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	Our reference: 4305223

Date: 14 December 2022

Subject: second government response historical research Indonesia¹

On behalf of the [Dutch] Ministers of Foreign Affairs, Defense, Justice and Security and the State Secretary for Health, Welfare and Sport, you will find herewith the second government response to the results of the research program 'Independence, Decolonization, Violence and War in Indonesia, 1945-1950.'

THE PRIMEMINISTER,
Minister of general Affairs,
Mark Rutte

Second government response to the results of the research program 'Independence, Decolonisation, Violence and War in Indonesia, 1945-1950'.

On February 17, 2022, the NIOD, Netherlands Institute for War, Holocaust and Genocide Studies, the Royal Institute for the Linguistics, Geography and Ethnology (KITLV) and the Netherlands Institute for Military History (NIMH) published the main results of the independently conducted research program 'Independence, Decolonization, Violence and War in Indonesia, 1945-1950'.

That same day, the Prime Minister made an oral statement² and the [Dutch] government sent an initial government response to the [Dutch] House of Representatives³. As promised, we hereby offer you an additional response to the results of the research program and the public debate in society that followed. In this document, the government is discussing the topics that received special attention in the public debate. This additional government response is not the final piece of the debate, but a contribution to it.

The historical research project makes an important contribution to the increase of

¹ See original file in Dutch: <https://www.rijksoverheid.nl/documenten/kamerstukken/2022/12/14/kamerbrief-2e-kabinetsreactie-historisch-onderzoek-indonesie>

² www.rijksoverheid.nl/documenten/toespraken/2022/02/17/eerste-reactie-van-minister-president-mark-rutte-onderzoeksprogramma-onafhankelijkheid-dekolonisatie-geweld-en-oorlog-in-indonesie-1945-1950

³ Kamerstuk 26049-92, d.d. 17 februari 2022. See: <https://www.rijksoverheid.nl/documenten/kamerstukken/2022/02/17/aanbiedingsbrief-eerste-reactie-op-uitkomsten-onderzoeksprogramma-onafhankelijkheid-dekolonisatie-geweld-en-oorlog-in-indonesie-1945-1950>

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knowledge about the war of independence in Indonesia and the role that the Netherlands played in it. The government would like to emphasize once again that it endorses the main conclusions of the research program and emphatically accepts responsibility for the Dutch actions in the war of independence in Indonesia.

Indonesia

The Dutch actions in that period caused a lot of suffering to the people of Indonesia and many others who lived through this period. For the structural extreme violence from the Dutch side in the ensuing conflict, the government has conveyed its apologies to the Indonesian people at the highest level to the Indonesian government. Indonesia has repeatedly indicated that it wants to focus primarily on the future.

It is known that there are options to obtain damages for [Indonesian] widows and children of victims of summary executions in Rawagadeh and South Sulawesi and for surviving relatives of victims of cases of a similar seriousness and nature elsewhere in Indonesia.⁴ Both the publication of the research outcome as well as new legal claims [by Indonesians], motivated the [Dutch] government to extend the period in which it is possible to apply for damages via the existing compensation regulation, until 31 December 2030. In addition, the compensation scheme is made more accessible by merging the regulation for children and widows into one. The way to apply for compensation is also simplified.

Public debate in Dutch society

On February 17, 2022, the overarching final work 'Beyond the pale'⁵ and four sub-studies were published⁶ as part of the research project 'Independence, Decolonization, Violence and War in Indonesia, 1945-1950'. An earlier publication was 'Extreem geweld tijdens dekolonisatieoorlogen in vergelijkend perspectief, 1945-1962' (Extreme violence during decolonization wars in a comparative perspective, 1945-1962').⁷ Since February 2022, the results of two other sub-studies were published: 'Resonance of Violence. Bersiap and the Dynamics of Violence in the First Phase of the Indonesian Revolution, 1945-1946'⁸ and 'Empire's Violent End. Comparing Dutch, British and French Wars of Decolonization, 1945-1962'.⁹ The publication of the other sub-studies¹⁰ have been delayed and will appear between January 2023 and June 2023, according to NIOD. In view of the public debate that

⁴ Last time this regulation was changed was in 2021; see: Staatscourant 2021 nr. 21045 and 21042.

⁵ Download the open access English version here: <https://www.aup.nl/en/book/9789048557172/beyond-the-pale>

⁶ "Een kwaad geweten. De worsteling met de Indonesische onafhankelijkheidsoorlog vanaf 1950", "Diplomatie en geweld: De internationale context van de Indonesische onafhankelijkheidsoorlog, 1945-1949", "Sporen vol betekenis: In gesprek met 'Getuigen & Tijdgenoten' over de Indonesische onafhankelijkheidsoorlog" and "Van Rij en Stam. Rapporten van de Commissie van onderzoek naar beweerde excessen gepleegd door Nederlandse militairen in Indonesië, 1949-1954".

