Shadowboxing: legal mobilization and the marginalization of race in the Dutch metropole, 1979-1999

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6. Racism or 'not-racism™'? The mandate to combat racial discrimination

6.1. Racist denial and 'not-racism™' in the postcolonial metropole

One of the six priorities identified by the Landelijk Bureau Racismebestrijding (LBR) charter was to 'bring attention to and combat structural forms and patterns of racial discrimination through legal action.' In executing this mandate, the LBR could have chosen to explore the historical and deeply embedded roots of racialization in Dutch society, going back centuries to colonial expansion and enslavement, or its own daily newspapers which revealed ongoing efforts to limit migration of people racialized as non-white to the metropole. It could have filed test cases on these issues, even expecting that such cases would be lost, to demonstrate the inefficacy of existing laws and their limited definitions of racism or racial discrimination and to help build momentum for wider political change. These were all practices with precedents in the grassroots actions of organizations that preceded the LBR in their engagement with issues of racialized in equality in the metropole, as discussed in Chapter Three. Instead, the LBR turned in the opposite direction. The organization and its leaders consistently avoided explicit references to race or racism even in their limited legal contexts. In doing so, this chapter argues, the LBR contributed to the occlusion and erasure of the role racializing practices played in postcolonial Dutch society. By equating racial discrimination with all other forms of discrimination or unequal treatment, and denying that race or racialization played a role in much of the discrimination they addressed, the LBR also committed 'racist denial,' described by some critical scholars as being its own form of racialized violence, for reasons outlined below.

Section 1.2 above describes critical race scholar Alana Lentin's concept of racist denial, which she also calls 'not-racism™' as the practice of responding to allegations of harmful racializing practices by denying the racializing elements of

those practices.[694] Lentin's concept is a broader critique of combatting racism under its limited, ahistoric definition, where race is:

> narrowly understood as referring uniquely to the attempt to scientifically authenticate the idea of human diversity as hierarchical and immutable heredity, [and separated] from the larger project of European colonial-racial rule.... [R]acialized expression taking any other form than that which invokes a racialized genetic hierarchy is held up to this 'real racism' and found wanting.[695]

Whatever behavior falls outside of the above limited definition is termed 'not racism' which Lentin calls 'a form of discursive racist violence which not only negates people's experiences of racism but reformulates its definition on the basis of a purportedly more objective account, not tainted by emotional involvement.'[696] Racist denial, so defined, exercises white supremacist tropes of what is objective, neutral and therefore true, as opposed to biased, emotional and therefore false.[697] It is materially violent because declaring certain racializing behavior 'not racist' can also remove that behavior from the possibility of legal sanction or remedy. Racist denial by a state-sponsored organization like the LBR is also epistemically violent because it removes the knowledge of racialization as a Dutch problem from mainstream public discourse both in the short term and historical perspectives. This chapter demonstrates that by steadily deemphasizing the role of race or racializing practices in the Dutch metropole, the LBR occluded the ongoing relevance of those practices hierarchies in Dutch society, and the role of law in maintaining those hierarchies, in a way that made it more difficult to address the

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[694] Lentin, "Beyond Denial"; Alana Lentin, "No Room for Neutrality," *Ethnic and Racial Studies*, November 4, 2021, 8, https://doi.org/10.1080/01419870.2021.1994149; Lentin, "'Eurowhite Conceit,' 'Dirty White' Ressentiment," 4.

[695] Lentin, "'Eurowhite Conceit,' 'Dirty White' Ressentiment," 4.

[696] Lentin, 4.

[697] Hesse, "Racialized Modernity," 656 (describing what he calls "epistemological racialization".); Adébísí, *Decolonisation and Legal Knowledge*, 5–6 ('A claim to all-seeing objectivity, neutrality and universality refuses to engage with the workings of power, the restriction of possibility in legal meanings as well as the unviersalised "particular" that is Western masculinist law.').

problems it was founded to combat; it engaged in 'not racism' at an institutional level.

As discussed in Chapter Four, I have mixed feelings about the question of intent as it relates to individual staff or board members of the LBR, both in regard to their choice of particular legal strategies, discussed above, or in their focus on 'not-racist' discourse, discussed below. Based on conversations with former LBR board members and staff, I truly believe they thought that their strategies would be effective in combatting racial discrimination as they understood it at the time. They were, however, acting on their own understandings of that problem and context at the time, understandings formed in the context of ongoing racialized practices, developed in and inherited from the colonial period, normalized over generations until the de facto, facially neutral social conditions of the metropole were, in fact, based on white supremacist assumptions and outcomes. Simply put, because LBR actors were not confronting the roots racialized practices and the resulting racialized inequalities in the metropole, it was unlikely they would have been able to envision effective ways to address those practices or problems. Unlike the policy makers described in Chapter Four, I do not think the LBR staff or board members consciously intended to undermine grassroots efforts by other antiracist groups. However, whatever good intentions the LBR leadership had, the effects of their chosen strategies and projects led to results that, at best, did little to impact the racialized hierarchy in the Dutch metropole and, at worst, protected that status quo behind layers of nonperformative efforts described in the previous chapter.

This section below does not question the individual intentions of members of the LBR staff and board, but it does question the basic understandings and assumptions some (though by no means all) of them had about the origins of racial inequality in the Netherlands. The organization had adopted, at least in their formal policies and projects, the government's assertions that racism or racial discrimination was not a widespread or fundamental problem in Dutch society.[698] This view did not frame postcolonial Dutch society, particularly as it existed in the

[698] See e.g. Den Uyl, Choenni, and Bovenkerk, *Mag Het Ook Een Buitenlander Wezen* ('Discriminatie is het product van het vooroordeel tegen etnische groepen bij [enkele] individuele baliemedewerkers. Het kan zijn dat zij zelf iets tegen buitenlanders hebben, maar ook dat zij veronderstellen dat bij het befrijfsleven vooroordeel leeft….').

European territory of the Netherlands, as being deeply dependent on centuries of racialized oppression and exclusion that had only recently been formally dissolved, and whose legacies and afterlives were deeply embedded in the formal legal structures of Dutch citizenship, belonging, and equal protection before the law. Instead, it framed racism as a personal, albeit irrational, *belief* in the inferiority of a racialized other, and racial discrimination as an adverse treatment based on that belief. The LBR leadership and the research on which they relied, did not characterize these 'racist beliefs' as embedded in Dutch culture, but instead as the result of unfamiliarity or fear caused by relatively recent waves of immigration.[699]

In the period under study, many Dutch people racialized as white, including those in the directorate of the LBR, publicly identified themselves and their national culture as fundamentally open and tolerant.[700] They believed that if their fellow citizens expressed racist or xenophobic beliefs, or engaged in those practices, they did so mostly out of ignorance or a failure to know. If these first assumptions were true, then the solution to racial discrimination was to inform those who ignorantly engaged in it of the impact of their actions or the mistakes in their beliefs with the expectation that they would alter their behavior once made aware.[701] The rare individual (or political party representing such individuals) that continued to consciously engage in racial discrimination, after having been informed, was an outlier and then could be punished criminally or banned from public participation, as evidenced by LBR support of efforts to ban or restrict the Centrum Partij and Centrum Democraten. This belief ignored, however, the way in which Dutch racism, however morally repugnant, was eminently rational; it was the basis of colonial wealth from which nearly everyone in the metropole benefitted, as well as political and economic power which protected that wealth, which I have described as systems of white supremacy and white property described in Chapter Two. As such, the likelihood that racializing practices would be voluntarily abandoned, or white

[699] Bovenkerk, *Omdat Zij Anders Zijn*; Den Uyl, Choenni, and Bovenkerk, *Mag Het Ook Een Buitenlander Wezen*.

[700] Ghorashi, "Racism and 'the Ungrateful Other' in the Netherlands"; Wekker, *White Innocence*.

[701] See Kruyt, interview.

property shared with people in the metropole who were racialized as non-white, was highly unlikely.[702]

As discussed in Section 3.3, ignorance of the connection between contemporary forms of racial discrimination and inequality and the Dutch colonial past were far from universal. Groups representing people from the former colonies routinely made the connection, wrote about it in their organizational publications and discussed it in conferences and other media, but the LBR did not adopt this message into its strategy. The impact of institutional denial of the causes of racism and racial inequality in the Dutch metropole did not simply render the tactics adopted by the LBR ineffective, it perpetuated erroneous definitions of race, racism and discrimination in a way that long outlasted the LBR itself.

