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# 11

## Can a Criminal Event in the Past Disappear in a Garbage Bin in the Present? Dutch Colonial Memory and Human Rights: The Case of Rawagede

Chris Lorenz

In this chapter I will deal with a recent case of 'memory politics' in the Netherlands concerning a massacre on 9 December 1947. This massacre took place in a village in West Java named Rawagede – later renamed Balongsari – during the war started by the Dutch after the end of the Second World War. They started this war in an attempt to re-establish their former colony of the Dutch East Indies, which had been occupied by Japan at the beginning of 1942 and had declared its independence only two days after Japan's unconditional surrender on 15 August 1945. Indonesians called this war between 1945 and 1950 Indonesia's 'National Revolution' or 'War of Independence', while the Dutch preferred to refer to two 'police actions' (*politieele acties*).

The Dutch government did not regard this war as a 'real' war because, in its view, there was no 'foreign' enemy. Because the government still regarded the *Republik Indonesia* as a Dutch colony, even after its declaration of independence on 17 August 1945 by the nationalist leaders Soekarno and Hatta, it systematically used euphemistic language about its attempts to reconquer Indonesia: it concerned an 'armed uprising' (*gewapende opstand*) led by former Indonesian 'collaborators' of fascist Japan, followed by (two) 'police actions' by the Dutch army aimed at 'restoring peace and justice'. Actually, the Dutch government at first tried to represent its last colonial war as a continuation of the Second World War, that is, as a continuing struggle of Dutch democracy against 'fascist' Japan. This time the struggle was to free the 'inlanders'

of Indonesia from the 'terror' of *rampokkers* ('terrorists'), *pemuda* (young 'irregular fighters') and other nationalist 'extremists' who had been set up by Japan to rise up against the Dutch.

This euphemistic discourse was not unique to the Dutch colonial state. The French colonial state, for example, held similar views concerning the Algerian War. Until June 1999 the official French description of this war remained 'operations for the maintenance of order in North Africa'. From a legal perspective, the denial of war implied that The Hague Conventions (1907) and Geneva Conventions (1929) did not apply – including the conventions concerning the treatment of prisoners of war. The insurgent acts of the Indonesians were simply regarded by the Dutch as 'acts of terror' and those who committed them as 'criminals'.<sup>1</sup>

I will analyse the ways in which the Dutch state has been dealing with the massacre of Rawagede since it took place – my chapter concerns the 'afterlife' or 'resonance' of 'Rawagede'. In order to contextualize this 'afterlife', I will also make some more general observations concerning the ways in which the Dutch have been coping with their colonial past.

When dealing with the Dutch 'afterlife' of 'Rawagede', I will focus on the role that (universal) *human rights* have played in the Dutch coping with their colonial past. Let me explain this connection briefly. According to many influential thinkers on collective memory, there is a direct connection between present-day 'memory politics' and the recognition of human rights. This connection was first made explicit in Germany's coping with the Holocaust. Of course, coping with the Holocaust is different from coping with colonialism and racism, but they are

seen as interconnected 'historical injustices'. After all, the Holocaust had been a consequence of radical anti-Semitism, and anti-Semitism was a form of racism – just like colonialism. Moreover, some thinkers, such as Hannah Arendt, have argued that, as a testing ground for genocidal extermination, German colonialism was directly connected to the Holocaust.<sup>2</sup> Or take Mark Mazower, who argues that Nazism 'turn[ed] imperialism on its head and treat[ed] Europeans as Africans' (Mazower 1998: xiii).

So the ways of coping with the Holocaust (and the Second World War) have been directly and indirectly influenced by the ways of coping with colonialism – 'collective memories' have been 'multidirectional', as Michael Rothberg (2009) has argued convincingly.<sup>3</sup> Nevertheless, it is also clear that the German *Vergangenheitsbewältigung* has been taken for a general model of how to 'repair' 'historical injustices' both financially and symbolically, including by most theorists of 'coping with the past' (Torpey 2001: 337–8; Jureit and Schneider 2010: 13). The reason for this 'generalization' was that the German ways of coping with the Holocaust are usually seen as a success. Japan, for instance, has been called upon by China several times to cope with its massacres in China on the model of the *Vergangenheitsbewältigung* of Germany (Jureit and Schneider 2010: 19–20; for a comparison of the German and the Japanese *Vergangenheitsbewältigung*, see Buruma 1994).

### How the massacre of Rawagede in 1947 became front page news in 2012

On 10 July 2012 *De Volkskrant*, a major daily newspaper in the Netherlands, published two old black and white photos of an execution (see Figures 11.1 and 11.2). In the first picture one sees three dark-skinned male civilians. They are standing in front of a ditch with their backs turned to the photographer. In the second picture one sees many more dark-skinned corpses lying in a ditch. Next to the ditch there are two white-skinned men standing, wearing military uniforms, and looking at the corpses. *De Volkskrant* informed its readers that these pictures had been taken somewhere in Indonesia by a Dutchman called Jacobus R. (later identified as Ridderhof). Jacobus R. had been sent to Indonesia between 1947 and 1949 as a conscript of the Dutch army during the Indonesian War of Independence.

The newspaper journalist had contacted the Netherlands Institute for War, Holocaust and Genocide Studies (NIOD) and had asked for comments on this pictorial find. A historian of this institute told the



Map 11.1 Map of Java © Anu Printsmann, 2013



*Figure 11.1* Execution of three Indonesians on 9 December 1947 © Published by the permission of the City Archives of Enschede (Stadsarchief Enschede)  
Photo from Jacobus Ridderhof's photo album, published in the daily *De Volkskrant*, 10 July 2012. Stadsarchief Enschede, collectie Fotoalbums, inventaris nummer 114: Fotoalbum J. Ridderhof (3-12-RVA, 1947–1950).



