Boy sex advocacy ruptures Dutch democracy Martijn Association disbanded by civil court

Christiaan X

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Since the arrest of its chairperson Ad van den Berg on March 29, 2011 for possession of child pornography, the Martijn Association, a long-lasting, legally registered association for Dutch boylovers, has been a target for politicians and celebrities trying to find ways to eliminate it. On June 27, they succeeded in doing this, as a civil court in the town of Assen ordered the organization to be disbanded and to have its assets dispersed and dismantled by a court-appointed 'liquidator.'

Martijn was a holdover from a 20th-century Dutch pedophile movement that espoused highly liberalized legislation around sexual contact between adults and children. The organization's website called for the allowing of sex between adults and children under certain conditions of responsibility. It also reprinted numerous historical accounts where people wrote about fondly remembered intergenerational sexual relationships and interactions, including many that occurred when the writers were under today's age of consent.

The Dutch government, under considerable public pressure, had tried several times to shut Martijn down.

An initial investigation by the Justice Ministry in June 2011 determined that the Association couldn't legally be banned. (http://www.cjat.org/ipb/index.php?showtopic=711) Although a number of members over a period of circa 20 years had been arrested for child pornography and other sexcrimes, these actions did not appear to be connected with the organization itself.

The release of this conclusion occasioned an outburst of public pressure. Radio host and former sex club owner Henk Bres used his online blog to collect signatures for a special kind of petition called a 'citizens' initiative,' asking for the Dutch lower chamber of Parliament to debate the banning of the Martijn Association. Such a petition must have at least 40,000 signatures to initiate a parliamentary debate; Bres collected 72,000.

Parliament's investigation again determined that there was no direct legal means of banning the association. They could, however, have recourse to a little-used law originally drafted to be consistent with other European laws aimed against neo-Naziism.

This law, Article 20 of Book 2 of the Civil Lawbook (http://www.st-ab.nl/wetten/0054_Boek_2_Burgerlijk_Wetboek_BW.htm) (Burgerlijke Wetboek), enacted 1988, says:

Quote

1. A incorporated legal entity (rechtspersoon), the activities of which are contrary to public order, can, upon request from the Justice Ministry, be declared forbidden and dissolved by the court.

2. A incorporated legal entity the goals of which are in conflict with public order, can, upon request from the Justice Ministry, be dissolved by the court. Prior to pronouncing the dissolution, the court may allow the legal entity the opportunity, within a specified time period, to alter its goals so that they are no longer in conflict with public order.

To read this passage is to know that it is, in effect, a dictatorship license. There is no stated limit on what could be declared contrary to the public order. In order to persuade the Dutch citizenry that the law will not be abused, past government officials have made various statements about how the law must only be applied in extreme cases. Here is a quote from the Dutch legal newsmagazine Nederlandse Juristischeblad.

Quote

'Banning a political party on the basis of article 20, book 2 BW (Civil Lawbook) in the case of extremist groups is an extreme mechanism that can only be applied in very restricted circumstances. It must indeed remain possible to withdraw financial subsidy and broadcast time allocations temporarily from political parties that have unavoidably been condemned because of discriminatory statements. Minister Dijkstal of the Interior Ministry wrote this on the 17th of last September in a note to the Lower House of Parliament' ... and ... 'Such a measure is only indicated if there is talk of systematic, very serious disruption of the democratic process. An unavoidable condemnation because of discriminatory statements must not, in and of itself, be sufficient to cause the use of this far-reaching measure.'

Note 29. Editorial(1995). Making a stand against extremist groups. NJB 18 October 1996, issue 37, pages 1564-1565.

An attempt by the Justice Ministry to use the regulation to ban a Hell's Angels chapter in the Harlingen region failed (http://zoeken.rechtspraak.nl/resultpage.aspx?snelzoeken=true&searchtype=ljn&ljn=BI1124) in June, 2009.

As the daily newspaper Volkskrant confirmed (http://www.volkskrant.nl/vk/nl/2686/Binnenland/article/detail/3277772/2012/06/27/Rechter-verbiedt-pedoclub-Martijn.dhtml) , "The decision (against Martijn) is a unique event: never before has an organization been banned by a civil judge."

When criminal activity is at issue, the criminal code has its own independent provisions (http://www.fondsenboek.nl/pagina%27s/archief/artikelen/art15.htm) for the banning of organizations. Article 20, Book 2 is only intended for organizations not purposed to coordinate criminal activities.

