The Dutch Urban Areas Act: A Black Liberation Perspective on the Policy of Exclusion

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Submitted to the Department of Urban Studies and Planning
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Abstract

The Dutch Urban Areas Special Measures Act is a national policy in the Netherlands intended to improve the quality of life in distressed neighborhoods. The Act allows a municipality to designate neighborhoods where the municipality can alter the demographic composition through a housing permit system that regulates access to homes. Cities are allowed to deny permits for residence and therefore exclude in-moving people who do not have an income from work or who have certain police records. What began as a policy experiment in the City of Rotterdam animated by a far-right anti-immigrant movement, the Act is now an institutionalized policy accessible to any city in the Netherlands. In this thesis I present two key missing perspectives on the Dutch Urban Areas Act: how other Dutch cities are using the Act after its origins in Rotterdam and how to understand the Act through analytical frameworks around race. With these perspectives on the Dutch Urban Area Act I present two distinct arguments. The first is that the Dutch Urban Areas Act’s diffusion to cities outside of Rotterdam is in conflict with its own statutory basis. Through a complete reassessment of the Act’s social and political origins in Rotterdam, my second core argument is that the Dutch Urban Areas Act was conceived to be a spatial policy of racial exclusion. The foundations of the Urban Areas Act, as developed in Rotterdam in the early 2000s, are the same ideas of controlling the movement of a racialized group of people as expressed by state sanctioned segregation policies found historically in the United States and South Africa.

Thesis Supervisor: Justin Steil
Title: Assistant Professor of Law and Urban Planning
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To the Students of Color Committee, our fellowship can mold the future leadership in urban planning that is so necessary to reshape the field. Your efforts, representation, and ideas matter and we are strong as a community.

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CHAPTER 1. The Dutch Urban Areas Act

The Urban Areas Special Measures Act is a national policy in the Netherlands intended to improve the quality of life in distressed neighborhoods. The Act allows a municipality to designate areas within its boundary where the municipality can alter the demographic composition of residents through a housing permit system that regulates access to homes. The permitting allows municipalities to selectively control the in-movement of people based on certain characteristics such as income, employment status, occupational sector, criminal record, and length of residence. The Act allows cities to not issue permits for residence and therefore exclude people who do not have an income from work or who have certain police records. It also allows cities to selectively prioritize people with certain socioeconomic characteristics such as those who have achieved at least a post-secondary level of education. Although the Act can cover both the rental housing sector (including private and publicly subsidized “social housing”) and homeownership units, in practice it usually only covers rental housing. Before becoming a national policy in 2006, the Act began as a local experiment in Rotterdam, hence its colloquial name as the “Rotterdam Act”.

As a policy tool to improve neighborhood quality of life by excluding particular groups, the Dutch Urban Areas Act has received attention from Dutch researchers because of its unusual exclusionary premise (Schinkel and van den Berg 2011; Ouwehand and Doff 2013; van Gent, Hochstenbach, and Uitermark 2017; Uitermark, Hochstenbach, and Gent 2017). These authors have primarily focused on the Act’s origins and impact in Rotterdam, and the Act has not garnered significant attention outside of the Netherlands. In this thesis, I take up where other authors have left off in analyzing the Dutch Urban Areas Act. I present two key missing perspectives: how the Dutch Urban Areas Act is being applied in other Dutch cities and how to understand the Act through analytical frameworks around race. These two perspectives on the Dutch Urban Areas Act make clear that it is an even more extraordinary policy than has already been described by others.

I present two core arguments in this paper. The first is that the Dutch Urban Areas Act has continued to diffuse to cities outside of Rotterdam despite a lack of evidence of its effectiveness at meeting its intended goals of neighborhood improvement. Simply put, the Dutch Urban Areas Act is in conflict with its own statutory terms.

In the second argument, I reassess the Act’s social and political origins in Rotterdam and argue that the Dutch Urban Areas Act was conceived as a spatial policy of racial exclusion. The foundations of the Urban Areas Act, as developed in Rotterdam in the early 2000s, are the same ideas of controlling the movement of a racialized group of people as expressed by state sanctioned segregation policies found historically in the United States and South Africa. I reveal these foundations at the theoretical level by drawing on black liberation theory developed in the US and by showing similarities to the practices of racial segregation elsewhere in Western history. Despite its highly racialized origins as a policy experiment in Rotterdam, the Act now appears as a supposedly race-neutral national policy. As a result, the injustices of the Dutch Urban Areas Act cannot be properly understood without using the lens of race.
To analyze the Dutch Urban Areas Act, I draw from political philosopher Charles Mills and normative perspectives on justice, social inequality, and spatial segregation from Iris Marion Young. I also draw on a variety of literatures developed in the United States and European Union regarding the causes and consequences of, as well as policy response to, neighborhood distress and spatial segregation.