*Figure 11.2* Executed Indonesians lying in a ditch © Published by the permission of the City Archives of Enschede (Stadsarchief Enschede)  
Photo from Jacobus Ridderhof's photo album, published in the daily *De Volkskrant*, 10 July 2012. Stadsarchief Enschede, collectie Fotoalbums, inventaris nummer 114: Fotoalbum J. Ridderhof (3-12-RVA, 1947–1950).



journalist that these photos were the *first* and the *only* ones hitherto documenting mass executions of Indonesian civilians by Dutch military (Nicolasen 2012b).<sup>4</sup> These massacres were an undisputed historical fact – as in most ‘dirty’ late colonial wars (Conway 2008: 140–72; Turse 2013) – although the extent of the killings remains obscure to this very day because nobody has investigated them. This ‘production of ignorance’ is a consequence of the fact that both the Dutch and the Indonesian states have stubbornly refused (and still refuse) to do so, prioritizing political stability and economic relationships over criminal justice.<sup>5</sup>

Last but not least, the newspaper article revealed that the pictures had only been saved from oblivion by *accident*. A passer-by had picked up the photo album of Jacobus R. out a garbage can on the street where it had landed after he had died. So it was pure luck – a sheer accident – that the photographic proof of civilian executions by the Dutch army had survived at all. The photos proved that ‘it was a real war’, as *De Volkskrant* added for those readers who might somehow think the last colonial war fought by the Dutch had merely been a ‘phony war’.

This very accidental find of pictures of a mass shooting touched a sensitive nerve of the Dutch because only very recently – on 10 December 2011, that is, seven months before the find – had the Dutch state for the *first time* (more or less) recognized Dutch responsibility for *one* massacre of Indonesian civilians. This recognition concerned the massacre in the village of Rawagede on West Java, some 100 km east of the capital Jakarta. There, on 9 December 1947, 431 men and boys – aged between 15 and 60 – had been executed by a regular Dutch army unit, consisting of some 100 conscripts headed by Major Alphons Wijnen. The Dutch military had received the order ‘to clean up’ the village, which was suspected of hiding a resistance fighter. The Dutch were looking for him, but could not find him.<sup>6</sup>

This massacre did not go unnoticed at the time and attracted considerable attention. The UN Committee of Good Offices on the Indonesian Question even undertook an investigation and concluded in a report that the Dutch action had been ‘deliberate and ruthless’.<sup>7</sup> Nevertheless, Major Wijnen – who died as a colonel in 2001 – was never prosecuted. ‘Rawagede’ was also mentioned in the so-called *Excessennota*, published by the Dutch government in 1969 as a reaction to disclosures of former veteran Joop Hueting in newspaper interviews and on TV concerning the systematic massacres of Indonesian POWs and civilians by the Dutch military.<sup>8</sup> Hueting’s disclosures, in turn, had been a reaction to the disclosure of the My Lai massacre in South Vietnam of

some 500 civilians by a US platoon headed by lieutenant William Calley on 16 March 1968.<sup>9</sup>

The *Excessennota*, written hastily by a commission led by the young civil servant Cees Fasseur (who later became professor of Indonesian history in Leiden), identified some 70 ‘violent excesses’ during the Indonesian War, based on what the commission could find in the archives within three months.<sup>10</sup> Remarkably, nobody was interviewed – no veterans like Colonel Wijnen or Captain Westerling, nor any Indonesians – although most former participants were still alive. Small wonder that the *Excessennota* subscribed to the official Dutch version of the Indonesian War, already formulated by the government before the research had begun: the Dutch army generally had behaved ‘properly’ and the occasional ‘excesses’ could be explained as reactions to the ‘terror’ of the nationalist guerrillas. Only, in South Celebes (South Sulawesi), the ‘counter-terror’ organized by Captain Westerling between December 1946 and February 1947 had been different.

‘Rawagede’ was also reported on. According to the Dutch report, some 130 Indonesian men had died during ‘fighting’ – although no single Dutchman had been killed or wounded – and only 20 men had been executed afterwards. ‘Rawagede’ in any case undermined the ‘official’ Dutch view that, in so far as ‘excesses’ by Dutch military had taken place, the ‘normal’, regular Dutch army was not involved, but only the Koninklijk Nederlandsch-Indisch Leger (KNIL) – mainly recruited among Indonesian minorities like the Ambonese and other Moluccans – and the ‘special task forces’ such as the intelligence service and especially the Depot/Korps/Regiment ‘Speciale Troepen’ (DST or KST) commanded by the infamous captain Raymond Westerling (nicknamed ‘The Turk’ because he was born in Istanbul).<sup>11</sup> This boiled down to the Dutch version of the better-known German distinction between the ‘clean’ *Wehrmacht* and the ‘dirty’ SS in the Second World War.

