary offences (art. 137g and 429quater). This shift is to be especially applauded in the case of discrimination in hotels, restaurants and cafés, which has risen once again, and in our opinion it is deserving of further imitation. As for settlements, 2002 brought with it a relatively high number of support cases, which was striking (art. 137f). In brief, this concerns the prohibition to provide support to discriminatory activities. It is unclear where these cases come from and what ultimately happened with them.

The dismissal percentage unfortunately rose again in 2002 after years of decline. With 26% this is considerably more than the national average of 11%. Almost a third of these cases were policy dismissals. This is surprising because the official instructions, known by the name 'Instructions for Discrimination', leave absolutely no room for policy dismissals. The Public Prosecution Service percentage of transactions is under the national average and thereby satisfies the requirements from the instructions.

Most of the acquittals took place in 2002, in both relative and absolute terms. The Public Prosecution Service was not able to maintain the high court success rate of 2001 and 2002. It is unclear whether the relatively high dismissal percentage had any influence on the percentage of convictions in court (80%).

The accretion in the number of cases at the offices of the public prosecutors continues to lag behind because of the poor inflow of cases handled by the police. The Public Prosecution Service should be able to anticipate this now that the National Agency for Cases of Discrimination (Landelijk Bureau Discriminatiezaken; LBD) has joined the police. Otherwise there is the danger that the case load may prove too heavy to be processed, with cases being inadequately prepared or not brought to court at all.

The National Discrimination Expertise Centre (LECD) came up with a good initiative for not to limit background information to the inflow in the future but to include case settlement as well. The LECD registered considerably fewer perpetrators from the extreme right last year. This tendency coincides with our findings regarding racial violence in 2002; there, too, there was less involvement of the extreme right.

Figures from the LECD show a decrease rather than an increase in the number of inter-ethnic incidents. There was also less support for the opinion that the main suspects in cases of anti-Semitism were young Moroccan men. In 2002 anti-Semitism rose to 25% of all registered discriminatory offences. This discrimination concerns anti-Semitic utterances. Many of the incidents took place in connection with sporting competitions (65%). The number of internet cases remained very low in 2002. The LECD noted no more than six cases in 2002. This number is in sharp contrast with the increase of discrimination and anti-Semitism on the internet in 2002, reported by the Dutch Complaints Bureau for Discrimination on the Internet.¹

¹ Annual report 2002, Internet Discrimination Hotline (www.meldpunt.nl) (8-4-2003)

The percentage of discriminatory cases on the basis of race increased to 86% in 2002 with respect to other grounds for discrimination.

The standard criterion for the criminal prohibition of racial discrimination remains the protection that the Netherlands has endorsed through the ICERD: International Convention on the Elimination of all Forms of Racial Discrimination (Internationale Verdrag ter Uitbanning van alle Vormen van Rassendiscriminatie; IVUR). With a treaty like the ICERD, the international community has tried to establish the principles which individual states should satisfy so as not to fall outside the borders of a democratic system of law. For this reason it is our opinion that discussions of the criminal prohibition of discrimination are very useful, and elimination of such discussion is undesirable.

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GLOSSARY

Racial crime and racial violence: a racial crime is a crime with a ‘racial’ basis; racial violence is a racial crime involving violence.

Racial violence: that form of violence in which the victims or targets are chosen on account of their ethnic, racial, ethnic-religious, cultural or national origin.

Discrimination under Dutch law: any distinction, exclusion, restriction, or preference, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise on an equal footing of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of social life. Discrimination is either direct a) or indirect b).

- a. direct discrimination: discrimination between persons based on religion, belief, political opinion, nationality, race, sex, heterosexual or homosexual orientation or civil status;
- b. indirect discrimination: discrimination based on other characteristics or behaviour than those meant under (a), resulting in direct discrimination.

Underreporting of racial crime: the vast majority of racial incidents – including an unknown number of crimes – are not reported

Underreporting of racial violence: the vast majority of violent incidents are not reported to the police; some of the incidents that are reported to the police are not adequately organised in a central data file, which means that some incidents remain hidden.

Ethnic Minority: see Non-Western foreign background. For the purposes of this report, persons belonging to ethnic minority groups are defined as people born in, or of whom at least one parent was born in, Africa, Asia (excluding Japan and former Dutch East Indies and Indonesia), South America and Turkey. The largest groups are Moroccans, Turks and people from Suriname and the Netherlands Antilles/Aruba.

Issued on the basis of recognition as a refugee, according to the Geneva Convention.

1. INTRODUCTION

We begin with a broad, comprehensive concept of ‘racial crime’: a crime that is ‘racially’ motivated. The crime may be violent or non-violent. It may also consist of a cluster of both violent and non-violent constituent elements. One might think, for instance, of a ‘racial’ dispute that begins with abusive language, moves on to threats and finally erupts in assault. Although we regard racial crime as a crime that is ‘racially’ motivated, ‘racial violence’ always involves violence. Take note: our main concern here is the primary ordering of both concepts. More precise definitions will be presented in the relevant chapters that follow.

This primary conceptual order is not a result of our thinking as to the best way to order these concepts; it arises from the approach that has been developed within the framework of the research project *Monitoring racism and the extreme right*. For quite some time, this project has involved the gathering of data on racial violence as well as the preparation of statistical material. The methods used in data collection will be discussed later in detail. Racial crime is also a permanent part of the *Monitoring racism and the extreme right* project, as seen in the sub-study of ‘racial discrimination: investigation and prosecution’. The method used in data collection and analysis will be discussed in the relevant chapter.

At this point it is important to emphasise that dealing with racial crime and racial violence involves consulting two different sources of data as well as two different collections, means of processing and analyses. This compels us to handle both themes separately, which will be done in chapters 4 and 5.

The difference between these two chapters corresponds to a large extent (but not fully one hundred percent) with the difference between violent and non-violent acts. Our definition of racial violence also includes threats. There is a difference of opinion as to whether this category should or should not be categorised under violence. The chapter on racial crime is about crimes that fall under the prohibition on discrimination. These crimes are non-violent for the most part, but they can include threats and they can incite to violence. *This unavoidable overlapping is connected to the fact that we are dealing with different sub-studies.* In addition, non-violent crimes that are a subject of study in the chapter on racial crime are clustered together with violent crimes. The latter was something we were not always able to determine. In both sub-studies we found it impossible to consult all the hundreds of cases of dossier studies.

The fact that the report on racial crime and racial violence was programmed later on in the calendar year was something we always regarded as good news in earlier years. This makes it possible for us to present new data and new analyses.

2. THE POLITICAL CLIMATE

2.1. THE EXTREME RIGHT: THE SITUATION IN 2002

In taking stock of the extreme right scene in the Netherlands during recent years, a number of developments stand out.²

The extreme right formations have still not recovered from the great setbacks of 1998, when they lost practically all their seats on democratically chosen organs and the Centre Party '86 was banned by the courts. In 2002 a few political parties have slipped out of the picture entirely: the Centre Democrats (CD) and the Dutch Bloc. The already dormant existence of the CD was brought to a definite end by the death of its chairman, Janmaat. The Dutch Bloc was put on non-active. The New National Party (NNP) – descendant of the forbidden Centre Party '86 – is in better shape. The NNP gained two seats in a Rotterdam sub-municipal council. There was no evidence of any electoral recovery at the national level (a return of the extreme right to the Lower House). For the first time in twenty-five years there was no participation of any racist, extreme-right political party in the parliamentary elections (2002). So for the time being the NNP cannot be regarded as a successor to the Centre Democrats of the mid-nineties.

Table 1: Election results of extreme-right groups in national elections, 1992-2002

Year	Election	Percentage	Seats
1982	Lower House	0.8	1
1984	European Parliament	2.5	-
1986	Lower House	0.5	-
1989	Lower House	0.9	1
1989	European Parliament	0.8	-
1994	Lower House	2.9	3
1994	European Parliament	1.0	-
1998	Lower House	0.6	-
1999	European Parliament	0.5	-
2002	Lower House	-	-

1982 and 1984: Centre Party (party leader: Janmaat)

1986: Centre Party 0.4% and Centre Democrats (party leader: Janmaat) 0.1%

1989: Centre Democrats (party leader: Janmaat)

1994: Lower House, CD (party leader: Janmaat) 2.5% and CP'86 0.4%

1994: European Parliament, CD (party leader: Janmaat) 1%

1998: Centre Democrats (party leader: Janmaat)

1999: CD/Conservative Democrats

2002: no participation of any extreme-right party

² This section is based on Jaap van Donselaar & Peter R. Rodrigues, *Monitor racism en extreem-rechts; vijfde rapportage* [Monitoring racism and the extreme right; fifth report], Amsterdam 2002

The neo-Nazi groups NVU and Stormfront Netherlands (SFN) had to contend with internal clashes in 2002 and can be regarded as unstable. In the case of the NVU this coincides with the relatively moderate course – ‘consensus politics’ – by which the unity within the NVU has been created under enormous pressure. Nevertheless, the NVU did manage to book some successes: on two occasions, a public demonstration that had been forbidden by the mayor was permitted by order of the administrative courts. The changes of extreme-right groups organising demonstrations in the near future were considerably increased by this decision. This development may be positive from the point of view of correct application of the law, but it is strongly at odds with many people’s sense of justice.

Stormfront Netherlands, which splintered off from the NVU (Nederlandse Volks-Unie, Dutch Peoples Union) and is that group’s rival, shot up like a mushroom in 2001 and showed itself to be a platform of violence and anti-Semitism. In the course of 2002, SFN also fell into a decline because of confrontations with the police, with political opponents, and through lack of coordination and leadership.

A whole range of small extreme right-wing groups have gathered under the name ‘National Movement’ (Nationale Beweging) and put on mainly local demonstrations, not only directly via political channels but also indirectly via the youth sub-culture. The pivotal figure is an old leader of the banned Centre Party ’86.

Extreme right-wing, racist material on the internet is widespread and diverse. One phenomenon that has increased in recent years are the extreme-right ‘keyboard warriors’, extreme right-wing activists who act in apparent or actual anonymity putting out exceedingly radical material via web forums such as Stormfront (not to be confused with Stormfront Netherlands) and Polinco.

In terms of numbers, we are seeing both continuity and change. Continuity, because the estimated total number of members of extreme right-wing groups has remained stable (about 650 persons). And we see change when we look at the composition of those groups. The number of activists in the neo-Nazi realm has grown smaller, while the followers of the New National Party have increased.

Table 2: Membership and active core of extreme right-wing groups in the Netherlands, October 2002

Groups	Number of members/followers	Active core
Political parties NNP	300	20 to 25
Extreme right-wing organisations (‘National Movement’) LANS/NSE/ etc.	100	10 to 20
Neo-Nazi groups ANS/NVU/FAP cluster Stormfront Netherlands	150 100	15 to 20 10 to 20 together 25 to 40
Total	About 650	55 to 125

2.2. EXTREME RIGHT, RACISM AND THE LPF/LIVEABLE MOVEMENT

In a great many respects, Pim Fortuyn and his followers form an extraordinary phenomenon in the modern political history of the Netherlands. Never before has a novice political movement assumed such dimensions in such a short time – a few months: 30 parliamentary seats in the opinion polls (early 2002) and 26 actual parliamentary seats in the parliamentary elections of 15 May 2002. Never before had a new politician ascended with such lightning speed; he may even have become prime minister if he had not lost his life on 6 May 2002. Political assassination is an extremely rare phenomenon in the Netherlands. After the elections of 15 May 2002, the political heirs of Fortuyn were a prominent presence as they made their debut in the Lower House. The LPF also took part in the governing coalition that was formed in July 2002. But the decline of this political movement, dragging the entire cabinet along with it, was almost as tempestuous and fast as its ascension. By the end of October 2002 the cabinet had resigned, the LPF was shattered and a large portion of the constituency of the LPF/Liveable movement had disappeared. Last but not least, both the rise and the fall were unparalleled. Fortuyn and his followers – referred to here as ‘the LPF/Liveable movement’ – are often related to ‘right-wing extremism’, ‘racism’ and ‘fascism’. On many occasions, Fortuyn himself, his supporters and his relatives strongly objected to these qualifications. Controversies arose within the movement itself, especially concerning ‘racism’. One specific instance of this was Fortuyn’s sharp comment about ethnic minorities published in the *Volkskrant* of 9 February 2002. For the executive board of Liveable Netherlands these statements went much too far, which led to a schism: Liveable Netherlands continued on without Fortuyn. In February 2002 Fortuyn founded his own party: the List Pim Fortuyn (LPF).

Claims that were said to link Fortuyn and the LPF with the extreme right and racism began to build during the spring of 2002. With the elections at hand, these claims took on a strong moral tone and were seen by Fortuyn and the LPF as allegations – ‘demonisation’ – that had to be resisted. Fortuyn’s violent death and its aftermath gave the resistance against the ‘demonisation’ a powerful impulse. Attempts were even made to bring charges against those who were seen as the chief suspects in the ‘demonisation’.

In our opinion, questions concerning the extreme right-wing, racist content of the LPF/Liveable movement are both socially and scientifically relevant. Consequently they have been given attention in the fifth report of *Monitoring racism and the extreme right*.³

What follows is a summary of the findings. The question concerning the extreme right-wing, racist content of the LPF/Liveable movement can be broken down into sub-questions having to do with:

- the ideology;
- the social genealogy;
- the magnet function (positive identification and overlapping of personnel).

³ Jaap van Donselaar & Peter R. Rodrigues, *Monitor racism en extreem-rechts; vijfde rapportage* [Monitoring racism and the extreme right, fifth report], Amsterdam 2002

Ideology

Assessing which ideas should and should not be characterised as racist depends on the chosen definition and is therefore arbitrary to a certain extent. Whether in the case of Fortuyn legal borders were crossed is probable but has not been established: after his death, the charges brought against him were dropped so no judicial decision was made.

A related problem in assessing Fortuyn's statements is that sometimes it is not clear which statements he did or did not make. We have not discovered any racism in the material he published himself, although there are numerous statements in which he balances on the border of what can or cannot be regarded as permissible, and statements that might be experienced by others as offensive.

Fortuyn propagated a liberalisation of the freedom of expression, which he claimed was too limited at the moment because of the fight against discrimination. The line should be drawn at the point where physical violence is being incited. This view does not correspond with current Dutch reality, where racist defamation is a crime, but more with American views concerning the defining of the freedom of expression.

As for the opinions of LPF voters, it research suggests that they, more than other voters, allow themselves to be drawn by questions concerning refugee policy, and that in those questions they are hardliners: strong limitations placed on immigration, insistence that immigrants be fully assimilated or be returned to their land of origin.

Without a doubt, there are a number of persons among the LPF/Liveable constituency with markedly racist views. Examples in this regard are the racist verbal aggression and threats that occurred after the death of Fortuyn. The ideology of the LPF/Liveable movement seems to have proven attractive to persons with far more radical views (see the magnet function). Conversely, more radical views have not infrequently been attributed to Fortuyn – more radical than can be deduced from his own statements.

Social genealogy

Extreme right-wing organisations often branch off from other extreme right-wing organisations, and the emergence of a new organisation often involves individuals who were active in extreme right-wing circles at an earlier time. We refer to this phenomenon here as social genealogy. As far as we know, there was no participation of persons from extreme right-wing circles in the emergency of either Liveable Netherlands or the LPF. So there is no evidence of social genealogy, at least not in the founding phase of the various groups. In the founding of the LPF in particular, after the break between Fortuyn and Liveable Netherlands, attempts were made from extreme right-wing circles to actively blend in and join the movement. These attempts failed through the efforts of the founders themselves, who turned away all known extreme right-wing activists.

Magnet function

To what extent has the LPF/Liveable movement been identified positively in extreme right-wing circles, and to what extent has that led to an overlapping of personnel between the LPF/Liveable movement and extreme right-wing formations? First the positive identification. We have been able to determine that 'Fortuyn' has been widely and

strongly accepted in the various extreme right-wing milieus. There has also been positive identification outside the Netherlands, such as with the Flemish Bloc (Belgium). In addition, it is not always clear what is responsible for the attraction. Was it Fortuyn's ideas and provocative appearances? Or was it rather an aversion to the left and to the political assassination, which caused people to be drawn to the right? There are many different examples of overlapping of personnel. One striking element was the support extended by extreme right-wing circles to give the LPF a sufficient number of statements of support in order to enable them to participate in the election. Of the total number of supporters, twenty were from the extreme right. Out of a total of at least 570 in all the electoral districts combined, this is not a large number. This proportion could have been significant, however, because a deficiency of only one signature in any particular electoral district – at least 30 – means exclusion from participation in that district.

In terms of numbers the overlapping of personnel is modest. It is not really what is to be expected on the basis of the powerful magnet function. One of the explanations is undoubtedly the attempt made by the LPF and Liveable leaders to exclude the extreme right. Well known right-wing extremists were turned away, either as soon as they joined or when they came to the attention of the public. The motives for this policy are not altogether clear to us. Was it because of a distaste for the extreme right or out of fear that the party would be discredited? Nor do we know how actively the various party leaders tried to turn the extreme right away.

2.3. NEGATIVE VIEWS OF ETHNIC MINORITIES

A few indicators of negative views of ethnic minorities can be found in the *Integration Policy Report on Ethnic Minorities for 2003*.⁴

Many native Dutch people have negative opinions about ethnic minorities participating in Dutch society: too many ethnic minorities, they make the neighbourhood go downhill, they are a source of crime, they abuse social services, they should be sent back if they become unemployed, etc. Many of these reasons can be found in Table 3: *Views of native Dutch people on the multicultural society according to degree of endorsement*

⁴ Source: Rapportage Integratiebeleid Etnische Minderheden 2003 [Integration Policy Report on Ethnic Minorities for 2003], Lower House, conference year 2003-2004, 29 203 http://www.gelijkebehandeling.nl/_images/tk29/29203-02.pdf (8-4-2003) p 132 - 134

Table 3: Views of native Dutch people on the multicultural society according to degree of endorsement

	percentage agree or strongly agree
Foreigners with residence permits should have the same rights to social security as Dutch people	83
A neighbourhood with many ethnic minority residents will go downhill	81
It's good for society to consist of people from different cultures	79
If schools do their best, the presence of ethnic minority students can be good for the entire student body	74
There are too many ethnic minorities living in the Netherlands	65
Ethnic minorities abuse social services	58
Some sectors of the economy are entirely dependent on ethnic minorities to keep running	56
The presence of ethnic minorities is a source of crime and danger	49
All those foreign cultures form a threat to our own culture	37
The arrival of foreigners to the Netherlands is a threat to our prosperity	36
Foreigners with residence permits should be sent back if they become unemployed	30
Islam can make a valuable contribution to the culture of our country	27
It should be easier to be granted asylum in the Netherlands	9

Source: Report on Ethnic Minority Integration Policy for 2003, Lower House, conference year 2003-2004, 29 203 http://www.gelijkebehandeling.nl/_images/tk29/29203-02.pdf p 133

The same report also deals with changes in the climate of opinion. A few research results from a series of different studies were combined in a table: Table 4, *Indicators of negative attitudes towards ethnic minorities, 1991–2002*. Although the scores of various indicators do not provide an unambiguously consistent reading, we believe it is possible to assert that there is evidence of a steadily deteriorating climate of opinion.

Table 4: Indicators of negative attitudes towards ethnic minorities, 1991–2002

	1991	1995	2000	2002	2002
There are too many foreigners (% who agree or strongly agree)	46	44	53	49	55
Negatively disposed towards foreigners (%)	-	12	16	22	-
They enrich our culture (% who agree or strongly agree)	-	46	40	44	-
No objection to having people of another race as next-door neighbours (%)	54	56	47	39	38
Would dismiss a foreigner before dismissing a Dutch person (%)	23	16	-	-	15
Would help a Dutch person find a place to live before helping a foreigner (%)	29	38	-	-	44

Source: Report on Ethnic Minority Integration Policy 2003 Lower House, conference year 2003–2004, 29 203 http://www.gelijkebehandeling.nl/_images/tk29/29203-02.pdf p 134

A few indications of Islamophobia can be distilled from soundings taken by the NIPO, from which the results of 11 September 2003 were published.⁵

Fifty-one percent of the non-Muslims in the Netherlands say they are afraid of Muslims. Seventy percent do not agree with the statement ‘I think it’s good for Muslims to set up their own Islamic schools’. The view that Muslims don’t try hard enough to integrate was supported by 82% of the non-Muslims in 2003. In 2002 this figure was somewhat higher: 85%.

