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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**14th meeting of the Joint Council  
on Constitutional Justice**

**MINI-CONFERENCE ON**

**“BLASPHEMY AND OTHER LIMITATIONS TO THE  
FREEDOM OF EXPRESSION”**

**Bucharest, Romania**

**12 June 2015**

**“What happened to the ‘Blasphemy Clause’ in the Dutch  
Legislation?”**

**REPORT BY**

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**“What happened to the ‘Blasphemy Clause’ in the Dutch Legislation?”**

**Powerpoint Presentation**

Raad  
vanState



## **I Constitutional Law**

- Article 1 Constitution: non-discrimination
- Article 6: Freedom of Religion
- Article 7: Freedom of Expression
- No Blasphemy Clause in the Constitution

## **II Penal (Criminal) Law**

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### **1886 - Not Yet Introduced**

- Minister of Justice Modderman
- Penal Code
- Article 147





## Article 147 Penal Code (PC)

- Imprisonment (3 m.)/fine imposed upon:
    - for ridiculing a minister of religion in the lawful execution of his duties;
    - for making derogatory statements about objects used for religious celebration at a time and place at which such celebration is lawful.
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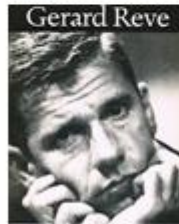
## 1932 - Introduction

- Amendment (§ 1): a person who publicly, either orally or in writing or by image, offends religious sensibilities by **malign blasphemies**
- “Lex Donner”
- Reason: left-wing, anti-religious propaganda



## 1968 - Limited Interpretation

- No convictions since 1968
- 'Donkey'-Case (1966-1968); novel
- Court of Cassation: Subjective Element



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## Quiet Years

- Very few cases on Article 147 PC
- No convictions
- Prosecutorial Discretion
- Complaints

## 2004 - Murder

- Ritual Murder
- Film Maker



## Freedom of Speech – amending legislation?

- Prime Minister, Minister of Justice,  
Minister for Integration: Differences of  
Opinion





## After 2004

- 2004: No majority in Parliament for abolishment
  - 2007: Governmental Proposal to amend Article 137c PC (Hate Speech)
  - 2009: Bill by 3 Members of Parliament
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## Opinion Council of State on the Abolishment Proposal (2010)

- Pressing social need for abolishment ?
  - Preventative and normative significance of Article 147 PC
  - Abolishment may not solve the lack of clarity with regard to Freedom of Expression
  - Position of Religious Minorities
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## **The Ending**

- **2013:** Shifts Political Landscape
- **2014: Abolishment of Article 147 PC**

## **Recent Development**

- Bill proposed by MP to abolish Article 137c PC (2014)
  - Opinion Council of State (2014):  
Treaties, Proportionality and Lex Certa Principle
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