Westerling’s units had received a blank cheque from Dutch High Command as to their methods: for the Dutch military and political upper echelons, the goal of ‘pacification’ justified all means (and this fact surely explains their lack of curiosity concerning the massacres, both at the time and afterwards). Westerling claimed to work under *noodrecht* (‘law of emergency’) or *standrecht* (‘summary justice’), which allowed him and his troops to kill as many Indonesians as needed in order to ‘counteract the terror’ and to ‘purify’ an area from *rampokkers* and *pemuda*. He operated according to his own ‘method’, including the

rule *alles neerleggen* ('to mow down everything'), and he achieved some short-term results in this way at the cost of at least 6,500 executions.<sup>12</sup> Instead of criminal prosecution, he received a special distinction from his superiors for his 'pacification' of South Celebes (South Sulawesi) in 1946–1947 (De Jong 1988: 1059–60). Prosecution after the Indonesian independence was excluded because an amnesty for crimes committed on both sides during the war was part of the settlement between the Netherlands and Indonesia.<sup>13</sup>

On 10 December 2011 – exactly 64 years plus one day after the massacre – the Dutch state agreed to settle the claims of the surviving widows of Rawagede in a civil law procedure. The widows were represented by a Dutch lawyer specializing in international criminal justice, Liesbeth Zegveld. The Dutch state agreed to pay each widow 20,000 Euros. The *only* male survivor of the massacre, named Saih bin Sakam, who in 1947 had escaped death by pretending to be dead, just missed the Dutch 'jackpot' by dying in May 2011. The Dutch state also agreed to offer an official apology to the population of Rawagede through its ambassador in Indonesia.

To all appearances, an obvious case of 'historical injustice' committed by the Dutch army in Indonesia had now been 'repaired' by the Dutch state both materially – by paying money – and symbolically – by making an official apology. To all appearances, the Dutch state had now dealt responsibly with a criminal part of its colonial past, just as the German state had done with the Holocaust. Now it is time to present a very brief sketch of the German model of 'coping with the past' in order to explain how the recognition of human rights and coping with historical injustices in general became so closely connected.

### The Holocaust and the German model of 'coping with the past'

The story of German *Vergangenheitsbewältigung* is basically a story of political progress. This success storyline can be called the Enlightenment storyline. It was first codified by Jürgen Habermas in the 1980s (Habermas 1987: 115–80) and has been further developed by historical theorists such as Jörn Rüsen (2001) and Aleida Assmann (2006) and by historical sociologists such as John Torpey (2001), Jeffrey Alexander (2009), Daniel Levy and Nathan Sznajder (2002). The success storyline posits that, since 1945, a growing 'collective memory' of the horrors and traumas of the Holocaust has induced a growing number of people and states to adopt 'post-national' attitudes and

to subscribe to human rights. This storyline suggests that twentieth-century history has basically been a 'learning process' in which the particularisms of nationalism and of racism have increasingly been discredited. In the meantime, we have landed in the era of 'post-nationalism' or 'post-conventionalism' and 'post-trauma' – at least in the West.<sup>14</sup>

This 'learning process' of the twentieth century implies a clear break with the traditional practice of practicing amnesia and amnesty when wars and war crimes end. After Auschwitz, so the 'enlightened' argument goes, the traditional principle 'to forgive and forget' was no longer tenable (see Levy and Sznajder 2002; Meier 2010). It was replaced by the radical new principle of the healing function of historical truth for victims, and therefore of the necessity to keep the memory of inhumanity and of suffering alive. And this principle is put into practice in the form of 'negative memory', meaning both a 'politics of regret' and a 'reparation politics' that aims to 'repair' past injustices as far as possible in both material and symbolic ways.<sup>15</sup> The Intergovernmental Conference on the Holocaust in Stockholm in 2000 even codified this process for Europe when it declared 'the prevention of another Holocaust to be the civilizational foundation of a new European memory' ('Declaration of the Stockholm...' 2000; cf. Levy and Sznajder 2002: 100).

The recognition of human rights and the 'politics of regret' are directly connected in this view. Jeffrey Olick formulates this connection as follows:

The discourse of universal human rights is tied directly to a politics of regret because its advocates believe that only gestures of reparation, apology, and acknowledgement can restore the dignity of history's victims and can deter new outbreaks of inhumanity. The retrospective gaze of this discourse is thus part of an anticipation of the future.

(Olick 2007: 126)

So much for German coping with the Holocaust and the way it became the template for coping with 'historical injustices' in general – including colonial injustices like 'Rawagede' – and so much for the 'global' rise of human rights. This leads me to the third part of my chapter, in which I will deal with the way in which the Dutch state has recently dealt with the massacre of Rawagede, as the most recent instance of the Dutch coping with the colonial past.<sup>16</sup>



### The massacre of Rawagede and the Dutch 'coping with the past'

The legal proceedings concerning Rawagede were started in 2008 by a foundation that represented one male survivor and nine surviving widows of the 461 men massacred at Rawagede. The decision by the Civil Law Chamber of the District Court The Hague was rendered three years later, on 14 September 2011.<sup>17</sup> This decision at first sight looks like a fine example of 'politics of regret' and of 'reparation politics' based on human rights, including both a financial settlement with the victims and the explicit apologies offered by the state responsible for the massacre. However, on closer analysis this appearance turns out to be pretty deceiving.

The Dutch legal philosopher Wouter Veraart (2012) has recently provided an in-depth analysis of this court case and judicial decision – and I will follow his line of argument. As so often in the areas of history and law, the devil is hiding in the details. To start with, there is the remarkable fact that the Dutch state has now agreed to take legal responsibility for only one of the massacres by its military in Indonesia – that is, on 10 December 2011, 64 years after the massacre. It had been tried before – but all these attempts had failed.<sup>18</sup> In 1954 the problem of legal responsibility was 'solved' by the government by keeping the incriminating report of Stam and Van Rij secret.<sup>19</sup> In 1969, when Hueting's disclosures on TV concerning Dutch massacres forced the Dutch government to present some form of clarity to the parliament in the form of the *Excessennota*, the prime minister had invoked the increasing distance in time as an argument not to start criminal investigations and to prosecute – although criminal acts perpetrated between 1945 and 1950 had not yet become statutorily barred. The reason given was that the distance in time had decreased the chances of a 'fair' trial for the accused. In 1995 and in 2008, distance in time was invoked again by the Dutch government – in combination with its earlier decisions of 1950, 1954 and 1969 not to prosecute – as an argument to decide that the massacre of Rawagede was too old to prosecute.

