



Yayasan Komite Utang Kehormatan Belanda

Stichting Comité Nederlandse Ereschulden

Foundation the Dutch Debt of Honor Committee

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Press Release: Amsterdam's Court of Appeal ignores Arguments of K.U.K.B. in 'Bersiap-case' against Rijksmuseum

Heemskerk, January 8, 2023 <https://kukb.nl/press-release-court-amsterdam-ignores-arguments-of-k-u-k-b-in-bersiap-caseagainst-rijksmuseum/>

On Thursday January 5, Amsterdam's Court of Appeal published a decision in the legal procedure of the K.U.K.B. foundation against Rijksmuseum. The foundation's complaint has been rejected.

The verdict shows that the court completely ignores the substantive arguments of K.U.K.B. against the use of the term 'bersiap'. The judges state that they follow the reasoning of the Rijksmuseum and how they interpreted the term, but they do not explain why. The verdict lacks a proper motivation on why the judges chose to ignore the arguments that K.U.K.B. put forward during the hearing of October 13, 2022. According to the court, the concept of bersiap does not contain negative conclusions about Indonesians as a group based on their race. Both the Dutch Public Prosecutor (OM) and the Court of Amsterdam claim that the term bersiap is only used "to indicate a certain period in history."

However, the position of the K.U.K.B. foundation is that the bersiap – in the meaning of an isolated event in time, a period of unilateral violence against the colonizers – does not exist, and that the whole concept is a Dutch fabrication and an expression of racism against Indonesians. Because the court's decision lacks motivation, the foundation does not feel that their complaint has been taken seriously, chairperson Jeffry Pondaag: "The court of appeal is echoing the Public Prosecutor. To be honest, I didn't expect much from these white native judges who absorbed colonial ideas from a very young age."

One year ago, in January 2022, the K.U.K.B. foundation reported the Rijksmuseum to the police, including the director and curator, for using the term bersiap in the exhibition *Revolusi*. The latter exhibition, which lasted from February until June 2022, focused on the Indonesian War of Independence (1945-1949). The Dutch Public Prosecutor rejected the case, after which K.U.K.B. filed a complaint through a special legal procedure. During the hearing in October, Pondaag was assisted by Dida Pattipilohy and historian Marjolein van Pagee, who defended the case in court. (See attached their pleas.)

K.U.K.B. stichting gevestigd te Vroegeling 3 1964 KP Heemskerk, Nederland.

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Prior to the exhibition, curator Harm Stevens as well as director Dibbits, were informed about the problems with the Dutch interpretation of the *bersiap*. In June 2021, the foundation joined a meeting at the Rijksmuseum, during which the plans for the exhibition *Revolusi* were discussed in detail.

Besides that, in January 2022, just before the openings event of the exhibition, the Indonesian guest curator Bonnie Triyana also wrote an opinion piece for Dutch daily NRC, in which he explained why the *bersiap* is racist. His piece caused quite a stir, after which director Dibbits publicly distanced himself from it, maintaining that the *bersiap* is not racist.

Pondaag: "The *bersiap*, in the way the Dutch use the term, is a misuse of the Indonesian language. For us it is an ordinary word like any other. It is significant that the *Belandas* [Dutch] stayed for 350 years in Indonesia but cannot speak the Indonesian language. By misusing the term *bersiap*, they are appropriating an Indonesian word and changing its original meaning to put us Indonesians in a bad light." Pondaag emphasizes that the foundation is not advocating for the removal of the word as such, as it is a neutral word in Indonesian, but he particularly opposes the meaning that the Dutch gave to it, which is racist.

At the hearing, the Dutch Public Prosecutor acknowledged that the topic of the *bersiap* could be emotional for Indonesians, but that according to the Dutch criminal code it is not a term that is offensive to all Indonesians based on race. The exact same argument was used by the court of appeal in their decision. Both the court and the Public Prosecutor opt to defend the Rijksmuseum and neither of them has responded to the extensive legal and historical arguments that K.U.K.B. and historian Van Pagee put forward. Pondaag: "The Dutch praise themselves for having a democratic constitutional state, but what I see is that white natives protect each other and ignore what Indonesians say."