3. LEGISLATION AND POLICIES CONCERNING RACIAL VIOLENCE AND RACIAL CRIMES

3.1. RACIAL VIOLENCE

In the Netherlands there are no specific statutory provisions concerning *racial violence*. Violent, racist incidents are punishable on the basis of violent offences under ordinary law, such as those included in Dutch criminal law.

3.2. RACIAL CRIMES

The basis for the present Dutch prohibition on discrimination lies in the International Convention on the Elimination of all forms of Racial Discrimination (Internationaal Verdrag ter Uitbanning van alle vormen van Rassendiscriminatie; IVUR). This treaty was ratified in 1966 and led to new prohibitions on discrimination in the Penal Code in 1971. At that point many parliamentarians believed that the situation in the Netherlands did not yet warrant switching over to such legislation. Now we know better. The debate that was carried on at that time in the Lower House on the line separating free expression and the prohibition on discrimination is still alive today and has been given a new impulse in recent years (see 4.2, Extreme right, racism and the LPF/Liveable movement). It is argued that the administration of the law has leaned too heavily towards the principle of non-discrimination and that the freedom of expression has been too severely restricted. Some even feel that the abolition of the criminal prohibition of discrimination deserves priority.

The prohibition of discrimination is not based on the Dutch Constitution (article 1), however, but on the ICERD.⁶

The scrapping of the criminal prohibition would have consequences for the Netherlands’s compliance with the treaty. With the ICERD the international community has attempted to anchor human right in such a way that individual states can no longer back out without doing damage to the demands placed on a democratic state.

⁵ NIPO http://www.nipo.nl/print.asp?id=c001&file=persvannipo\pol03_37.htm (8-4-2003)

⁶ Dutch Constitution, article 1: “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 other grounds, is not permitted”.

To repeat, in 1971 new criminal prohibitions against discrimination were introduced into Dutch law.⁷ After these provisions were introduced, only a few amendments had to be made in the Penal Code (Sr). First of all, article 429quater – that discrimination in the running of a business or the practising of a profession is forbidden – was tightened up.⁸ This was made in response to the non-Jewish declarations that Dutch businesses submitted to Arabic countries in the Middle East. The government deemed an amendment necessary in order to bring the handing in of these declarations under the prohibition of article 429quater. Then as of 1 February 1992, the criminal prohibition of discrimination was tightened up and expanded with new grounds for discrimination.⁹ The basic principle here is that people may not be impeded by discrimination in their social functioning. The law is meant to protect groups that are contending with discrimination. Since then, to sum up, the following articles have been in force.

- Article 90quater contains the definition of discrimination in terms of criminal law;
- Article 137c forbids discriminatory insults;
- Article 137d makes inciting to hatred a punishable crime;
- Article 137e forbids the spreading of discriminatory utterances, and since 1992 this prohibition also applies to the unsolicited receipt of discriminatory publications;
- Article 137f, since the changes of 1992, lays down that support granted to discriminatory activities is no longer a misdemeanour but a felony;
- Article 137g, since the changes of 1992, contains the prohibition on wilful discrimination not only in running a business or practising a profession but also in exercising one's duties in an official capacity;
- Article 429quater forbids the same offence as described in 137g, but without the required intentionality. It is the misdemeanour variant. Likewise, most of the articles mentioned were expanded in 1992 to include as grounds for discrimination 'homosexual orientation' and 'sex'.

This, then, is the summary. The current provisions in the penal code are described in full in the following overview.

3.2.1. Criminal prohibitions on discrimination¹⁰

Art. 90quater. Discrimination or to discriminate is understood to mean any form of distinction, any act of exclusion, restriction or preference, which aims at or may lead to the result that the recognition, the enjoyment or the exercise on an equal basis of human rights and fundamental freedoms in the political, economical, social or cultural fields or in other areas of social life is annulled or harmed.

⁷ Bulletin of Acts and Decrees 1971, 96.

⁸ Bulletin of Acts and Decrees 1981, 306.

⁹ Bulletin of Acts and Decrees 1991, 623.

¹⁰ English language version taken from <http://www.lbr.nl/euroinfo/english/nondiscr.html> (8-4-2003)

Art. 137c. He who in public, orally, or in writing, or by image, intentionally expresses himself in a defamatory manner about a group of persons on the grounds of their race, their religion or personal beliefs or their hetero- or homosexual orientation, is liable to a term of imprisonment of a period of not more than one year or a fine of the third category.

Art. 137d. He who in public, either orally or in writing or by image, incites hatred of or discrimination against persons or violence against persons or their property on the grounds of their race, their religion or personal beliefs, their sex or their hetero- or homosexual orientation is liable to a term of imprisonment of not more than one year, or a fine of the third category.

Art. 137e. 1. He who, for any reason other than giving factual information:

1. makes public a statement which he knows or should reasonably suspect to be offensive to a group of persons on the grounds of their race, religion, or personal beliefs, or their hetero- or homosexual orientation, or incites hatred of or discrimination against people or violence against their person or property on the grounds of race, religion or personal beliefs, their sex or their hetero- or homosexual orientation; 2°. Sends someone, other than on his request, or spreads or, with the objective of publication or dissemination keeps in stock an object which he knows or should reasonably suspect to contain such defamatory statement; is liable to a term of imprisonment of not more than six months or a fine of the third category.
2. If the offender commits any of the offences, defined in this article, in his profession, and if, at the time of committing the offence, less than five years have passed since any previous conviction of the offender for any of these offences became irrevocable, he may be discharged from practising that profession.

Art. 137f. He who takes part in, or extends financial or other material support to activities, aimed at discrimination against persons on the grounds of their race, their religion, their personal beliefs, their sex or their hetero- or homosexual orientation, is liable to a term of imprisonment of not more than three months, or a fine of the second category.

Art. 137g. He who, while practising his office, profession or business, intentionally discriminates against persons on the grounds of their race, is liable to a term of imprisonment of no more than six months or a fine of the third category.

Art. 429quater. He who, while practising his office, profession or business, discriminates against persons on the grounds of their race, their religion, their personal beliefs, their sex or their hetero- or homosexual orientation, is liable to a term of detention of a period of not more than two months or a fine of the third category.

3.2.2. Instructions and guidelines

In the past twenty years, various instructions and guidelines have been issued by the Board of Procurators General which are intended to improve the investigation and prosecution of cases of discrimination. The most recent Instructions for Discrimination

was published on 27 March 2003 and was became effective on 1 April 2003.¹¹ The Board had instructed the National Discrimination Expertise Centre (Landelijk Expertise Centrum Discriminatie; LECD) to evaluate the Instructions for Discrimination , which dates from 1999. This evaluation resulted in the adjustment of the Instructions. Also included were the recommendations made by the National Federation of Anti-Discrimination Agencies and Hotlines (Landelijke Vereniging van Anti-Discriminatiebureaus en Meldpunten; LV) and the National Bureau against Racial Discrimination (Landelijk Bureau ter bestrijding van Rassendiscriminatie; LBR).¹² Research by these two organisations shows that actual practice leaves a great deal to be desired. The Instructions have been insufficiently complied with, especially by the police. A great many reports are not recorded, the police dismiss cases on their own authority and are reluctant to carry out adequate investigations. The research undertaken by the LV and the LBR also mentioned the lack of expertise among some of the Anti-Discrimination Agencies (Anti-Discriminatie Bureaus; ADBs) as a weak point. We share the conclusion that the Instructions are not being sufficiently complied with, but we are convinced that tightening them up will not lead to improved enforcement. The only way to improve enforcement is to get to the bottom of why the Instructions do not work well. Is it a matter of lack of manpower, of priority, or interest, or a combination of all these factors? These possibilities also contribute to our conclusion that tightening the Instructions will not be sufficient.

The Instructions of 2003 reports that in cases of discrimination, criminal enforcement, in addition to a civil and administrative approach, should make a substantial contribution to the marking of legal and moral norms. Cases of discrimination often attract a great deal media attention and provide the Public Prosecution Service with a good opportunity to highlight the contribution made under criminal law to dealing with the discrimination problem. The Public Prosecution Service has made clear that it wants to act as a credible and reliable ally in the struggle against discrimination. The revised Instructions includes rules for investigating and prosecuting discrimination as well as procedural requirements for the Public Prosecution Service. The same is true for the police, when it comes to submitting reports and making complaints about discrimination. The main rule is that every violation of the regulations governing discrimination should result in a criminal response if the case reasonably lends itself to such. This is important in view of the negative effect of inadequate enforcement and the fact that criminal prosecution serves as a deterrent. In cases of discrimination, the expediency of prosecution is inherent in principle, which suggests that the decision to dismiss a case should be approached with great restraint. The police should keep track of cases of discrimination as well as of general offences with a discriminatory basis. In general offences that are discriminatory in nature, the public prosecutors are being required to increase the sentence by 25%. All reports and complaints concerning discrimination should be recorded by the police, according to the Instructions. The police are to periodically report the cases of discrimination of which they have been aware to the public prosecutor. In addition, preconditions have been formulated for specifying the local cooperation between the Public Prosecution Service, the police and the ADBs. The ADBs have managed to acquire a full position in the criminal justice chain. The Public Prosecution Service guides the police in deciding on how discriminatory incidents are to be dealt with.

¹¹ Government Gazette 2003, no. 61

¹² Rapportage Evaluatie Aanwijzing Discriminatie, LV-ADB en LBR [Report on the Evaluation of the Presence of Discrimination, LV-ADB and LBR], January 2003 (www.lvadb.nl and www.lbr.nl).

It is striking that in its accompanying letter, the Board took the opportunity to emphasise that the Instructions for Discrimination are a *lex specialis* of the Instructions for Investigation. This means that cases of discrimination may not be regarded as trivial cases in the sense of Instructions for Investigation, but as a special priority as indicated in the Instructions for Discrimination.¹³

On the grounds of earlier Instructions in discrimination cases,¹⁴ officers are appointed in every jurisdiction of the Public Prosecution Service who are specifically charged with discrimination cases. In addition, each jurisdictional public prosecutor of the five Courts of Justice has a Solicitor General for discrimination. Procurator General (PG) De Wijkerslooth has the discrimination portfolio in the Board of Procurators General. The contact officers working with the police are responsible for coordinating the discrimination cases. Just charging these officials with the responsibility for cases of discrimination has resulted in improved enforcement in recent years.

4. RACIAL VIOLENCE IN 2002

4.1. INTRODUCTION

Since the early nineties, systematic attempts have been made to gain insight into the problem of racist incidents and violence incited by the extreme right, particular through the research project *Monitoring racism and the extreme right*. The aim of this project, which was launched in 1996, is to track and periodically to report public expressions of racism, extreme right-wing ideology and racial discrimination in the Netherlands, as well as responses to these phenomena. For a few years now, *Monitoring racism and the extreme right* has been carried out by the Anne Frank House and the Leiden University. The research report of racial violence and violence incited by the extreme right in 2002, on which this RAXEN4 report is based, is expected to be published at the end of 2003.¹⁵

4.2. DEFINITIONS AND DISTINCTIONS

Opinions differ as to the definition of racial violence and violence incited by the extreme right. Discussion is also evoked by the whatever statistical data may be available concerning these phenomena, partly because of what is known as underreporting: the problem that only part of the phenomenon is visible and that a presumably larger but unknown part lies hidden.

¹³ Government Gazette 2003, nr. 41

¹⁴ Government Gazette 1993, 171.

¹⁵ Jaap van Donselaar & Peter R. Rodrigues, *Monitor racism en extreem-rechts; racistisch en extreem-rechts geweld in 2002* [Monitoring racism and the extreme right; racial violence and violence incited by the extreme right in 2002], Amsterdam 2003

The problem of racial violence and violence incited by the extreme right creates considerable problems as far as definitions and distinctions are concerned, these violent incidents are often seen to contain many diverse aspects. These aspects include the outer form of the incidents: they often make themselves known primarily as graffiti, arson, bomb scare, threat, etc. On the surface, one would think that distinguishing one aspect from another would be a simple matter, but this is far from the case. For what one person regards as graffiti may be seen by another as a serious threat. The question is, who decides what the incident will be called, and therefore how it will be interpreted?

Another problem is that in most cases the perpetrators remain unidentified, which not only complicates an assessment of the motives and backgrounds of the perpetrators, but also can lead to very different assessments. Because the viewpoints may be so different – known as the different ‘definitions of the situation’ in sociological jargon – it is recommended that the working definition of racial violence be kept as broad as possible.¹⁶

In this regard, *violence* is understood as:¹⁷

behaviour in which the one party inflicts wilful damage on the other party, or threatens to inflict such damage, and in which this behaviour is chiefly aimed at causing physical harm to objects and/or persons.

Following on that, *racial violence* can be understood as:¹⁸

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

Racial violence can display diverse inter-ethnic dimensions:

1. native versus ethnic minority, or ‘white against black’;
2. the opposite: ethnic minority versus native, or ‘black against white’;
3. ethnic minority against ethnic minority belonging to another ethnic group, such as a confrontation between a group of Antilleans and a group of Moroccans.

In recent years, the second and third category have increased strongly in significance.¹⁹ The picture has become more differentiated; racial violence no longer refers exclusively to violence perpetrated by native Dutch people, but also to ethnic minority perpetrators, whereas the victims can be both ethnic minority and native Dutch.

Violence incited by the extreme right can be racial in nature, but need not be per se. Extreme right-wing groups often have a two-sided enemy image.²⁰ This means opposing people who are alien with respect to the native population, and people who are hostile to the native population. In the National Socialism from before and during the Second World War, Jews and gypsies were regarded as alien. After 1945, the notion of ‘alien’ in

¹⁶ For a more detailed discussion see Buijs & Van Donselaar, 1994: 55-64.

¹⁷ Buijs & Van Donselaar, 1994: 57.

¹⁸ Buijs & Van Donselaar, 1994: 57.

¹⁹ Van Donselaar, 2000: 134.

²⁰ Also see Van Donselaar, *De staat paraat? State responses tot the extreme right in Western Europe*, chapter ‘De vijf landen vergeleken’, Amsterdam 1995.

extreme right-wing ideology was expanded and tended to include all ethnic minorities in general. People who are hostile to the native population – from the extreme right-wing perspective – are the political opponents of the extreme right. These can include anti-fascist activities and demonstrators, but it can also include politicians and government administrators who enact measures against the extreme right, or who take measures that benefit ethnic minorities.

4.3. BRIEF REVIEW

In last year's study of racial violence and violence incited by the extreme right (2001), a great deal of attention was paid to anti-Islamic reactions to the attacks of 11 September 2001.²¹ Numerically, these incidents had enormous influence on the entire year: about 60% of the total acts of violence for 2001 listed by us took place after September 11th.

A strikingly large number of *mosques* were targets in one way or another. The mosques of The Hague were the target of racist graffiti, vandalism and bomb scares. A mosque in Apeldoorn was threatened and its windows were smashed. In Alkmaar threats were made to set the mosque on fire. Threats were received by mosques in many other places as well. In eight places, mosques were the target of various acts of vandalism, and nine mosques were confronted by arson or attempted arson.

The violence after September 11th was aimed not only at mosques, but also at a number of Islamic schools, involving threats, arson and vandalism. In Gorinchem, the unrest was so great after the attack on the mosque and incidents of racist graffiti, that Muslim parents kept their children home as a precaution. On the initiative of the mayor, ethnic minority students were accompanied to and from school by native Dutch classmates.

Besides mosques and schools, *individual persons* also became the victims of violence or threats to commit violence. The most serious case known to us was the serious assault of a Turkish man who was intentionally hit by a car from the back, causing him to suffer several broken bones. A number of Afghan refugees living in the Netherlands had to put up with similar activities (vandalism, arson, threats and assaults). In various places, Muslim girls who wore headscarves were insulted and spat upon, and in a few cases their headscarves were torn off.

In addition, a series of incidents in reaction to September 11th occurred in the '*opposite*' direction: from ethnic minorities to native Dutch. The report of celebrating Palestinians in the Middle East and 'celebrating' Moroccans in Ede, shortly after the attacks, were probably responsible for influence this picture to a considerable extent. Less attention was paid to expressions of support for Osama Bin Laden in the form of graffiti. In addition, a number of violent incidents occurred that were probably anti-native – or better: anti-Christian – in origin. Arson or attempted vandalism was committed in churches in four places. Based on our inventory, the incidents of violence by ethnic minorities against native Dutch were far less numerous than those by native Dutch against ethnic minorities.

²¹ Jaap van Donselaar & Peter R. Rodrigues, Monitor racism en extreem-rechts; vijfde rapportage, Amsterdam 2002

The series of violent acts committed shortly after September 11th had started to ebb away for the most part by early December 2001.

4.4. DATA COLLECTION

Concerning the collection of data on racial violence and violence incited by the extreme right in 2002, last year's procedure was repeated this year: the AIVD (the Dutch Intelligence Service, or Algemene Inlichtingen- en Veiligheidsdienst, formerly the BVD)²² asked the 25 police regions to collect data on the basis of a certain pattern on racial violence and violence incited by the extreme right. These data were input by the AIVD into a central databank. The *format* of this databank was developed in cooperation with the Leiden University, partly on the basis of experiences acquired in other countries with similar databanks.²³ We then processed the data (for the year 2002) and analysed it.

The development of statistical police data on racial violence and violence incited by the extreme right is a complicated business. One of the problems is the fact that up until now the necessary information kept by the police is subjected to little automation, if any. It is a labour intensive activity to which some corps can devote more priority than others. In some police districts, the problem in question is barely mentioned in their reports, if at all.

Another problem has to do with the diverse opinions about the extreme right-wing or racist content of certain incidents. In other words: the assessment of concrete cases is arbitrary. What one person may regard as a neo-Nazi activity may not be similarly identified by someone else, who simply dismisses the activity as 'youthful pranks'.

Then there's the counting. What is seen in one police district as a single threat – such as sending ten copies of the same threatening letter – may be seen in another district as ten different threats.

Some incidents are 'combined', such as a case of vandalism preceded by graffiti, or a threat that ends up in an assault. Often there is a tendency to 'write something off' under the most serious offence, which in this case would be vandalism and assault respectively. Any attempt to gain an overview at the national level must begin with an attempt to deal with this problem. That attempt has been made, and a reasonable result was booked in the area of creating uniform arbitration as well as the counting of combined incidents.

But this does not solve the problem of *degree of coverage*, of course. Only a portion of what has taken place in the various police regions has been recorded in the above-mentioned inventory. A first glance at the figures for the year 2002 (as in previous years) clearly show that the problem of degree of coverage is considerable.

²² The name change of the AIVD is a result of the new Intelligence and Security Services Act (Wet op de inlichtingen- en veiligheidsdiensten; Wiv) that became effective on 29 May 2002. Also see www.aivd.nl

²³ Especially Germany and Sweden. In 1997 a working visit was organized to the police in Sweden, who for several years had worked with the 'politically motivated violence' registration system. See Van Donselaar, 1997: 88-89.

At the request of the National Agency for Cases of Discrimination (police), located in Rotterdam, a pilot study was carried out in 2003 in the systems of the Rotterdam-Rijnmond police region. This pilot consisted of an intensive search for cases of racial violence and violence incited by the extreme right in 2002. The search provided positive results, at least as far as this police region is concerned. Nevertheless, national coverage is problematic. For this reason it has been decided to draw on a number of other sources:

- the annual overview of anti-Semitic incidents issued by the Israel Information and Documentation Centre (Centrum Informatie en Documentatie Israël; CIDI) for 2002;²⁴
- figures for racial violence and violence incited by the extreme right in 2002 issued by the Kafka Anti-Fascist Research Group;
- the Anne Frank House documentation, especially the media reports of racial violence and violence incited by the extreme right in 2002.
- requests from the DUMC were made to Anti-Discrimination Agencies and Hotlines for information on violent, racially-motivated incidents.

Any duplications and overlaps in the data file thus assembled were then identified to avoid a distorted total picture. The result provides a picture of the nature and scale of racial violence and violence incited by the extreme right in 2002.