Although I wrote this paper primarily for a Dutch audience, scholars in the United States of housing policy, urban planning, spatial inequality, and racial justice should also find significant interest in learning about the development of the Dutch Urban Areas Act and its similarities to our segregationist history. This paper should also be of particular interest to scholars across Europe because in late 2017 the Act was reviewed by the European Court of Human Rights, which upheld the Act’s approach to limiting freedom of movement for the purpose of advancing public order. As a result, other countries in the European Union can use this form of urban policy.

My thesis is divided into six Chapters as follows. In Chapter 2, I present my research methods and in Chapter 3, I present my findings. I first describe in detail what the Dutch Urban Area Act is, including its legal basis, the various Articles that allow cities to regulate in the in-movement of people based on group characteristics, and the process of applying to the central government for using the Act. Then, building on existing analyses and using my own interviews with its proponents, I describe the origins of the Dutch Urban Areas Act within the anti-immigrant populist political movement of Pim Fortuyn in the city of Rotterdam. I end Chapter 3 with the first of its type analysis of how the Dutch Urban Areas Act has been adopted by four other cities in the Netherlands. In Chapters 4 and 5, I present two distinct critical analyses of the Dutch Urban Areas Act. In Chapter 4, I ask how the Act has been adopted in other Dutch cities without any evidence of its effectiveness. I also describe the internal contradictions in the Act and a variety of emerging unexpected consequences. In Chapter 5, I argue that the Dutch Urban Areas Act developed as spatial policy of racial exclusion through a comprehensive reanalysis of the Act’s origins and a comparison to other forms of spatial segregationist policies in Western history. Chapter 6 is my conclusion.

CHAPTER 2. Research Methods

My analysis relies on interviews, primary documents, and synthesis of existing literature related to the Dutch Urban Areas Special Measures Act. I conducted fieldwork in January 2018 in the Netherlands by interviewing 23 people involved in the in the Act, representing 18 organizations across multiple sectors and at various levels of government. This included social housing corporations, officials from local and central government agencies implementing the Act, national advocacy groups and policy experts, and non-profit organizations. Many interviews were with multiple people from the same organization. My general interview protocol covered topic areas such as the origin, design, and precedents of the policy, political discussions, dissent, and mobilization
around the policy, and plans for implementation and monitoring. I revised the interview guide as needed to meet new and evolving information learned throughout the month of fieldwork and to be appropriate for both interviewees in Rotterdam (where the policy began) and in other cities implementing the Act.

To understand the development and application of the Act in Rotterdam I interviewed the political and ideological architects of the Act, city government staff, and social housing corporations. After receiving from the Ministry of the Interior and Kingdom Relations a list of cities implementing the Dutch Urban Areas Act, I contacted each city to invite them to participate in an interview. I was able to interview four additional cities among the 8 (at the time) other cities implementing the Act. For these four cities in addition to Rotterdam applying the Dutch Urban Areas Act I conducted interviews with one official who was intimately involved in the planning and preparation for the Act. The remainder of my interviews were focused on the Act as developed and applied in Rotterdam.

All interviews were conducted in English. To ensure that I clearly understood what were often sophisticated policy conversation topics with individuals for whom English is a second language, I often reiterated what interviewees told me to confirm that I fully understand the nuances of the ideas expressed. As a result, interviews tended to last between 1.5 and 2 hours.

I collected and analyzed three general types of documents:

(1) Official legislation and documentation produced by the central government, including the law itself¹, an English summary written by the Ministry of the Interior and Kingdom Relations (the regulating agency) and a “explanatory memorandum” that is a legislative note written by the House of Parliament that describes the goals and purpose of the law;

(2) Plans produced by cities that they submitted to the Ministry of the Interior and Kingdom Relations to receive approval for using the Dutch Urban Areas Act. The plans outlined each city’s purpose, goals, scope and targeted areas, and which of the Act’s “articles” the city wishes to use;

(3) Documents from the November 2017 EU Court of Human Rights decision that validated the Urban Areas Act as legal under European Convention on Human Rights, including the majority decision, dissenting opinion, and various amicus briefs submitted to the Court.