The Wikipedia article (http://en.wikipedia.org/wiki/Holocaust_denial_laws) on European laws against holocaust denial makes an illuminating statement:

Quote

Scholars have pointed out that countries that specifically ban Holocaust denial generally have legal systems that limit speech in other ways, such as banning hate speech. According to D. Guttenplan, this is a split between the "common law countries of the United States, Ireland and many British Commonwealth countries from the civil law countries of continental Europe and Scotland. In civil law countries the law is generally more proscriptive. Also, under the civil law regime, the judge acts more as an inquisitor, gathering and presenting evidence as well as interpreting it"

Thus, the definitive and comprehensive ban received by the Martijn Association is a civil law measure that, at the discretion (or whim) of the judges involved, went far beyond any measure that would be applied to racialist political parties making discriminatory statements, or groups that allowed professional criminals to associate in an organized way, such as the Hell's Angels.

The court's judgment (http://zoeken.rechtspraak.nl/detailpage.aspx?ljn=BW9477) in the case of Martijn is about 2,300 words long, but a summary (http://www.jongensforum.net/messages/190526.shtml) consisting of shortened quoted material appeared on the Dutch-language forum Jongensforum, courtesy of poster 'Marth.' The following unofficial translation is mostly from the summary, but reverts directly to the judgment in some sections of particular interest. (Thanks to contributors to this translation).

Quote

Decision
of the Assen court, 27 June 2012

in the matter of the Justice Ministry (JM) vs. the Martijn Association (MA)

The JM seeks that the court declare the MA forbidden and to dissolve it immediately after the pronouncement, on the basis of article 20, book 2, BW. The reason is that the activities of the MA are contrary to the public order in that they attack the bodily, emotional and sexual integrity and thus the rights of children.

The MA has denied this in its responses; they claim they cannot be forbidden because they have broken no laws and have a right to freedom of speech. If an immediate ban is declared, their right of appeal to a higher court will have been infringed.

The court has deliberated the idea that they must apply article 2:20 BW if the activities of the MA truly injure the public order; on the other side, the freedom of speech provisions of Article 11 of the European Treaty on Human Rights serves to restrain application of this article.

The court here considers only the activities of the MA itself, not the actions of individual administrators in the past, nor upon third-party contributions to the forum of the MA.

The actions of the MA are understood to include public communications on the website and the public communications of administrators in the media, whether in the mainstream media, or in YouTube, that they have done in their roles as administrators.

The JM has categorized the group's communications and the court substantially agrees with their findings.

The court established that the MA set out that:

1. - children are an object of lust - as seen from sexually suggestive photos and sexually explicit writings, apparently written to stimulate titillation

2. - there is nothing wrong with sexual contact between children and adults. In articles, the premise is put forward that it is through the forbidding of sexual relations between adults and children that harm is done to children. In articles, it is further put out that children want sexual contact with adults, that they therefore seek it out, and that children actually wish that their parents would applaud their having such sexual contact

3. - sexual contact between adults and children must be exalted. Towards this end, writings were posted about how fine and beautiful sexual contacts were not only for the adult but also for the child.

4. - legal punishments for moral crimes with children are absurd

5. - sexual contact between children and adults is completely 'natural,' children wish and seek out that sexual contact, and find it rewarding, and that the making of child pornography need not be damaging for children.

The MA responded by stating that these ideas came from an archive of historical writings that cannot be ascribed to the current membership of the MA. The publications were not intended to arouse nor to promote sex with boys.

Furthermore, the MA contended that the publications only evidenced that children could find such contact pleasurable and that they therefore should have the option for such contacts, as long as they had the freedom to withdraw at any time and as long as the contact was appropriate for their stage of development

The court judged that the activities of MA showed that it strove for its membership to have adult-child sexual contact; and that it praised such contacts and depicted them as normal and acceptable. They thereby created a subculture where these ideas were accepted.

It is this striving that constitutes a severe violation of the valid fundamental values of our society and thereby runs contrary to our legal order.

The MA contributes to the existence of a subculture in which sexual dealings between adults and children are valued as normal and acceptable. Through this, the MA transgresses against the rights of children. The protection of the sexual integrity of children forms, unmistakeably, one of the most indispensable principles of our legal system. The Netherlands constitutional state is responsible, in particular from an international legal perspective, not to allow room for this violation to occur.

The refinements of perspective suggested by the MA do nothing to lessen the force of this view. It cannot be overlooked that children lack the power to express themselves and to enforce their wills in the way an adult can be assumed to be able to do. A child in general lacks the capability to withdraw from contact with an adult who reveals sexual wishes. Children are not fully autonomous and have insufficient defences against the sexual wishes of an adult. It is not 'natural' for a child to have sexual contact with an adult. There is no developmental phase where that would be the case. For this reason, we have moral laws - to protect the sexual integrity of children.

The court recognizes that the setting forth of opinions, even though those opinions are undesirable in the eyes of many, cannot in itself lead to a ban and dissolution of the MA. The right of free association and the right of free expression of opinion apply to everyone, and thereby also to those who experience sexual feelings for children. This does not, however, outweigh the fact that the activities of the MA violate the generally accepted foundations of our legal system and are thus opposed to public order.

The court on this basis declares the MA forbidden and orders its liquidation.

