

Plea by historian Marjolein van Pagee, advisor of K.U.K.B. in the 'bersiap-case' against Rijksmuseum, October 13, 2022

Dear Counselors,

I stand here not only as a historian, but also as the granddaughter of a Dutch man who was sent to Indonesia as a soldier between 1947 and 1949. Ten years ago, this was the reason for me to start journey in researching the history. Today I am here as an independent advisor of the *Komite Utang Kehormatan Belanda* (K.U.K.B. Foundation), the only foundation in the Netherlands that defends the rights of Indonesian victims of Dutch war crimes.

In today's court case we are not just discussing a word, but moreover the idea behind that word that is considered offensive. In the Indonesian language 'siap' or 'bersiap' is just a word like any other. Thus, the offensive character of the term lays in the specific meaning that has been attributed to it in the Dutch context. With this term Dutch people or so-called *Indische Nederlanders* (Dutch-Indies people) refer to violence that the colonized used against them. We are talking about an unequal power relation because the Dutch, and those groups who collaborated with them, were the perpetrators of injustice. To put it simple: the word 'bersiap,' in the Dutch interpretation, is accusing victims for turning against the perpetrators.

It is quite exceptional that two Indonesians are being heard today. Even though the Indonesian population now numbers more than 270 million, there are not many people in the Netherlands who identify as 'Indonesian'. Prominently present are groups like the Dutch-Indies and Maluku communities: people who are related to the colonizers, or collaborated with them. That is why the voices of those suppressed, remain largely unheard in the Netherlands.

I first want to emphasize that the foundation finds it regrettable that it had to come this far that we are standing here today. In case the defendants would have listened to the criticism which the K.U.K.B. foundation conveyed to them in a personal meeting, then K.U.K.B. did not have to go to the police.

I can understand that the prosecutor initially deemed this a topic for public discussion in society. Indeed, ideally this would be the way. However, as I already mentioned, the problem is that Indonesians are not taken into account in the Netherlands.

A very important point is that Mr. Stevens, and also Dibbits, were informed about the problems with the term beforehand. Why didn't they do anything with this knowledge?

In June 2021, Jeffry Pondaag and Dida Pattipilohy, together with the elderly Francisca Pattipilohy, had a meeting with the Rijksmuseum. It was after Pondaag criticized the exhibition about slavery that Mr. Stevens invited him.

The plans for the exhibition 'Revolusi' were extensively discussed during this meeting. Plaintiffs explained to him the problems of the Dutch concept of 'the bersiap.' Again and again, they emphasized that 350 years of Dutch colonialism preceded 1945 and that a bloody re-occupation war was the way that the Netherlands reacted on the Indonesian proclamation of independence.

During the so-called 'bersiap-period' there was already an independent and sovereign state: the *Republik Indonesia* that the Netherlands does not recognize until today. From a legal perspective, the Dutch still hold on to the transfer of sovereignty of 1949. But even though the Dutch Penal Code contains this provision, that does not make it legitimate. One could

see it is a unilateral claim. The Indonesian archipelago was never legal property of the Netherlands. I wonder, when people in the Netherlands discuss the war between 1945 and 1946: how do we actually see the so-called 'bersiap-perpetrators'? Apparently not as Indonesians, people with the Indonesian nationality, but as 'subjects.' In any case was the Netherlands, according to international law, never the legitimate owner of that land.

Yet, the acknowledgment of the broader context - the 350 years of Dutch colonialism - cannot function as disclaimer to keep on using the term. The bigger context does exactly explain why the whole concept is offensive. In fact, 'the bersiap' as a period does not exist, there is no isolated event in time of unilateral violence. In the same period that the Dutch claim that there was 'bersiap', the city of Surabaya was bombed by our allied friends, the British, which killed thousands of people. In short, even if the Rijksmuseum mentions the history of 350 years, it does not alter the fact that the whole concept of 'the bersiap' is offensive. Something is not less offensive when it is placed in a broader context: the whole idea itself is colonial.

And I assure you: the concept of 'the bersiap' does not exist in Indonesia. It originates in the post-war Netherlands, used by pro-colonial groups who deeply regretted that the colonial power had been broken. The word represents the confused emotions of people who were part of a system of oppression, even though they did not see themselves like that and who were even surprised that Indonesian violence was directed against them.