Some of documents types (1) are in English while others are in Dutch; those from type (2) are in Dutch; and type (3) are in English. I received professional translation for the official law. Because I directly interviewed officials representing each city, I did not use professional translation services for the accompanying plans for the Act that the cities submitted to the central government. Instead, I used online translation services for those documents in order to verify factual information such as number and type of units covered by the Act, and to complement contextual information discussed during the interviews. I did not find it necessary to get professional translation for the applications because my interviews and the online translation combined provided more than sufficient information to understand the context and specific details of the cities’ plans.

I coded interviews and documents in Nvivo around three domains of organizational, substantive, and theoretical categories. Organizational categories are broad issue areas that prior to fieldwork

¹ http://wetten.overheid.nl/BWBR0019388/2017-07-01
could be easily anticipated, such as the origins, design, and goals of the Dutch Urban Areas Act in each city. Substantive categories are more descriptive and are based on the participants own concepts and beliefs that emerged during the interviews, such as the discourses around the challenges of neighborhood distress and critiques of the Act. Theoretical categories are based on theoretical concepts drawn from literature on spatial inequality, racial and socioeconomic segregation, and conceptions of spatial justice.

CHAPTER 3. A Policy of Exclusion

3.1. What is the Dutch Urban Special Measures Areas Act

The Urban Areas Special Measures Act is a national law in the Netherlands to improve the quality of life in distressed neighborhoods. Also called the Extraordinary Measures for Urban Problems, and known colloquially as the “Rotterdam Act” for its conceptual and political origins in the city of Rotterdam, the Act enables municipalities to designate areas where the city can alter the demographic composition through a permit system that regulates access to homes. People wishing to move into the designated area must receive a permit issued by the municipality before they are allowed to live in the area. The permitting allows municipalities to selectively control the in-movement of people who meet certain group membership characteristics. Three articles in the policy provided the basis for regulating who can live in the area. Two articles allow for cities to exclude or stop people with certain characteristics from moving into the area (Articles 8 and 10) and a third article allows cities to prioritize people with other characteristics (Article 9) for vacant homes in the area. I explain these articles in detail in the following section.

The overarching goal of the Urban Areas Act as described in an official English summary written by the Ministry of the Interior and Kingdom Relations is to provide a drastic intervention into the housing market within areas where neighborhood distress has become so severe that extraordinary policy measures are justified:

“Municipalities sometimes find themselves confronted with residential complexes, streets or areas where an accumulation of problems is negatively affecting quality of life. Occasionally, the problems reach a critical point and cannot be solved using existing instruments. In such cases, measures that are more drastic are needed…In these situations, it may be necessary to give such vulnerable areas the time to recover. The Dutch Urban Areas (Special Measures) Act (the Act) provides for the application of a far-reaching measure in the form of selective housing allocation. Selective allocation of housing enables municipalities and other parties to improve prospects for existing residents, particularly when organised in coordination with social support, healthcare and other care services and assistance aimed at helping people to find work or participate in other ways. Application of the Act can help to balance local demographics and to counter antisocial behaviours and criminal activity in a particular district or

---

2 In this paper I will also refer to the Dutch Urban Areas Special Measures Area Act through the shorthand “Dutch Urban Areas Act”, the “Urban Area Act”, or simply the “Act”.
Before becoming a national policy in 2006, the precursor to the Urban Areas Act was a 2003 policy experiment in the city of Rotterdam which allowed the municipality to prevent individuals below an income of 120% of the median from moving into certain neighborhoods of the city. That mechanism for regulating neighborhood composition by selection of income evolved to become “Article 8” in the Urban Areas Act passed by the national legislature in 2006. The other two articles that control neighborhood composition are Articles 9 and 10, which do not have their origins in the city of Rotterdam’s early policy experiments. Article 9 provides preferential entry into vacant homes in the designated areas based on certain socioeconomic characteristics as chosen by the city, usually based on an individual’s employment in public-service or certain type of non-commercial jobs (e.g. teachers, government workers, artists or industrial workers) or level of education (e.g. meeting a minimum standard of postsecondary education). The third method of regulating demographic composition is Article 10, through which municipalities can exclude in-movers based on criminal records, public nuisance activities, and risks of extremism. Combined, the three articles form the current basis of the Urban Areas Act’s power to alter the demographic composition of a neighborhood. Any municipality in the Netherlands can apply to the national agency of the Ministry of Interior and Kingdom Relations to seek permission to use any combinations of Articles in their jurisdiction. Municipalities determine both the areas and the type of housing (e.g. private rental and social housing) that are covered by the Act.