6.2. 'Not-racism™' in choice of LBR strategies

6.2.1. Knowledge is power as manifestation of white innocence

What Lentin calls not-racism, can also be read as a symptom of what Wekker calls white innocence, the collective refusal by 'white Dutch' society to see the existence or impact of racializing practices in its past and present.[703] This innocence manifested in LBR strategy in the belief, expressed by its founders and embodied in its strategies, that 'knowledge was power' and that education about the existence of racial discrimination would be sufficient to combat discriminatory practices. Law professor C.A. Groenendijk said as much in his early memo to the LBR set-up board, identifying 'mastery of the facts' as a basis of the LBR's power.[704] Former LBR director Arriën Kruyt confirmed that he shared this view in 2021:

> How to change discriminatory laws? Very simple. You first write the report. You must have your facts. If you lobby, your facts should be beyond doubt, otherwise you lose everything. So, you establish facts, which means talking to people. To insiders preferably. And then you write the report and you think

[702] Bonilla-Silva, "More than Prejudice," 75 ('Whites form a social collectivity and that, as such, they develop a racial interest to preserve the racial status quo.').

[703] Wekker, *White Innocence*.

[704] Balai, "LBR Concept Beleids- Werkplan 1985."

> [about] who can change [the situation]. Is that the municipal council? Is that the [board of directors of the housing corporation]? It depends. And then you go to talk to those kinds of people.[705]

My own background in grassroots and community organizing has made me skeptical of the idea that knowledge and information alone can change public policy, especially when put in the context of almost any form of social movement. The mantra of such organizing is abolitionist Frederick Douglas's observation that 'Power concedes nothing without a demand. It never did and it never will.'[706] Elites of any kind, whether economic, political or racial, are rarely persuaded to give up their material advantages because of good arguments. This mantra is also the idea behind much of legal mobilization theory, that courts provide spaces in which the hard enforcement of the state may be brought to ensure the rights of political minorities that political majorities would not otherwise respect or protect. Legal mobilization scholar Michael McCann observes that 'legal advocacy often provides movement activists a source of institutional and symbolic leverage against opponents. This coercive, adversarial dimension of legal mobilization in many ways is the flip side of its generative or consensus-building capacities.'[707] He concedes that such a dialectic between the articulation of a right and its enforcement is less clear in social movement context than in the case of individual disputes, but counters that even in social movements, the enforcement power of courts still plays an important role. This confrontational approach to movements for social change may be more self-evident in American approaches to social mobilization than in the Dutch tradition of accommodation politics. However, grassroots movements in the

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[705] Kruyt, interview, lines 99-104 (interview was in combination of Dutch and English; items in brackets are my translation of the Dutch into English).

[706] Frederick Douglas, "If There Is No Struggle, There Is No Progress" (Speech, West India Emancipation Day, Canandaigua, New York, USA, August 3, 1857), https://www.blackpast.org/african-american-history/1857-frederick-douglass-if-there-no-struggle-there-no-progress/ (preceded by the related observation, 'If there is no struggle there is no progress. Those who profess to favor freedom and yet deprecate agitation are men who want crops without plowing up the ground; they want rain without thunder and lightning. They want the ocean without the awful roar of its many waters.').

[707] McCann, "Law and Social Movements," 29.

Netherlands had already been challenging and exploring how courtroom strategies could improve, if not replace, the efficacy of accommodation in the face as racial discrimination, as discussed in Section 3.5 above, and the LBR was aware of these efforts and the critiques in which they were based.

If the starting assumption of the LBR was that racial discrimination was caused, not because of the power and privilege it conferred on a certain class of people at the expense of another class of people, but on inexperience, unfamiliarity or ignorance, as well as on the assumption that most Dutch people were not 'racist', then an educational strategy would have made sense. Because those practicing racial discrimination weren't 'racist', they would surely change their practices when shown their discriminatory effects. As Arriën Kruyt explained:

> [Y]ou say, I'm not going to give you a bad name. I'm here to change your practice. That's what you always say because if you shout racism, people say, "No, no, no, I'm not a racist." And I was always very careful in avoiding that [word]... I hate it. I always said, I'm just here to change your practice. Of course you're not a racist. But your practice has the effect. That's what I always [would] try to prove [to those accused of racial discrimination].[708]

6.2.2. LBR preference for dialogue and voluntary settlement

Kruyt's words reflect belief in another false premise about racial discrimination in the Netherlands, that it was practiced by 'racists', a certain type of person with an aberrant world view. This belief was supported by the criminalization of racism in the Dutch penal law beginning in 1971. Different from civil penalties or administrative remedies, criminal law carries a moral stigma. Rather than being associated with this stigma, the LBR assumed those accused of racial discrimination would welcome the chance to change their behavior if confronted with it. Carrying this belief into its strategy, when confronted with specific incidents of racial discrimination, the LBR preferred dialogue to adversarial legal proceedings.[709] Unfortunately, the LBR's own reports show this strategy was rarely effective in either the short or long term. As discussed in the previous chapter,

[708] Kruyt, interview.

[709] See e.g. "LBR Werkplan 1996."

when confronted with evidence that employment agencies were not following behavioral codes that prohibited racial discrimination against job applicants, the organization continued its strategy of dialogue instead of pursuing binding enforcement. The end result was that the agencies kept up their discriminatory practices. When they presented a municipality with a report alleging that the municipality engage in racial discrimination through its allocation of public housing, that municipality sued the LBR for defamation and won.[710]

Most significant of these dialogue/education/awareness strategies may have been those related to practices of public prosecutors or the national police, both of which institutions were consistently accused of not taking sufficient action on allegations of racial discrimination. These complaints had been raised by activists as early as the Congress on Law and Race Relations in 1983,[711] by several consecutive reports and publications throughout the 1980s,[712] and mentioned numerous times in publications by both the LBR and other organizations addressing racial discrimination.[713] The response of the LBR to this decades long problem was to participate in a committee conducting research into compliance with behavioral guidelines imposed by the Procurer General and Ministry of Justice for handling complaints of discrimination, to continue 'incidental discussions' with the internal police commission addressing discrimination, and to bring their recommendations to the attention of local and national politicians.[714] By the end of 1992, the LBR had determined that the existing guidelines for handling complaints

[710] Woningbouwvereniging Lelystad v Landelijk Bureau ter bestrijding van Rassendiscriminatie (LBR), online Art.1 Jurisprudentiedatabase.

[711] Ausems-Habes, *Congres Recht En Raciale Verhoudingen* (Tansingh Partiman testimony in Horeca session).

[712] Biegel and Tjoen-Tak-Sen, *Klachten over Rassendiscriminatie*; Biegel, Böcker, and Tjoen-Tak-Sen, *Rassendiscriminatie-- Tenslotte Is Het Verboden Bij de Wet*.

[713] See e.g. Durieux, "Anti diskriminatie instituut: Zoethouder of doorbijter?"; Joyce Overdijk-Francis (ed.), "De Levensloop van Klachten," Verslag Werkgroep Recht en Rassendiscriminatie (Plataforma di Organisashonnan Antiano, May 25, 1986), 11; Joyce Overdijk-Francis (ed.), "Politie En Diskriminatie," Verslag Werkgroep Recht & Rassendiscriminatie Bijeenkomst (Utrecht: Plataforma di Organisashonnan Antiano, November 15, 1983), Nationaal Bibliotheek; Possel, "Klachten over Politie-Optreden."

[714] "LBR Werkplan 1992," 10–11.

of racism were 'insufficient' and had agreed to give commentary on new ones.[715] In 1993, further LBR research concluded that the guidelines in question were in fact 'insufficiently clear and frequently unknown to officials who were supposed to carry them out'; in response the LBR and the Anne Frank Organization agreed to put together more educational materials for the police.[716] A year later, the LBR stated four goals for improving the enforcement of laws against racial discrimination, including 'improving the treatment of immigrants by the police… improv[ing] the way in which the police deal with reports of discrimination; [and] stimulat[ing] the role of the police in tracking down the perpetrators of racist violence.'[717] The concrete plans for achieving these goals, however, included setting up more meetings between the Office of the Public Prosecutor and municipal anti-discrimination offices, attempting to set up a separate registration system of all complaints of discrimination through local anti-discrimination bureaus as opposed to the police, and establishing a 'train-the-trainers' course so police officers could conduct their own courses on anti-discrimination policies.[718] In addition to the police, and employment agencies, the LBR pursued policies of dialogue and non-judicial dispute resolution with telephone companies that required larger deposits from 'foreigners' than from 'Dutch' people,[719] cleaning companies requiring potential employees to speak fluent Dutch, when it wasn't necessary for their cleaning duties,[720] and a construction equipment company, which would only rent to those with a Dutch passport or driver's license.[721]

Chapter Five, above, classified this preference for dialogue and behavioral codes as a type of nonperformative antiracism, but it is equally relevant as an illustration of the systemic denial of the way racializing practices worked in the Netherlands, which is in turn a form of postcolonial occlusion. Engaging in dialogue and voluntary compliance may have achieved good outcomes for the individuals

[715] "LBR Jaarverslag 1992," 9.