The main argument of my plea is that 'the bersiap' is a Dutch concept, which makes it not a neutral term. I therefore dispute the statement of the Public Prosecutor that the 'bersiap' does not automatically contain negative conclusions about Indonesians as a group. His argument that historians use the term to identify a historical period, is not very convincing as he was speaking about Dutch historians only, who are educated in a colonial tradition, of which many helped to promote the term. The word cannot be explained in several different ways.

The Public Prosecutor maintains that the bersiap can be interpreted in multiple ways, by which they dismiss the inherently offensiveness of the word and reduce it to just an opinion.

The notion that colonialism was illegal and that it is based on severe human rights violations, should be the central point to interpret everything that took place within that context. It is impossible to talk about two, equal parties. I visited Indonesia many times and I can tell you: for the millions of people there, we are what the Germans are for us: former occupiers of their land. I say this because we are not just talking about an opinion of an individual who happens to be Pondaag or Pattipilohy.

Nevertheless, this goes further than Dutch perspectives versus Indonesian perspectives. It is not just an opinion that the Netherlands was an occupier, and violated human rights, these are facts. An important UN-resolution states that colonialism is a fundamental denial of human rights.

With such a clear international legal framework, it has a meaning when one refuses to take a position. At the very least it is a condoning of crimes, and if I put it more firmly: not taking a position is denying that these crimes were wrong.

During the meeting in 2021, curator Stevens said that the Rijksmuseum in relation to Dutch war crimes: 'of course cannot take a position,' according to him because of the museum's direct connection to the Dutch government. It sounded like an excuse that prevented him of making a choice between right and wrong.

Therefore, is it really 'neutral' not to judge the Dutch crimes against Indonesians? How would it sound when a German curator says: 'I cannot take a position on the Holocaust, I cannot say whether it was right or wrong.'

When we take into account that also from a legal perspective, colonialism was totally unacceptable, how neutral is it to keep using the word *bersiap*? Because that is the reason that we are here today: the Rijksmuseum ignored the advice of Indonesians.

The meeting in June 2021 was not the only time that the team of Rijksmuseum received a warning by Indonesians. You also know that Indonesian guest curator Bonnie Triyana did explain why the *bersiap* is racist in an op-ed piece. His opinion caused quite a stir. Illustrative for the unequal representation of Indonesians in our society, the descendants of those related to the colonizers reported him to the police. What was the reaction of the Rijksmuseum? Right, Dibbits publicly distanced himself from Triyana and claimed that the use of the term *bersiap* was not at all racist.

Apparently, the director and the curator of Rijksmuseum did take a position.

The reason that the K.U.K.B. foundation decided to go to the police was two-folded. First, the fact that their contribution was completely ignored. But secondly, they also had a problem with the reaction of Dibbits to the police report of the *Federatie Indische Nederlanders* (FIN, the Federation of Dutch-Indies people). This is where the pain is: Dibbits did listen to Dutch-Indies people with openly colonial ideas, but not to Indonesians who addressed racism.

To K.U.K.B. this is yet another insult because it is a reversal of the truth. A truth, however controversial, which appeals to us Dutch people too. An inconvenient truth that now also asks something from you as judges.

Truth and justice are closely related. Something did happen or it did not happen. The truth does not always lie in between, certainly not when it comes to human rights violations. I understand that a judge tries to be as neutral as possible, but you also know that speaking justice is about making choices. Whatever you are going to decide later, you are going to take a position. We ask you to do something unusual within the Dutch context. Although colonialism is commonly normalized in our country, it does not mean it was legal.

For the K.U.K.B. foundation, the events surrounding the press conference of last January [2022] were the 'straw that broke the camel's back.' This is the reason that the issue cannot be solved within society by talking, as the Rijksmuseum does not want to listen, and it explains why this case ended up on your desk.

Moreover, legal procedures can also enable public debates in society. Like the series of successful lawsuits that K.U.K.B. launched on behalf of Indonesian relatives, which fueled the debate of Dutch war crimes in Indonesia. In fact, the *Revolusi* exhibition also profits from the attention for a topic that was put on the agenda by the K.U.K.B. court cases. How unfair is it then, that the Rijksmuseum ignores the contribution of *precisely* this foundation?