⁷ <https://bmgn-icmr.nl/article/view/7051>

⁸ <https://www.aup.nl/en/book/9789463720892/resonance-of-violence>

⁹ <https://www.cornellpress.cornell.edu/book/9781501764141/empires-violent-end/#bookTabs=1>

¹⁰ "Onze Revolutie: Bloemlezing uit de Indonesische geschiedschrijving over de strijd voor de onafhankelijkheid, 1945-1949", "Tasten in het duister. Inlichtingenstrijd tijdens de Indonesische onafhankelijkheidsoorlog, 1945-1949", "Grof geschut: Artillerie en luchtmacht in de Indonesische onafhankelijkheidsoorlog, 1945-1949", "De klewang van Vrouw Justitia. Recht en onrecht in de Indonesische onafhankelijkheidsoorlog, 1945-1949", "Talen van geweld. Stilte, informatie en misleiding in de Indonesische onafhankelijkheidsoorlog, 1945-1949" en "Revolutionary Worlds. Local perspectives and dynamics during the Indonesian independence war, 1945-1949".

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is currently taking place regarding the conclusions of the research program, the government deems it appropriate not to wait until the summer of 2023, but to send this additional government response now.

On 17 February this year, the [Dutch] government expressed the hope that this study would not be the end point in the discussion about our colonial past, but a next step in the joint processing of it. More than ten months later, it can be concluded that the results of the investigation and the government's initial response to it led to an intense debate, in which the suffering of those who lived through this period came to the fore again. It also showed once again how many different visions, perceptions and experiences of this period of our history coexist. All these perspectives deserve to be heard.

The discussion took place in the [Dutch] House of Representatives, in various media, but also during dialogue sessions for Dutch veterans and the Indies and Maluku community, which were organized by the ARQ Foundation, the Pelita Foundation and the Dutch Veterans Institute, with financial support from the government. During these meetings, the people who had experienced the war in Indonesia themselves and their relatives could talk to the researchers. It was very much appreciated by those present that they could exchange views directly with the researchers about the results of the study and that there was an opportunity to express concerns about the impact that the study and the perception of the study had on them personally. The conversations with the researchers were perceived as recognition by some of those present. Concern about the image of veterans and the Indies and Maluku community was a recurring element during these meetings.

There were many positive and committed reactions to both the conclusions of the investigation and the government's subsequent apologies. However, the public debate also revealed various topics and reactions that the government would like to address in this letter. The first concerns the research design and the term Bersiap. Next, we would like to discuss the reactions from the various communities. The government also clarifies its position with regard to the use of the term 'war crimes' and reflects in more detail on how conscientious objectors and order objectors were dealt with in the period under review.

Research outline

The research program focused primarily on the use of extreme violence by the Dutch armed forces during the Indonesian war of independence, including the consequences [of that violence]. In the wider public debate, it became apparent that, according to some, the focus of the study was too one-sided on violence from the Dutch side, with insufficient attention to violence from the Indonesian side. The Dutch government believes that this focus stems from the research proposal that was shared with the House of Representatives before the start of the investigation. Moreover, attention has been paid to extreme violence on the part of Indonesia as well: that violence is extensively discussed in the sub-study on the Bersiap period, among other things. The government is of the opinion that the researchers have thus correctly implemented the research proposal.

The term Bersiap

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The term Bersiap has a place in the Dutch collective memory, in particular among the Indies community, which itself was victim of the extreme violence that characterizes this period. There are different perspectives on the use of the term Bersiap and it is important to provide context for this term.

The government follows the conclusions of the historical research project where they indicate that the period following the Japanese capitulation was characterized by extreme violence, which victimized - in addition to Dutch, Indo-European and Moluccan victims - also Indonesian and Chinese civilians. However, the violence in this period did not only come from the Indonesian side. The results of the historical research project show that the Japanese, British and Dutch also used violence as well. The violent events during this period have scarred people for the rest of their lives. The [Dutch] government acknowledges the great suffering inflicted on them. The government considers it important that space and respect is offered to all victims and their surviving relatives.