[716] "LBR Jaarverslag 1993," 10.

[717] "LBR Jaarverslag 1994," 8.

[718] "LBR Jaarverslag 1994," 9–10.

[719] "LBR Jaarverslag 1994," 11.

[720] "LBR Jaarverslag 1988," 9.

[721] "LBR Jaarverslag 1991," 19.

involved in the short term, but how long the discriminating parties involved complied with their promises, or whether other companies learned from the example and felt compelled to change any similar practices was either taken for granted or not considered. A similar dilemma faces every lawyer who represents individual clients and is also concerned with changing broader social circumstances: when the interests of an individual client and the social conflict, which interests decide the lawyer's course of action? It is a dilemma discussed in a good deal of literature on legal mobilization for social change.[722] Dutch legal advocates against racial discrimination in the 1980s also debated the question, as illustrated in the minutes of a meeting of the Workgroup on Law and Racial Discrimination (Werkgroep Recht en Rassendiscriminatie):

> Question from audience member: If the proof is there, you have to take legal action, don't you?
>
> Fieszbajn (presenting attorney): If it's a one-time thing, you can achieve more via conversation.
>
> Question: But with one traffic violation, you still have to pay a fine, right?
>
> Fieszbajn: Running a red light is a clear case, but with improper discrimination, [handling a first offense through dialogue] isn't a bad rule.
>
> Question: So you take into account the motivation for the discrimination. Isn't that dangerous?
>
> Fieszbajn: If you want to achieve that people are motivated not just by the legal prohibition, but by understanding that they shouldn't discriminate again, then talking is better.
>
> Question: And how does the victim of discrimination feel about this?

[722] See e.g. Noah A. Rosenblum, "Power-Conscious Professional Responsibility: Justice Black's Unpublished Dissent and a Lost Alternative Approach to the Ethics of Cause Lawyering," *Georgetown Journal of Legal Ethics* 34, no. Winter 2021 (2021): 125–90, https://doi.org/English; Charles J. Ogletree and Randy Hertz, "The Ethical Dilemmas of Public Defenders in Impact Litigation," *N.Y.U. Review of Law and Social Change* 14, no. 1 (1986): 23–42.

Fieszbajn: I think that discrimination isn't well understood. And it's not good to immediately file a procedure. Every lawyer should first seek a settlement.

Lioe Tan (another presenting lawyer): I think the example of driving through a red light isn't so crazy. Discrimination is a punishable offense, but the consequences aren't enforced.[723]

In the above conversation, lawyer Fieszbajn argues for the strategy that would dominate the LBR, that of educating people engaged in racially discriminatory practices, while lawyer Lioe Tan and the unnamed questioner allude both to the agency of victims of discrimination and the problem of consistent lack of enforcement. In short, they outline the dilemma between representing the interests of an individual client or the interests of structural or societal change. Such a dilemma would, in theory, be even more important to an organization created expressly to combat a problem like racial discrimination, than to a single attorney representing a single client, but neither the *LBR Bulletin*, LBR workplans, or year-end reports address it. Reasons for its absence can never be proven but it is worth considering the possibility that the LBR directors did not consider most incidents of racial discrimination it addressed to be anything other than one-time occurrences as opposed to evidence of larger national phenomena; they considered the events *incidental* as opposed to *structural*. If the LBR did not consider racial discrimination to be a national problem, then there was no need to combat it as a national problem. However, in failing to treat it as a national problem, the LBR also perpetuated the idea that no such problem existed, a criticism Rob Witte leveled against the LBR in his 2010 book about racialized violence in the Netherlands.[724] This incidental approach is another example of the self-perpetuating cycle of ignorance/denial of the root causes of racialized inequality in the Netherlands leading to further occlusion and denial of the effects of racialization.

[723] Joyce Overdijk-Francis (ed.), "Civiel- en Strafrechtprocedures," Verslag Werkgroep Recht & Rassendiscriminatie Bijeenkomst (Utrecht: Plataforma di Organisashonnan Antiano, October 21, 1986), 25–28, Nationaal Bibliotheek.

[724] Witte, "Racist Violence and the State," 86.

6.3. Mission drift, occlusion and aphasia of race in the Dutch metropole

The above sections illustrate how prior conditions of 'white innocence' and 'colonial occlusion' influenced the LBR leadership's interpretation of the causes of racial discrimination. The following sections illustrate how LBR actions further exacerbated those conditions by obscuring the role of ongoing racializing practices and hierarchies as significant problems in postcolonial Dutch society. The did so by downplaying *racial* discrimination as a distinct form of discrimination, alternatively lumping it with discrimination against 'foreigners' or discrimination on the basis of nationality, and pursuing more generalized anti-discrimination projects and policies as opposed to explicitly antiracist ones.

6.3.1. Categorization of potential victims of racial discrimination

LBR workplans and year-end reports frequently conflated discrimination on the basis of perceived race with that based on fear of immigrants generally, or antipathy toward those who did not speak Dutch. These documents addressed how best to 'stand by and advice' victims of racial discrimination. Under the heading 'working methods' the first LBR workplan observed:

> Complainants must be able to turn to their 'own' people: although the [LBR]'s starting point is that combating racism is a problem that concerns the whole of society, it is easier for ethnic minorities who do not speak Dutch well to be addressed in their own language. This can be achieved by having organizations of ethnic-cultural groups at the local level function as reporting points.[725]

The above language assumed that individuals experiencing racial discrimination would 'not speak Dutch well.' In doing so, it ignored the thousands of people racialized as non-white in the metropole whose families had been speaking Dutch for hundreds of years, in colonized territories in Suriname, the Caribbean or the former Dutch East Indies, as well as the second and third generations, then present in the Netherlands, whose parents or grandparents may have come from non-Dutch

[725] "LBR Werkplan 1985-1986," 6–7.

speaking countries, but who had long since been born and raised Dutch speakers. This assumption conflated racial discrimination with discrimination based on national origin, or immigrant status and in doing so framed racial discrimination as something new or alien to Dutch culture. This observation also revealed a certain cynicism in the way the LBR related to organizations representing 'ethnic minorities.' On one hand, these organizations were considered best able to handle 'their own people'. On the other hand, the LBR did not share any financial resources which would support those organizations in these actions, or lobby the cabinet for them to receive such support.[726]

6.3.2. Alienation of antiracist/grassroots groups

Another priority stated in the LBR organizational charter was 'to support communication with local groups and community and other organizations working to combat racial discrimination'.[727] As discussed in Chapter Three, at the time of the LBR's opening in October 1985, many of these groups were active at both local and national levels. There were groups of students and others who carried out individual actions against bars and clubs with discriminatory entry policies, grassroots groups representing individuals from the same geographic region or cultural/ethnic community, many of which were also racialized as non-white, and feminist groups dedicated to representing the interests of women of color. The LBR board of directors held places specifically reserved for representatives from each of the government-funded advisory and welfare organizations representing the four major 'ethnic minority groups' (people from the Dutch Caribbean, Suriname, the Moluccans and 'foreign workers'), as well as representatives from grassroots coalition SARON, and the Dutch Refugee Network. How much influence individual board members had within the LBR, or their respective constituencies varied considerably. Grassroots organizations, particularly those dedicated to more activist agendas and not receiving government subsidies, were suspicious of the LBR from the start. As discussed above, Arriën Kruyt met with members of SARON

[726] Kruyt, interview, 24 (citing providing funds as a problem of the British Commission for Racial Equality and stating the LBR never wanted to play this role).

[727] Maurik, "LBR Akte van Oprichting," 1.

in May of 1983 to discuss their concerns about a national institute, but neither the organizational charter of LBR, nor its initial activities or policies, reflected the concerns SARON brought up at that meeting. Likewise, SARON did not include Kruyt or others visibly active in beginning the LBR in the conference on 'antiracism and emancipation' it organized in January of 1984.[728] SARON would eventually nominate Paul Moedikdo, then a professor of criminology at the Willem Pompe Institute of Utrecht University, to represent the coalition on the LBR board of directors, but I have been unable to find documentation of his feelings about doing so or his impact on the LBR.[729]

Former student activist Tansingh Partiman, whose had expressed his skepticism over the potential for a 'white lawyers club' both at the 1983 Congress on Law and Race Relations, and in meetings with Kruyt, believed his concerns about the LBR were grounded in experience and realistic expectations:

> We [members of the *Jongeren Organisatie Sarnami Hai*] were obviously an activist group. And the people who had long wanted to set up that bureau [the LBR], they were people from those institutions, from the welfare foundations in which the bobos[730] from our communities sat. And that NCB, the Dutch Center for Foreigners, was also primarily a Dutch thing, something of white people especially…. And we thought, these guys who had always just sat behind a desk, and never doing anything anywhere for our people. What are they going to do for us all of a sudden? So we didn't trust them anyway. And that was actually confirmed by the process of creating the institute.[731]

Partiman said he did not fault the welfare organizations for not engaging in activism; they existed to provide social services and provided them well. 'But

[728] Bogaers, "Uitnodiging - SARON Conference, 10 June 1983."