Because in 2011 only nine widows of Rawagede were still alive, the total amount of money involved in this first 'successful' settlement amounted to some 180,000 Euros (plus the costs of the court proceedings). This 'reparation' of historical injustice thus came at remarkably low cost by any international standard – which, of course, helps to explain why the Dutch state did not appeal against the verdict. Distance in time had again paid off – at least for the Dutch state.<sup>20</sup>

Nevertheless, also in 2011 the lawyers of the Dutch state had rejected the claim for reparation on the basis of the argument that the crime was too old to prosecute. It should have been prosecuted within 30 years after the fact: that is, before 1977.<sup>21</sup> This line of defence implies that also in December 2011 the Dutch state clearly did *not* recognize the massacre of Rawagede as a war crime, or as a crime against humanity, because since 1968 human rights violations and war crimes have been exempted from a statute of limitation.<sup>22</sup>

As a matter of fact, in the post-colonial era the Dutch legislature had intentionally only provided for the non-applicability of statutory limitations to the Second World War crimes committed by the enemy and by Dutch nationals entered into the service of the enemy when it adopted the Act containing provisions on the elimination of statutory limitations to war crimes and crimes against humanity, which entered into force in 1971.<sup>23</sup> When the Netherlands was confronted with the crimes that had been committed by its own military in the former colony of Indonesia between 1945 and 1950, these crimes did not fall within the subject matter jurisdiction of this Act, and thus had become prescribed, as the legal scholar Ruth Kok (2007: para. 168–73) observes in her analysis of the Dutch parliamentary records on statutes of limitation in the wake of the post-colonial era. The Dutch state simply restricted the non-applicability of statutory limitations to crimes committed *by the enemy* and by Dutch nationals who had entered the service of the enemy and thus had lost their Dutch nationality, as the Minister of Justice explained in 1971: 'After all, a war crime is something that has been committed by the other party; we have upheld that system' (cited in Kok 2007: para. 171). Therefore, the Dutch state after 1971 could prosecute war crimes committed 'by the enemy' during the Second World War – for example, in the trial of Pieter Menten in 1977 – while at the same time turning a blind eye to its own 'excesses' in the Indonesian War of Independence.<sup>24</sup> And therefore the massacre of Rawagede could not be dealt with by a criminal court in the Netherlands, but only by a civil court – in order to arrange a settlement concerning the 'damages'. In addition, by the time proceedings had started, most of the defendants had died.

Again, the Dutch policy concerning war crimes was not unique. The French state has followed a similar course by interpreting 'crimes against humanity' restrictively in 1993, meaning that the French war crimes committed in Indochina, Madagascar and Algeria did not qualify as such because French law restricted the geographical scope of 'crimes against humanity' to Europe. Therefore, French colonial war crimes were not 'crimes against humanity' and remained subject to statutes of limitation

(Kok 2007: para. 174–85). Although the Second World War crimes *preceded* crimes during the colonial wars of decolonization, remarkably, the usual argument that distance in time decreases the chances of a ‘fair’ trial was *not* used this time.

Actually, regarding the question of whether the massacre of Rawagede represents a crime against humanity, the Dutch court gave no answer and remained fundamentally ambiguous. On the one hand, the court agreed to the argument of the Dutch state that the normal statute of limitation applied to the Rawagede massacre – and thus stuck to the argument that this massacre was not a violation of human rights. On the other hand, however, the court judged that the Rawagede massacre had been ‘exceptional’ because it was ‘without precedent’. This was because the seriousness of the injustice incurred was known from the start, but the state had failed to do anything about it in the form of persecution of its perpetrators or compensation of its victims. The normal statute of limitation, therefore, did *not* apply to this case, according to the court – *as if* the massacre represented a violation of human rights.

Remarkably, the ‘exceptionality’ of Rawagede was argued for in another way than in relationship to human rights. The court argued that the massacre had taken place in a period of Dutch history that had ‘not been closed yet’ (*nog niet afgewikkeld*).<sup>25</sup> Therefore, one could say that the massacre did not belong to ‘the dead past’ or ‘the historical past’. The court supported its remarkable view of an ‘unclosed past’ by referring explicitly to the recent successful claims and reparations of (the heirs of) Jewish victims concerning the Second World War – especially the claims and reparations concerning looted art collections and life insurances. In these recent cases, the Dutch state had lifted the normal statutory limitations in some categories of cases based on the (substantial and not procedural) argument that the Nazi crimes during the Second World War represented cases of severe injustice.<sup>26</sup> Because the court considered the massacre of Rawagede to represent a case of severe injustice, the claims of the widows could not be ignored with reference to the applicable statutes of limitation.<sup>27</sup> In the reasoning of the court, when in a specific case the application of a legal rule produces a severe injustice too, justice can or even must take precedence over legal formalities.