4.5. NATURE AND SCALE OF INCIDENTS IN 2002

4.5.1. Murder of Fortuyn and the culture of threats

One important event that took place in 2002 was the murder of Pim Fortuyn on 6 May 2002. After the news was made known just after six o'clock in the evening, many people went to Fortuyn's house in Rotterdam and to the Binnenhof (the Houses of Parliament) in The Hague. The atmosphere was tense: any journalists, politicians and government ministers who happened to be present were verbally abused and threatened. The hastily summoned Hague police were pelted with stones, and a fire was started in the Binnenhof car park. The riot police carried out charges on the Square, which resulted in new disturbances elsewhere in the centre of The Hague. The prime minister called for calm. At around nine-thirty in the evening, the police announced that the suspected killer had been apprehended. It was a native Dutchman.

In the hours that lapsed between the report of the murder and this announcement, scores of racist statements were made, especially via the internet, often in the form of threats and mostly in combination with aggressive statements aimed at the 'left'; many of these statements were anti-Semitic in character.²⁵

As the identity of the suspected murderer, Volkert van der G. became known, the *racist* content of the aggressive statements diminished. The hostile statements made against left-wing political parties, members of government, the environmental movement, left-wing action groups and the squatters' movement, however, became all the more numerous. The

²⁴ These overviews can be found on the CIDI website, see www.cidi.nl.

²⁵ For a detailed list see Van Donselaar & Rodrigues, 2002: 27-30

quantity of threats was extremely large by Dutch standards. In the month of May alone it would add up to about a thousand cases of threats by letter, telephone and – mostly – e-mail.²⁶ The number of serious cases, such as the sending of a loaded gun to PvdA leader Melkert²⁷ was much smaller. It is also striking that in not a single case did these threats lead to actual physical violence, at least as far as we know. There were the occasional plans made for violent actions. From the annual report of the AIVD:²⁸

‘The extreme right were enraged by the murder of Fortuyn. Various extreme right-wing persons were involved in disturbing the peace in The Hague on the evening of 6 May. They also participated in large numbers in the various silent marches which were held the following week in the Netherlands. The NVU held a ‘commemorative march’ in Harderwijk in memory of Fortuyn. A strong campaign was carried out against left-wing political opponents, with a few extreme right-wing web pages serving as the vehicle. People who participated in internet discussion groups combined the forceful language they used in general with concrete actions, as we now know. The AIVD has no indication that the flood of insults and threats directed at left-wing politicians had occurred under the direction or organisation of the extreme right. The judicial authorities arrested three neo-Nazis based on an official report from the AIVD. The AIVD had reason to believe that the trio were involved in preparations for an act of retaliation against left-wing politicians.

Despite the fact that very few acts of actual physical violence are presumably being committed, the impact of intimidation and threats on the victim can be great. The political departure of Green Party leader Rosenmöller in November 2002 appeared to have been influenced by prolonged and serious threats. The racist and extreme right-wing web form Polinco was found to be satisfied that the threats had been ‘effective’. On a similar web forum, Stormfront, it was suggested that ‘As for sending bullets in the mail, we’ve got to make a change of address so they get sent to the right place.’

In the course of 2002 we have seen the phenomenon of threats – even outside the context of racism and right-wing extremism – become more extensive and common. A ‘culture of threats’ is said to have developed. Examples: football trainers, politicians and ministers receive threats, sometimes (but not always) in the form of bullets in the mail. Racist and extreme right-wing threats are generally accepted on a number of websites such as Weerwolf, Polinco and especially Stormfront, where threatening language and chatter about provocation and violence have become the prevailing mode of conversation.²⁹

4.5.2. Underreporting the ‘culture of threats’

This flood of threats had considerable impact on the research we carried out on violent incidents in 2002 within the context of *Monitoring racism and the extreme right*. But because of the lack of systematic investigation (because many cases were not solved), the nature and the scale of the threats can only be presented in rough outline. We ourselves were not able to carry out such a specific investigation on account of the limitations

²⁶ Trouw, 5 July 2002.

²⁷ Melkert was the leader of the PVDA (Dutch Labour Party) for the elections of 15 May.

²⁸ Annual report, 2002. Algemene Inlichtingen- en Veiligheidsdienst (Dutch Intelligence Service), Ministry of the Interior and Kingdom Relations, The Hague, April 2003.

²⁹ See Van Donselaar & Rodrigues: 30-36

connected with *Monitoring racism and the extreme right*. This means that for the time being, we have been able to obtain little insight into the *racist and/or extreme right-wing content* of the flood of threats after the Fortuyn murder. Because this insight is lacking, we have decided in principle *not* to include this flood of threats in our research on violent incidents in 2002.³⁰ It goes without saying that leaving out many hundreds of threats with an unknown racist or extreme right-wing basis must have had a considerable impact on the *statistical* assessment of racial violence and violence incited by the extreme right in 2002. In other words, if we had been able to allow for the threats that were made after the murder of Fortuyn, it would probably have resulted in higher figures, particularly in the category ‘threats’, and would also have led to a higher total number of violent incidents for 2002.

4.5.3. Incidents in 2002: categories and key figures

Now let’s take a look at the nature and scale of racial violence and violence incited by the extreme right in 2002. In the years 1999 and 2000, there were 345 and 406 registered violent incidents respectively. In 2001 we ended up with a total of 317 incidents, and in 2002 the amount had dropped even further to 264 (see Table 5).

The acts of violence are diverse in nature. In the project *Monitoring racism and the extreme right*, the following category distinctions have been employed for quite some time:

Categories of racial violence and violence incited by the extreme right

- Targeted racist graffiti
- Threats
- Bomb scares
- Confrontation
- Vandalism
- Arson
- Assault
- Manslaughter

Targeted racist graffiti

The application of racist graffiti is vandalism directed towards an object. It can refer to applying swastikas to the wall of a public toilet with a felt-tip pen or large-scale racist graffiti on a war monument. Graffiti, especially in the form of minor vandalism, is an expression of violence that occurs with relative frequency. In this study, only the ‘heavier’ cases are recorded: targeted graffiti (that being actions with an explicit target) and other large-scale applications of graffiti. In 1999, 144 incidents of graffiti were registered, and in 2000 the number was 157. We found a strikingly lower number for 2001: 86 cases of graffiti. In 2002 the number underwent another considerable drop: 41. A few examples:

- The walls of a Moroccan mosque spray-painted with swastikas.

³⁰ Only ten cases of threats were included, namely those cases that came to us via the information from the police that ended up in our file

- The area surrounding a synagogue daubed with swastikas.
- Spray-painted on the wall of an Islamic school were a swastika and various slogans: ‘Pim Fortuyn’, ‘Fuck the blacks’, ‘Our own people first’.
- Racist texts were applied to the wall of a mosque still under construction: ‘Allah is a pig’, ‘Muslims piss off’ and ‘Remember 9-11-01’.

Threats

Threats occur with relative frequency and in many cases are not reported to the police. Among the 83 threats in our file for 2002, the following concrete cases are included:

- A Moroccan family received a threatening racist letter
- A car intentionally ran into two people who looked like Orthodox Jews; the victims were uninjured.
- Threatening letters were sent to a Jewish institution with such texts as ‘we’re going to gas you, filthy Jew!’
- A call to wipe out the Israel Information and Documentation Centre (Centrum Informatie en Documentatie Israël; CIDI) appeared on the extreme right-wing website ‘Weerwolf’.
- A 12-year-old Iraqi boy was threatened with a knife (and verbally) by a Dutch boy on a street in his place of residence.

Table 5: Racial violence and violence incited by the extreme right, by category, 1997 - 2002

Category	1997	1998	1999	2000	2001	2002
Targeted graffiti	55	41	144	157	68	41
Threats	119	157	62	86	88	83
Bomb scares	13	23	18	2	10	7
Confrontation	22	18	18	20	15	10
Vandalism	41	27	50	37	52	38
Arson	11	6	11	20	37	10
Assault	36	41	41	83	46	75
Manslaughter	1	-	1	1	1	-
Total	298	313	345	406	317	264

Bomb scares

One specific form of threats is the bomb scare. This involves obvious threats (of varying seriousness) to commit violence which, however, are not carried out. In 2001 there were a total of 10 bomb scares; in 2002 there were 7. A few examples:

- Bomb scare at a Moroccan party in Amsterdam.
- Bomb scare at an asylum seeker centre in Drachten.
- Bomb scare at a Jewish institution.
- Bomb scare at a sports event mainly attended by ethnic minorities.

Confrontation

A ‘confrontation’ is often spontaneous but sometimes organised street violence of a more or less racial or extreme right-wing character. There are several parties (groups of young

people, for example, who come to blows at school or at a nightspot). Often the distinction between perpetrators and victims is not easy to determine. A few examples of the 10 cases recorded for 2002:

- Racially-motivated skirmishes between groups of Moroccan and Dutch youths. The confrontation took place after the Dutch youths had provoked the Moroccan youths with Dutch flags and racist remarks.
- Days of violent clashes between youths from an asylum seeker centre and youths from the place where the centre is located. Bicycles were destroyed, stones were thrown, blows were exchanged and one asylum seeker at the centre was stabbed. The native Dutch youths chanted 'Heil Hitler' and 'Pim Fortuyn'.
- An alleged Nazi salute led to fierce hostilities – clubs, fire bombs – between groups of native Dutch and ethnic minority youths.
- A dispute broke out at a carnival between groups of native Dutch and ethnic minority youths (asylum seekers), in which a native Dutch boy was stabbed by an asylum seeker. By evacuating the perpetrator and his housemates, the police attempted to restore calm.

Vandalism

Vandalism is intentionally inflicting damage with racist or extreme right-wing motivations. A few examples from the total of 38 cases in 2002:

- For a long time a native Dutch woman was the target of racist actions by ethnic minority youths, which ended when her car was set on fire.
- A few Turkish shops in the same street were vandalised, which had happened a few years earlier as well.
- A racially motivated neighbourhood dispute between native Dutch and ethnic minority people evolved into vandalism to the windows, front door and garden doors of the ethnic minority family.

Arson

In 2001 there were 37 cases of racially-motivated arson, more than in the previous two years combined (31). In 2002 the number of cases of arson dropped back to 10. A few examples:

- Arson in the garden of an asylum seeker family, resulting to smoke damage in the house. The young perpetrator was known for his dislike of asylum seekers.
- Arson in an asylum seeker centre.
- Arson at the entrance to a mosque. A visitor was able to put the fire out in good time.

Assault

In the nineties there were dozens of cases of racist assault every year. We saw a significant increase in 2002: 83 cases as opposed to 41 in 1999. In the year 2001, the number of cases of assault dropped to 46, while it rose again in 2002 to 75. A few examples:

- A man of Iranian origin was verbally attacked by his boss with racist insults and finally beaten.
- After a demonstration of the extreme right-wing Dutch People's Union (Nederlandse Volks-Unie; NVU), ethnic minorities were assaulted at a train station by NVU supporters.
- A refugee from Eritrea was assaulted by his neighbours. Vandalism was committed as well.
- Another refugee was assaulted by a group of native Dutch youths at a nightspot.
- Assault of a resident by a group of youths at a nightspot in Hengelo. Bouncers at the club stood by and watched but did not interfere. In this instance a case of assault was reported.
- A 12-year-old native Dutch boy was verbally assaulted with racist insults and kicked by a group of ethnic minority youths.

Manslaughter

Racial violence or violence incited by the extreme right with a fatal outcome is a rare event in the Netherlands. We did not find any such incident for the year 2002.

4.5.4. Racial violence or violence incited by the extreme right in 2002

As was explained earlier, racial violence and violence incited by the extreme right can coincide, but this is not always the case. A distinction can be made between racial violence with an extreme right-wing origin and extreme right-wing violence that is not racist. As for the latter category, two cases for 2002 are known. One had to do with intimidation and threats aimed at a left-wing politician. The second case had to do with daubing swastikas at a meeting hall immediately after the accommodation had been used by a politically left-wing group. So except for two cases, the violence in 2002 was racial violence. The number of cases of racial violence in 2002 amounted to 262.

4.5.5. Decrease in acts of violence in 2002

This concludes the list of the various kinds of incidents. What striking trends can be observed here? First of all, the decline in the total number of violent incidents, which began in 2001, continued in 2002: from 317 in 2001 to 264 in 2002. While there was evidence of a steady increase by the end of the nineties, after 2000 an equally steady decrease has been noted. This seems to indicate a wave movement through the years, a phenomenon that can also be observed in other countries. In 2001 there were fewer cases of targeted graffiti; this trend continued in 2002. Other fluctuations seen over the past few years have to do with the categories of vandalism, arson and assault. The underlying reason for these fluctuations can only be guessed at: is it a question of fashion – graffiti is more out or more in – or might the fluctuations mainly coincide with the changing quality of our registrations?

4.5.6. Underreporting

In a survey of these figures we should always keep in mind that they represent the proverbial tip of the iceberg, so they only reveal part of what is actually taking place. This underreporting – not by the police, as was mentioned previously, but by the victims – many incidents remain unknown, although it is not clear what the proportion is of tip to iceberg. In Great Britain a great deal of experience has been acquired in this area since the beginning of the eighties.³¹ On the basis of this experience, a rough indication can be made of the relationship between the violent incidents that are known and those that are not. This is done by multiplying by a factor of between 4 and 40.³²

Back to the Netherlands. Say we apply these factors to the average number of violent incidents from the last six years (see Table 5), that is, approximately 324. Using the British multiplication factors, we can reach a minimum and maximum estimate of what really may have taken place.

minimum 4 times 324 =1,296
maximum 40 times 324 =12,960

According to this method, the average number of incidents of racial violence and violence incited by the extreme right in the Netherlands during the last six years was not 324, as registered in our monitoring project, but an average of many thousands of cases per year.

Another indicator, which results in much higher numbers, can be found in the survey-study of Ethnic Minorities on the Netherlands, from 2001. Five percent of the 410 ethnic minorities questioned said they had been personally confronted by racial threats, while 3% said they had been personally confronted by racial violence; in 1995 these percentages amounted to 4% and 2% respectively.³³ Based on these percentages, we arrive at figures (when extrapolated) that far exceed the previous estimates. More detailed and specific studies among ethnic minority groups could provide more definite information concerning the nature and scale of the phenomenon of underreporting.

4.6. VICTIMS

‘Victimhood’ is a collective noun in which further distinctions can be of value. It is relevant, for example, to make further distinctions between violence aimed at objects and violence in which individual persons are the target. Gender and ethnicity will also play a part.

³¹ See Van Donselaar, 2000: 15-16.

³² See Van Donselaar, 2000: 15-16.

³³ Allochtonen over Nederland(ers) in 2001; Een onderzoek naar opvattingen van migrantengroepen in Nederland over de multiculturele samenleving [Ethnic minorities on the Netherlands in 2001; A study of the views of the multicultural society by migrant groups in the Netherlands]. Nederlands Centrum Buitenlanders [Dutch Centre for Immigrants], 2001. See especially Table 18. Personal confrontations with verbal abuse, threats or violence.

4.6.1. Objects and persons

Violence directed towards objects includes government buildings and objects that carry political symbolism such as monuments and war cemeteries. It also includes abstractions such as ‘the police’ and ‘the community’.

‘Ethnic minority object’: houses and commercial property owned by ethnic minorities, mosques and places of prayer, ethnic minority organisations, residences for asylum seekers and refugees.

‘Neutral’ object: placing racist messages or symbols on ‘neutral’ objects such as walls, fences, the road surface, bus shelters or public toilets.

Violence towards persons means violence aimed at people who are targeted because of their ethnic, ‘racial’, national or religious background. Examples are residents of foreign origin, asylum seekers and refugees as well as people with a Jewish background. Extreme right-wing actions are also aimed at *native* ‘public persons’: persons who (presumably) were targeted because of their job, office, their activities or their position, such as mayors, city council members and politicians.

Some incidents fall outside these two categories. In the remaining group, ‘mixed or unclear’, we have placed such items as the sending of a threatening letter to an institution in which violence is incited against certain persons.

Table 6: Violence aimed at persons and objects, 1998, 2000 and 2002

	1998	2000	2002
towards objects	74	214	91
towards persons	69	190	139
mixed or unclear	170	2	24
Total	313	406	264

Up until now, within the framework of the project *Monitoring racism and the extreme right*, more violence has been found aimed at objects than at persons, although a trend was observed of steadily rising violence against persons (see Table 6). In the acts of violence for the year 2002, we see for the first time that the balance has clearly switched sides. In absolute figures, more violence was committed against persons (139) than against objects (91). This altered proportion coincides with the strongly reduced number of cases of targeted graffiti (violence against objects) on the one hand and the relatively large number of threats (violence against persons) and assaults (by definition violence against persons).

4.6.2. Gender

Concerning the violence aimed at persons in 2002, it can be further reported that 22 of the cases were aimed at *women* and 64 at *men*. In none of the cases have we seen any indication that *gender* played a role as the perpetrator’s motive.

4.6.3. Ethnicity

One relevant question concerns what might be called the *ethnic orientation* of racial violence. In 2001 more than half the acts of violence were more or less anti-Islamic. This raises the question to what extent these ‘traces of September 11th’ can be found in the year 2002 as well. And what about violence against refugees? It is also important to ascertain how the anti-Semitic violence has developed. One question that is gaining more and more interest internationally has to do with violence aimed at Roma and Sinti (formerly called ‘gypsies’). It is mostly in eastern European countries that members of these ethnic minority groups are frequently the target of racial violence. In Slovakia in September 2002, three Roma were severely beaten by a group of skinheads. But acts of violence towards Roma and Sinti are also known to have been committed in the countries of the European Union, such as Italy and Austria.

In the Netherlands there were no acts of racial violence against Roma and Sinti in 2002 – as far as we know.

Table 7: Victims and racial violence in 2002, according to ethnicity and category of the incident

	Anti-Jewish	Anti-Islamic	Anti-refugee
Targeted graffiti	9	11	4
Threats	22	19	4
Bomb scares	1	1	1
Confrontation	-	-	3
Vandalism	3	14	8
Arson	2	3	3
Bombing	-	-	-
Assault	9	20	8
Manslaughter	-	-	-
Total	46	68	31

Violence aimed at the other ethnic categories mentioned here is quite a different story. As we have already said, more than half the acts of violence registered by us for the preceding year (2001) took place after September 11th. By far the greatest number of incidents concerned *anti-Islamic violence*. In 2002 we arrived at a total of 68 cases of anti-Islamic violence (see Table 7). That is a lower number relatively speaking than in 2001. Assault (20) and threats (19) form the largest categories and together account for half the total (68).

In 1997 and 1998 there were 9 and 8 cases of *anti-Semitic violence* respectively: violence explicitly aimed at Jews or Jewish objects.³⁴ For the year 2001 we registered 18 cases of anti-Semitic violence: 10 targeted graffiti, 6 threats and 2 cases of assault. In 2002 the number of cases of anti-Semitic violence registered by us amounted to 46. From 18 in 2001 to 46 in 2002 is a substantial increase. In contrast to anti-Islamic violence, threats (22) and assault (9) form far more than half the total of 46.

One question that arises with the growing incidence of anti-Semitic violence is to what extent this represents the so-called ‘new anti-Semitism’: anti-Semitism that is connected

³⁴ Van Donselaar, 2000: 133

with the violent conflicts between Israel and the Palestinians and/or anti-Semitism that is believed to have been perpetrated by ethnic minorities (usually Muslims). The quality of the data from our registry is such that we cannot speak on this subject with great certainty. A well-reasoned conjecture can be made, which is this: 19 of the 46 cases of anti-Semitic violence can be labelled 'new anti-Semitism'. In other words, in 19 cases the perpetrator is suspected to have been a Muslim, or there was a clear connection with the violence between the Israelis and the Palestinians.

Measured according to scale, the cases of violence against *refugees* – 31 in 2002 – came in third in the list of 'ethnically oriented' violence.

4.7. PERPETRATORS

4.7.1. Known and unknown

The vast majority of cases of racial violence and violence incited by the extreme right are never solved. This conclusion was repeatedly drawn in the context of the project *Monitoring racism and the extreme right*. In 1997, the identity of the perpetrator could be established in 30 of the 298 cases, and in 1998 that number was even smaller: 22 of the 313 cases.³⁵ Few cases were solved in 2002 as well: of the 264 cases in 2002, the identity of the perpetrator(s) could be established in only 21. Take note that we are talking about established identity here. In more cases than those enumerated here, more information can be distilled about the perpetrator(s). A victim of assault, for instance, will be able to provide all kinds of information about the perpetrator or perpetrators without this leading to investigation and apprehension. So the concept of 'known perpetrator' is rather broad in a certain sense.