**How Articles 8, 9, and 10 specifically regulate who can live in an area.**

City councils can designate areas under the Act that meet the general condition of having a “special need for transformation due to local socioeconomic problems” (Dutch government 2017). As a result, the Act grants wide-latitude in determining geographic scope. Municipalities can designate areas ranging in size from a single complex or development, to a street, or an entire neighborhood area. Later on in this chapter I will explore how the discretion in geographic size and population coverage have resulted in city plans for the Urban Areas Act ranging from single housing corporation developments to highly dense and continuous neighborhoods.

To balance local demographics, curb antisocial behavior and criminal activity, and generally raise the quality of life for current residents in geographically defined areas, municipalities may choose from the three articles in the Urban Areas Act. Two of the three articles (8 and 10) are “exclusionary” because they give the municipality the power to deny permits for homes to individuals with certain characteristics, with the intention of excluding certain groups from living in the designated neighborhoods. Article 9 by contrast is considered “preferential” because it grants municipalities the ability to outline characteristics of individuals that are given a priority to for moving into vacant housing in the neighborhood. Box 1 provides the specific requirements of each article.
Box 1. Specifications of Articles 8, 9, and 10 and hypothetical examples of their application

Article 8 – Exclusion based on Income and duration of residence: Prospective tenants desiring to move into the designated area must have income from employment or business (an “imposed requirements to homeseekers”). Incomes from a pension or student financing are considered a form of income. This requirement only applies to people who have lived in the metropolitan region of the city (e.g. Rotterdam region) for a continuous period of fewer than six years at the point of applying for a housing permit. People without an income from work who have lived for longer than six years in the region are allowed to move into the area.

Article 9 – Preference based on socioeconomic characteristics: Cities can preferentially allocate housing in the designated areas to people who meet certain socioeconomic characteristics, as determined by the city. The law permits the locally determined socioeconomic composition to cover areas such as household composition, age, education level, and employment. In practice, the characteristics is often forms of employment, such as people employed in the public sector or publically “beneficial” jobs (e.g. teachers, artists, and policeman) or in a local industry (e.g. shipping), or based on level of education (e.g. must have at least achieved a post-secondary education). Households meeting the socioeconomic characteristics selected by the municipality are effectively moved to the “top of the list” in determining who gets priority into vacant homes in the designated neighborhoods. Article 9 does not have a length of residency time requirement.

Article 10 – Exclusion based on criminal records and behavior: In order “to reduce nuisance and crime” cities can refuse housing to people in designated areas who have police records covering certain crimes or nuisance behaviors listed in the Act. The following conduct in police data (which include both convictions and police reports such as noise complaints that are not criminal convictions) are the basis for exclusion: behavior causing nuisance that is irritating or harmful to persons or presents a risk to safety such as excess noise and emitting irritating materials into the environment like smoke or soot, drug related offenses, vandalism, offensive or discriminatory language or intimidation of residents, acts of violence against neighbors, public drunkenness, arson, and “radicalizing, extremist or terrorist acts”.

Article 10 is divided into two sections: “10a” covers the aforementioned list of police records associated with public nuisance and disorders that could be used as a basis for exclusion, and “10b” grants the Mayor of the city permission to review the housing applicant with the police record and approve or reject the applicant based on the record. Data to screen individuals is provided by either a local police records check or through a higher-level security data provided by the central government, as is the case for suspicion of extremism. Police records are provided to the Mayor covering the previous four years for household members over the age of 18, and covering the previous 2 years for household members between the ages of 16 and 18.