Dutch veterans

The [Dutch] government did and does everything it can to underline its appreciation for the sacrifices and efforts of individual veterans. Nevertheless, some of the Dutch veterans feel that they have been framed as war criminals. The Dutch government regrets this. To underline the appreciation for them, the Minister of Defense sent a letter to all living veterans a few days before the publication of the study. With this letter she wanted to support them and their relatives, to let them know that she understands that a publication about the decolonization period evokes many emotions. On February 17, 2022, the day of the publication of the findings of the investigation, the government apologized to everyone who had to live with the consequences of the colonial war. The apology also applied to the veterans and their loved ones. The Dutch government realizes that the individual conscripts and other military personnel of that time were ill-prepared and sent on an impossible mission. They did their duty to the best of their ability and upon their return to the Netherlands they were faced with a lack of care and recognition. On September 3, 2022, during the annual veteran commemoration in Roermond, in which the thousands of soldiers who died in the former Dutch East Indies and New Guinea [are honored], the Prime Minister once again expressed his great appreciation for the work of all Dutch veterans who were good soldiers at the time.

Nevertheless, the research findings remain a painful conclusion for some of the veterans, in which they do not recognize themselves and their comrades. The government is aware that it cannot completely dispel this feeling. However, the government would like to point out once again that the main and final responsibility for the Dutch actions lay with the authorities at the time: the Dutch government, Dutch parliament, the armed forces as an institution and the judicial authorities.

With the apologies of 17 February, the Dutch government not only wanted to give an important message to the Dutch veterans that were involved and their families at home, but also to all current military personnel and veterans who have been sent on other missions since 1945. All military personnel who are deployed can count on the support of the Dutch

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government and parliament, on whose behalf they have been deployed, often at the risk of their own lives.

Indies and Maluku community in the Netherlands

In the first government response, the government also apologized to everyone affected by the Dutch actions. These apologies are explicitly addressed to the Indies and Maluku community in the Netherlands. The apologies are intended for all those who, as a result of the Dutch actions in the Indonesian war of independence, are struggling with serious physical and mental consequences, something for which there has been too little attention and too little recognition for a long time. The apologies also apply to the cold reception the community received when they settled in the Netherlands after the war. The government also considers the apology important for the second and subsequent generations who have not experienced the violence themselves, but who have grown up with the pain and grief of their parents and grandparents.

In recent years, various Dutch governments have entered into discussions with the Indies and Maluku communities about the suffering they have experienced. From 2015, this has led, among other things, to a government policy of collective recognition of the Indies and Maluku community.¹¹ With today's knowledge we can see that the history surrounding the reception of the Indo-Dutch and Maluku people who came to the Netherlands and the restoration of rights could and should have been less cold and bureaucratic.

The policy of collective recognition focuses on anchoring the history of the former Dutch East Indies in society, as an important part of our history. The government also wants to show its gratitude and recognition for what the Indies and Maluku community has meant and still means to the Netherlands and thereby acknowledge what this community has been through, in the full realization that the grief may never completely disappear – as the history is too long and the feelings are too deep. For the period 2021 – 2024, the policy of collective recognition will receive an extra financial contribution.¹² An important priority within this extra financial impulse is to increase knowledge about the history of the former Dutch East Indies. To achieve this goal, the committee 'Versterking kennis geschiedenis voormalig Nederlands-Indië' (Strengthening knowledge of the history of the former Dutch East Indies) is working on an advice. The committee is chaired by Jet Bussemaker (a retired Dutch politician and member of the Labour Party (PvdA) who previously served as Minister of Education, Culture and Science). The State Secretary for Health, Welfare and Sport reports to the Dutch House of Representatives on the progress of the policy of collective recognition [for Indies and Maluku people in the Netherlands]. The Dutch government will continue the dialogue with the Indies and Maluku communities.

¹¹ Kamerstuk 20454-113, October 12, 2015. See: <https://archieff28.sitearchief.nl/archives/sitearchief/0/https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2015/10/12/kamerbrief-over-indische-kwestie/kamerbrief-over-indische-kwestie.pdf>

¹² Kamerstuk 20454-163, d.d. 15 oktober 2020.

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Use of the legal term war crimes

The researchers conclude that the judicial authorities acted insufficiently or not at all against extreme violence from the Dutch side. By doing so they gave the impression it was legitimate. The research project does not address the question of whether the extreme violence committed by the Dutch side in the period 1945-1949 should be qualified as war crimes. As the government already indicated in its first response to the results of the study, the government fully accepts responsibility for the systematic and widespread extreme violence on the part of the Netherlands in the period 1945-1949. The government has deeply apologized for this, both to the people of Indonesia and to everyone in our country who has had to live with the consequences of the war of independence in Indonesia, often to this day. In the public debate that followed, the applicability of the legal term war crimes as a qualification of the extreme violence on the Dutch side was also discussed.