The courts appoint a liquidator for that purpose, who need not turn any remaining funds in to the state. The court declares its decision to be 'provisionally executable,' thus to be enacted immediately. The possibility of appeal to a higher court does not override this order in keeping with article 360 of the Civil Procedure Code.

The JM has not demanded that the MA pay the costs of this proceeding, and therefore no decisions on this matter are necessary.

The decision

The court

- declares the MA forbidden
- dissolves the MA
- names J.J. Reiziger of the van Trip legal firm in Assen as liquidator, to replace the MA's administrators
- names A.M.A.M. Kager as the overseeing judge in this matter
- declares that this decision is 'provisionally executable,' thus immediately to be acted upon, and
- declares any other matters that may have been raised to be irrelevant.

Signed: H. Wolthuis, B.R. Tromp, F. Brekelmans

Publicly declared on 27 June 2012 in Assen, the Netherlands.

The decision, while very satisfying to public emotions, is perplexing in itself. It first declares that people sexually attracted to children have the right to free association and free speech. It then goes on to say that Martijn's use of that freedom to argue for the worthiness of some instances of intergenerational sexual contact violates the foundations of the legal system by infringing upon the right of children to state protection against sexually interested adults. It appears to be a classic case of a defensive system trying to exclude an uncomfortable sexual topic from legal consistency by implementing a catch-22 against it - you may have an inalienable right to free speech on this sexual topic, but if you use it to propose ideas we dislike, you are creating an invidious subculture and will be banned. A similar case is the

long standing situation in Canada where prostitution is nominally legal (http://en.wikipedia.org/wiki/Prostitution_in_Canada) , but 'soliciting for the purposes of prostitution' is illegal, along with providing a place where prostitution can occur. Thus prostitution is legal as long as it is neither initiated among the participants nor carried out in a private location.

It is a clever trick to make things both legal and illegal at the same time, and only the most devious state functionaries can come up with these logical ourobouri.

The decision has another logically recursive aspect that could represent an ideological conflict of interest, in that it tends to destroy any valid epistemology that could contradict its premisses. Any truthful, published personal histories in the Martijn archive, made either by adult or (at the time) child participants in intergenerational sexual relationships that were valued and cherished, were suppressed with instant effect. This meant that the appropriateness of the judgment cannot be evaluated either in the short term or in the longer term by members of the public, scholars and jurists. Judges sitting in an appeal court may well be the last people in history to be able to evaluate the evidence presented to assert the possible benignity of some intergenerational sexual relationships. There can be no further evaluation of the whole body of evidence bearing on whether the Jun 27 judgment was arbitrary or justified. The judgment by nature clamps down on and suppresses its own evaluation.

These conflicted twists of law suggest that an appeal could possibly be successful, notwithstanding the unpopularity that any change in this judgment would have in national politics.

The matter is of interest to this church only in that we are enthusiastic supporters of democracy, free speech and free association.

On the matter of sexual contact between children and adults, our position is that, like most Christian churches, we believe that our Lord does not encourage extramarital sex. We are an ecumenical church and our members have varying opinions on whether sanctified marital relations may include same-sex marriages. We do not advocate marriages below existing ages of consent. We do allow debate and possible individual member advocacy about appropriate ages of consent. We acknowledge that lifelong marriage is questionably applicable to those with a biologically age-limited sexual attraction and allow discussion on the topic of renewable marriage (http://www.cjat.org/ipb/index.php?showtopic=700) ; this discussion, however, does not have a bearing on the matter of ages of consent. Therefore, we do not have any vested interest in promoting the mainstay of the Martijn website, namely, the approvability of extramarital sex with those under the age of consent.

We also, however, believe in the biblical statement, "you shall know the truth, and the truth shall make you free." Though the personal attestations about intergenerational sexual relationships on the Martijn website were ephemera, mostly not verifiable or attributable (thus not definitely separable from fiction), we are also well aware of bestselling and popular books that allow real people to be explicitly connected to valued intergenerational sexual relationships, some of which could have been formalized as marriages in some jurisdictions. Kirk Read's autobiographical 'How I Learned to Snap (http://www.amazon.com/How-Learned-Snap-Coming-Age/dp/1588180395) ,' for example, documents an early boyfriendship that the 13-year-old Kirk initiated with a college-age neighbor, and then a firmly established partnership with a 40-something playwright that he initiated at 16 when he had become a budding playwright himself. If courts attempt to make the truth about these sorts of relationships unspeakable, they will consign society to a neurotic dream world that spouts rhetoric about children's rights while stifling some of the wanted, beneficial relationships of real-life young people.

Acknowledging the existence of relationships like those of Kirk Read does not entail any obliviousness about the many exploitative and abusive sexual relationships with children that have come before the courts in most nations in recent decades. This church's value for truth does not permit any whitewashing of adult exploitation.

Dealing with reality is our best and only starting point for true justice, and reality must not be suppressed.