Because Article 10 requires a complicated multi-way exchange of sensitive data municipalities must have specific processes for implementing Article 10 to safeguard privacy and limit who has access to police records. When someone applies to live in a home in an Article 10 designated area, the program administrators in city government request clearance from the Mayor (and her separate staff). The mayor and their staff is provided a dossier of police data from the municipal police covering the behaviors and crimes under Article 10. If the person does not have a record, the mayor
will grant the application. If person does have a record the mayor then can make one of three decisions: approve the application without stipulations, approve with living stipulations, or reject the application. In cases where the mayor determines a resident can move into the neighborhood despite a criminal record, the mayor can add stipulations on the individual’s behavior as part of the agreement for receiving a permit, such as occupancy requirements for a household with a history of nuisance complaints around overcrowding. Article 10 does not have a residency length of time requirement. This entire process is similar for social housing units when social housing corporations must receive approval from the mayor and their staff.

Articles 1 through 7 of the Dutch Urban Areas Act provide supporting definitions of terminology used throughout the law (Article 1), allows and defines criteria for cities to designate areas as “opportunity zones” for property tax breaks to encourage commercial development (Articles 2-4), and outlines criteria (Articles 5-7) for designating areas where cities can apply Articles 8 through 10. Article 5 grants the power to the Minister of BZK to upon request of the city council designate areas under Articles 8 through 10, and defines the length of time for such designation (four years) and outlines requirements for extension of the designation. Article 6 requires that applications meet the four legal requirements (necessity, appropriateness, subsidiarity, and proportionality) for approval, that homeskeers excluded on the basis of the Act (Article 8 or Article 10) still have sufficient housing opportunities elsewhere in the region in which the municipality is located and that the provincial (regional) government advises on this assessment of housing opportunities in the region. I further explain the importance of these requirements under Article 5 and 6 in the following section. Article 7 defines conditions under which the BZK can withdraw designation of an area before the four year period. If BZK can cancel the designation if the agency determines the four legal requirements are no longer met, that home seekers excluded under Article 8 or 10 do not have sufficient housing opportunities elsewhere in the region, or upon request of the city council.

The process for cities to apply for the Act.

To apply for the Urban Areas Act municipal councils (the legislative branch), which usually consist of 45 elected representatives from a multi-party system that form a coalition government, submit an application to the central government’s office of the Minister of the Interior and Kingdom Relations (known by the acronym BZK). The BZK has developed a standard application template that requires the municipal councils to describe how neighborhoods were selected for use of each Article, to explain how the Urban Areas Act fits with other current and future neighborhood planning activities, and to support the claims in the application of necessity for the policy with statistical evidence of neighborhood conditions provided either by the Central Statistical Agency or a local agency’s own data analysis team. Officials from the BZK often consult and assist municipalities on their application preparation and how to meet the requirements.

In determining areas to apply the Act Municipalities are particularly encouraged to use the “Leefbaarometer” or Livability Index produced by the national government (https://www.leefbaarometer.nl). This index combines two models of neighborhood quality. One measures the neighborhood-level value of real estate, and the other a variety of survey indicators to assess resident’s view of the neighborhood. Combined the two models input 49 variables in the
Livability Index, including measures of share of non-western immigrants in the neighborhood, housing costs, share of social housing, and unemployment rates. In summarizing their “reverse black-boxing” to deconstruct the assumptions and relative weight of variables ungirding the index, Justus Uitermark and colleagues conclude the index primarily measures “a specific understanding of what good neighborhoods are; they have high homeownership rates, high house prices, low unemployment rates, high income levels, and a low presence of ethnic minorities” (Uitermark, Hochstenbach, and Gent 2017).

BZK evaluates applications by four legal tests that must be met for the policy. These tests are also discussed in a November 2017 European Court of Human Rights ruling in a case brought against the Dutch Urban Areas Act. The court upheld the legality of the Act under the European Convention of Human Rights (European Court of Human Rights 2017), which the Netherlands incorporates directly into its constitution. The court ruled that the rights of freedom of movement in Article 2 of Protocol 4 in the Convention may be explicitly impinged when such individual restrictions are necessary to “reverse the decline of impoverished inner-city areas” in order to provide these areas “room to breathe” so that other, complementary measures can be effective and to protect public order in areas where their “limits of the capacity of absorption” have been reached, and when such restrictions are “the final part of an integrated approach to tackling an inner-city area’s problems”. The four legal criteria are described in Box 2.