This fundamentally ambiguous argument of the Dutch court is remarkable for at least two reasons. First – as Veraart (2012: 252–5) points out – this was the first time that the Dutch state had allowed injustices related to the Second World War to be connected and compared to injustices related to the (post-)colonial period.<sup>28</sup> Until 2011, the Dutch state had stubbornly refused *any* comparison between criminal events during

the Second World War and criminal events during the Indonesian War of decolonization. Therefore, the Dutch state had consistently refused to compare the so-called Dutch ‘excesses’ like the Rawagede massacre to the German and Japanese war crimes – and since 1971 it had even had ‘legal’ grounds to do so.<sup>29</sup> The fact that the term ‘war crimes’ had been removed from the ‘official’ history of the Dutch decolonization of Indonesia as late as 1988 fits perfectly in this pattern. The term ‘war crimes’ used by Loe de Jong in the draft version had been replaced by the term ‘excesses’ in the final version after considerable political pressure had been put on him.<sup>30</sup>

Second, the court’s argument concerning the ‘exceptionality’ of Rawagede is remarkable because it is so obviously historically incorrect. Plenty of historical ‘precedents’ of this massacre were known in the Indonesian War, as Veraart also points out. These had been reported by a part of the Dutch press, but were also acknowledged in private by leading Dutchmen at the time, such as Governor-General van Mook. They had also been reported in the unpublished Van Rij and Stam investigation of 1954.<sup>31</sup> So the *legal* argument of the court in 2011 concerning the ‘exceptionality’ of Rawagede was based on a clearly *false* historical argument.<sup>32</sup>

This historical ‘mistake’ by the Dutch court, however, fulfilled clear practical functions. This historical ‘mistake’ made it possible to lift the statute of limitation *only* for the Rawagede-massacre and to skip the fact that this massacre was part of a much broader and more systematic violation of human rights. Moreover, by stressing Rawagede’s ‘exceptionality’ the court downplayed the possibility that survivors of *other* Dutch massacres in Indonesia would rush to Dutch courts and demand reparations. This approach obviously did not work, because very recently – on 30 August 2013 – a group of ten widows from South Sulawesi (‘Zuid Celebes’) got the same ‘deal’ as the widows of Rawagede – amounting to another 200,000 Euros (plus the costs of the court proceedings).<sup>33</sup> Nevertheless, the court’s prime intention was to attach serious limits to the claims for reparations of Indonesian survivors, according to Veraart (2012). Therefore, the court restricted the lifting of the statute of limitation only to the former wives of the murdered men of Rawagede and explicitly excluded the children of the murdered men from reparation claims. This is very remarkable, because this restriction to one generation is in stark contrast to the UN definition of ‘victims’ and to normal international practice in cases of human rights violations. Therefore, the Dutch court in 2011 was – paradoxically – still refusing to conceive of the massacre of Rawagede as part of a more general and more



systematic human rights violation, without explicitly stating its refusal, by acknowledging the 'exceptional' historical injustice of this case.

The 'apology' for the 'tragedy that took place in Rawagede on 9 December 1947' offered on 9 December 2011 by the Dutch ambassador in Indonesia to the population of Rawagede reflects the very same fundamental ambiguity as the court's historical argument. The ambassador referred to 9 December 1947 as 'a tragic day' because 'family and village members' of his audience 'had lost their lives during an action of Dutch military'. 'Rawagede', therefore, was a 'telling example' of 'how the relationship between Indonesia and the Netherlands had derailed in that period' – thus leaving the principled question of Dutch perpetration ('during') and Dutch accountability ('derailed relationship') unclarified.<sup>34</sup> Nevertheless, the ambassador hoped that 'coming to terms with these events together' would enable both countries 'to look ahead and to see all chances of a good and intensive cooperation in the future'. All in all, it is quite remarkable that, in the Dutch version of *Vergangenheitsbewältigung*, reconciliation is hoped for *without* truth finding, because the Dutch state refuses to fund historical research on Dutch war crimes in Indonesia to this day. Therefore, the 'production of ignorance' in this case is also continuing.

### The role of human rights in the Dutch 'coping with the past' in comparative perspective

When we compare the Dutch way of coping with the past with the 'general' model of German descent, we can conclude that the Dutch 'coping' with the massacre of Rawagede has shown, at best, a very strategic way of handling human rights. This strategic handling of human rights was clearly manifest in the contradictory ways in which the Dutch court was arguing for the 'exceptionality' of the Rawagede-massacre and in the ways the Dutch state is still avoiding the question of whether it regards massacres like these as war crimes and as violations of human rights. As the Dutch historian Remco Raben has noted, the striking characteristic in the Dutch way of coping with its colonial past is the very *absence* of any universal moral standard (Raben 2002: 101). Therefore, we can only conclude that at present there is no clear sign of 'post-national' human rights in the way the Dutch state is dealing with historical injustices like Rawagede – although it has now made a connection between colonialism and the Holocaust. This conclusion is remarkable, because since 1990 the relative weakness of (universal) human rights and the

persistence of (particularistic) nationalistic values are usually located east, not west, of Germany (see Ash 2002).

Let me conclude with some elaboration on the persistence of the national framework in the Dutch coping with their colonial past. First, this persistence of the national is evident in the exclusive focus on the Dutch and their 'good intentions' in representations of the 'colonial encounter' in Indonesia, as Remco Raben and Martijn Eickhoff have emphasized. Dutch violence is framed as an 'exception' and as an 'excess' instead of being inherent in the colonial situation as such (Nordholt 2002; Raben 2002; Luttkhuis and Moses 2012; Eickhoff 2013). Second, the persistence of the national is evident in the continuing refusal of the Dutch state to openly acknowledge Dutch perpetration of colonial massacres like Rawagede and to acknowledge such massacres as 'war crimes' and as clear violations of human rights. Moreover, labelling 'excesses' like Rawagede and South Sulawesi as a 'tragedy' implies the point of view that *both* former conflicting parties were morally 'right' – even more than 60 years after the facts.