4.7.2. Natives and ethnic minorities

Racial violence can be committed by *the native population* as well as by *ethnic minorities*. Of the 21 perpetrators whose identity could be established, 17 were native Dutch and 4 were ethnic minorities. In 79 cases there was enough information to identify the native or ethnic identity of the suspected perpetrators: 44 native Dutch and 24 ethnic minorities.

4.7.3. Extreme right-wing promptings

Of the 264 violent incidents in 2002, 12 were prompted (or suspected to have been prompted) by the *extreme right*. The proportion of incidents committed by the extreme right has hereby become strikingly small. In 1998, 59 of the 313 incidents could be traced to the extreme right; in 1997 this was 61 of the 298.

³⁵ See third report, Van Donselaar, 2000: 30

4.8. SOCIAL DIMENSIONS OF RACIAL VIOLENCE AND VIOLENCE INCITED BY THE EXTREME RIGHT

Racial violence and violence incited by the extreme right can occur in the form of autonomous cases, but very often what we see is not a collection of isolated incidents but a series of related incidents. Roughly speaking, there are two kinds of series: those that are related at the level of the perpetrators and those related at the level of the victims.

Racial violence, as far as the perpetrators are concerned, is extremely sensitive to imitation. It lends itself well to copying, especially after the news media have shown their interest in these the incidents. It is not uncommon for the media to serve – unintentionally, we hope – as instigators. Potential perpetrators learn about the racist activities of others through the media. They then imitate those actions and see their own actions ‘rewarded’ through all the media attention. The series of incidents that is formed in this way is based on the activity of many different people serving as perpetrators. Imitation can reach far beyond the national borders. Another common phenomenon is the more direct series: a series of incidents committed by the same perpetrator(s).

British research shows that many victims of racial violence have been victims more than once. Besides multiple victimisation, members of ethnic groups sometimes feel that they are the target of an organised campaign. That may indeed be the case, but far more often the series of incidents is based on imitation and is therefore the work of many different perpetrators.

The serial character of racial violence gives the phenomenon a pronounced social dimension, especially as far as the victims are concerned. In addition to the effects on the individual victim, there are also emotional effects on the group to which the victim belongs.

Racial violence can lead to the spreading of strong emotions, especially fear and anger, among members of ethnic minority groups – particularly when publicised by the mass media. In certain cases, the victim’s ‘environment’ can be very broad indeed. Attacks in one country can lead to the taking of precautions or to protect actions in another.

As we said earlier, the news media – *and the internet!* – play an important role in racial violence and violence incited by the extreme right, especially in terms of the social dimensions of these phenomena. In contrast to what may have been suggested in the previous section, this involves more than acting as a stimulating influence. The media have also had a restraining effect. In the scientific literature, especially literature about terrorism, this refers to the difference made between ‘facilitating’ and ‘reinforcing’ mechanisms on the one hand (such as imitation) and ‘inhibiting’ and ‘calming down effects’ on the other (such as unmasking the perpetrators, mobilising protest and taking countermeasures).³⁶

³⁶ For a more detailed discussion see Van Donselaar, Claus & Nelissen, 1998; Van Donselaar, 2000.

4.9. DAMAGE ACCORDING TO GRAVITY AND SIZE

Because most acts of racial violence and violence incited by the extreme right remain more or less hidden, general statements about the size and gravity of the damage can only be made with a minimum of precision. Systematic data on the damage inflicted during the known incidents are not available. To a certain extent, the same applies to the victims of these incidents that generally applies to all victims of violence.

A distinction often used in victimology is the following:³⁷

- physical injuries
- material damage
- psycho-social damage

These types do not rule each other out and can appear in a diversity of gradations. Physical injuries can vary from a black-and-blue spot or a scratch to death, and there are many conceivable forms of material damage. Psycho-social damage can also vary, from light (known as ‘making a lucky escape’) to heavy (as in post-traumatic stress disorder). Obviously, the type of crime is of great importance, and that holds true for violent racially motivated crimes as well.

But with racial violence there is another aspect that must be taken into account: social damage. The social dimension of racial violence implies a relatively large chance that forms of psycho-social damage may be felt in broad ethnic circles. In addition, the impact on behaviour is also very important.³⁸

4.9.1. Patterns of reaction of ethnic minorities

How do ethnic minorities react to racial violence? How do they work out the odds that they will be victimised? And how do they respond to that? The reaction patterns vary, as they do generally when it comes to fear of violent crimes. Often it involves taking precautionary measures and avoiding risky situations. But in the case of racial violence, these behavioural consequences can take on ethnic restrictions: withdrawing and entrenching oneself in one’s own ethnic circle out of fear of racism. One example is moving from an ethnically mixed residential area to a ‘black’ district because that is found to be safer. The same reasoning can influence school choice: having a preference for a ‘safe, black school’ over an ethnically mixed school.

*Reactions to racial violence*³⁹ presents a typology of a whole scale of behavioural consequences that can be related to racial violence. They are diagrammatically shown in the box entitled *Typology of responses to racial violence*.

³⁷ Andrews, 1992.

³⁸ For a more detailed discussion of these behavioural consequence see Van Donselaar, 1996.

³⁹ Van Donselaar, 1996.

Typology of responses to racial violence

- ignoring
- disregarding
- taking precautions (vigilance, self-protection)
- conforming
- exploiting
- avoiding (withdrawal, flight)
- challenging (self-defence, resistance, protest, attack)

The behavioural consequences of avoiding, withdrawal and becoming entrenched in one's own circle can form an important obstacle to the integration process, not to mention forms of challenging behaviour: militant or even violent protest on the part of the ethnic minorities. Seen in this light, racial violence inflicts considerable damage on society as a whole: indeed, the phenomenon is a disproportionate obstacle to integration. In our opinion it is possible that the weight of these factors has increased since 'September 11th' and the murder of Fortuyn.

Because of the high degree of unfamiliarity with the scale of the problem of racial violence, the margins of interpretation are correspondingly large: the problem can be given both a low and a high assessment. Here lies the first consequence for inter-ethnic relations: it is likely that to a certain extent estimates will coincide with ethnic borderlines. In other words: ethnic minorities accuse natives of lacking in sensitivity, while natives perceive a certain over-sensitivity among ethnic minorities. This mechanism, too, can hardly be beneficial to interethnic relations.

5. RACIAL CRIMES IN 2002

5.1. INTRODUCTION

The basis of today's prohibition on discrimination is found in the International Convention on the Elimination of all Forms of Racial Discrimination (Internationale Verdrag ter Uitbanning van alle Vormen van Rassendiscriminatie; IVUR). This treaty was ratified in 1966 and led to new bans on discrimination in the Penal Code in 1971. Today's various legal provisions have already been discussed (Chapter 4).

Reporting seems like a simple way of combating racial discrimination. It doesn't cost anything, and the investigation is carried out by the police and the courts. Yet criminal law is far from comprehensive in the results it offers. First of all, the reporting of discriminatory incidents is often problematic. If the report is successfully recorded, there is a considerable chance that the case will be put on a shelf and ignored. The reason for these problems is that generally the police are still not adequately skilled in dealing with complaints of discrimination.

Another thorny area lies with the informant himself. In the last two years, it has become more likely that differences of opinion will be fought through criminal justice channels.

The result is that sometimes reports of alleged discrimination are made with a great deal of publicity, even though the discrimination does not justify undertaking criminal proceedings. It is not uncommon that such an accusation leads to a counter-accusation. In this way, the criminal law is unnecessarily contaminated.

In the legal fight against racial discrimination, we believe that criminal law should be regarded as an *ultimum remedium*: when other strategies are found wanting, the legal effects of the criminal law can be utilised. Criminal law is not meant to serve as an outlet for social dissatisfaction. This does not alter the fact that criminal law fulfils an important function if public order has been violated by discrimination.

This chapter will report on a study of judicial data pertaining to the year 2002 that was carried out by the National Discrimination Expertise Centre (Landelijk Expertise Centrum Discriminatie; LECD) of the Public Prosecution Service. It goes into more detail concerning how criminal law contributes to the fight against racial discrimination, with attention paid to both the strong and the weak elements of criminal enforcement. The research on which this RAXEN4 report is based is expected to be published in late 2003.⁴⁰

5.2. NATIONAL DISCRIMINATION EXPERTISE CENTRE

The National Discrimination Expertise Centre (LECD) is the knowledge centre for the Public Prosecution Service that is responsible for the subject of discrimination; it is part of the Amsterdam District Public Prosecutor's Office. The goal of the LECD is to promote effective criminal enforcement in cases of discrimination. This goal covers policy formation, investigation, prosecution and reportage. The tasks of the LECD include the creation of a central registry of discrimination cases, providing advice to the public prosecutors' offices and coordinating current investigations.

In August 2003 the LECD compiled its third report entitled *Cijfers in beeld* (Figures at a glance).⁴¹ This internal report is a compilation of key figures having to do with the criminal enforcement of cases of discrimination for the years 1998-2002. The information was obtained via two channels. First, by means of a query in COMPAS, the automated judicial registration system. This file provides information concerning case inflow and settlement by the Public Prosecution Service and settlement by the courts based on anti-discrimination regulations. As a result of using this method, discriminatory offences that are listed under general sections of the law, such as threats, vandalism or acts of violence, are not considered. Second, information is retrieved from case files (what, where, how) by means of a uniform list of questions that is sent to all district public prosecutors' offices. The courts and the Supreme Court are not included, since the only cases that were looked at were those in the first instance.⁴² The data from the various public prosecutors'

⁴⁰ Jaap van Donselaar & Peter R. Rodrigues, *Monitor racism en extreem-rechts; opsporing en vervolging in 2002* [Monitoring racism and the extreme right; investigation and prosecution in 2002], Amsterdam 2003

⁴¹ *Cijfer in beeld: Discriminatiecijfers 1998-2002* [Figures at a glance: Discrimination statistics for 1998-2002], LECD: Amsterdam Augustus 2003.

⁴² First instance means the authority to which the case is first brought: the subdistrict courts and the district courts.

offices thus generated are stored in an automated computer file by the LECD and analysed.

5.3. INFLOW OF DISCRIMINATORY OFFENCES

The numbers gathered by the LECD concern discriminatory *offences* and not *cases* of discrimination. A case can consist of many offences. A suspect can be charged with racially motivated verbal abuse (137c) as well as inciting to racial hatred (137d). The offences are registered when the public prosecutor registers the case for the first time. Then the file is studied, and the public prosecutor ascribes articles of the law to the individual offences.

Table 8: Number of new discriminatory acts (inflow), per section of the law, registered by the Public Prosecution Service, 1998-2002

Section of the law	1998	1999	2000	2001	2002
137c	177	145	178	167	191
137d	23	17	15	11	22
137e	8	19	6	19	3
137f	0	1	9	1	2
137g	6	6	6	0	20
429quater	2	5	0	0	4
Total	216	193	214	198	242

Source: National Discrimination Expertise Centre

A large number of discriminatory offences are registered for the year 2002: 242. With regard to 2001, the total has thereby increased by 22%. In terms of absolute figures, 242 registered offences is a number never before attained. At the Public Prosecution Service this increase was 13% for the entire criminal law chain in 2002.⁴³ Discriminatory verbal abuse is by far the front runner among all discriminatory prohibitions. Striking increases are inciting to hatred (art. 137d) and intentional discrimination in the practice of a profession, the running of a business or the discharging of an office (137g).

A strong drop can be observed in the ban on dissemination of art. 137e, which has seen heavy fluctuations over the years. Article 137f (financial support) makes a marginal contribution to the inflow.

The sowing of hatred doubled in 2002, from 11 to 22. After the murder of Fortuyn, this article was increasingly appealed to by participants in the social debate as well as by lawyers. In professional discrimination, the counter jumped from zero (2001) to 20 (2002). Art 429quater – misdemeanour variant of article 137g – also shot up, from zero to four.

In the fifth *Monitoring Racism and the Extreme Right*, we observed that the absence of registrations on the grounds of art. 137g and 429quater in 2001 did not seem correct to us.⁴⁴ This means that at that time all cases involving hotels, restaurants and cafés were

⁴³ Annual Report, Public Prosecution Service, 2002

⁴⁴ Van Donselaar en Rodrigues, Monitor Racisme en Extreem Rechts, vijfde rapportage [Monitoring Racism and the Extreme Right, fifth report], Amsterdam: Anne Frank Stichting 2002, p. 129

registered on the basis of the remarks made and not on the basis of actual exclusion. It is good to see that improvements have been made here. In 2002, 10 of the 27 offences involving hotels, restaurants and cafés were booked under 137g, and three were booked under 429quater. The other 14 offences were written off under discriminating verbal abuse, contained in 137c. There may be evidence of substantial improvement, but nevertheless a bit more than half the offences were registered as offences involving self-expression. A further decline in this percentage would have been desirable.

5.4. SETTLEMENTS BY THE PUBLIC PROSECUTION SERVICE

Considering the increased inflow in 2002, it is not surprising that the total number of settlements for that year have risen as well. The settlements have increased by at least 28%, from 219 to 281, which means that the number of settlements exceeds the inflow. One explanation for this difference is that as a rule approximately one-third of the settled cases are from the previous years. This is the so-called ‘overflow’: the interval of time between the moment of registration and the actual settlement of a case. The average time span between inflow and settlement at the Public Prosecution Service is five months.⁴⁵ We suspect that this period is somewhat longer in cases of discrimination because the implementing officials are not very familiar with the material.

Table 9: Number of settlements of discriminatory offences by the Public Prosecution Service per section of the law, 1998-2002

Section of the law	1998	1999	2000	2001	2002
137c	180	148	216	182	223
137d	22	22	21	11	28
137e	22	15	11	22	3
137f	0	1	9	1	10
137g	10	9	8	4	13
429quater	1	1	6	0	4
Total	236	196	271	219	281

Source: National Discrimination Expertise Centre

The last LECD report fails to report the figures of the overflow between 2001 and 2002. For this reason we cannot report them either.

One striking feature is the relatively large number of settlements in cases involving the provision of support (art. 137f): ten. First of all, we need to know where these cases come from. There are only 2 references in the inflow for 2002. The number was small for 2001 as well: one registration. Would these be cases from 2000 (nine registrations)? That does not seem likely, considering the fact that at that time there were a number of additional incorrect registrations.⁴⁶ Or is this indeed a restoration of incorrect registrations from an earlier period? That seems less likely, since we know of no judicial judgements made

⁴⁵ Annual Report of the Public Prosecution Service, 2002.

⁴⁶ Van Donselaar and Rodrigues, *Monitor Racisme en Extreem Rechts, vierde rapportage* [Monitoring Racism and the Extreme Right, fourth report], Amsterdam: Anne Frank Stichting 2001, p. 83.

with regard to art. 137f for 2002. Since the social weight that is attached to the prohibition on providing support to discriminatory activities, there undoubtedly would have been a certain amount of publicity. It is unclear how these ten cases were settled by the Public Prosecution Service.

Table 10: Kinds of settlements of discriminatory offences by the Public Prosecution Service, 1998-2001

	1998	1999	2000	2001	2002
Summons	134	103	159	133	147
Dismissal	56	68	84	47	70
Bargaining	34	18	25	26	47
Conditional dismissal	8	6	3	4	5
Total	236	196	271	210	269⁴⁷

Source: National Discrimination Expertise Centre

The percentage of dismissals rose once again in 2002. In a dismissal, the public prosecutor forgoes prosecution. There are two kinds of dismissals in criminal law: dismissal by reason of likeliness of nonconviction and discretionary dismissals.

First is the dismissal by reason of likeliness of nonconviction. This means that there are technical defects in the case that make prosecution pointless. Examples of this are when the perpetrator is not punishable (someone is unjustly taken to be a suspect) or the offence is not punishable. Another ground is when the prosecution is barred because the case is expired or the perpetrator has died. One important dismissal by reason of likeliness of nonconviction is the lack of sufficient legal evidence.

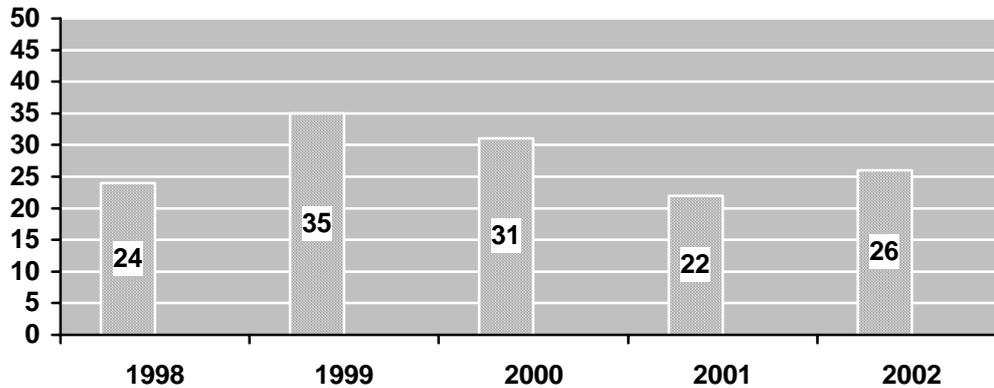
Then there are discretionary dismissals. These include several exceptions that are connected with the prosecution's principle of discretionary powers. This is the authority to decide whether a case can be prosecuted or not. Reasons for a discretionary dismissal might be that other measures have already been taken or there are questions concerning national interest or the age or state of health of the suspect. Other grounds for discretionary dismissal are a petty offence, the low share in the offence or the low punishability of the offence. The fact that the offence is old, but not yet expired, can also serve as a reason for discretionary dismissal.

Instructions from the procurators general are mandatory, and as such they restrict the discretionary power of the public prosecutors. In our opinion, the instructions from the procurators general leave absolutely no room for discretionary dismissals. Naturally this applies in particular to grounds for dismissal such as petty offence or low punishability. The decision that such cases should be prosecuted anyway is already taken by the procurators general. Our view is endorsed in the most recent Instructions for Discrimination of 1 April 2003, which states that prosecutorial discretion is given in cases of discrimination. According to the Instructions, this means that the decision for discretionary dismissal must be made with great restraint. This formulation of the dismissal policy is clearer than in the previous instruction, which merely stated that 'only in highly exceptional situations should cases that lend themselves to penal sanctions not

⁴⁷ The difference between the 281 dismissed offences (Table 2) and the 269 dismissals (Table 3) is explained by the fact that 12 discriminatory offences were transferred to another office of the public prosecutor.

be prosecuted'. Officers may not deviate from the Instructions: these must be regarded as a compulsory, normative policy guideline.⁴⁸

Figure 1: Percentage of dismissals, 1998-2002



Source: National Discrimination Expertise Centre

With a dismissal percentage of 26% in 2002, the score for discrimination cases is still significantly higher than the national percentage for all offences taken to court that year: 11%.⁴⁹ This was also the case for the previous year. The high dismissal percentage is striking because the compulsory Instructions for Discrimination would lead one to expect a percentage that is lower than the national average.

Table 11: Kinds of dismissals, 1998 - 2002

	1998	1999	2000	2001	2002
Dismissal by reason of likelihood of nonconviction	37 (58%)	43 (59%)	61 (70%)	33 (65%)	52 (69%)
Discretionary dismissal	27 (42%)	31 (41%)	26 (30%)	18 (35%)	23 (31%)
Total	64	74	87	51	75

Source: National Discrimination Expertise Centre

The percentage of discretionary dismissals for the last three years lay between 30 and 35%. According to the report of the LECD, the dismissals by reason of likelihood of nonconviction were mainly based on 'insufficient evidence'. The discretionary dismissals for that year were (once again) mainly prompted by the fact that the case was expired or the offence had been registered twice. As previously mentioned, the discretionary dismissals based on 'expired offence' was not conformity with the compulsory prosecution policy as laid down in the Instructions for Discrimination. Moreover, the fact that a case has 'expired' can be the fault of the Public Prosecution Service. In 2002, the public prosecutor from the Board of Procurators General ordered the LECD to carry out a study of the practice of dismissals. The results of that study of the records were not yet known in September 2003 and will probably be available by the end of 2003.