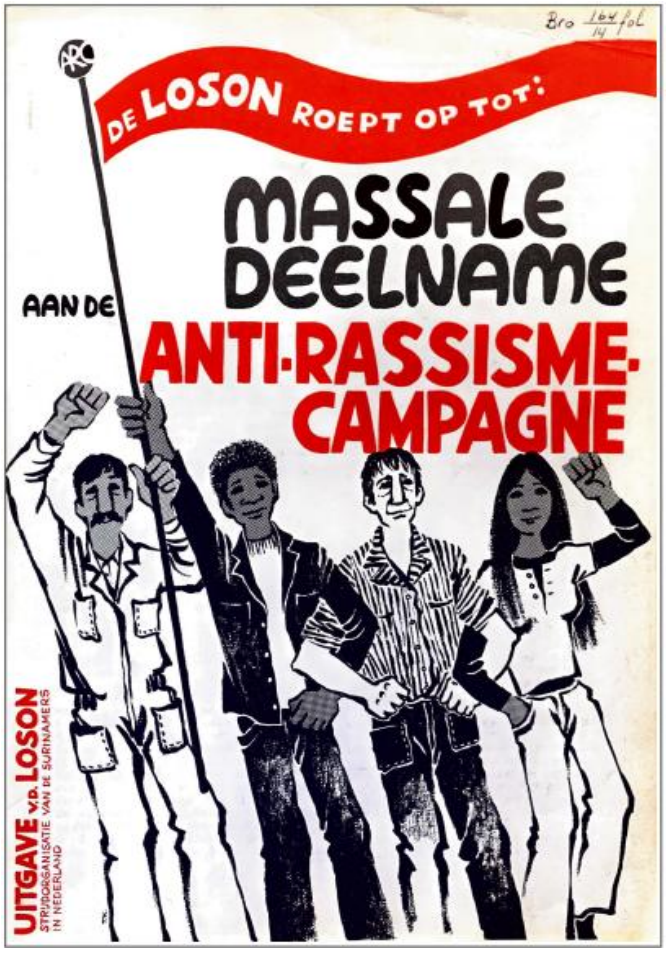
[729] He passed away in 2016 and I was unable to interview him for this project.

[730] The term 'bobo' was popularized by Dutch football player Ruud Gullit in the 1980s to refer to football bureaucrats who talked a great deal, but had neither the experience nor credibility with the players to be respected. I interpreted Partiman's use of the term here to be consistent with this definition. See e.g. "Bobo - de Betekenis Volgens Scheldwoordenboek," accessed December 17, 2024, https://www.ensie.nl/scheldwoordenboek/bobo.

[731] Partiman, interview.

activism is something totally different,' he observed. 'They weren't designed [for activism] and still aren't.'[732]

While the national welfare and advisory organizations may not have been engaged in activism, they were explicitly engaged in issues of race and racial discrimination during the lifetime of the LBR. Though financially weakened by ongoing cuts to their subsidies, these organizations continued publishing information and advice about combatting racial discrimination through their organizational publications, such as *Plataforma* for the Antillean community, *Marinjo* for the Moluccan community and *Span'noe* for the Surinamese community. Self-identified anti-fascist and antiracist groups wrote on similar issues in publications like *AFrduk* (sic). Finally, smaller, often more radical groups of students or young people from racialized communities also organized periodic actions or attempted to raise consciousness through publications.[733] They addressed issues like police violence against men racialized as Black, or the failure to prosecute racist actions, including the 1983 murder of Kerwin Duinmeyer.[734] But while individual staff members of the LBR, often those with independent



[732] Partiman.

[733] Baas, "Geschiedenis als wapen. De functie van geschiedenis in de strijd van de Landelijk Organisatie van Surinamers in Nederland. 1973-1994," 17–21 (discussing antiracist campaign and publication *Wrokoman*). "De LOSON Roept Op Tot Massale Deelname Aan de Anti-Racisme-Campagne."

[734] Arjan Post, "Civilised Provocations in the Lion's Den: Norbert Elias on Racism, Assimilation and Integration: The Prinsenhof Conference, Amsterdam 1984[1]," *Human Figurations* 5, no. 1 (March 2016), http://hdl.handle.net/2027/spo.11217607.0005.102.

connections and personal ties to communities racialized as non-white, like sociological researcher Chan Choenni, or staff legal adviser Leo Balai sometimes published in or gave interviews to these publications, it's hard to say that the LBR played any sort of role coordinating or disseminating information to the target audiences.

The LBR may have done more than just alienate groups set up to represent the interests or welfare of people racialized as non-white in the Dutch metropole, but also damaged the material capabilities of these groups to advocate against racialization and racial discrimination on their own terms. Such concern was expressed by writer Lida Kerssies in *Span'noe* shortly after the LBR opened its doors:

> What does the National Office for Combating Racial Discrimination mean? Is it a prestige object, which is set up because in a country which has always prided itself on tolerance, you cannot avoid fighting racism? Is there not a danger that the fight against racism will be encapsulated [only in the LBR] and that less official organizations (action groups, etc.) will be refused subsidies with a reference to the fact that an antiracism institute already exists?[735]

Kerssies had reason to fear that the LBR would be funded at the cost of groups representing people of color; the *Minorities Policy Note* envisioned as much, suggesting the LBR being funded with the 'anti-discrimination portion of the minorities policies' budget.[736] Once established, the LBR preferred not to distribute any of its budget to welfare or advisory organizations,[737] let alone grassroots organizations dedicated to antiracism. Instead, it supported local anti-discrimination bureaus with both staff and subsidies, as illustrated below.

[735] Kerssies, "Nederlandse Overheidsbeleid Stroef Voor Etnische Groeperingen," 26.

[736] Kamerstukken II 1982/1983, 16102, nr. 21, 103.

[737] Kruyt, interview.

6.3.3. Conflation of racism with other forms of discrimination

The LBR was one of the programs enacted under the Dutch government's 1983 *Minorities Policies Note* all of which emphasized the importance of more 'general' welfare policies over those that channeled resources through specific 'ethnic minority' welfare or advisory organizations. As discussed in Chapter Three, most publications representing people and communities racialized as non-white criticized this shift from a *categoriaal* toward an *algemeen beleid*. An article in *Plataforma* in 1985 was representative of these critiques. It stated, 'The danger of a 'general disadvantaged areas policy [as opposed to one aimed at groups of people racialized as non-white] is that the whites in the neighborhood will benefit the most from new programs.' The writer supported this argument with research done in London, which:

> showed that symptoms of disadvantage situations of "whites" and migrants may overlap… but, this doesn't mean that the causes do. This is because, for migrants, racism and discrimination are the most important causes of disadvantage and so racism has to be combatted.[738]

Conflating the root causes of economic disadvantage of people racialized as white and those racialized as non-white was, in effect, denying the existence of racialized systems as a salient social factor in the Dutch metropole. LBR strategy enacted similar logic as the rest of the 'general policy'(*algemeen beleid)* approach to Dutch 'minorities policies' in its handling of legal discrimination, shifting its focus from the *racial* discrimination it was chartered to address to discrimination more generally. In doing so, it committed the same error as the Dutch cabinet,

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[738] Ellen Lintjens, "Het Achterstandsgebiedenbeleid: 'de dans om de pot met geld,'" *Plataforma* 2, no. 4 (December 1985): 9–10; See also Koot and Ringeling, *De Antillianen*, 148 ('De Antilliaanse organisaties zijn helemaal niet gelukkig met [decentralisatie].'); Kerssies, "Nederlandse Overheidsbeleid Stroef Voor Etnische Groeperingen," 18–19; "Toespraak van de Secretaris van Het Inspraakorgaan Welzijn Molukkers, de Heer G. Ririassa Ter Gelegenheid van de 9e Dag van de Brasa, d.d. 27 November 1983 Te Utrecht" ('Daarom Surinaamse broeders en zusters, laat u door de Nederlandse overheid niet dwingen tot samenwerking met andere etnische groepen, alleen en uitsluitend omdat het die overheid zo goed uitkomt…De afgelopen jaren hebben geleerd dat wij elkaar prima weten te vinden als wij dat zelf nodig vinden….').

mistaking similar symptoms of discrimination with similar causes and therefore assuming similar, general, solutions would be effective. This shift to a focus on general discrimination as opposed to racial discrimination exacerbated elements of denial of racism as a Dutch phenomenon, and also occluded the fact that racialized discriminatory practices were a national problem.