Again, this problem is certainly not *exclusively* Dutch, but in the Dutch case the problem of integrating historical injustices into the national self-image – and into national history – was and is particularly great in comparison with, for example, England and France. I can suggest two explanatory hypotheses for this fact (cf. Aldrich and Ward 2010).

The first explanatory hypothesis is that since the nineteenth century the Dutch had traditionally fashioned themselves as 'the better imperialists', as Paul Bijl has recently argued:

Crucial in this respect is a broadly held conception that the Dutch had a different, better type of colonialism than the larger European nations, particularly, of course, England and France. [...] This auto-representation as non-violent is one of the reasons why documents of atrocity were not received with universal applause in the Netherlands, but elicited many uncomfortable responses, as what they showed did not match more dominant ways of self-understanding.

(Bijl 2012: 449)<sup>35</sup>

This non-violent self-representation was, of course, also forcefully promoted by the elimination and repression of information that did not 'fit in' with this self-image, as, among others, Joeri Boom and Stef Scagliola have argued (Scagliola 2002; Boom 2008a, 2008b; Botje and Hoek 2012; Nicolassen 2012a; Zweers 2013). Individual Dutch veterans who spread



'bad news', including about their own involvement in massacres – starting with Joop Hueting – were largely ignored, if possible, and were threatened well into the 1990s by former 'comrades in arms'.

Whatever the case, their oral testimonies have never been taken seriously by the Dutch judiciary – including testimonies by a veteran who confessed in 1994 to having taken part in the Rawagede massacre and a veteran named Harry Nouwen who recognized himself on the picture taken by Jacobus R. He revealed that the execution had taken place in December 1949 in the village of Gedong Tataan on South Sumatra (Scagliola 2012: 431–2; Outeren 2013). Interestingly, this veteran also claimed that this execution had not been reported because in Indonesia he had sworn an oath on the Dutch queen 'to keep all secrets in the army' – an oath not mentioned in the *Excessennota*, or reported on by the historians of this 'dirty' war.<sup>36</sup>

Within this self-representation of the Dutch as 'the better imperialists', the Japanese occupation of Indonesia could only be portrayed as a violent and 'unjust' interruption of the Dutch 'civilizing mission' – and *not* as the clash between *two* colonial empires that it actually was (for a comparative perspective, see Osterhammel 2006). Within this self-representation of the Dutch, the failed attempt at recolonization after 1945 could also be portrayed as a 'war of liberation' of the Indonesian people, because the Indonesian declaration of independence was represented as the last trick played by the Japanese 'fascists' on the Dutch. Therefore, the Dutch attempt at the *reconquista* of their lost colony starting in 1945 had actually been a 'humanitarian action'.

My second hypothesis for why the Dutch have – comparatively – big problems with acknowledging their role as perpetrators in the colonial setting pertains to the Dutch self-perception as a victim nation in the Second World War. This perceived victim status of the Dutch seems to function as a kind of 'screen memory' that makes it virtually impossible for the Dutch to see their own acts of colonial mass violence as similar to those of fascist Japan and of Nazi Germany. Actually, here too there is an interesting similarity with the ways in which victim and perpetrator roles are intertwined in many states of Central and Eastern Europe after 1990.

The Dutch court ruling concerning Rawagede made a connection between the Dutch and Nazi German historical injustices for the first time – and therefore represents something completely new, at least as a form of 'official' Dutch 'multidirectional memory'. Paradoxically, this connection was forged by an ambiguous argument for the 'exceptionality' of the Rawagede massacre while avoiding the broader context of

similar human rights violations. Only future international-comparative analysis of the national ways of dealing with the colonial past will enlighten us further and enable us to determine in what respects the Dutch coping with 'Rawagede' was 'typically Dutch' and how far it fits into more general patterns of *Vergangenheitsbewältigung*. In short, there is still plenty of comparative work to do.

## Acknowledgements

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## Notes

1. *De Excessennota* ([1969] 1995: 25). For the comparative aspects, see (Conway 2008: 99–107, 141–2; Luttikhuis and Moses 2012). For a comparative law study on statutes of limitations in criminal law, including Dutch domestic legislation, see Kok (2007).
2. For the discussion concerning the question of whether colonial violence was just a 'crime against humanity' or a 'genocide', see Moses (2010). See also Luttikhuis and Moses (2012: 262), for the arguments in favour of interpreting colonial mass violence in terms of genocide.
3. For a recent application of Rothberg to Dutch contemporary history, see Oyen and Raaijmakers (2012). Remarkably, this connection also holds in a very direct sense for the case of Rawagede, because one of the two major activists – the Indonesian Batara Hutagalung, who lived for a longer time in Germany – wanted to force the German *Vergangenheitsbewältigung* on the colonial past of the Dutch. See Scagliola (2012: 433).
4. This claim is not only highly implausible but surely false, because the veteran journalist Henk Hofland, who had been a Dutch conscript serving in the Indonesian War, subsequently wrote that he had seen many pictures of similar massacres at the time; see Hofland (2012: 14).
5. Also, attempts in 2012 by a combination of Dutch research institutes – NIOD, KITLV and NIMG – to obtain government funding to start an investigation following the legal settlement concerning 'Rawagede' came to nothing. The arguments that the *Excessennota* was proven to be quite unreliable and that the last eyewitnesses of the massacres would soon be dead did not impress the Dutch government. See <http://www.nu.nl/politiek/2987097/geen-steun-onderzoek-dekolonisatie-indonesie.html>, <http://www.niod.nl/en/news/research-project-dutch-military-violence-indonesia-1945-1950%E2%80%99-terminated> and <http://www.volkskrant.nl/vk/nl/2844/Archief/archief/article/detail/3273217/2012/06/19/Na-de-Excessennota-ketste-elk-voorstel-af.dhtml> (30 October 2013). See also Gross (2012); McGoey