⁴⁸ B.E.P. Meyer (2002), Gedragscode OM: frisse wind bij open deuren [Code of conduct for the Public Prosecution Service: fresh air with open doors]. Trema , pp. 245-252

⁴⁹ Annual Report of the Public Prosecution Service, 2002.

In 2002, 55% of the discriminatory cases resulted in a summons. This is a decline with respect to 2001 (64%). A possible explanation is the imposing of the so-called Public Prosecution community service by the LECD, which is formally regarded as bargaining. We are not aware of any figures concerning the imposition of community service as a sentence in cases of discrimination by the Public Prosecution Service, nor is any attention paid to the role of community service in the Instructions for Discrimination.

In the *Annual Report of the Public Prosecution Service: 2002*, mention is made of a so-called shortage of sessions. That is, there are more criminal cases being scheduled for court sessions than the sitting magistrate can cope with. It is unknown whether this shortage has also resulted in relatively fewer summonses in cases of discrimination.

The percentage of bargained cases rose in 2002 from 26 (12%) to 47 (17%). Considering the results concerning dismissals, the question arises to what extent bargaining (that is, settling a criminal case out of court) is being dealt with in conformity with the Instructions for Discrimination. Concerning prosecution, the Instructions state the following:

In principle, a summons is issued. Only in the event of lighter cases can bargaining be offered first. Under no circumstances is possible martyrdom or exploitation of the function of the court an argument for omitting a summons. Only in highly exceptional situations should cases that lend themselves to penal sanctions not be prosecuted.

So the basic principle is that a summons will be issued, and only in the case of lighter cases can bargaining be offered first if necessary. A national bargaining figure cannot be derived from the Annual Report of the Public Prosecution Service, but there are figures for bargaining combined with conditional dismissal. This combined percentage was 30% nationally in 2002 as opposed to 19% for discrimination during that year.⁵⁰ This 19% is well under the national bargaining figure and seems to have complied well with the Instructions for Discrimination on this point.

Table 12: Settlements by the courts, 1998-2002

	1998	1999	2000	2001	2002
Conviction	91	105	94	98	94
Acquittal	10	6	10	4	15
Summons invalid	1	1	2	2	1
Public Prosecution Service barred	2	0	0	0	1
Plead for dismissal	0	1	1	0	0
Guilty without imposition of sentence	0	0	0	0	2
Unknown	0	0	0	0	5
Total	104	113	107	104	118

Source: National Discrimination Expertise Centre.

In 2002, the percentage of court convictions dropped. In 2001 it was 94% and in 2002 it was 80%.⁵¹ In addition, the new category of 'declared guilty without imposition of

⁵⁰ Annual Report of the Public Prosecution Service, 2002

⁵¹ The judge pronounces judgement in a case, so that here it is not the offences but the court cases that are mentioned.

sentence' was included with the convictions. It is striking that in both absolute (15) and relative terms (13%), most convictions took place in 2002. In 2001, the court success percentage of the Public Prosecution Service kept up with the national percentage (95%).⁵²

Although the national percentage for 2002 has not yet been published, we expect this figure – which has remained quite constant in recent years, above 90% – to be somewhere around 94%. This means, however, that the 80% success rate is badly out of line. Partly for this reason, it would be worthwhile to look into which cases resulted in acquittal in 2002 and why.

We would like to make two remarks in connection with the percentage of convictions. First, this percentage can be favourably influenced by an overly cautious prosecution policy. An indication for this lies in the relatively high number of dismissals, which might indicate that cases in which the chances of winning are small are withdrawn from sentencing by means of discretionary dismissal. Second, the meagre inflow of cases by the police influences settlements by the Public Prosecution Service. Because the police tend to be unresponsive when it comes to recording reported incidents, undertaking investigations and sending cases to the Public Prosecution Service, it is mainly the more obvious cases that come to the office of the public prosecutor.⁵³ As soon as the police's job gets better with regard to their work on discrimination cases, the results will be felt in the success percentage of the Public Prosecution Service. There will also be an increase in the accretion of complex or less obvious cases.

5.5. SUSPECTS AND LOCUS DELICTI

By means of a written questionnaire to the offices of the public prosecutors, the LECD was able to gather background information on the discrimination files. Although this manual gathering of information has not yet been completed, it is helping to round out our picture of the inflow of discriminatory offences.

Data on the suspect, the location of the offence (*locus delicti*) and the way the offence took place were gathered in succession.⁵⁴ In its report, the LECD has announced that it would also like to involve this Discrimination Registration Code next year in settling cases.

5.5.1. Suspects

The vast majority of discriminatory offences are increasingly being committed by private individuals. If this private individual is known to have committed the offence from an extreme right-wing basis or from a religious or political conviction, he is classified under

⁵² Administration of Justice in the Netherlands 2001, CBS, Voorburg/Heerlen: 2003, p. 82

⁵³ H. Eitjes, *Onderzoek naar verloop en registratie discriminatieklachten in Haaglanden* [Study of the course and registration of complaints of discrimination in Haaglanden], The Hague: Pro Zorg, May 2002.

⁵⁴ This does not take into consideration the discriminatory offences concerning article 429quater.

that group. If his motivation is not known or is lacking, he is placed under the category ‘Private individual’.

Table 13: Persons suspected of committing incidents, 1998-2002

Suspect	1998	1999	2000	2001	2002
Extreme right-wing	17	10	6	20	8
Religious / personal convictions	2	1	0	5	2
Political convictions	0	1	1	1	2
Criminal investigator	2	3	2	1	0
Private individual	142	130	187	161	201
Other	32	19	10	1	14
Unknown	19	27	8	9	15
Total	214	191	214	198	242

Source: National Discrimination Expertise Centre.

The category ‘Unknown’ consists of the cases in which the public prosecutors’ office failed to record the information. As in the cases of religious or personal convictions, with political convictions the motive for the (possible) criminal actions must lie in the conviction. If this political conviction can be qualified as extreme right-wing, then the offence is placed in this category. In 2002 the number of suspects in the ‘extreme right-wing’ category increased substantially. This increase seems to correspond with a general tendency which we have observed: that in cases of violence and other incidents, the extreme right is playing a less prominent role.

Given the small numbers, a certain amount of caution is called for. It is obvious, moreover, that incidents committed by this group are often registered with articles other than the prohibition on discrimination. An example is violent assault. If a breach of the ban on discrimination is not noted at the same time, such cases do not end up in the registry of the Public Prosecution Service. Indeed, general offences with a discriminatory motive are still not reported by the LECD.

The LECD refined the Discrimination Registration Code in 2001 in order to offer more insight into inter-ethnic incidents. This is not without significance, since cases of discrimination can have diverse inter-ethnic dimensions. Perpetrators are no longer exclusively ethnic minorities, while victims can be both native Dutch and ethnic minorities.

Table 14: Suspected private individuals, 2001-2002

Suspected private individuals	2001	2002
white private individual	112	178
private individual (ethnicity unknown)	14	11
private individual, Turkish/Moroccan	9	8
private individual, Surinamese/Antillean	18	2
other non-white private individuals	8	2
Total	161	201

Source: National Discrimination Expertise Centre. The terminology featured here is the same as that used by the LECD in its report.

Considering the small numbers, it is almost impossible to draw any conclusions from the results of Table 14. Yet there are two observations worth mentioning. First, the small

number of ethnic minority perpetrators (5%) in 2002 is striking. In 2001 this percentage was still 20%. Second, only a very limited number (5) of the large amount of anti-Semitic incidents (60) (note: also see Table 17) in 2002 were caused by ethnic minority perpetrators. The idea that it is mostly certain groups of Moroccan young people who are guilty of anti-Semitism is not corroborated by the figures from the LECD.

5.5.2. Locus delicti

In the figures on the *locus delicti* in Table 15, the category ‘directed at criminal investigator’ is actually an odd man out. This category should really come under ‘victims’, but such a group has yet to be created. Perhaps the inclusion of this category is deserving of consideration, in connection with the registration of inter-ethnic incidents. Figures from the Rotterdam-Rijnmond police district tell us that police officers record a relatively large number of cases of discrimination against criminal investigators in their update sheets. This refers not only to a structural pattern of coarse use of language by the public towards the Rotterdam police, but also to a clearly greater readiness to register incidents as incidents of discrimination than is customary if the criminal investigators themselves are involved.⁵⁵

Table 15: Location of the incident, 1998-2002

Location of the incident	1998	1999	2000	2001	2002
Directed at a criminal investigator	21	28	12	19	17
Work	13	8	21	8	11
Sports	19	4	23	11	46
Hotel – restaurant – café	20	11	14	18	27
Residential area	37	21	33	18	28
Street / public place	70	60	84	94	83
Internet	0	3	5	4	6
Press (media)	5	5	1	3	3
Other	10	15	13	14	6
Unknown	19	36	8	9	15
Total	214	191	214	198	242

Source: National Discrimination Expertise Centre. The order featured here is the same as that used by the LECD in its report.

The increase in incidents involving sports is also striking. In 2002, 19% (46) of the discriminatory offences were sports-related. In 2001 this was 6% (11). Considering the fact that 39 of these offences had to do with anti-Semitism, it brings us back to the discussion of this form of discrimination.

Another increase was in hotels, restaurants and cafés. This stubborn form of discrimination has only increased in the statistics of the Public Prosecution Service in recent years. In an earlier remark on the method of registration (and settlement), we said that this form of discrimination should not be dealt with through offences concerning discriminatory utterances (art. 137c-d), but through offences concerning exclusion (137g and 429quater). The offices of the public prosecutors now seem to be making this switch. Almost half the cases involving hotels, restaurants and cafés in 2002 were recorded as

⁵⁵ ‘Jew’, with a full range of prefixes, is a popular term of abuse in this city.

cases of exclusion. This percentage should be raised even higher. In addition, practice shows that regional covenants stand the greatest chance of success against discrimination involving hotels, restaurants and cafés. By means of these covenants, owners of the establishments, city councils, police and the courts work together with the local Anti-Discrimination Bureaus. Use is made not only of criminal law but also administrative law, the Equal Treatment Act and self-regulation.⁵⁶

The bulk of the discriminatory offences have to do with utterances, and most of these take place on the street, in public places or in residential areas. Yet the number of incidents in public places dropped in 2002, while trouble in residential areas increased. This shift to residential areas can also be observed in the annual complaint inventory of the National Federation of Anti-Discrimination Agencies and Hotlines (Landelijke Vereniging van Anti-Discriminatie Bureaus en Meldpunten; ADBs).⁵⁷ In 2002, the number of complaints made to the ADBs from neighbourhoods surpassed complaints from places of work for the first time. They concern mainly neighbourhood disputes and actions with a discriminatory character.

With regard to the location of the offence, we should also say that in 2002 there were an extremely small number of internet cases (6) coming into the offices of the public prosecutors. As a result of criticism in this regard, the LECD, in conversation with the Amsterdam public prosecutor, the Dutch Complaints Bureau for Discrimination on the Internet and the Amsterdam Amstelland police, has launched a consultative structure aimed at improving efforts to tackle criminal discrimination on the internet.⁵⁸

5.6. KINDS OF INCIDENTS AND GROUNDS OF DISCRIMINATION

5.6.1. Kinds of incidents

The greatest volume of incidents in the criminal prohibition of discrimination has to do with offences involving public utterances. This is translated in the large number of oral incidents. Written racist insults or inciting to hatred occur with considerably less frequency. Racist graffiti on buildings increased in 2002. That is striking when it is realised that targeted graffiti in incidents of racial violence decreased in 2002. By targeted graffiti we mean graffiti with an explicit target such as an Islamophobic text on an Islamic school. The number of discriminatory offences that are combined with threats of violence decreased further in 2002, which coincides with our findings concerning racial violence.

Table 16: Kinds of incidents, 1998-2002

Kind of incident	1998	1999	2000	2001	2002
Combination with / threat of violence	25	22	21	14	12

⁵⁶ Also see the case study made in the context of RAXEN3: Rodrigues, Discrimination in nightlife, DUMC: 2002

⁵⁷ Key figures 2002, Klachten en meldingen over ongelijke behandeling [Complaints and reports of unequal treatment], National Federation of Anti-Discrimination Agencies and Hotlines, The Hague: 2003, p. 14In

⁵⁸ Figures at a glance: figures on discrimination, 1998-2002, August 2003, p. 6, note 7

Racist graffiti	12	6	5	13	21
Representations	5	6	14	8	14
Written	20	23	8	13	16
Oral	121	102	145	131	164
Other	12	4	13	10	0
Unknown	19	28	8	9	15
Total	214	191	214	198	242

Source: National Discrimination Expertise Centre.

5.6.2. Grounds of discrimination

What were the grounds of discrimination in 2002? There was a striking increase in the number of registered discriminatory offences having to do with anti-Semitism. In 2002 these amounted to 25% of all registered offences, as against over 21% in 2001. Not only is this increase a matter of concern, but so is the large number in relation to the total number of registered offences. The registered incidents of anti-Semitism concern only the offences involving public utterances (art. 137c-e), and not forms of exclusion (art. 137g and 429quater). Closer analysis by the LECD shows that in 80% of the cases of anti-Semitism, the perpetrator was white. On two occasions the victim was a criminal investigator. We have already noted that in some urban areas, calling the police ‘Jews’ – in combination with a great many other offensive terms – is quite normal. Thirty-nine of the 60 cases occurred in conjunction with sports or sporting events.

The context of the anti-Semitic incidents sometimes takes on another dimension because it has to do with animosity between football supporters. Some of the Ajax supporters advertise themselves as a ‘Jewish club’, which sometimes triggers the corresponding cursing. In 2002 there were incidents between the supporters of Ajax and FC Utrecht that probably contributed to the high statistic for discrimination in sports. (:ANP 21 April 2002)

Table 17: Grounds of discrimination per incident 1998-2002

Grounds for discrimination	1998	1999	2000	2001	2002
Several grounds present	25	27	23	22	54
Anti-Semitism	47	34	48	41	60
Surinamese / Antilleans	7	13	11	6	7
Turks / Moroccans	42	27	48	46	40
Blacks / Coloured	47	33	40	52	47
Homosexuality	6	1	9	10	6
Religion / personal convictions	5	4	3	4	3
Gender	0	0	1	1	0
Other grounds	17	17	23	7	10
Unknown	18	35	8	9	15
Total	214	191	214	198	242

Source: National Discrimination Expertise Centre.

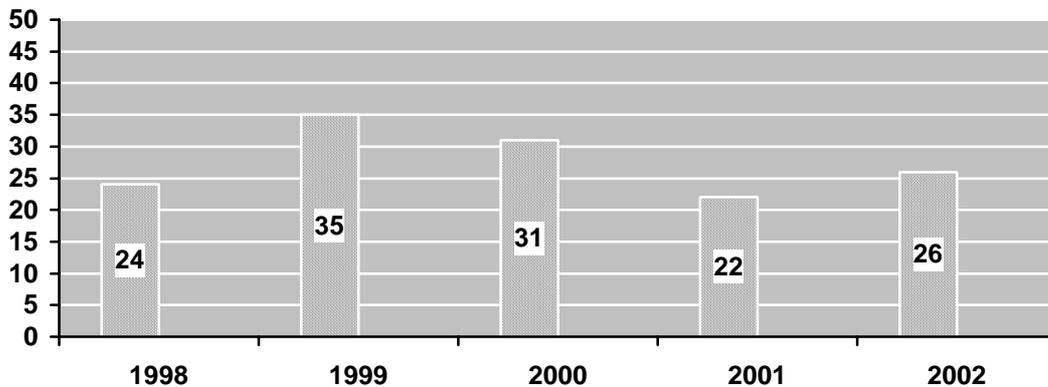
The volume of cases registered under ‘Turks and Moroccans’ and ‘Blacks or Coloured’ is still substantial, but it did drop in 2002. The category ‘Surinamese and Antilleans’ produces few registrations. In addition to the category ‘Blacks or Coloured’ it seems an

unfortunate choice of words. In our opinion, it would be better to speak of ‘skin colour’, a notion that can also be found in the International Treaty Convention on the Elimination of Racial Discrimination (Internationale Verdrag ter Uitbanning van alle Vormen van Rassendiscriminatie; IVUR)⁵⁹ With the classification now being used, it is not possible to conclude whether Surinamese or Antilleans run into less difficulty from discrimination than Turks or Moroccans. The Surinamese or Antilleans might also be discriminated against on the basis of skin colour.

It is striking that the number of registrations with regard to homosexual discrimination has declined substantially. It still remains to be seen whether this group actually suffered less from discrimination in 2002. A more obvious possibility is that the pronouncements in the cases of Van Dijke⁶⁰ and El Moumni⁶¹ have deterred homosexuals from reporting discriminatory incidents. In both cases, the court decided that insulting homosexuals is not punishable on the grounds of the religious context in which the statements were made.

Under the category ‘Other’ are grounds for discrimination that cannot be placed in other categories (such as discrimination against a German). As we said before, the category ‘Unknown’ concerns offences about which the office of the public prosecutor has provided no information.

Figure 2: Percentage of discrimination according to race, 1998-2001



Source: National Discrimination Expertise Centre

In our opinion, the different categories in Table 17 do not offer the maximum possible clarity. Yet we believe we can make a cautious estimate based on these figures of which offences can be regarded as discrimination based on ethnicity. In 2002, 86% of the offences had to do with discrimination based on ethnicity.⁶² In 1999 the portion of incidents of racial discrimination began to increase with respect to the other grounds for discrimination. Since the category ‘Other grounds’ usually has to do with nationality or is related to race, this percentage will probably be higher in reality than lower.

⁵⁹ Art. 1 IVUR

⁶⁰ Supreme Court 9 January 2001, NJCM-Bulletin 2001, pp. 741-753, esp. Loof

⁶¹ Court of The Hague 18 November 2002, NJCM-Bulletin 2003, pp. 461-470 esp. De Blois

⁶² This concerns an accumulation of categories: Surinamese, Turks, anti-Semitism, Blacks and Several grounds.

5.7. LOCAL DIFFERENCES

Leaving aside some of the big cites such as Rotterdam and The Hague, we must conclude that the discrimination caseload per public prosecutors office is very modest. This may be one of the most troublesome problems at the Public Prosecution Service: how to bring the necessary professional skills up to the required standard with so few cases to handle? The work of the LECD to see to the improvement of expertise for officers charged with discrimination cases is only partially successful, because these officers do not register and deal with all the discriminatory offences themselves, not by a long shot. Moreover, the police still function as the more important threshold in cases of discrimination. Too often, reports are not recorded or passed on to the Public Prosecution Service. The National Bureau of Discrimination Cases, set up in September 2002 to benefit the work of the police, will have to bring about change in this regard in the future.

Table 18: Number of cases of discrimination registered with the district public prosecutor's offices according to inflow, 1998-2002

District public prosecutor's offices	Inflow 1998	Inflow 1999	Inflow 2000	Inflow 2001	Inflow 2002
Alkmaar	6	1	9	3	1
Amsterdam	12	6	13	8	8
Almelo	11	2	7	4	16
Arnhem	12	15	33	22	17
Assen	2	4	9	11	7
Breda	13	10	15	16	16
Den Bosch	4	3	5	3	9
The Hague	23	33	20	21	31
Dordrecht	4	10	9	1	10
Groningen	2	3	1	10	5
Haarlem	13	19	21	10	7
Leeuwarden	4	3	14	13	4
Maastricht	9	6	4	3	12
Middelburg	11	6	6	8	23
Roermond	8	2	1	5	2
Rotterdam	56	57	30	34	43
Utrecht	8	4	5	6	10
Zutphen	9	8	8	15	20
Zwolle	9	1	4	5	1
Total	216	193	214	198	242

Source: National Discrimination Expertise Centre

Another striking aspect of these figures in addition to the high inflow numbers for 2002 in Rotterdam, The Hague and Middelburg is the relatively small number in the cities of Alkmaar, Amsterdam and Utrecht. The large accretion in Middelburg is striking, whereas the low score for Amsterdam has now become traditional. This continues to be surprising, since the Amsterdam Anti-Discrimination Agency received virtually the highest number

of complaints of all the ADBs.⁶³ Despite the presence of a contact official to work with the police, the Public Prosecution Service in the jurisdiction of Amsterdam registers amazingly few cases. It is true, to be sure, that the Amsterdam ADB expressly tries to solve cases without immediately calling on criminal law. Yet that is an insufficient explanation for the large differences between Amsterdam and cities such as The Hague and Rotterdam.