6.3.3.1. Legal network building

Building a national network of legal service providers was listed as the first priority in the LBR's organizational charter. The LBR's choice to build this network though the Workgroup on Legal Representation in Immigration Cases (Werkgroep Rechtsbijstand Vreemdelingenzaken, WRV) instead of the Werkgroep R&R is an early example of how the organization downplayed the importance of race or racialization in its mission. The WRV, as discussed above, had been formed by Arriën Kruyt, C.A. Groenendijk and others in the late 1970s to provide legal assistance in immigration cases.[739] The Werkgroep R&R formed after the Congress on Law and Race Relations in 1983, and was dedicated to increasing the expertise and abilities of lawyers handling cases of racial discrimination.

The Werkgroep R&R pursued its goals through regular meetings in which advocates shared experiences and discussed relevant jurisprudence.[740] The group also hoped to improve and expand the legal possibilities for combatting racial discrimination by joining together in actions with other advocacy groups, and attempting to change relevant laws or practices.[741] Most Werkgroep R&R meetings featured an expert speaker on a specific topic, for example discrimination in the labor market, or the functioning of the national ombudsman's office, followed by questions and discussion between that speaker and the audience, an example of which is in section 6.2.2 above. Each meeting also featured a time when attendees would share general news about racial discrimination cases they were handling, offer and receive advice from each other. Topics addressed at Werkgroep R&R meetings included discrimination in the labor market, by the police and public

[739] Kruyt, interview.

[740] See e.g. Joyce Overdijk-Francis, "Werkgroep Recht En Rassendiscriminatie," *Ars Aequi* 39, no. 5 (1990): 288–91.

[741] Overdijk-Francis, 289.

prosecutors, by local employment agencies, and in education, as well as tactics to combat such discrimination such as positive action, setting up hotlines, bringing complaints to the national ombudsman, filing civil and criminal complaints, and attempting to pass new laws.[742]

Plataforma Di Organisashonnan Antiano (POA), the national group representing the welfare and interests of people from the Dutch Antilles, served as the administrative sponsor of the Werkgroep R&R, and gave Overdijk-Francis, then POA legal counsel, paid hours to serve as chair. Other than indirectly through Overdijk-Francis's salary and administrative costs to POA, the Werkgroep R&R received no government subsidies. Members paid an annual fee of sixty-five gulden, which covered costs of publishing summaries of each meeting, and catering.[743] When demand for the summaries expanded beyond group members, POA began selling the summaries to cover additional printing costs. Throughout the course of its operations, from 1983 through 1992, the Werkgroep R&R had about 200 paying members.[744] It published thirty-nine summaries of meetings dedicated to specific legal issues related to racial discrimination.

Early LBR workplans indicate that the organization intended to work closely with the Werkgroep R&R to build a national network of legal service providers. In 1985, as part of its first workplan, the LBR staff did express concern that most of the Werkgroep members came from the major cities in the Netherlands and hoped to expand its list of lawyers to include a 'balanced geographical distribution of legal aid workers in relation to the number of members of ethnic-cultural groups in a given area.' The LBR planned to reach this number first and foremost by 'active participation' in the Werkgroep R&R and 'encouraging its expansion'; they hoped to recruit additional members from the WRV.[745] The 1985 year-end report describes building a national network of legal service providers as a '*dringende noodzaak*' (an

[742] Overdijk-Francis, "Werkgroep Recht En Rassendiscriminatie" (an overview of the topics and speakers of the first 34 meetings of the Werkgroep R&R, through 1989.).

[743] Overdijk-Francis (ed.), "Discriminatie op de Arbeidsmarkt," 1.

[744] Overdijk-Francis, "Werkgroep Recht En Rassendiscriminatie," 289.

[745] "LBR Werkplan 1985-1986," 8.

urgent need), and planned ‘closer cooperation’ with the Werkgroep R&R as a way to get there.[746]

By year-end 1986, however, the LBR had changed its plans, deciding to build its network of legal practitioners exclusively through the WRV. The LBR year-end summary justified the choice for the WRV; it observed that the Werkgroep R&R members included 'jurists and non-jurists' and focused on a more 'general knowledge transfer' than on specific legal measures to combat racial discrimination. Experiences 'with among others the [WRV] and the NCB' led the LBR to believe that legal service providers had more need for 'specialist legal knowledge transfer, exchange of experiences working on cases, availability of legal decisions and a fixed advice bureau’.[747] ‘Other legal aid groups’ had also informed the LBR that creating a new and separate network would cost too much time and that they preferred to use existing channels. From this, the report declared, 'people unanimously advised the LBR’ to work closely with the WRV’.[748] The report did not identify the people who provided this advice or on what factors they based it. The report concluded by describing the formal agreement between the WRV and LBR. The LBR staff would comment on the WRV's monthly bundle of jurisprudence, and would organize four of the WRV’s nine meetings in 1987, and be available to answer questions and consult on cases involving racial discrimination. Through these actions it would reach the WRV’s 500 listed members.[749]

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[746] “LBR Jaarverslag 1985,” 12. (‘Het opzetten van een netwerk van rechtshulpverleners, die bereid en in staat zijn slachtoffers van discriminatie juridische bijstand te verlenen, is een dringende noodzaak. Op dit moment blijkt het voor iemand die gediscrimineerd is vaak moeilijk te zijn een advocaat te vinden die zijn zaak goed kan behartigen. De organisaties die het initiatief hebben genomen tot de oprichting van het LBR hebben, vooruitlopend op de totstandkoming van het Buro, de Werkgroep Recht en Rassendiscriminatie opgericht. Eind 1985 zijn met deze Werkgroep contacten gelegd, die in begin 1986 hebben geleid tot afspraken over nauwere samenwerking tussen het LBR en de Werkgroep. De verwachting is, dat uit het ledenbestand van de Werkgroep, rechtshulpverleners kunnen warden gerekruteerd die de basis zullen vormen van het eerder genoemde landelijk netwerk.’)

[747] “LBR Jaarverslag 1986.”

[748] “LBR Jaarverslag 1986,” 8.

[749] “LBR Jaarverslag 1986,” 8.

While the larger member base of the WRV might have made it a good choice from which to build a network of legal practitioners, most other aspects of the decision made less sense. In terms of legal expertise, for example, different laws and judges governed immigration than cases of racial discrimination. Immigration cases were dealt with by Dutch Department of Immigration and Naturalization, and were heard by special judges dedicated to hearing cases in that department. Cases of racial discrimination, by contrast, could be handled by regular judges in civil or criminal cases. Cases of racial discrimination often arose in the context of employment or housing discrimination, and therefore required lawyers to also have experience in these areas. Finally, and perhaps most significantly, immigration clients faced a different decision-making process when deciding to bring a case than those facing victims of racial discrimination.

People needing help with immigration cases often had no choice but to seek legal assistance. They had obtain legal residence permits or risk deportation and the only way to do so was through a court or administrative agency. [750] People experiencing racial discrimination, by contrast, did not have to pursue remedies in court and faced different hurdles when deciding to do so.[751] In the first place, they may have been unaware or unclear about what their legal options were to pursue such claims. Even if they were aware laws against racial discrimination, they may have doubted whether they had experienced it in a way that would be possible to prove in court. They may have feared retaliation from employers or landlords, or needed the job or apartment where the discrimination occurred too much to risk losing a case. They may have heard, or known from previous experience, that if they did file a complaint, the police would be unlikely to accept it, the prosecutors unlikely to pursue it, and a judge unlikely to find anyone responsible or offer any meaningful relief.[752] Handling these clients, and there cases, required a different skill set than those related to immigration cases.

It's not as if the staff and board of the LBR did not know about the hurdles facing victims of racial discrimination. Recognizing and reducing these burdens had been the subject of extensive reports and discussions in parliament, and was one of

[750] Groenendijk, interview.

[751] Biegel and Tjoen-Tak-Sen, *Klachten over Rassendiscriminatie*.

[752] Biegel and Tjoen-Tak-Sen.

the reasons the LBR had been founded in the first place.[753] It was also a topic discussed at nearly every meeting of the Werkgroep R&R, which the staff legal advisers of the LBR often attended, and the subject of an entire session the year in which the above decision was made.[754] Even the *LBR Bulletin* had published an article in 1986 titled 'Few Complaints of Racial Discrimination'.[755] The hurdles facing potential complainants of racial discrimination, or how to address them, were not likely to be addressed at meetings of lawyers discussing immigration cases, but the LBR chose to prioritize its relationship with the WRV, instead of the Werkgroep R&R.