- (2012). The more puzzling lack of interest on the Indonesian side can be explained by two factors. First, the Indonesian struggle for independence also had been a social revolution, in which the nationalist forces had been waging an internecine war on both Communist (PKI) and Islamist forces (Darul Islam). This inter-Indonesian civil war was silenced by the post-1950 official nationalist myth of a united Indonesian struggle for independence against the Dutch oppressors. Second, the death toll of the War of Independence – estimated at some 300,000 – was far lower than the number of Indonesian communists and ethnic Chinese murdered in 1965–1966, when Suharto's military and allied Islamist forces murdered an estimated 500,000 to 1,000,000 persons. Therefore, after 1965 the chances of finding 'fresh' corpses instead of 'old' ones was seen by Suharto's military dictatorship as too risky.
6. Next to the regular Royal Dutch Army (KL) sent to Indonesia, mainly consisting of some 120,000 conscripts under the command of professional military, the Dutch deployed their colonial army – the Koninklijk Nederlandsch-Indisch Leger (KNIL) – predominantly consisting of ethnic minorities in Indonesia and Javanese (some 44,000 men in 1947), and 25,000 'war volunteers' (*oorlogsvrijwilligers*), among others organized as units of 'shock troopers' (*Stoottroepen*). An unknown number of former Dutch members of the *Waffen-SS* were among the 'war volunteers' – another area in which the 'production of ignorance' still reigns supreme. They were released from prison in exchange for voluntary military service in Indonesia – this time for their real fatherland. See Esterik (1984).
  7. This report, dated on 12 January 1948, was classified as 'UN restricted' and only made available to the Dutch parliament in 1995.
  8. Hueting had labelled the mass executions by the Dutch as 'war crimes', comparable to those committed by the *Wehrmacht* in Putten in 1944 and by the Japanese army in many places in occupied Asia. The male population of Putten had actually not been executed, but deported to the concentration camp Neuengamme. Of the 602 deported men and boys, some 50 survived the war. The German officer held responsible for 'Putten', General Christiansen, was sentenced in 1948 by a Dutch court to 12 years' imprisonment. He was pardoned in 1951.
  9. Therefore, the disturbing fact also *ex post* is that massacres like My Lai and Rawagede were nothing exceptional in colonial and imperial warfare – which, of course, completely contradicts what the proponents of the term 'excesses' have suggested. One former US soldier said that US strategy in Vietnam amounted to 'one My Lai a month'. See Turse (2013). Calley offered his apologies for this massacre more than 40 years later, in 2009. See 'My Lai massacre ...' (2009).
  10. Fasseur later suggested that the other members of his commission – all senior civil servants with a colonial background – were not plagued by too much curiosity, implying that his case was different. In 2007, however, the historian Harm Scholtens established that this commission – including Fasseur – had ignored archival material concerning Rawagede that was clearly at odds with the official version, because some 120 executions were reported instead of 20. See Boom (2008b). I will leave aside the distinction between 'functional excesses' – related to military objectives – and 'non-functional excesses' – unrelated to military objectives. This distinction was introduced by Doorn and Hendrix ([1970] 2012) and was taken over by most Dutch historians, including Loe de Jong.
  11. This racial view on violence enabled the Dutch to attribute the known 'cruelties' regarding Indonesian civilians to their own 'race'. Moreover, as Turkey was definitely *not* seen as a part of 'civilized' Europe, 'the Turk' Westerling could also be seen as an 'Asian'.
  12. As usual, the numbers killed are fundamentally contested. Westerling himself gave an estimate of 1,500. The historian H. Ijzereef corrected this to 6,500. Indonesian estimates – presented to the UN in 1947 – ranged from 20,000 to 40,000. Even less inquisitive minds than Sherlock Holmes would sense some need for a forensic and historical investigation concerning these numbers, one would imagine.
  13. See *De Excessennota* ([1969] 1995: 26–7). In the Dutch interpretation, the amnesty held for crimes committed during a 'normal' war.
  14. Moyn (2012: 11–44) emphasizes the essential historicity and discontinuity of human rights conceptions. In his view, the present coinage as rights that individuals possess against states only goes back to the 1970s and is unconnected to any Holocaust consciousness. See also the review by Antoon de Baets (2012).
  15. For the concept of 'negative memory', see Knigge and Frei (2002), especially Koselleck's contribution on pp. 21–33. They argue correctly that 'negative Erinnerung trotz aller inzwischen erkennbaren Konventionalisierung der Holocaust-Erinnerung nicht die Regel, sondern nach wie vor die Ausnahme ist' (ix).
  16. For recent overviews, see the special issue 'Mass Violence and the End of the Dutch Colonial Empire in Indonesia' of the *Journal of Genocide Research*, 2012, 14, 3–4, especially Bijl (2012) and Scagliola (2012).
  17. District Court The Hague, 14 September 2011, to be found at: <http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBSGR:2011:BS8793> (30 October 2013).
  18. As Dommering (1994) observes, legal action in the Netherlands between 1945 and 1950 was predominantly restricted to the prosecution of conscripts who refused to fight in Indonesia. Scagliola (2012) and Eickhoff (2013) made the point that Dutch professional historians have played no role whatsoever in uncovering the Dutch 'excesses' in Indonesia.
  19. The 'Rapport van Rij en Stam' was assigned in 1948 because of the continuing 'rumours' about Dutch 'excesses' in South Celebes (South Sulawesi). It was only finished and handed over to the government in 1954 – the parliament only received it confidentially in 1969. See <http://www.hpdetijd.nl/wp-content/uploads/2012/07/Scan-deel-1-1954-rapport-Van-Rij-en-Stam.pdf> and <http://www.hpdetijd.nl/wp-content/uploads/2012/07/Scan-deel-2-1954-rapport-Van-Rij-en-Stam.pdf> (30 October 2013).
  20. Money had always been the aim of the Dutch colonial (*batig slot*) policy. During the nineteenth century the revenues from Indonesia accounted for some 13 to 50 per cent of the Dutch state budget. See De Jong (1989). In line