Table 19: Number of cases of discrimination registered with the district public prosecutor's offices according to settlement, 1998-2002

District public prosecutor's office	Settlements 1998	Settlements 1999	Settlements 2000	Settlements 2001	Settlements 2002
Alkmaar	14	5	4	13	2
Amsterdam	21	9	21	6	13
Almelo	11	5	9	4	11
Arnhem	11	12	33	27	22
Assen	2	3	9	9	9
Breda	12	10	17	21	16
Den Bosch	5	3	5	1	10
The Hague	25	38	28	23	35
Dordrecht	3	6	11	5	7
Groningen	3	2	2	9	7
Haarlem	9	16	27	18	12
Leeuwarden	3	3	14	8	16
Maastricht	10	6	6	1	15
Middelburg	11	4	11	8	19
Roermond	7	5	1	10	4
Rotterdam	67	49	52	30	52
Utrecht	8	5	7	7	8
Zutphen	10	9	10	11	20
Zwolle	4	6	4	8	3
Total	236	196	271	219	281

Source: National Discrimination Expertise Centre

The sharp decrease in settlements in Alkmaar, Roermond and Zwolle over the year 2002 are striking. The figures for Amsterdam doubled, which, given the small number of registrations in recent years, will be difficult to maintain. Almelo, Den Bosch, Leeuwarden, Maastricht, Middelburg and Zutphen also settled substantially more cases in 2002.

In its report, the LECD provided a possible explanation for the difference between the offices of public prosecutors. We would like to make a few related remarks here.

The first explanation would be the scale of the discrimination problem in each region. It has been shown, however, that a high number of complaints (Amsterdam) are not always reflected in a great many registrations and settlements at the office of the public

⁶³ Key figures 2002, Klachten en meldingen over ongelijke behandeling [Complaints and reports of unequal treatment], National Federation of Anti-Discrimination Agencies and Hotlines]: The Hague 2003, p. 4.

prosecutor. In addition, the annual figures from the public prosecutor can fluctuate quite a bit (Alkmaar).

The second factor is the capacity of the district public prosecutor's office to get the work done. An increased workload and lack of knowledge at the district office are sometimes mentioned as causes. The LECD plays an important role in keeping up the professional standards. The officers in charge of discrimination should offer these services to the district public prosecutor's office and implement them. Considering the workload, it seems to us that this does not provide any basis for argument. The Minister of Justice gave the same judgement when the bill to raise the sentence in structural forms of discrimination was dealt with.⁶⁴ There the minister stated:

Lack of investigatory or prosecution capacity is in principle no reason for settlement. The fact that the Public Prosecution Service and the judiciary also have to do their share in the face of the proposed economies does not affect the investigation, prosecution and adjudication of either incidental or structural discriminatory offences. So there the fear that criminal discrimination legislation will become symbolic legislation is groundless.

This opinion is also consistent in the light of the priority and discretion granted to discrimination in the Instructions for Discrimination issued by the Procurators General.⁶⁵

A third factor mentioned by the LECD is the degree of attention and expertise given by the police. This factor does place an important role, but it holds true for most offices of the public prosecutor. As such it does very little to explain the combined differences. The LECD mistakenly failed to report that in order to improve this situation among the police the Discrimination Bureau was started on 1 September 2002.⁶⁶

A fourth factor involves reference to the role of the ADBs (Anti-Discrimination Agencies). In the evaluation of the last Instructions for Discrimination, these working groups also took some of the blame and stated that the quality and know-how at some of the ADBs is substandard.⁶⁷ In addition, there is no direct connection between the number of complaints lodged with the ADBs and the number of cases flowing into and being settled by the Public Prosecution Service in comparable regions. Study of the Haaglanden police district shows that most complaints lodged with the police are not from persons who had first gone to the ADB.⁶⁸

Finally, the LECD has stated that the degree of readiness to report discriminatory incidents can play a role in the differences between the district offices of the public prosecutor. We think that this readiness definitely affects the inflow of cases, but that it is unlikely to differ significantly per district office. Rather, we believe that the readiness to

⁶⁴ Parliamentary Documents I, 2002/03, 27 792, no. 264a

⁶⁵ Government Gazette 2003, no. 61

⁶⁶ Parliamentary Documents II, 2003/04, 29 203, no. 2, p. 59

⁶⁷ Report of the Evaluation of the Instructions for Discrimination, LV-ADB and LBR, January 2003 (www.lvadb.nl and www.lbr.nl)

⁶⁸ H. Eitjes, *Onderzoek naar verloop en registratie discriminatieklachten in Haaglanden* [Study of the course and registration of complaints of discrimination in Haaglanden], The Hague: Pro Zorg, May 2002.

report is connected with the trust in the judicial system held by certain minority groups or with their perception or actual experiences of investigation and prosecution.

6. SUMMARY AND CONCLUSIONS

Racial crime is a crime that is ‘racially’ motivated; racial violence is a racial crime involving violence. In our study of racial crime and racial violence, we consulted two different sources and collections of data as well as two different processing procedures and methods of analysis. That is why the two themes are dealt with in separate chapters. This line will be continued here.

6.1. RACIAL VIOLENCE

Racial violence can have various inter-ethnic dimensions, the main categories of which are included in this study. They are:

1. native versus ethnic minority;
2. ethnic minority versus native;
3. ethnic minority versus ethnic minority belonging to another ethnic group.

Violence incited by the extreme right can be racist and aimed at ethnic minorities, but it can also be aimed at natives (usually political opponents).

Acts of violence can be manifest in various forms. In the Netherlands it mainly has to do with the following specific expressions: racist graffiti, threats, bomb scares, confrontation between groups, vandalism, arson, assault and manslaughter. Examples of these specific expressions are presented in the preceding pages.

Determining the *scale* of racial violence is a tricky business. Rather than repeat the discussion here, we will limit ourselves to a few concluding remarks. Our view of the problem in question – racial violence and violence incited by the extreme right in the Netherlands – is seriously limited by two kinds of *underreporting*:

1. the vast majority of violent incidents are not reported to the police;
2. a portion of the incidents that are reported to the police are not adequately collected in a central databank, so that some of the incidents are hidden from view.

In addition to the forms of underreporting mentioned above, there is one special factor that should be mentioned for the year 2002. The murder of Fortuyn was followed by a substantial number of threats, some of which were racially motivated or had their roots in the extreme right. Because of the absence of systematic research, and because many cases were not solved, only an outline of the nature and scale of the threats can be given. As a result, we have little insight into the *racist and/or extreme right-wing content* of the flood

of threats that occurred after the murder of Fortuyn. For this reason we have not included this flood of threats in our research for the most part. This may have an impact on our statistics: if we had been able to take into account the threats that occurred after the murder of Fortuyn we would have ended up with higher figures, especially in the category of 'threats', and thus to a higher total of violent incidents for 2002.

After a sharp increase in racial violence and violence incited by the extreme right at the end of the nineties and in 2000, we saw a striking decline in 2001. Striking because this decline took place against the backdrop of a wave of violent incidents after the terrorist attacks of 11 September 2001. One important finding in our study is that another drop has taken place: from 317 cases of racial violence and violence incited by the extreme right in 2001 to 264 incidents in 2002.

It is to be hoped that the further drop in violent incidents is a reliable reflection of what has actually taken place. It would be very gratifying if the declining trend were to continue.

Of the 264 incidents in 2002 there were 2 cases of violence incited by the extreme right that were not racist in nature. So the number of cases of racial violence in 2002 amounted to 262.

Patterns of victimisation in 2002:

- Up until now, and within the context of the project *Monitoring racism and the extreme right*, more violence was found to have been perpetrated against objects than against persons. In the year 2002, the balance was clearly reversed for the first time. In absolute figures there was more violence against persons (139) than objects (91); in terms of percentage this was 53 and 34 percent of the total respectively.
- During the previous year, 2001, the investigated violent incidents were dominated by the aftereffects of September 11th: a series of violent incidents aimed at Muslims and objects associated with Muslims, especially mosques, which began almost immediately after September 11th and continued until some time around December. All these incidents together amounted to about 60% of the total number in 2001. In 2002 this percentage dropped to about 26% of the total (absolute number: 68).
- Some 12% of the violence (31 incidents) was aimed at refugees or objects associated with refugees.
- In 2002, no incidents of racial violence were committed against Roma and Sinti as far as we know.
- Approximately 17% of the investigated incidents of 2002 had to do with anti-Semitic violence (46 incidents). This is a striking increase in comparison with the anti-Semitic violence in 2001, which was 6% (18 cases). Nineteen of the 46 cases of anti-Semitic violence in 2002 can be labelled 'new anti-Semitism': either the perpetrator was believed to have been an ethnic minority or there was a clear connection with the violence between the Israelis and the Palestinians.

Perpetrator patterns in 2002:

- It has long been recognised that the preponderance of cases of racial and right-wing violence have not been solved. Earlier monitor reports found percentages of solved incidents of less than 10. In 2002, the exact identity of the perpetrator(s) could be established in only 8% of the cases. The chance of apprehension is small and would probably be considerably larger if more investigative capacity was made available.
- Racial violence can be committed by both *native Dutch people* as by *ethnic minorities*. Of the 21 perpetrators whose identity could be established, 17 were native Dutch and 4 were ethnic minorities. In 79 cases there was enough information to identify the native or ethnic minority (suspected) perpetrator by name: 55 native Dutch and 24 ethnic minorities.
- Of the 264 violent incidents that took place in 2002, 12 were definitely or presumably of *extreme right-wing origin*. This makes the portion of incidents perpetrated by the extreme right striking small: approximately 5%. In the year 1998 this figure was 19%, and in 1997 it was 20% of the cases of extreme right-wing violence.

To conclude. At the time of reporting there are no statistical data on racial and right-wing violence for the year 2003. So far we do not have the impression that the nature and scale of the problem in 2003 presents a radically different picture. The most serious incident so far as been a case of arson in an Islamic primary school in Eindhoven on 15 June 2003.

6.2. RACIAL CRIMES

The standard criterion for the criminal prohibition of racial discrimination remains the protection that the Netherlands has endorsed through the International Treaty Convention on the Elimination of all Forms of Racial Discrimination (Internationale Verdrag ter Uitbanning van alle Vormen van Rassendiscriminatie; IVUR). With a treaty like the IVUR, the international community has tried to establish the principles which individual states should satisfy so as not to fall outside the borders of a democratic system of law. For this reason it is our opinion that discussions of the criminal prohibition of discrimination are very useful, and elimination of such discussion is undesirable. It should be remembered that criminal law is intended as *ultimum remedium* and is not suitable to serve as mediator in all sorts of social conflicts.

Shortly after the year under review, new Instructions for Discrimination were announced on 1 April 2003. Once again, these Instructions are to be regarded as a tightening of the previous Instructions. This does not make us optimistic. The more or less unconditional discretion taken in cases of discrimination – as has now been laid down in the Instructions – is not being applied in practice. It therefore should be recommended that an investigation be undertaken as to why the Instructions are not being carried out properly. Indeed, if nothing is done to deal with the underlying problems (such as priority, capacity and mentality), little benefit can be expected from the issuing of new Instructions. The activities of the police still lag behind the regulations in the Instructions for Discrimination concerning reporting, registration and transfer to the Public Prosecution Service. The lack of progress in these areas is the principal cause of concern. It is to be

hoped that the National Discrimination Bureau, established on 1 September 2002 to aid the police, will succeed in bringing about change in this regard.

In the Instructions for Discrimination we read that with general offences that are discriminatory in nature, the public prosecutors are being required to increase the sentence by 25%. It would be good if these officers were also required to report these cases to the LECD in order to provide more insight into general offences with discriminatory motives. At the same, the extent to which this instruction is being put into practice could also be considered. The absence of information on general offences with discriminatory motives is still a major deficiency. In that respect it is encouraging to learn that in 2003 the Amsterdam district public prosecutor's office started a test concerning the registration of these offences.⁶⁹

The number of registered discriminatory incidents for the year 2002 rose to 242. This increase of 22% in comparison with 2001 exceeds even the total increase of incidents in the criminal justice chain. The incidents were no longer registered exclusively under offences involving discriminatory utterances (137c-e) but also under exclusionary offences (art. 137g and 429quater). This shift is to be especially applauded in the case of discrimination in hotels, restaurants and cafés, which has risen once again, and in our opinion it is deserving of further imitation.

As for settlements, 2002 brought with it a relatively high number of support cases, which was striking (art. 137f). In brief, this concerns the prohibition to provide support to discriminatory activities. It is unclear where these cases come from and what ultimately happened with them.

The dismissal percentage unfortunately rose again in 2002 after years of decline. With 26% this is considerably more than the national average of 11%. Almost a third of these cases were policy dismissals. This is surprising because the Instructions for Discrimination (and the old ones) leave absolutely no room for policy dismissals. The Public Prosecution Service percentage of transactions is under the national average and thereby satisfies the requirements from the instructions.

Most of the acquittals took place in 2002, in both relative and absolute terms. The Public Prosecution Service was not able to maintain the high court success rate of 2001 and 2002. It is unclear whether the relatively high dismissal percentage had any influence on the percentage of convictions in court (80%). Perhaps the dismissal study announced in 2002 will provide an explanation. The accretion in the number of cases at the offices of the public prosecutors continues to lag behind because of the poor inflow of cases handled by the police. The Public Prosecution Service should be able to anticipate this now that the National Agency for Cases of Discrimination (Landelijk Bureau Discriminatiezaken; LBD) has joined the police. Otherwise there is the danger that the case load may prove too heavy to be processed, with cases being inadequately prepared or not brought to court at all.

The LECD came up with a good initiative to not limit background information to the inflow in the future but to include case settlement as well. The LECD registered considerably fewer perpetrators from the extreme right last year. This tendency coincides

⁶⁹ Parliamentary Documents II, 2003/04, 29 203, p. 59

with our findings regarding racial violence in 2002; there, too, there was less involvement of the extreme right.

Figures from the LECD show a decrease rather than an increase in the number of inter-ethnic incidents. There was also less support for the opinion that the main suspects in cases of anti-Semitism were young Moroccan men. In 2002 anti-Semitism rose to 25% of all registered discriminatory offences. This discrimination concerns anti-Semitic utterances. Many of the incidents took place in connection with sporting competitions (65%). The number of internet cases remained very low in 2002. The LECD noted no more than six cases in 2002. This number is in sharp contrast with the increase of discrimination and anti-Semitism on the internet in 2002, reported by the Dutch Complaints Bureau for Discrimination on the Internet.⁷⁰

The percentage of discriminatory cases on the basis of race increased to 86% in 2002 with respect to other grounds for discrimination.

The LECD made an important contribution to the advancement of expertise among the officers charged with cases of discrimination. The officers, in turn, should pass this knowledge on within the office of the public prosecutor and implement it. Very often, support staff such as office secretaries and so-called hoppers⁷¹ are still lacking in the necessary know-how. This is not strange, considering the low volume of cases, but it is undesirable in the light of the discretion provided for in the Instructions for Discrimination. It is on the basis of this discretion that the Ministry of Justice has stated that capacity problems in cases of discrimination are not to have any affect on investigation, prosecution and adjudication.

Discrimination often contaminates the living environment. This tendency is evident not only from LECD reports but also from the annual complaints inventory of the National Federation of Anti-Discrimination Agencies and Hotlines. The culprits here are mainly neighbourhood disputes with a racist component and discriminatory actions in residential areas. The police should be vigilant about guarding the public order in this regard. For this reason, the recommendation should be made that discrimination be given a place in the integral security policy.

⁷⁰ Annual Report 2002, Meldpunt Discriminatie Internet [Internet Discrimination Hotline] (www.meldpunt.nl). Also see recommendation 10.2.3

⁷¹ Combination of secretary and assistant to the public prosecutor.

7. ANNEX: FACTS AND FIGURES

Migration history

Through the ages, the Netherlands has received immigrants from many parts of the world, often victims of political suppression. Huguenots from France and Jews from Eastern Europe, Spain and Portugal found shelter in the Netherlands.⁷² Shortly after the Second World War, when the former colonies became independent, about 100,000 expatriates returned from the Netherlands East Indies. After 1949, when the Netherlands East Indies became formally independent, another group of expatriates returned, also numbering about 100,000. The majority of these immigrants consisted of people of colour, the 'Eurasians', who were entitled to settle in the Netherlands on the basis of their Dutch citizenship. A third group returned later, between 1952 and 1955. This group consisted of 40,000 people. The last group - also 40,000 persons - arrived at the end of the 1950s, when Indonesia announced plans to annex New Guinea. In general the expatriates were well-educated and assimilated more or less easily into Dutch society. The fourth and last group of expatriates from the Netherlands East Indies also included 12,500 persons of Moluccan origin, mostly ex-soldiers from the KNIL, the Dutch Colonial Army. They were less educated for the most part and, due to promises of the Dutch Government, regarded their stay as temporary and expected to return to the Moluccan Islands.

Although Suriname and the Netherlands Antilles were also part of the Dutch colonial empire, the immigration from these two areas was of a totally different character and followed an entirely different course than that of Indonesia. The differences are to a significant degree the result of the fact that Suriname and the Antilles did not become independent shortly after the Second World War. Actual immigration was from the middle class and small in scale. However, from 1965 on more and more unskilled workers also ventured the crossing. Immigration from Suriname swelled in the years before independence (1973-1975) and again in 1979-1980, prior to the expiration of the transitional agreement on the settlement of mutual subjects. Twenty years after independence there were about 296,000 people of Surinamese origin in the Netherlands, about 35% of these having been born on Dutch soil.

Like the Surinamese immigration, the Antillean immigration remained at a very low level for a long time and consisted mainly of students. In 1964 the immigration flow broadened to include immigrants from the lower class. Dutch businesses lured them to migrate to the Netherlands under contract. Numbers still remained small, although they slowly increased. The immigration became considerable only after 1985 when the Lago refinery in Aruba closed. In the same year, Shell too left Curaçao. The refinery did stay open, but only after great sacrifices including loss of jobs and wage restraints. The crisis in the oil industry, which to a significant degree kept the economy of the islands afloat, led to a sharp increase in emigration, especially among the lower classes. When taken as a percentage of the small island populations, emigration has remained high up to now.

⁷² Based on: Lucassen, J., Penninx, R., (1997) *Newcomers: immigrants and their descendents in the Netherlands 1550-1995*, Amsterdam: Het Spinhuis; Vermeulen, H., Penninx, R., eds. (2000), *Immigrant integration: the Dutch case*, Amsterdam: Het Spinhuis, pp. 5-8.

In the post-war era, and until the end of European labour recruitment in 1974, the Netherlands, like Germany and other Western European states, received guest workers. These workers came primarily from Mediterranean countries including Italy, Spain, Turkey, Morocco and former Yugoslavia. Their migration was intended to be temporary, but in many cases it was not. In 1973 the number of these so called guest-workers ('gastarbeiders') amounted to about 100,000 (the entire population of the Netherlands in 1973 was about 13.5 million). Recruitment from the Mediterranean countries halted abruptly after the 1973 oil crisis. After the oil crisis an economic decline started, which lasted until 1984. Though recruitment from the Mediterranean countries was halted, the number of persons of Mediterranean origin increased due to family reunification and family formation (except the refugee migration from former Yugoslavia in the 1990s).

From 1945 to the early 1980s, relatively few refugees arrived in the Netherlands. Those who did were mostly resettled. Some refugees simply joined the ranks of economic migrants until 1974. During the latter half of the 1980s the number of asylum seekers swung in a range from 3,500 to 14,000. In the early 1990s they were generally in the 20,000 to 30,000 range. During the mid-1990s, asylum seeker figures rose to over 40,000 per year.

Thus a wide range of different groups from different countries, with different backgrounds and different cultures and religions, have come to live in the Netherlands.