The LBR and WRV shared organizational origins; Arriën Kruyt had been instrumental in starting both. At the same time, the Werkgroep R&R had its own reasons for being cautions of closer cooperation with the LBR. Former Werkgroep R&R chair, Joyce Overdijk-Francis, recalled receiving the suggestion, shortly after the LBR began operating, that the LBR take over the Werkgroep R&R. Neither she nor POA director Anco Ringeling found this suggestion appealing, having already invested time and resources into the project and decided to keep running the group independently with administrative support form POA.[756]

The LBR reports do not contain any explanation of why the LBR staff did not choose to work with both the WRV and the Werkgroep R&R, but decided to prioritize one instead of the other. By January 1987, however, the LBR and Werkgroep R&R had formalized a 'delineation of territory' defining separate areas in which they would address legal strategies to combat racial discrimination, memorialized in a document crafted by both groups. This document looks like the product of minimal cooperation; it contains two different type-faces representing the contributions of the Werkgroep R&R and the LBR, giving the appearance that the sections were literally cut and pasted together as opposed to cooperatively

753 See e.g. Van Duijne Strobosch, *Bestrijding van Discriminatie Naar Ras* and Chapter 4 of this dissertation.

754 Overdijk-Francis (ed.), "De Levensloop van Klachten"; Biegel and Tjoen-Tak-Sen, *Klachten over Rassendiscriminatie*.

755 Fike van der Burght, "Weinig aangiften van rassendiscriminatie," *LBR Bulletin*, 1986.

756 Overdijk-Francis, interview, 1.

drafted.[757] To the extent that the two groups would work together, the document promised 'regular discussion between the staff legal advisers of the LBR and the chair of the Werkgroep Recht en Rassendiscriminatie'. The document was not signed, but indicated that it was drafted by Joyce Overdijk-Francis, and LBR staff legal advisers Leo Balai and Anne Possel.[758] The LBR year-end report of 1987 indicated that 'the LBR ha[d] participated' in the Werkgroep R&R but made no further reference to the substance of that cooperation.[759]

As its relationship with the Werkgroep R&R was deteriorating, the LBR also began experiencing problems with the WRV. The LBR had chosen to build a network through the WRV because it was made up exclusively of lawyers, but these lawyers were not necessarily skilled or interested in the legal areas where racial discrimination was likely to occur.[760] The LBR's solution to this problem was not to reestablish ties with the Werkgroep R&R but to solicit all legal aid offices in the country (*bureaus voor rechtshulp*) and ask which of their members had experience with housing and employment law.[761] The workplan for 1989 addressed the same problem, suggesting that the WRV be 'expanded' with specialists in housing and employment cases, an expansion the LBR intended to encourage via 'introductory courses and publications'.[762] Focusing on housing and employment discrimination, instead of interest in racial discrimination as a topic itself, is another sign of the reluctance of the LBR to call attention to race or racial discrimination. This 1989 year-end report expressed plans to publish more articles in the WRV newsletter, *Migrantenrecht,* though it did not clarify why LBR staff expected readers of a publication dedicated to immigration law to have any more affinity to issues of racial discrimination than those who attended the WRV meetings in person. By late 1991, the WRV took the initiative to end its formal relationship with the LBR,

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[757] Published in Overdijk-Francis (ed.), "Civiel- en Strafrechtprocedures," 105–7.

[758] Overdijk-Francis (ed.), 107.

[759] "LBR Jaarverslag 1987," 9.

[760] "LBR Jaarverslag 1988," 4. ('One problem is that the [WRC] reaches legal aid workers in immigration cases for the most part and only a small number in labor and tenancy cases.')(translation mine)

[761] "LBR Jaarverslag 1988."

[762] "LBR Werkplan 1989" (Landelijk Bureau Racismebestrijding, 1989), 6, IDEM Rotterdam Kennisbank.

informing the latter that it would focus on work 'more in line with the information needs' of its own members. Unfortunately, by this time, options for building networks of legal service providers who were concerned with racial discrimination had shrunk; the Werkgroep Recht en Rassendiscriminatie ceased operation in 1992.[763]

From the early 1990s on, the LBR continued trying to build and maintain a network of legal service providers, but never seemed to gain traction on the idea. In 1992, for example, it 'cleaned up' its existing lists of legal service providers and offered a free subscription to the LBR Bulletin to any who responded with a willingness to remain on the list.[764] The 1994 LBR workplan prioritized 'creating and maintaining an infrastructure of professional (legal) service providers, lawyers and others with an eye to adequate assistance on victims of discrimination', and stated plans to hold discussions on the form a network 'of legal service providers specialized in cases related to discrimination on the basis of race' might take; the plan suggested building such an organization through the then-growing National Association of Anti-Discrimination Bureaus.[765] By the end of 1994, however, that plan had also proved fruitless; the national ADB leadership informed the LBR that it was 'not satisfied with its cooperation with the LBR and requested more clarity in the content of their relationship.'[766] In its 1996 Workplan, the LBR again stated the importance of a national network of legal service providers both to assisting victims of racial discrimination and to inform the LBR of important issues or concerns,[767] and in 1998 it published a nine-point plan to form one.[768] The LBR Workplan of 1999, its last before formally merging with two other, non-legally focused, anti-discrimination and antiracist organizations, echoed this nine-point plan almost to the word, but contained no explanation or evaluation of why the organization had failed to accomplish the goal throughout the previous fifteen years.[769]

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[763] "LBR Werkplan 1992," 5.

[764] "LBR Werkplan 1993," 5.

[765] "LBR Werkplan 1994," 8,9.

[766] "LBR Jaarverslag 1994," 16.

[767] "LBR Werkplan 1996," 6.

[768] "LBR Werkplan 1998," 1998, 8.

[769] "LBR Werkplan 1999," 10–11.

6.3.3.2. Anti-Discrimination Bureaus

As its plan to build a network of legal assistance providers via the WRV was falling apart, the LBR had increasingly focused its attention on local and regional hotlines where people could report instances of discrimination (*meldpunten)* and anti-discrimination bureaus (ADBs), where they could not only report but receive assistance with such complaints. The LBR initially saw ADBs as conduits both for gathering information on individual complaints of discrimination, and distributing information on how to handle such complaints. As time went on, however, supporting and maintaining local and regional ADBs became an independent ends and the focus of the increasing time and energy of LBR staff.

Discrimination hotlines began to appear in the Netherlands in the late 1970s and early 1980s, and were, at first, incredibly diverse in terms of their mission and organization. Some were set up by municipalities as part of their own 'minorities policies', others were maintained by groups representing people racialized as non-white, or by antiracist and anti-fascist action groups like AFRA in Amsterdam or RADAR in Rotterdam. Some hotlines were fully subsidized by municipalities or agencies, others were staffed entirely by volunteers; some even operated within police departments.[770] The various hotlines were an early target of the LBR, which identified all three as suffering from 'a lack of specific knowledge of legal measures to combat racial discrimination.'[771] One of the earliest priorities of the LBR was building a national network of these local and regional hotlines and one of its first actions was to organize a two-day education session for those associated with them. Roughly fifty people attended the session, which focused in discrimination in the housing and labor markets.[772]

As time went on, the LBR staff invested more staff hours in these local reporting points. In 1987, for example, while claiming it had no intentions to become an umbrella organization (*koepel*) for these groups, the LBR still prioritized

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[770] See e.g. Joyce Overdijk-Francis, "Meldpunten," Verslag Werkgroep Recht & Rassendiscriminatie Bijeenkomst (Utrecht: Plataforma di Organisashonnan Antiano, January 22, 1985), Nationaal Bibliotheek; Joyce Overdijk-Francis, "Meldpunten: Draaien slachtoffers op voor anti-racisme-onkosten?," *Plataforma*, November 1985.

[771] "LBR Jaarverslag 1985," 11–12.

[772] "LBR Jaarverslag 1985," 11.