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Read our previous press release on this issue:

<https://historibersama.com/k-u-k-b-reports-rijksmuseum-to-the-police/>

<https://kukb.nl/press-release-amsterdam-court-of-appeal-receives-complaint-by-k-u-k-b/>



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Plea by K.U.K.B. chairperson Jeffry Pondaag, Amsterdam, October 13, 2022

Dear counselor(s),

I am delighted to stand here in front of indigenous, white Dutch native legal counselors. During the 350 years that the colonial, racist system of oppression existed, we [Indonesians] did not have any rights. It was an **urgent** situation that made me decide to report the director and curator of the Rijksmuseum to the police. The Netherlands is wrong, period, there is no comma. The Dutch-invented 'bersiap' does not exist, we always stood 'bersiap' [ready] in the 350 years to defend ourselves against the bloodthirsty Belanda [Dutch] and their collaborators. Think about Aceh and the Jawa [Java] war. The Dutch and their collaborators brought civilization they say, no, they are blood thirsty. (In Indonesian language 'belanda' means Dutch.)

I am a factory worker and I don't want to offend anyone, I just want to explain the facts as they are. I enjoyed my education in Indonesia. The K.U.K.B. Foundation filed court cases against the Dutch State, which we won. Many of the victims in Indonesia that I spoke to, whose fathers were executed and murdered by the Dutch colonial army (KNIL), pointed at their skin and said 'itu orang kita' (these are our people). The Dutch do not even know the difference between Indonesians and *Indische Nederlanders* (Dutch-Indies people).

Besides, I found it very sloppy of the Public Prosecutor that the name of my foundation was wrongly spelled, not just once but several times it was written as K.B.U.B.

The identity of 'Indische Nederlanders' is a Dutch fabrication as it is linked to the racist 3-layered apartheid system. The 350.000 people who migrated to the Netherlands in the 1950's chose sides with the colonizer. They are traitors who executed their brothers and sisters in the name of the Dutch kingdom. The Netherlands is guilty of falsifying its history by not including this in their education. Did the Public Prosecutor look at the image on the Golden Carriage, especially on the right side, it is a gross insult for us Indonesians.

Every Monday we have to stay 'bersiap' [ready] at school to raise the red and white flag. After that we walked 'bersiap' in two rows to the class room. The same happened on Fridays when the red and white flag was solemnly lowered. Your decision not to prosecute Mr. T. Dibbits and Mr. H. Stevens proves that the Netherlands legitimizes colonialism.

The Netherlands ignores the 70 up to 100 million people who defended their country at the time, and pretends that they do not exist. The Dutch interpretation of bersiap is made up by the legally assimilated *Indische Nederlanders*: *Indisch* is made in Holland.



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Plea Jeffry Pondaag

In March 1942, within three days, the Dutch were defeated by the Japanese who came on their bicycles. After that the Dutch wanted to come back to occupy us again. Did they really expect we welcomed them with open arms? The Belanda's [the Dutch] are bad losers! We are people of flesh and blood, like all of us who are present here in the court of Amsterdam, and that is how we want to be treated too.

I do not agree with the Public Prosecutor. The term *bersiap* that the Public Prosecutor uses, does not exist! [Holding a picture] My uncle whom I never met, has been executed because he owned maps that contained information about the location of natural resources. He was killed because he didn't want to give away the maps.

Kindly but urgently, we ask the court of Amsterdam to demand the prosecution of T. Dibbits and H. Stevens. It is my opinion that they are guilty of racism!

Terima kasih banyak – thank you very much.

Plea by Dida Pattipilohy, on October 13, 2022, the secretary of the foundation

I am a Dutch citizen from Indonesian descent. The Netherlands colonized Indonesia for 350 years. In 1945 the United Nations issued a charter in which they included self-determination as a law of nations. It opened up the way for colonized countries to gain independence from their colonizer. In addition, the United Nations also labeled colonialism a crime against humanity. Completely in accordance with the UN-charter, Indonesia declared its independence on August 17, 1945 as a unitary state under the name *Republik Indonesia*, headed by a president. This supposedly marked the end of the colonial period. Unfortunately, the Dutch government felt the need to secure its interests in the east, which was accompanied by a lot of violence.

In Indonesia, the '*bersiap* period' does not exist in our historiography. The term '*bersiap*' (meaning: to be prepared, to be ready) was used as a slogan by Indonesian independence fighters at the time, to express their readiness to defend themselves against the Netherlands, which did not want to recognize Indonesia's independence and wanted to recolonize the country. So it was, in effect, a cry of loyalty to the Indonesian independent republic. By using the term to indicate a period of resistance against the Dutch, one ignores that the Indonesians' struggle for independence had already taken place for a long time. Besides, with the use of the term the impression is made that two equal parties were facing each other. This equalizing of power relations also aims to soften the human rights violations that were committed by the Dutch government.