Prior to the adoption of the Geneva Conventions in 1949, criminal law and international law did not criminalize violations of international humanitarian law as a war crime during a non-international conflict. This means that the term war crimes did not apply to Indonesia's war of independence. From a legal point of view, the cases of structural extreme violence, therefore, cannot be qualified as war crimes. Nevertheless, the Dutch government notes that some forms of extreme violence used in the period 1945-1949, such as torture and extrajudicial killings, would be classified as war crimes if they were committed today.

Not using the legal term war crimes does not detract from the seriousness of the conclusions of the investigation and the attention that the government pays to the suffering that victims and their surviving relatives still feel as a result of the extreme violence. The research describes this violence in gruesome detail, including the killing of prisoners, torture and the destruction of kampongs without military necessity. Those words cannot be misunderstood even without using the legal term war crimes.

The government wants to focus in particular on the 1971 Statute of Limitations. The study focuses on (the creation of) the Statute of Limitations, which was intended to prevent the time-barring of war crimes committed by, among others, the German occupier. According to the researchers, the Dutch government of that time, however, opted to allow the time-barring of crimes committed by Dutch soldiers in Indonesia and did not explain [the meaning of] this [law] to the Dutch House of Representatives. The government notes that this decision is not in line with the current political efforts to prevent impunity worldwide.

Dutch conscientious objectors

The government notes that questions have been raised about the treatment of the Dutch conscientious objectors [Dutch conscripts who refused to go to Indonesia]. Conscientious objectors could invoke the law on conscientious objection. This law contained an exhaustive procedure for this purpose. On this basis, several people were exempted from military service at the time, but many requests were also rejected. An appeal to conscientious objection was (and is) only recognized if it is directed against the use of force in a general sense, ie in all circumstances and everywhere. Moreover, the person who refused had to be

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able to demonstrate at the time that the conscientious objection was directly related to his religious convictions. An assessment committee then took a strict and selective approach. Many conscientious objectors were persistently prosecuted and harshly sentenced. In addition, they barely qualified for a reduced sentence. The government recognizes that this policy could turn out to be harsh and sympathizes with the suffering experienced as a result.

In the case of conscientious objectors, it is important to place the strict reaction at the time in the context of a period when war in Europe, and certainly also in the Netherlands, was not far off. Our democratic system also stipulates that the government, supervised by parliament, decides to deploy the armed forces. The possibility of refusing military service is also enshrined in law. It is ultimately up to the court to weigh the interests and motives. The law has since been amended and conscientious objection no longer needs to be substantiated with religious motives. Today, therefore, there is more room for invoking conscientious objection.

A separate category consisted of order-refusers, who were active as soldiers in Indonesia at the time when they refused a military order. In general, it cannot be said that in every case in which the refusal of an order was punished at the time, there is evidence of incorrect or unlawful conduct by the Dutch military authorities. That depends on the specific case. If a Dutch veteran is of the opinion that his refusal of an order should be weighed in the light of the conclusions of the investigation, the cabinet is prepared to cooperate actively.

And although the means of communication were limited in the late 1940s, it is conceivable that the decision of some conscientious objectors at that time was already based on knowledge about the use of extreme violence. The government also wants to offer these people the opportunity to have their case investigated.

Requests for a verification investigation for those belonging to the two categories mentioned above will be processed by the Netherlands Institute for Military History. This institute will then request the necessary information from the applicant and examine it for verification. It should be noted that only a limited amount of source material has been preserved, particularly with regard to conscientious objectors. However, the government promises that if the outcome of the verification investigation gives rise to it, an appropriate form of rehabilitation will follow immediately. This applies to both groups.

In conclusion

The government considers it important to increase knowledge about the history of the former Dutch East Indies, which is an integral part of Dutch history. The conclusions of the historical research are significant for the way we as a society look at this period of the past and its aftermath. This research is also important for education. The makers of teaching materials can use the results of this research. Finally, this period in Indonesia is a window into the Canon of the Netherlands.

The government expresses the hope that everyone can share his or her side of the story of collective history in a respectful dialogue, in which all pages of history - no matter how dark - can be highlighted and discussed.

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The publication of the sub-studies and the conclusions of the research program 'Independence, Decolonization, Violence and War in Indonesia, 1945-1950' and the subsequent public debate in Dutch society have developed the dialogue about a turbulent period in Dutch and Indonesian history. The government would like to thank the researchers and everyone who has contributed to the public debate for this and looks forward to the further sub-studies that have yet to be published.