'more structural contact with the hotlines in order to support them;[773] that same year, an entire issue of the *LBR Bulletin* was dedicated to covering hotlines.[774] In 1988, most of the hotlines changed their names to 'anti-discrimination bureaus' (ADBs), reflecting a goal to do more than just register complaints, but also to act on them.[775] In 1989, the various ADBs decided to meet regularly, a process that resulted in forming a separate entity, the National Association of Anti-Discrimination Bureaus (Landelijke Vereniging Anti-Discriminatie Bureaus*)*, in 1991.[776] This new national organization would be eligible to receive subsidies from the Dutch government (which allocated one million guilders to supporting ADBs that year).[777] The role of the LBR vis-à-vis this new national organization is difficult to summarize, and seems to reflect similar confusion on the part of the parties and groups involved at the time. For example, the LBR continued to allocate funds to supporting ADBs (15,000 guilders in 1998 and 1999, for example), but also employed staff handling a national publicity campaign on behalf of the National Association of ADBs.[778] Beginning in the late 1980s, 'ADB News' became a regular feature of the *LBR Bulletin*, as did free-standing articles featuring staff members of, or issues relevant to, various ADBs. But cooperation was not without its problems. In 1994, the National Association of ADBs' board reported to the LBR that it 'would like more clarity about the content of the support the LBR has to offer ADBs.'[779] A year later the LBR deemed the relationship improved, and planned to expand the cooperation by developing a national system to report incidents of racist violence.[780] This registration system never got off the ground, however, as the LBR eventually declared cooperation by individual ADBs uneven, sporadic or non-existent.[781] The LBR also attempted a project to 'regionalize' the ADBs, since many

[773] "LBR Werkplan 1987" (Utrecht: Landelijk Bureau Racismebestrijding, 1987), 8, IDEM Rotterdam Kennisbank.

[774] "Redactioneel," *LBR Bulletin*, 1987.

[775] "LBR Jaarverslag 1988," 13–14.

[776] "LBR Jaarverslag 1991," 19–20.

[777] "LBR Jaarverslag 1991," 20.

[778] "LBR Jaarverslag 1991," 20; "LBR Werkplan 1997," 3; "LBR Werkplan 1999," 20.

[779] "LBR Jaarverslag 1994," 16.

[780] "LBR Jaarverslag 1995," 1995, 15, IDEM Rotterdam Kennisbank.

[781] "LBR Werkplan 1999," 2.

were clustered in bigger cities or municipalities but non-existent in smaller ones. Mentioned throughout the mid-1990s, the project also suffered setbacks due to a lack of lack of investment by the local governments and organizations themselves, which saw the project as being 'pulled' but the LBR as opposed to desired from the ADBs themselves.[782] By 1997, the LBR placed the 'regionalization' project on hold, unless or until additional funding could be secured.[783]

Spending so much time and energy on the ADBs distanced the LBR from its stated goals of working to fight racial discrimination at both the individual and structural levels in several ways. In 1997, an internal strategy day raised the concern that the LBR needed to be 'more visible' and that staff and stake holders thought 'the LBR [wa]s active, but frequently in a reactive way.'[784] The organization planned, in response, to take a more proactive role in 'discussions', and 'be more willing to speak up on a variety of topics.'[785] However, this report does not contain reference to race or racial discrimination, or any concrete manifestation of discussion of these issues, as a 'terrain' or 'discussion' on which the LBR needed to be more active, except to include 'constituencies of ethnic minority organizations', after the 'general public' and before 'specific industry target groups', as communities in which the LBR needed to be more visible.[786] Instead of prioritizing working more closely with 'ethnic minority groups' or antiracist activist organizations, the LBR doubled down on prioritizing 'a better bond' with the ADBs.[787]

Assuming the ADBs were the best organizations through which to address racial discrimination conflated the causes of racial discrimination with the causes of discrimination on the basis of gender, citizenship, sexual orientation, language ability etc. While many ADBs got their start as hotlines dedicated to combatting racial discrimination, as time went on they became catch-all points for reporting a variety of discrimination, a situation made official by the passage of the General

[782] "LBR Jaarverslag 1996," 1996, 12, IDEM Rotterdam Kennisbank.

[783] "LBR Werkplan 1997," 6.

[784] "LBR Werkplan 1997," 3.

[785] "LBR Werkplan 1997," 4.

[786] "LBR Werkplan 1997," 3.

[787] "LBR Werkplan 1997," 4.

Law on Equal Treatment (Algemene Wet Gelijke Behandeling) in 1994 which prohibited discrimination on the basis of race, nationality, religion, political belief, sexual orientation and marital status.[788] While all these forms of discrimination may have had overlapping causes and effects, lumping them in one category suffered from and reproduced the colonial aphasia related to problems specifically related to racialization.[789]

The risk of this conflation would not have been unknown to the LBR staff and directors; Joyce Overdjik-Francis had pointed it out explicitly in the fall of 1985, just as the LBR was opening its doors and forming its initial priorities. In an article for *Plataforma* titled, 'Hotlines: do victims bear the costs of antiracism?' Overdijk-Francis observed that 'disadvantages' (*achterstanden)* caused by a lack of job training or education differed significantly from barriers (*achterstellingen*) imposed upon groups racialized as non-white by individual and structural instances of racism. 'The racist behavior of native [Dutch] society is a problem *for* foreigners,' she wrote, 'but not a problem *of* foreigners.'[790] Existing local 'minorities policies', under which many municipalities funded their hotlines, did not recognize this distinction and in doing so took funds from programs dedicated to improving the capabilities of 'ethnic minority' communities to pay for combatting racist actions against them. Another problem Overdijk-Francis observed was that institutional, government agencies like the police, public prosecutor's office, housing and employment agencies, universities, elementary schools, political parties etc. were often practicing discrimination against people racialized as non-white.[791] As such,

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[788] Inge Bleijenbergh, Marloes van Engen, and Ashley Terlouw, "Laws, Policies and Practices of Diversity Management in the Netherlands," in *International Handbook on Diversity Management at Work*, 2010, 184, https://www.academia.edu/18997805/Laws_Policies_and_Practices_of_Diversity_Management_in_the_Netherlands.

[789] A further complication of lumping racial discrimination along with that based on nationality in the present day is that European Union law allows for 'legal discrimination' among third-country nationals and between them and EU citizens….' Möschel, Hermanin, and Grigolo, *Fighting Discrimination in Europe*, 5–6.

[790] Overdijk-Francis, "Meldpunten: Draaien slachtoffers op voor anti-racisme-onkosten?" (emphasis mine).

[791] Overdijk-Francis, 15.

it was unlikely that victims of such discrimination would report instances of it directly to them; as such she emphasized, under no circumstances should a hotline be housed in a police department.[792] Added to these structural concerns, Overdijk-Francis observed, many workers at municipal hotlines had never experienced racism or discrimination themselves, and so were unable to empathize with those reporting it.[793] A few years later, the *LBR Bulletin* echoed these concerns. An interview with a former hotline worker titled 'Recognizing racism remains problematic' contained stories similar to those in the *Plataforma* article. However, the introduction to the issue in which that article ran, a special issue focusing on hotlines, didn't mention the words race or racism at all; instead it called 'attention for the difficult battle against discrimination and prejudice inside a municipal apparatus,'.[794] The erasure of race here may seem a semantic detail, but it was echoed in the practices of the LBR as it related to the hotlines, and later Anti-Discrimination Bureaus and is a symptom of what I have described above as racist denial and what Lentin calls not-racism.[795]

6.4. Erasure of race in LBR education and training practices

One way the LBR supported the hotlines and ADBs was to provide them with education and capacity building, one of the priorities outlines in its original organizational charter.[796] One way the LBR did this was by publishing a variety of handbooks, for example *Rassendiscriminatie Bestrijden: een praktische handleiding* (*Combatting Racial Discrimination, a practical handbook*), which began as a pamphlet created by RADAR and the LBR in 1989, and was revised and published in book form in 1994 and again in 1998.[797] The handbook is indeed

[792] Overdijk-Francis, 16–17.

[793] Overdijk-Francis, 14.

[794] Chan Choenni, "De Erkenning van Racisme Blijft Problematische: Astrid Elburg, Voormalig Meldpuntmedewerkster Te Amsterdam, Vecht Door," *LBR Bulletin*, 1987, ; "Redactioneel."

[795] Lentin, "Beyond Denial."

[796] Maurik, "LBR Akte van Oprichting," Artikel 2, para 1b ('the schooling and professional development of the legal service providers named in the previous paragraph).