Definition

The Dutch statistical and analytical literature refers to immigrants with the term 'allochtonen'. This term cannot be literally translated into English (the word 'allochtoon' is derived from ancient Greek and means something like 'originating elsewhere'). The Central Statistical Agency (Centraal Bureau voor de Statistiek, or CBS) uses the description 'population with a foreign background'. The CBS considers persons to have a foreign background if at least one parent was born abroad. A distinction is made between persons born abroad (first generation) and persons born in the Netherlands (second generation). The foreign background is determined by the country of birth of the person (first generation) or the country of birth of the mother (second generation). If the mother was born in the Netherlands, the person is classified according to the father's country of birth.⁷³ This population group is broader than the one usually associated with ethnic minorities. For example, Belgian persons living in the Netherlands have a foreign background but are normally not considered ethnic minorities. Persons with a foreign background are classified by the CBS as Western or non-Western, depending on their country of birth. The category 'non-Western' includes persons from Turkey and countries in Africa, South America and Asia except for Indonesia and Japan. The latter two countries are included with the Western countries on the basis of their socio-economic and socio-cultural position. For all practical purposes the population of non-Western origin will be referred to here as ethnic minorities.

⁷³ For terminology used and details about this conceptual definition, see: Alders, M. (2001) Classification of the population with a foreign background in the Netherlands: Paper presented at the conference 'The measure and mismeasure of population. The statistical use of ethnic and racial categories in multicultural societies' in Paris, France, 17-18 December 2001, <http://www.cbs.nl/nl/publicaties/publicaties/maatschappij/bevolking/papers/classification-foreign.pdf> (08.04.2003)

Demographics

As of January 1, 2002, the Central Statistical Agency estimated the population of the Netherlands at 16,105,285 (in rounded figures: 16.1 million): 13,140,336 (13.1 million) native-born Dutch people and 2,964,949 (3 million) people with a foreign background.⁷⁴ 1,558,353 (1.6 million) of the people with a foreign background are of non-Western origin. That is 9.7% of the total population. Compared with January 2001, when the number of persons of non-Western origin amounted to 1,483,175 (1.5 million), this group has grown by 75,178 (75 thousand) people.

There are indications of an increase in the proportion of the second-generation ethnic minority population. The first generation comprises 971,706 persons (62%), and the second-generation 586,656 persons (38%), as of 1 January 2002. The growth of the second-generation is steadily accelerating. Around one-third of the ethnic minority individuals are second-generation, and this group is growing at an ever-faster rate. The number of second-generation increased by 152,000 in the last five years. In terms of percentage, growth among the second generation exceeds that of the first generation. The proportion of second-generation individuals is increasing among the 'classical' ethnic minority groups in particular, such as the Turks, Moroccans and Surinamese. Three-quarters of the second-generation have two parents born in foreign countries.⁷⁵

The total population of the Netherlands has increased by 3.5% since 1997. The ethnic minority population grew approximately eight times faster than that during the same period. Recent sharp increases in size have been especially prevalent among the 'new' groups of non-Western origin such as the Afghans and Iraqis. The 'classical' ethnic minority groups such as Turks, Moroccans, Surinamese and Antilleans/Arubans are the largest groups by far. All together they make up approximately two-thirds of all ethnic minority groups.⁷⁶

⁷⁴ Source: Centraal Bureau voor de Statistiek [CBS], Kerncijfers Bevolking, Statline Tabellen [Central Statistical Agency, Key Population Figures, Statline Tables], <http://statline.cbs.nl> (08.04.2003).

⁷⁵ CBS (2003), Allochtonen in 2002 [Ethnic minorities in 2002], Voorburg: CBS, p. 15, <http://www.cbs.nl/nl/publicaties/publicaties/maatschappij/bevolking/b-52/b-52-02.pdf> (08.04.2003).

⁷⁶ Ibid, p. 14.

Table 1: People with a foreign background by group of origin ⁷⁷

People with a foreign background by group of origin, 1 January		Total first and second generation	Total first generation	Total second generation
Group of origin	Periods	x 1000		
Total non-Western	1997	2 554	1 310	1 243
	2000	2 775	1 431	1 344
	2001	2 870	1 488	1 381
	2002	2 964	1 547	1 417
	1997	1 221	785	435
	2000	1 408	886	522
	2001	1 483	928	554
	2002	1 558	971	586
Morocco	1997	232	142	90
	2000	262	152	109
	2001	272	155	117
	2002	284	159	124
N. Antilles and Aruba	1997	88	56	32
	2000	107	69	37
	2001	117	76	40
	2002	124	82	42
Suriname	1997	285	179	105
	2000	302	183	119
	2001	308	184	124
	2002	315	186	128
Turkey	1997	279	169	110
	2000	308	177	131
	2001	319	181	138
	2002	330	185	144

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The four largest ethnic minority groups together comprised more than one million persons (1,054,980) in 2002. This group includes 330,709 persons of Turkish origin, 315,177 of Surinamese origin, 284,224 of Moroccan origin and 124,870 of Antillean/Aruban origin. The distribution in terms of percentages from earlier migration countries is as follows: Turkey 26.6%, Suriname 25.4%, Morocco 22.9%, Antilles/Aruba 10.0%. Together they comprise approximately two-thirds of all ethnic minorities.⁷⁸ The Turks clearly have become the largest ethnic minority group.

Yet the new ethnic minority groups have become increasingly significant in terms of numbers. According to the CBS counts, nine new groups, comprising more than 16,000 persons each, could be distinguished as of 1 January 2002. These are persons of Iraqi (41,323), Somali (28,979), Afghan (31,167), Iranian (26,789), Ghanaian (17,232),

⁷⁷ Source: Centraal Bureau voor de Statistiek [CBS], Kerncijfers Bevolking, Statline Tabellen [Central Statistical Agency, Key Population Figures, Statline Tables], <http://statline.cbs.nl> (08.04.2003).

⁷⁸ Ibid.

Pakistani (17,325), Egyptian (16,108), Vietnamese (16,012) and Chinese (55,117) origin.⁷⁹ In the year 2002, these nine comprised approximately 250,000 persons in total. One notable point is the drop in the number of Somalis. In 2001 there were 29,631 Somalis living in the Netherlands. This drop has to do with the migration of Somalis to other countries, such as Great Britain.⁸⁰

Included among the ethnic minorities are the Moluccan population group (42,300 persons),⁸¹ caravan dwellers (23,000),⁸² and Roma and Sinti (3,500).⁸³

Also living in the Netherlands are 187,700 Southern Europeans, 74,640 of whom are from the various countries of former Yugoslavia, 35,193 Italians, 30,897 Spanish, 15,881 Portuguese, 12,077 Greeks and 19,012 Cape Verdeans.⁸⁴

In addition, there are an estimated 112,000 to 163,000 persons living in the Netherlands illegally.⁸⁵

The brief history of many population groups of non-Western origin in the Netherlands and the average young age of non-Western immigrants determine to a great extent the age distribution of these groups. The age distribution of non-Western groups reveals striking differences when compared with the native Dutch population. In most cases, these ethnic minority groups are considerably younger, and the men are in the majority. Such a skewed ratio of men to women is most pronounced among those population groups that settled in the Netherlands relatively recently, such as the Iranians. The population pyramids for these groups greatly resemble those of the Turks and Moroccans living in the Netherlands in the 1970s.⁸⁶

At the moment, four out of ten members of the ethnic minority population are younger than 20 years of age. This proportion is almost twice as large as that of foreigners of Western origin and native Dutch people. The proportion of second-generation members of the ethnic minority population younger than 20 years of age is even greater: eight out of ten.

⁷⁹ Ibid., p. 91.

⁸⁰ Kamerstukken II [Parliamentary Documents II] 2002/03, 28 612, no. 2, p. 4.

⁸¹ G. Beets, E. Walhout and S. Koesobjono (2002) Demografische ontwikkeling van de Molukse bevolkingsgroep in Nederland [Demographic developments of the Moluccan population group in the Netherlands], in *Maandstatistiek van de Bevolking*, vol. 50, no. 6, pp. 13-17, <http://www.cbs.nl/nl/publicaties/publicaties/maatschappij/bevolking/b-15/b-15-02-06.pdf> (22.04.2003).

⁸² Kamerstukken II [Parliamentary Documents II] 2002/03, 28 612, no. 2, p. 4, <http://www.overheid.nl> (22/04/2003).

⁸³ The figure concerning the number of Roma and Sinti is taken from: ECRI (2001), Second report on the Netherlands. Strasbourg: Council of Europe, p. 14. http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Netherlands/CBC2_Netherlands.pdf (22.04.2003) The Dutch government estimates the number of Roma and Sinti at 2,000; the National Organization of Roma and Sinti estimates 5,000.

⁸⁴ CBS (2003), *Allochtonen in 2002* [Ethnic minorities in 2002], Voorburg: CBS, p. 91.

⁸⁵ NRC Handelsblad, (01.02.2003).

⁸⁶ Ibid., p. 18.

The percentage of people over 65 among ethnic minorities is extremely low: 2%. This percentage will slowly increase in the coming years. In 2010, 4% of the ethnic minority population will be 65 years of age or older, and it will be quite some time before this population group will have to deal with any significant ageing phenomenon.⁸⁷

Table 2: People with a foreign background by sex and group of origin⁸⁸

People with a foreign background by sex and group of origin, 1 January, 2002				
	First generation		Second generation	
	Men	Women	Men	Women
Continents	x 1000			
Africa	159	121	93	90
America	151	178	107	104
Asia	172	172	170	163
Europe	279	309	341	339
Oceania	3	4	6	6
Non-Western				
Afghan	16	12	1	1
Brazilian	2	4	2	2
Cape Verdean	6	6	4	4
Chinese	12	13	6	5
Egyptian	7	3	3	3
Ghanaian	6	5	3	3
Hong Kong Chinese	5	5	4	4
Indian	5	3	2	2
Iranian	13	10	2	2
Iraqi	22	14	3	3
Moroccan	87	72	63	61
N. Antillean and Aruban	40	42	22	21
Pakistani	7	4	3	3
Philippine	2	6	2	2
Somali	12	9	4	4
South African	4	4	3	3
Surinamese	86	100	65	64
Turkish	97	89	75	70
Vietnamese	6	5	3	3
Other non-Western	69	62	29	28
Total	503	469	300	287

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⁸⁷ Ibid., p. 20.

⁸⁸ Ibid., p. 94.

Table 3: People with a foreign background by age and group of origin ⁸⁹

People with a foreign background by age and origin, 1 January, 2002							
	0-9 yrs	10-19 yrs	20-29 yrs	30-39 yrs	40-49 yrs	50 yrs and older	Total
Continents	x 1000						
Africa	8.0	33.9	67.7	83.7	46.8	39.4	279.4
America	12.1	29.2	59.6	86.9	75.0	65.8	328.6
Asia	15.0	33.7	45.0	62.5	62.9	124.7	343.9
Europe	12.1	43.1	110.3	153.2	99.4	161.4	588.4
Oceania	0.4	0.6	1.8	2.1	1.2	0.7	6.8
Non-Western							
Afghan	4.1	7.6	5.5	5.9	3.2	2.2	28.4
Brazilian	0.4	0.8	1.4	2.0	1.1	0.4	6.3
Cape Verdean	0.1	0.8	1.4	3.1	3.2	2.6	11.2
Chinese	1.1	3.7	5.8	5.8	3.7	4.5	24.6
Egyptian	0.6	0.3	1.1	3.9	3.0	0.9	9.8
Ghanaian	0.1	0.8	1.7	3.8	4.2	0.6	11.3
Hong Kong Chinese	0.1	0.5	1.2	2.4	3.6	2.5	10.2
Indian	0.4	0.5	1.7	2.4	1.7	1.8	8.6
Iranian	0.8	4.4	3.5	7.1	4.8	2.4	23.0
Iraqi	3.4	7.5	7.1	10.0	5.1	2.8	35.9
Moroccan	2.4	13.5	41.3	47.1	25.0	30.3	159.6
N. Antillean and Aruban	6.0	11.3	19.5	17.4	15.0	13.2	82.2
Pakistani	0.5	1.0	2.2	3.3	2.7	1.1	10.8
Philippine	0.3	0.6	1.5	2.1	1.7	1.0	7.2
Somali	1.1	5.5	5.6	6.0	1.9	1.1	21.1
South African	0.6	1.1	2.2	1.9	1.1	0.9	7.9
Surinamese	1.9	11.0	28.0	52.8	48.2	44.4	186.3
Turkish	2.7	11.6	42.5	63.9	30.4	34.8	185.9
Vietnamese	0.1	0.7	2.8	3.3	2.8	1.3	11.0
Other non-Western	7.7	21.3	29.7	37.9	22.3	11.5	130.5
Total	34.4	104.4	205.8	282.0	184.9	160.2	971.7

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Ethnic minorities contribute significantly to population growth of the Netherlands. At the present time, almost half the population growth can be ascribed to immigration. Immigration, combined with the higher average fertility rate among ethnic minorities, has meant that two-thirds of the population increase in the past five years has consisted of ethnic minorities. The expectation is that in 2010 there will be two million persons of non-Western origin in the Netherlands.⁹⁰ Although the average number of children among ethnic minorities is dropping, the fertility rate of Moroccan and Turkish women is still significantly higher than the Dutch average.⁹¹

In recent years, almost half of the influx of immigrants not of Dutch nationality consisted of 'follow-up migrants'. They are persons who come to join their families in the

⁸⁹ Ibid., p. 97.

⁹⁰ Ibid., p. 15.

⁹¹ Ibid.

Netherlands or persons who come to live in the Netherlands to marry or live in partnership. The inflow of persons who have immigrated for purposes of family reunification has shrunk and the number of persons creating new families has increased.⁹²

In 2001, 133,404 (133 thousand) immigrants came to the Netherlands – 14.2 thousand non-Dutch immigrants for purposes of family reunification and 20.4 for family formation. Most of the immigrants coming for family reunification and family formation have come from Turkey and Morocco. In 2001, 3.3 thousand Turks and 3.2 thousand Moroccans came to the Netherlands to form new families. Those who came for family reunification from these countries were 1.0 thousand and 1.2 thousand respectively.⁹³

Immigration resulting from family formation and family reunification is extremely high. Asylum migration, however, is dropping. In 2001, the number of asylum seekers was 32,579. This number was a decrease of almost 25% with respect to 2000 (43,895).⁹⁴ In 2002 the number of registered asylum seekers was 18,667, a decrease of at least 43%. As a result, the Netherlands underwent the largest change in rank in Western Europe. Whereas the country received the third highest number of claims in 2000, it fell to the fourth position in 2001 and ranked seventh in 2002.

⁹² Ibid., p. 17.

⁹³ A. Sprangers and J. Garssen, Migratie in 2001 per saldo afgenomen [Migration in 2001 decreased on balance], in Centraal Bureau voor de Statistiek Webmagazine (10.06.2002), <http://www.cbs.nl/nl/publicaties/artikelen/algemeen/webmagazine/artikelen/2002/0985k.htm> (08.04.2003); Europese immigrantenstroom verandert [European immigration stream changes], in Centraal Bureau voor de Statistiek Webmagazine (23.09.2002), <http://www.cbs.nl/nl/publicaties/artikelen/algemeen/webmagazine/artikelen/2002/1040k.htm> (08.04.2003); Nicolaas, H., Sprangers, A., Toename aandeel asielzoekers in immigratie [Increase in number of asylum seekers in immigration], in Centraal Bureau voor de Statistiek Webmagazine (05.08.2002), <http://www.cbs.nl/nl/publicaties/artikelen/algemeen/webmagazine/artikelen/2002/1019k.htm> (08.04.2003).

⁹⁴ UNHCR (March 2003) Asylum applications lodged in industrialized countries: levels and trends, 2000-2002, <http://www.unhcr.ch> (25/04/2003)

Table 4a: Population projections of people with a foreign background by group of origin⁹⁵ (general)

Population projections of people with a foreign background by group of origin, 2003-2050												
			Non-Western									
		People with a foreign background	Total non-Western	Africa	Asia	Latin-America	Morocco	N. Antilles and Aruba	Suriname	Turkey	Indonesia	Other non-European
Generation	Periods	x 1000										
Total first and second generations	2008	3 344	1 879	223	366	79	341	146	342	380	390	69
	2013	3 686	2 113	251	443	98	384	163	358	413	380	85
	2018	4 024	2 338	281	523	119	419	181	370	441	370	104
	2023	4 338	2 551	312	603	141	448	199	379	465	359	118
	2028	4 630	2 752	343	682	163	472	217	385	486	346	130
	2033	4 903	2 939	373	758	184	492	235	388	505	331	141
	2038	5 156	3 113	403	831	206	509	252	389	521	313	152
	2043	5 389	3 270	431	898	227	523	267	386	535	291	162
	2048	5 600	3 408	458	960	246	534	282	381	544	269	172
	2050	5 678	3 458	468	984	254	537	287	379	546	260	176

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⁹⁵ Source: Centraal Bureau voor de Statistiek [CBS], Kerncijfers Bevolking, Statline Tabellen [Central Statistical Agency, Key Population Figures, Statline Tables], <http://statline.cbs.nl> (08.04.2003)

Table 4b: Population projections of people with a foreign background by group of origin⁹⁶ (first generation)

Population projections of people with a foreign background by group of origin, 2003-2050												
			Non-Western									
		People with a foreign background	Total non-Western	Africa	Asia	Latin-America	Morocco	N. Antilles and Aruba	Suriname	Turkey	Indonesia	Other non-European
Generation	Periods	x 1000										
First generation	2008	1 709	1 102	138	260	49	173	90	190	199	125	33
	2013	1 878	1 186	143	300	60	183	96	192	209	115	45
	2018	2 044	1 270	152	339	71	192	103	194	217	105	57
	2023	2 189	1 349	162	376	81	200	110	194	223	96	63
	2028	2 317	1 421	173	411	91	207	117	192	228	87	67
	2033	2 426	1 483	184	444	100	212	123	187	231	80	69
	2038	2 519	1 535	195	473	107	215	127	181	233	73	71
	2043	2 594	1 574	205	498	114	218	132	173	233	68	72
	2048	2 652	1 599	213	518	119	218	135	163	230	65	73
	2050	2 671	1 606	215	525	121	217	136	160	228	64	73

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⁹⁶ Source: Centraal Bureau voor de Statistiek [CBS], Kerncijfers Bevolking, Statline Tabellen [Central Statistical Agency, Key Population Figures, Statline Tables], <http://statline.cbs.nl> (08.04.2003)

Table 4c: Population projections of people with a foreign background by group of origin⁹⁷ (second generation)

Population projections of people with a foreign background by group of origin, 2003-2050												
			Non-Western									
		People with a foreign background	Total non-Western	Africa	Asia	Latin-America	Morocco	N. Antilles and Aruba	Suriname	Turkey	Indonesia	Other non-European
Generation	Periods	x 1000										
Second generation	2008	1 634	777	85	106	29	167	55	151	180	265	35
	2013	1 808	926	108	143	38	200	66	165	204	265	40
	2018	1 979	1 067	129	184	48	226	77	176	224	264	46
	2023	2 148	1 201	150	227	59	247	88	185	242	262	54
	2028	2 313	1 330	169	270	71	265	100	193	258	258	63
	2033	2 476	1 455	188	314	84	280	112	200	273	251	72
	2038	2 637	1 578	207	357	98	293	124	207	288	239	80
	2043	2 795	1 696	226	400	112	305	135	213	301	223	89
	2048	2 948	1 808	245	442	126	315	146	218	313	204	98
	2050	3 007	1 851	252	458	132	319	151	219	318	195	102

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⁹⁷ Source: Centraal Bureau voor de Statistiek [CBS], Kerncijfers Bevolking, Statline Tabellen [Central Statistical Agency, Key Population Figures, Statline Tables], <http://statline.cbs.nl> (08.04.2003)

Besides the differences in age and sex, there are also differences in educational level and vocation. The relative number of less educated people is higher among the ethnic minorities than among the native Dutch (see Table 5). But differences can also be observed among the various ethnic minority groups themselves. The educational levels among Turks and Moroccans in particular are lagging behind – half of them have received no more than primary education. Men of non-Western origin are somewhat better educated than women of non-Western origin, while more second-generation than first-generation individuals have received some form of further education.