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Plea Dida Pattipilohy

Indeed, the Netherlands refused to recognize the independency of Indonesia and decided to violently take back the colony. Early 1946 the Dutch invaded Indonesia with a huge military force. Indonesia defended itself against the invasion. Indonesian freedom fighters have resisted the several attempts of the Dutch to occupy the country again. The Netherlands did not have any right to act in Indonesia as authority.

As already mentioned by Marjolein van Pagee and Jeffry Pondaag, the Rijksmuseum has invited a group of people (namely Jeffry Pondaag, Marjolein van Pagee, Ms. Francisca Pattipilohy and myself) to provide input for the exhibition REVOLUSI. During that meeting we firmly stated that the concept of the bersiap does not belong in the exhibition.

According to [Dutch] historian Prof. Dr. Remco Raben, the term 'bersiap' should not be interpreted as a fixed term to identify the entire period 1945 - early 1946. However, the latter often happens and that is racist, he says. I quote: "the term 'Bersiap' has been created within a colonial context and is used as an essentializing concept to describe the Dutch experience. 'Bersiap' is therefore not a neutral term, but one that came into usage based on a Dutch and Dutch-Indies perspective."

Raben also says: "It is an ethnocentric term that describes a hierarchy within a colonial context and we call that hierarchy racist." With his interpretation of the use of the term bersiap (which is shared by other Dutch people too), we see that not only Indonesians and the K.U.K.B, but also many Dutch people have difficulty with it. Unfortunately, there is no room for this view in the public debate in the Netherlands on decolonization because the debate is dominated by white Dutch and Dutch Indies people and (descendants of) other ex-warring groups, who [embrace the concept of the bersiap because they] don't want to be portrayed in a bad light. The general believe is that the occupation of another country was not a human rights violation.

During our meeting with the Rijksmuseum, we advised them not to include the concept of the bersiap in the exhibition, because the use of it contains an insult to Indonesians as group. After all, from the perspective of Indonesians, bersiap is a Dutch fabrication to describe a certain period and to accuse Indonesians. In the eyes of the people using the term, we were 'bloodthirsty' and committed crimes against the Dutch, Dutch-Indies people and Maluku because of their collaboration with the Dutch. The Rijksmuseum promised to take our input into account, but it turns out that they ignored it.

In an article in Dutch daily NRC, the Indonesian guest curator (Bonnie Triyana) also spoke out against the use of the term bersiap. However, under pressure from the Dutch Indies association FIN, which reacted angrily and on behalf of the Dutch-Indies community in the Netherlands, demanded that the term bersiap should still be included, the Rijksmuseum reversed its decision.



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Plea Dida Pattipilohy

Why is the Rijksmuseum listening to Dutch-Indies people but not to Indonesian people? The police report of the FIN against Bonnie Triyana is the problem in reverse: a descendant of the pro-colonial group of oppressors, reporting a descendant of the oppressed to the Dutch police.

This clearly illustrates the unequal power relation: a colonial hierarchy that still determines the composition of Dutch society, including the debates that are being held. It is strongly reminiscent of the racism felt by my mother, who once thought she could go swimming at a pool in Batavia as a so-called *inlander* [native], but was refused entrance because she did not enjoy the Dutch-Indies special status.

By using the term *bersiap* in Dutch historiography to describe a dark period, Dutch historians are guilty of abusing the term as illustrated by Raben, which only serves to racially frame Indonesians as bloodthirsty people, who behaved criminally and lashed out to kill other humans. As individuals, the Dutch, consciously or not, may sometimes be guilty of racism, but if people like Stevens and Dibbits, who bear responsibility for a correct reflection of history, are also guilty of this, then they are the representation of a racist society in which the voice of the formerly oppressed (Indonesians) is not heard.

It is very important that this is rectified. Thank you.

Plea by historian Marjolein van Pagee, advisor of K.U.K.B., 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.

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Plea Marjolein van Pagee

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.



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Plea Marjolein van Pagee

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.



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Plea Marjolein van Pagee

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.



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Plea Marjolein van Pagee

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?