[797] Lotje Behoekoe Nam Radga and Leyla Hamidi-asl, eds., *Rassendiscriminatie Bestrijden: een praktische handleiding*, 2d ed. (Utr: Landelijk Bureau Racismebestrijding, 1996).

practical, including advise on the various legal options and laws against discrimination, as well as examples from the labor, housing and consumer markets, political parties, police, media and sport. However, when it comes to identifying and describing the actual problem, racial discrimination, the book echoes the ahistorical, decontextualized definitions baked into Dutch law and other mainstream approaches to the subject. The opening chapter 'historic developments' begins with the passage of the United Nation's International Convention to Eliminate Racial Discrimination in 1966 and the Dutch obligation to comply with it in 1968, echoing the observation of the government at the time that compliance with the convention would be difficult in the Netherlands where racism had not been a problem.[798] Though the section goes on to counter this observation, it does so by citing Frank Bovenkerk's research into incidents of racist violence beginning in 1969.[799] No mention is made of racialized colonial practices of slavery throughout the Dutch empire until 1873, or racialized citizenship status in the Indonesian archipelago through 1949, or the then-ongoing racialized migration policies affecting people from former Dutch colonies in Suriname, the Dutch Caribbean, or the Moluccan Islands. While some may argue that such references are not to be expected in a handbook on legal treatment, the total absence of the colonial history or context contributes to the continued ignorance of many of those working at ADBs to conceive of the full nature of the problem of racial discrimination in the Netherlands and to respond to it effectively. A lack of historical context was similarly absent from other trainings and educational materials of the LBR.

In 1991, the LBR year-end report section describing 'courses' was divided into 'legal courses' which contained the 'basic course' for the legal aid practitioners on anti-discrimination law, and a section 'courses for ADB staff' which included six courses on topics including how to interact with victims of discrimination generally, 'publicity and public relations' and 'theme days' about the structure of the Central Employment Administration (Centraal Bestuur voor de Arbeidsvoorziening*)* and racial discrimination in the media.[800] Race and racial discrimination was not completely absent from the agenda, but was far from the central focus or theme. By

[798] Behoekoe Nam Radga and Hamidi-asl, 8.

[799] Behoekoe Nam Radga and Hamidi-asl, 8.

[800] "LBR Jaarverslag 1991," 30.

the end of 1993, there was a recognition that ADBs had a significant amount of staff turnover and therefore were in constant need of the same basic training courses.[801] The 1994 report includes similar courses for legal aid and beginning ADB staff, but shifts the title of the course from 'combatting *racial* discrimination' to 'combatting discrimination' generally.[802] Dropping the modifier here is emblematic of the general drift in organizational focus, a drift reflected in the audience for these training, which moved away from lawyers and discrimination hotline staff to include college students and visiting groups from Germany and Switzerland.

6.5. Erasure/limited definitions of race in *LBR Bulletin*

As discussed In Section 5.4.3. above, the *LBR Bulletin*'s target audience is difficult to identify. The selections described above are representative of most of the issues published in its first five years. Later issues published more jurisprudence, perhaps reflecting the less frequent publication of the *Rechtspraak Rassendiscriminatie* bundles, but they also focused much more on the activities of regional ADBs, and contained more coverage of anti-discrimination generally than racial discrimination specifically. For example, a series of articles by LBR staff member Olaf Stomp published between 1993 and 1994 focused on public information campaigns to decrease 'prejudice' towards 'foreigners'; only one of those articles focused on a campaign which specifically mentioned racism.[803] Stomp highlighted several media campaigns, and interviewed those who created the campaigns as well as several social scientists who studied the impact of those campaigns and concluded they were ineffective. This conclusion seems particularly

[801] "LBR Jaarverslag 1993," 22.

[802] 'LBR Jaarverslag' (n 428) 23 (emphasis mine).

[803] Olaf Stomp, "Voorlichtingscampagnes Tegen Racisme En Vooroordelen," LBR Bulletin 9, no. 2 (1993): 17–19; Olaf Stomp, "Theorieën over Vooroordelen En Het Ontstaan Ervan," LBR Bulletin 9, no. 6 (1993): 19–21; Olaf Stomp, " 'De Feiten Verslaan Het Sentiment Niet' Onderzoeker Kleinpenning over Campagnes Tegen Vooroordelen," LBR Bulletin 10, no. 1 (1994): 11–13; Olaf Stomp, "Voorlichtingscampagnes Tegen Vooroordelen Te Weinig Op Effecten Gemeten," LBR Bulletin 10, no. 2 (1994): 12–14; Olaf Stomp, "Hé, Dat Werkt," LBR Bulletin 10, no. 3 (1994): 5–8; Olaf Stomp, "Goede Bedoelingen En Mooi, Maar Niet Voldoende," LBR Bulletin 10, no. 4 (1994): 11–14; Olaf Stomp, "Anti-Racisme. Merchandisen Die Hap! GRRR: Genootschap van Roerige Reclamemakers Tegen Racisme," LBR Bulletin 10, no. 5/6 (1994): 9–12.

ironic when considering how much time and effort the LBR spent on engaging in similar efforts to educate away racial discrimination.

When the idea of race being grounded in Dutch history did appear in the LBR, it was often in the context of an interview, such as one with Joyce Overdijk-Francis in 1996. 'I enjoy having a history that the white Dutch person doesn't have,' said Overdijk-Francis then. 'You can't respond to a complaint of discrimination from a Surinamer by saying, "this one is too sensitive". You have to realize the background of what's happening. Our people have baggage that they can bring to commissions or boards of directors.... But then only on the basis of equality.'[804] Overdijk-Francis also wrote extensively for *Plataforma*, the monthly publication of the Antillean welfare organization, a publication that frequently also highlighted this view of history as relevant. In the *LBR Bulletin*, however, such a viewpoint was portrayed as personal, as opposed to institutional.

6.6. Conclusion

Chapter Five characterized the LBR's failure to engage in adversarial legal cases as a form of silencing historical facts of how material racialization continued to operate in the Dutch metropole after legal distinctions based on race had been formally abolished. This chapter has demonstrated another dimension of that practice of silencing. Instead of failing to memorize the fact that discrimination was a problem, the discourse the LBR spread through its non-adversarial projects such as network building, education and publicity, failed to engage with the 'racial' aspects of discrimination, and in doing so contributed to ongoing 'muteness' around problems of racialization in postcolonial Dutch society. The LBR never completely stopped talking about race or racial discrimination, but it did consistently deemphasize those terms and concepts, and move toward a more general approach to discrimination that reflected both the priorities of the government that created it, and the political sentiments of the decades. At the same time, however, the LBR's failure to engage with the form of discrimination it was specifically chartered to address also contributed to this shift in political sentiment, fed by earlier

[804] Leyla Hamidi-asl, "Wat Drijft... Joyce Overdijk-Francis? Alert Op 'Tokens,'" *LBR Bulletin* 12, no. 4 (1996).

postcolonial occlusion which separated 'racial discrimination' from its colonial origins.

This practice of silencing racial discourse also represented the violence of racist denial, as characterized by Alana Lentin; it allowed the status quo of racializing practices to exist, while removing the language to identify or challenge them.[805] As discussed in various sections above, this silencing was so complete that Rob Witte had to rely on media coverage to gather evidence on trends of racialized violence in the time period in which the LBR was active.[806] He cites that LBR as being particularly responsible for the fact that, despite being an organization dedicating to raising the consciousness of racism at the national level, 'the growing number of reported incidents [of racist violence] were characterized as a local problem [and] led to reactions where the local government denied their racist character.'[807] Witte observes that the denial of both the national and racial character of so many instances of physical violence further contributes to the 'denial that racist violence is a structural phenomenon throughout Dutch history.'[808] Chapter Five focused on the national scope problem Witte identified while this chapter focused on the 'racial character'.

As Lentin described discursive denial of racism, or racialized acts, as a form of violence, so did legal scholar Robert Cover describe inaction by judges or other state officials when they refused to take action against a particular injustice.[809] The LBR did not have the same type of state power as the judges Cover described, or even of the public prosecutors or police officers who failed to take actions against racial discrimination. But they were not powerless, nor were they totally independent of the state. The LBR had been created, founded and funded by the Dutch Ministry of Justice, and were as such agents of state power. In consistently defining 'discrimination' as a practice separate from race or racialization, the LBR committed a form of discursive erasure not unlike the 'jurispathy', the killing of law,

[805] Lentin, "Beyond Denial."

[806] Witte, *Al Eeuwenlang Een Gastvrij Volk*, 193.

[807] Witte, 86.

[808] Witte, 193.

[809] Described in Section 1.2.2 above, and in Cover, "Violence and the Word Essays"; Cover, "Foreword."

which Cover described as occurring when judges choose to give legal force to one interpretation of the law over another. Trouillot also invoked the violent aspects of erasing or denying certain aspects of history. 'By silence,' he wrote' 'I mean an active and transitive process: one "silences" a fact or an individual as a silencer silences a gun.[810] In silencing, or remaining silent on, the relationship between race and discrimination, the LBR not only reflected the politics of the time, they helped enshrine' silence around ongoing racialization, what Dutch scholars of race would eventually call 'color muteness', as a norm of mainstream discourse that would last well into the twenty-first century.[811]

[810] Trouillot, *Silencing the Past*, Chapter 2.

[811] Essed and Trienekens, "'Who Wants to Feel White?," 59–60.