Table 5a: Educational levels of people aged 15-64 with a foreign background by sex and group of origin⁹⁸ (Women)

Educational levels of people aged 15-64 by sex and group of origin, 2001 (in %)									
		Primary education	lower general secondary education	lower vocational education	higher general secondary education	intermediate vocational education	higher vocational education	university education	total = 100% (x 1000)
Women									
	total	15	11	15	7	31	15	5	5 332
	Dutch	12	11	16	7	33	16	5	4 324
	foreign back-ground	27	11	11	8	23	13	6	1 007
	first generation	33	10	11	8	20	12	6	654
	Second generation	15	14	12	9	27	15	6	351
	Western	15	11	12	9	27	17	9	514
	first generation	17	9	12	10	24	17	11	246
	second generation	13	12	12	8	30	17	7	267
	non-Western	40	12	10	8	18	9	3	493
	first generation	43	10	10	7	17	9	3	408
	second generation	23	20	11	13	20	10	2	83
	Turkish	58	8	12	6	12	3	0	102
	Moroccan	57	11	10	5	12	3	2	82
	Surinamese	23	19	10	6	27	13	2	116
	N. Antillean/Aruban	29	15	14	7	22	10	3	43
	other non-western	35	9	9	13	16	13	6	150

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⁹⁸ W. Portegijs, A. Boelens and S. Keuzenkamp(2002), Emancipatiemonitor 2002 [Emancipation Monitor 2002], The Hague: Social Cultural Planning Agency, Central Statistical Agency, p. 53, <http://www.cbs.nl/nl/publicaties/publicaties/maatschappij/leefsituatie/emancipatiemonitor-2002.pdf> (27.05.2003)

Table 5b: Educational levels of people aged 15-64 with a foreign background by sex and group of origin⁹⁹ (Men)

Educational levels of people aged 15-64 by sex and group of origin, 2001 (in %)									
		Primary education	lower general secondary education	lower vocational education	higher general secondary education	intermediate vocational education	higher vocational education	university education	total = 100% (x 1000)
Men									
total		13	8	15	7	33	15	9	5 469
Dutch		11	7	15	6	36	16	8	4 443
foreign background		25	9	14	9	22	13	9	1 025
	first generation	30	8	14	8	19	12	9	631
	second generation	15	12	13	11	26	14	10	392
Western		13	8	13	10	27	17	13	497
	first generation	15	7	13	8	24	17	16	208
	second generation	11	9	13	11	29	17	11	289
non-Western		36	10	14	8	17	9	6	527
	first generation	38	8	14	8	17	9	6	423
	second generation	26	19	13	11	19	7	5	103
	Turkish	48	9	18	6	11	4	3	112
		51	9	12	6	16	5	1	95
	Surinamese	26	13	16	6	24	10	7	104
	N. Antillean/Aruban	22	12	17	9	27	7	7	41
Other non-western		29	9	12	12	15	13	9	175

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The ethnic minority population of the Netherlands is more unevenly distributed across the country than the native Dutch population.¹⁰⁰ Large concentrations of ethnic minorities are located in the western part of the country, partly due to the appeal of the four big cities. The western provinces – Noord-Holland, Zuid-Holland, Utrecht and Zeeland – exert a stronger attraction on ethnic minorities than on immigrants of Western origin. On 1 January 2001, 13.4% of the total population of this region of the Netherlands consisted of ethnic minorities. In the northern provinces – Groningen, Friesland and Drenthe – that proportion was 3.7%. Of those ethnic minorities, it is mostly persons with Surinamese or Moroccan backgrounds who are so intensely concentrated in the western provinces. This is also true of the Antilleans and Turks, but to a lesser degree. The Turks are also to be found relatively frequently in the eastern Netherlands, especially in southwest Overijssel.

⁹⁹ W. Portegijs, A. Boelens and S. Keuzenkamp(2002), Emancipatiemonitor 2002 [Emancipation Monitor 2002], The Hague: Social Cultural Planning Agency, Central Statistical Agency, p. 53, <http://www.cbs.nl/nl/publicaties/publicaties/maatschappij/leefsituatie/emancipatiemonitor-2002.pdf> (27.05.2003)

¹⁰⁰ CBS (2003), Allochtonen in 2002 [Ethnic minorities in 2002], Voorburg: CBS, pp. 23-25.

This has to do with the nature of the initial immigration from Turkey and Morocco. Many less educated immigrants from these countries settled as guest workers in the Randstad – the western conurbation – and the industrial cities of Twente and Noord-Brabant during the 1960s and 1970s. For this reason, these groups are still strongly represented in these areas.

Among the four largest ethnic minority groups – those from Turkey, Morocco, Suriname and the Netherlands Antilles/Aruba – it is especially striking that the pattern of spatial distribution and concentration hardly changes. The only dispersal taking place is among the Surinamese, from the western to the eastern Netherlands. This is mainly the consequence of a heavy flow of people moving from Amsterdam to Almere. Notable developments are in evidence among the ‘younger’ groups of non-Western origin. There is no longer any concentration of Somalis in the northern Netherlands, for instance, although there is a stronger concentration in the western and southern Netherlands. Tilburg in particular seems to exert a great attraction on this group. Afghans, on the other hand, who initially were underrepresented in the northern Netherlands, have become uniformly distributed across all the parts of the country in recent years. It is becoming significantly less common to encounter persons from Iraq and Iran in the southern provinces.

Most second-generation persons aged 25 and older have left their parents’ home by now. The size of this group is 620 thousand persons. The second generation of immigrants of Western origin has spread itself more uniformly across the Netherlands (except for the southern Netherlands) than the Western first generation. By contrast, the concentration of ethnic minorities in the western Netherlands has increased from the first to the second generation, although a shift did take place among second-generation Surinamese and Moroccans over the age of 25 from the western to the eastern and southern Netherlands.

There is a substantial overrepresentation of ethnic minorities in the four big cities. In 2001, almost 30% of the population of these cities was of non-Western origin, in comparison with 9.3% for the Netherlands as a whole. Of the four big cities, the proportion of ethnic minorities is highest in Amsterdam and Rotterdam, with almost 32%, and lowest in Utrecht, with upwards of around 19%.

About three-quarters of the total population of non-Western origin in the four big cities consist of Surinamese, Moroccans, Turks and Antilleans/Arubans.

There are substantial differences among the big cities themselves, however, in the distribution based on origin. In Amsterdam and The Hague, Surinamese make up approximately one-third of the total number of ethnic minorities, while in Utrecht that proportion is only one-seventh. There, Moroccans are the largest group by far, with 42% of the total. In The Hague and Rotterdam there are considerably fewer Moroccans. Turks are more uniformly spread throughout the four big cities, although their proportion in Amsterdam is relatively low. Finally, Antilleans and Arubans are most strongly represented in Rotterdam and The Hague.

By imposition of the Dutch government, Moluccans were settled ‘temporarily’ in rural, sometimes even remote, areas of the country. Though they are increasingly moving away from these areas, they are still the least likely of all the immigrant groups to be found in big cities.

Aliens Act

The Dutch government expects the proportion of ethnic minorities to increase, despite measures that will be taken to limit the inflow of such groups.¹⁰¹ A stricter immigration policy for those entering the Netherlands from countries outside the European Union was

The aim of the new Aliens Act 2000 (Vreemdelingenwet 2000).¹⁰² For immigrants with a temporary residence permit (*machtiging tot voorlopig verblijf*, or MVV), the most significant change in the Aliens Act, which came into force in April 2001, is that there is now only one status (in theory) in the Netherlands.¹⁰³ A person can be granted a single form of temporary status for one year (renewable twice) if he or she fulfils one of the following criteria:

- He is a Convention refugee (someone with objective reasons to claim that he or she will face genuine risk if deported – risk of torture, inhuman or cruel treatment or punishment);
- He is a person who, for humanitarian reasons (such as, but not exclusively, a violent widespread conflict), has fled the situation in his country of origin;
- He is the spouse or minor child of someone of the same nationality who is granted status in the Netherlands on one of the above grounds, and who has travelled with, or followed, the main applicant within a period which does not exceed three months;
- He is the dependent partner or child over 18 of the person recognised (Article 29, Dutch Aliens Act 2000).

The status of those fulfilling these criteria is converted to that of permanent resident if, at the end of the three years with temporary status, returning to the country of origin proves impossible. The government is also committed to a maximum six-month processing period to assess each claim. In exceptional circumstances, such as a mass influx, the government has allowed an additional year to process some claims.

Reports in the Netherlands suggest the new law is having some effect. While the level of asylum claims in Western Europe as a whole remained stable, the number of asylum applications in the Netherlands dropped from 43,895 in 2000 to 32,579 (a 25% decrease) in 2001, to 18,667 (a 43% decrease) in 2002.¹⁰⁴

¹⁰¹ Kamerstukken II [Parliamentary Documents II] 2002/03, 28 612, no. 2, p. 4, <http://www.overheid.nl> (25/04/2003).

¹⁰² A. Fermin, The justification of mandatory integration programmes for new immigrants. Summary of the Dutch report 'Verplichte inburgering van nieuwkomers' (Utrecht University, European Research Centre on Migration and Ethnic Relations, ERCOMER Research Paper 2001/01), [http://www.ercomer.org/publish/reports/Alfons_report Verplichte Inburgering.pdf](http://www.ercomer.org/publish/reports/Alfons_report%20Verplichte%20Inburgering.pdf) (25/04/2003).

¹⁰³ Wet van 23 november 2000 tot algehele herziening van de Vreemdelingenwet [Act dated 23 November 2000 for a general revision of the Aliens Act 2000], Staatsblad [Bulletin of Acts and Decrees] 2001, 142, <http://www.overheid.nl> (25/04/2003).

¹⁰⁴ UNHCR (March 2003) Asylum applications lodged in industrialized countries: levels and trends, 2000-2002.

Any discussion of asylum in the Netherlands must make note of one unusual feature of the pattern of arrivals to the country in recent years. In 2000, 15 percent (6,705) of all the asylum seekers in the Netherlands were unaccompanied minors. The top five countries of origin were Angola, China, Guinea, Sierra Leone, and Somalia. Fully two-thirds of all asylum claims from China in the Netherlands were being made by children arriving alone. This figure was 59% for Guinea and 49% for Angola. The level of claims by unaccompanied minors was not nearly this high in other European countries. The EU average in 2000 was 3.5% of the total asylum claims. For Germany the figure was 1% (946 unaccompanied minors), for the UK 3% (2,733 unaccompanied minors), and for Portugal 5% (10 out of the 200 total asylum claims).¹⁰⁵

Various factors are presumed to contribute to the high numbers of unaccompanied minors in the Netherlands. Suggestions range from the level of educational opportunities offered to asylum seekers and refugees to the existence of a thriving sex industry. However, the real motives remain unknown. In response to this phenomenon, the Ministry of Justice created a new policy on unaccompanied minors in 2000, which began to be implemented in 2001. The focus is on the return of these children to their countries of origin, with provisions such as special arrangements for monitoring via the International Organisation for Migration in China. The policy also provides for a medical examination of the claimant to ensure that the child is under 18; this is primarily done using x-rays of the collarbone.

Foreign nationals employment act

The Foreign Nationals Employment Act (Wet Arbeid Vreemdelingen, or WAV)¹⁰⁶ governs the take-up of employment by non-EU foreigners and their integration into the Dutch labour market.¹⁰⁷ This law went into effect in January 1995 and replaced the Foreign Workers Employment Act (Wet Arbeid Buitenlandse Werknemers, or WABW) of 1979. Under this law employers will not be issued a work permit for non-EU foreigners so quickly, and the work permit will only be granted subject to a number of conditions. In addition, the central labour market authority will set a time limit for such work permits. A modification to the Dutch employment law stipulates that non-EU foreigners who are not permitted to work in the Netherlands will not be able to register with the employment office.

In principle employers wishing to hire a foreign national in the Netherlands require a work permit. For this purpose, an employer is any person who has somebody working for him. This means that the employment of foreign nationals for domestic or other personal services is covered by the law. And unlike in the previous legislation, this now also applies to the public administration. In the case of sub-contractors or agency work, it is the final contractor who is responsible. The final contractor does not, however, require a new permit if the sub-contractor or the placement agency has already presented a work permit. For the purpose of the law foreigners are all those not in possession of Dutch nationality. The law does not apply to au-pairs.

¹⁰⁵ UNHCR (November 2001), Trends in unaccompanied and separated children seeking asylum in Europe, 2000, <http://www.unhcr.ch> (25/04/2003).

¹⁰⁶ Wet van 21 december 1994, tot vaststelling van de Wet arbeid vreemdelingen [Act dated 21 December 1994 for the adoption of the Foreign Nationals Employment Act], Staatsblad [Bulletin of Acts and Decrees] 1994, 959, <http://www.overheid.nl> (25/04/2003).

¹⁰⁷ A. Fermin, The justification of mandatory integration programmes for new immigrants.

A work permit is not required for the employment of persons from member states of the European Union. No work permit is required for foreigners possessing a residence permit issued by the Ministry of Justice, provided it is clear from this residence permit that no restrictions have been placed on taking up paid employment. The Ministry of Justice has removed these restrictions on foreigners who are entitled to live and work in the Netherlands, that is foreigners with a residence entitlement, refugees, or those who have held a residence permit for more than three years. In future employers will be able to see from all new residence permits whether the foreigner in question is allowed to work in the Netherlands or not.

An employer seeking to fill a vacancy should do everything in his power to fill this vacancy with a person from the so-called 'priority labour supply', which is made up of persons requiring no work permits. At least five weeks before the employer applies for a work permit he must have registered the vacancy with the employment office. In addition he must also conduct an active search himself, e. g. by placing advertisements or offering retraining or further training opportunities. If it becomes apparent that the employer is unable to fill the vacancy and no suitable person can be found by the employment office, the central labour market authority is empowered to grant a work permit. Normally a work permit will be granted within five weeks.

Newcomers integration act

In the early sixties the Dutch government assumed that the labour migrants would stay temporarily. Policy focusing on the integration of these groups was not under discussion. In practice, however, it became apparent that they had come for good, had brought their families over, and that their children were growing up here. As a result the government's perception of the assumed temporary stay of these people gradually changed.¹⁰⁸

The people who chose to build up an existence in the Netherlands had a lot of catching up to do in comparison with the native Dutch population, and at the same time the society was insufficiently equipped to handle them. Most immigrants encountered gaps in education, work and housing that seemed impossible for them to overcome on their own. In addition, there were barriers in society that thwarted the integration process. Intervention by the government was required. The Ministry of Home Affairs and Kingdom Relationships played a coordinating role.

In 1998 a separate portfolio was created within the Ministry of Home Affairs and Kingdom Relationships for the Large Cities and Integration Policy. The Netherlands indicated it was more serious than it had been about the integration of minorities by appointing a special state secretary (or junior minister).¹⁰⁹

The most important tasks of this state secretary are promoting and guarding the coherence of the integration policy; checking the extent to which the objectives of the integration policy have been realised; determining whether the relevant policy intentions of the

¹⁰⁸ V. Beetz van (2000), The legal instruments required in the strategy for a successful integration policy in The Netherlands. Strategies for implementing integration policies proceedings (Prague, 4-6 May 2000), <http://www.social.coe.int/en/cohesion/action/publi/migrants/beetzen.htm> (25/04/2003).

¹⁰⁹ Following the change of government in 2002, a Minister for Integration and Immigration was appointed.

various departments are compatible with the objectives of the minorities policy and signalling when announced intentions fail to materialise; where necessary taking the initiative to develop, adjust and evaluate policy; promote communication among all organisations involved in the minorities policy; and make a coherent presentation of the minorities policy.

One of the main priorities of this policy is to ensure that newcomers are able to manage for themselves in society as quickly as possible. Getting settled is a first step in the integration process. Settlement procedures ensure that newcomers learn the Dutch language, acquire a first insight into the social and political relationships in our society and acquire some knowledge of the Dutch labour market. This integration strategy is laid down in the Newcomers Integration Act (Wet Inburgering Nieuwkomers, or WIN).¹¹⁰

On 30 September 1998, WIN went into force in the Netherlands, establishing the rights and obligations of newly arrived adult immigrants concerning settlement or integration programmes.¹¹¹ The rationale behind the policy is that newly arrived adult immigrants should acquire a basic knowledge of the Dutch language, society and labour market as soon as possible, because this is essential for functioning independently in Dutch society in general and for participating in further education and the labour market in particular. They should be offered preparation and guidance in taking their first steps in the new society as soon as possible, to avoid the formation of new disadvantaged groups and dependence on public support. The first responsibility for implementing the integration policy lies with the municipalities. But the central government defines the parameters of this policy by means of financial support, rules and laws such as WIN.

WIN's target group consists of newly arrived immigrants aged 16 years or older who are settling in the Netherlands for the first time on a non-temporary basis. An exemption is made for persons who, pursuant to international treaties, may not be obliged to participate in such programmes, especially citizens of the European Union. Included in the target group, however, are Dutch nationals from the overseas parts of the Kingdom, from the Netherlands Antilles and Aruba.

Newcomers are obliged to report for an integration inquiry within six weeks after arriving in a municipality or receiving a residence permit. Exemptions are possible on certain grounds. The integration inquiry is conducted to determine the need for and make-up of the programme. Previous knowledge, previous training and work experience are taken into account in the inquiry to determine to what extent the newcomer is under risk of becoming underprivileged and in which parts of the integration programme participation is necessary. The inquiry is concluded with a decision by the municipality specifying the programme that the newcomer is obliged to follow.

Within four months after applying for integration the newcomer is required to enrol at an educational institution. The integration programme consists of an educational section of approximately 600 hours: courses in Dutch as a second language (NT2), Social

¹¹⁰ Wet van 9 april 1998, houdende regels met betrekking tot de inburgering van nieuwkomers in de Nederlandse samenleving (Wet inburgering nieuwkomers) [Act of 9 April 1998, providing for regulations concerning the integration of newcomers in Dutch society (Newcomers Integration Act)], Staatsblad [Bulletin of Acts and Decrees] 1998, 533, <http://www.overheid.nl> (25/04/2003).

¹¹¹ A. Fermin, The justification of mandatory integration programmes for new immigrants.

Orientation and Vocational Orientation. The programme concludes with a final test on NT2 and Social Orientation no later than 12 months after the enrolment at the educational institution. In addition to these courses, the newcomer receives general programme coaching and social counselling. The general programme coach should personally assist the newcomer. He or she should provide support if necessary and help to motivate the newcomer. The total programme is concluded no more than six months after the final test with a referral to the labour exchange, a follow-up course or other follow-up activities. So the total duration of the programme is close to two years at the most.

WIN specifies the obligations of newcomers and municipalities concerning the settlement programme. The newcomer is obliged to apply for the integration inquiry, to register with the educational institution and participate in the training, to take the final test and to participate in other parts of the integration programme. The Act stipulates sanctions for newcomers who fail to meet their obligations: reduction of benefit payments or fines. In turn, the municipalities are obliged to ensure that all newcomers in need of a settlement programme are offered an adequate one.

Local integration policy was given new impetus from the introduction of WIN.¹¹² The educational supply improved gradually, both quantitatively and qualitatively. However, in 2001 even the central government recognised that the policy had not yet succeeded due to several problems with its implementation on local level. Evaluation studies revealed that many municipalities have problems with organising the cooperation of the many organisations and agencies concerned. Most newcomers failed to acquire sufficient command of the Dutch language within the allotted 600 hours for a referral to the labour exchange, although this was a central goal of the policy. The disappointing results were also caused by the fact that municipalities could rarely provide made-to-measure programmes for the heterogeneous group of newcomers, and by high dropout and absenteeism rates. At the same time, municipalities seldom impose the sanctions WIN stipulates because they consider the sanctions ineffective or unjustified given the actual low supply of programmes. Another reason is that municipalities prefer positive sanctions over negative ones. Furthermore, as an unintended side effect, the increase in the number of newcomers has occurred at the expense of the number of Dutch courses for those immigrants who have been in the Netherlands for quite some time without having acquired enough language skills for self-sufficiency (these immigrants are known as 'oldcomers').

In response to these disappointing results, the central government set out to initiate improvements and adjustments in the newcomer integration policy. An integration task force was established by the government to further this aim and a separate policy for the integration of oldcomers was developed. At the same time WIN's target group has been redefined. First, an act was passed to oblige specific groups of immigrants who have temporary residence permits but fulfil functions of social importance - such as clergymen (especially imams) - to participate in integration programmes. Second, the introduction of the Aliens Act 2000 was accompanied by another change in the target group; from then on immigrants with temporary residence status were also included in WIN.

¹¹² A. Odé and M. Brink, (2002) Evaluatie effectiviteit Wet Inburgering Nieuwkomers: verscheidenheid in integratie [Evaluation of the effectiveness of the Newcomers Integration Act: diversity in integration], in *Migrantenrecht*, vol. 17, no. 5, pp. 154-158.