- with this policy, the Dutch state had even succeeded in transferring its colonial debt of 4.3 billion gulden – including the costs of its ‘police actions’ – to the state of Indonesia as a condition for the transfer of sovereignty. In 1966 the Dutch collected another 600 million gulden from Indonesia as a ‘compensation’ for its nationalization of Dutch property after 1950 – this time as a condition for the start of ‘developmental aid’.
21. This line of defence is built on the tantalizing procedural argument that the Indonesian claimants should have filed their complaints with a (Dutch) court earlier (preferably immediately) after the massacre and that their ‘omission’ to do so is their own responsibility.
  22. Vergunst (2012: 461–2) points out that the Dutch state had rejected an earlier request – in 2007 – for reparation of the widows of Rawagede in 2008 based on the same argument that the crime had become prescribed.
  23. 1971 Act containing provisions on the elimination of statutory limitations to war crimes and crimes against humanity (*Wet nadere regels betreffende de verjaring van het recht tot strafvordering en uitvoering van de straf terzake van oorlogsmisdrijven en misdrijven tegen de menselijkheid*), 8 April 1971, Stb. 1971, 210.
  24. As in most other West European states, in the Netherlands the initiative for prosecution of perpetrators usually came from persistent individuals who identified with the former victims. They mobilized media attention to the unpunished crimes and located the perpetrators. In the Menten case, it was the Holocaust survivor Henriëtte Boas and the journalist Hans Knoop. In the Rawagede case, it was the Indonesian-born activist Jeffrey Pondaag and the Indonesian activist Batara Hutagalung.
  25. <http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBSGR:2011:BS8793> (4.16) (30 October 2013). The court did not apply the concept of ‘ongoing crime’ to ‘Rawagede’, however: this category of crimes in international law is also exempted from statutes of limitation (I owe this insight to Antoon de Baets).
  26. <http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBSGR:2011:BS8793> (4.18) (30 October 2013).
  27. For the theoretical problem of how to distinguish ‘the past’ from ‘the present’, see Bevernage (2011); Lorenz and Bevernage (2013).
  28. This fact supports Torpey’s (2001) claim that the Holocaust claims represent ‘the golden standard’ of all reparation claims.
  29. For the issue of ‘excesses’ versus ‘war crimes’, see De Jong (1988: 1011–61), especially footnote 1 on 1011–12 and 1059–60.
  30. De Jong’s ‘self-criticism’ on this score is reminiscent in its phrasing of ‘self-criticisms’ in Stalinist show trials. See De Jong (1988: 1012), footnote 1. This example suggests that the borderlines between ‘academic’ and ‘commissioned’ history are blurred. Nevertheless, De Jong received death threats from veteran circles.
  31. The last Dutch *gouverneur-generaal* in Indonesia, H.-J. van Mook, had remarked in a letter in 1947 that Westerling’s ‘methods, that are similar to those of the Germans and Japanese, can be justified somehow only under the most urgent circumstances’. De Jong (1988: 1020). For other quotes on the similarity between the methods used by the Dutch and the methods used by the Germans and Japanese, see De Jong (1988: 1060), footnote 1.
  32. For the relationship between legal and historical ways of dealing with ‘historical injustices’, see De Baets (2011).
  33. This group of survivors of Westerling’s ‘cleaning up’ operations was again represented by Liesbeth Zegveld. See *NRC-Handelsblad* 31 August–1 September, 12–13.
  34. See [bz103852-toespraak-cdp-rawagede-9-december-2011.pdf](http://bz103852-toespraak-cdp-rawagede-9-december-2011.pdf) (30 October 2013). Conway (2008: 163) argues that the same practices and legitimations can be found in most colonial wars between 1945 and 1975 (including the Vietnam War).
  35. This official auto-representation was reproduced for a long time by Dutch historians, including Loe de Jong. He simply stated that the Dutch had behaved ‘better’ – that is, ‘less violently’ – in their war of decolonization than the French, the British and the Portuguese had behaved in theirs. See De Jong (1988: 1041).
  36. Hueting had suggested before that the reported massacres were only ‘a tip of an iceberg’. In the draft version of the *Excessennota* this was also admitted: ‘Zeer veel is nooit schriftelijk vastgelegd; en van wat er wel werd geregistreerd, is een deel in Indonesië achtergebleven, vernietigd of verloren gegaan’. See Bank (1995: 12). Eickhoff (2013: 57) notices that Dutch historians have contributed very little to the uncovering and the publicizing of the ‘excesses’.

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