Box 2. Four Legal Requirements to Use the Dutch Urban Areas Special Measures Act

1. **Necessity or Legitimate Aim** - Does the designated area have an exceptional social problem and therefore intervention meets a compelling government interest?
2. **Appropriateness or Suitability** – Will the intervention accomplish its proposed ends and legitimate aim?
3. **Subsidiarity** - Can the legitimate aim be met by other means that are less discriminatory or “impinge on the principle of equality less?” Have less drastic measures been exhausted, shown to be effective and, as a result, the government is “of the opinion that the aim in the areas cannot be achieved” by other means.
4. **Proportionality** - “Is there a balance between the legitimate aim and the interests [freedom of movement] impinged on?” In practice, this means that there are still enough housing options in the remainder of the region for individuals excluded under the law (Uitermark, Hochstenbach, and Gent 2017), and sets limits on the size of areas designated (European Court of Human Rights 2017).

The requirement under the proportionality test that excluded groups still have sufficient housing options in the region is a critical component of how the central government assesses the city’s application. This test is triggered for applications using Article 8 and Article 10. Municipalities must assess the availability of housing options in the metropolitan region as a whole (so as to not entirely prevent movement into the city), and the provincial (regional) government must also advise on this assessment of availability during the city’s application to the central government.
In evaluating proposals, BZK officials emphasize that the Act is intended to be contextualized and tailored to the unique conditions of each city, and consider the proposals on their own merit and not in comparison to proposals from other cities. All applications must receive final permission from the Minister of BZK.

Areas are designated under the Dutch Urban Areas Act for a maximum of four years, after which municipalities can request extension of the designation for an additional four years. Areas can receive up to four extensions. Hence areas have the potential to be designated under the Act for up to 20 years. After each four year period, municipalities must submit an evaluation to BZK indicating whether the Act has made progress towards the goals of improving livability. This evaluation is needed to justify extension of the Act by demonstrating progress towards improvements in neighborhood livability.

As of my January 2018 field work, the BZK had approved at least 8 city applications to implement the Urban Areas Act, one city had a pending application, and none so far had been rejected by the central government. Table 1 provides a list of the city’s applying the Urban Areas Act and uses of different articles.

Table 1. Cities Actively Using or Recently Submitted Applications for the Dutch Urban Areas Act

<table>
<thead>
<tr>
<th>City</th>
<th>Rotterdam Metropolitan Area</th>
<th>Articles</th>
</tr>
</thead>
<tbody>
<tr>
<td>’s-Hertogenbosch (“Den-Bosch”)</td>
<td>No</td>
<td>Article 8 and Article 10</td>
</tr>
<tr>
<td>Capelle aan den IJsse</td>
<td>Yes</td>
<td>Article 8 and Article 9</td>
</tr>
<tr>
<td>Dordrecht</td>
<td>No</td>
<td>Article 10</td>
</tr>
<tr>
<td>Nijmegen</td>
<td>No</td>
<td>Article 8 and Article 10</td>
</tr>
<tr>
<td>Rotterdam</td>
<td>Yes</td>
<td>Article 8 and 10</td>
</tr>
<tr>
<td>Schiedam</td>
<td>Yes</td>
<td>Article 9 and 10</td>
</tr>
<tr>
<td>Tilburg</td>
<td>Yes</td>
<td>Article 8, 9, and 10</td>
</tr>
<tr>
<td>Vlaardingen</td>
<td>Yes</td>
<td>Article 9</td>
</tr>
<tr>
<td>Zaanstad</td>
<td>No</td>
<td>Article 9 and 10</td>
</tr>
</tbody>
</table>

Sources: Interviews, Applications, and (van Gent, Hochstenbach, and Uitermark 2017)

### 3.2. Origins of the Dutch Urban Areas Special Measures Act

The ideological and political origins of the Urban Areas Act are intimately connected to a period of tumultuous political realignment in the Netherlands, originating in the city of Rotterdam in the early 2000s. Rotterdam was the birthplace of a new form of right-wing populism in Dutch politics that incubated a collaboration between the longstanding center-left Labor Party and the new brand of right-wing politicians with a shared goal of improving neighborhoods by excluding particular groups of people from moving into the area. What emerged was a policy experiment that eventually became the national policy of the Dutch Urban Areas Special Measures Act.
The social and political context in Rotterdam providing conditions for the Urban Areas Act.

Rotterdam and the immigrant neighborhoods of Rotterdam South. Rotterdam has the largest port by volume in Europe and is the second most populous city in the Netherlands with a current population of about 625,000. In comparison to the Netherlands’ more cosmopolitan capital city of Amsterdam, Rotterdam’s history has been uniquely marked in the Dutch context by its reliance on the port for working class jobs, its role as a gateway city for lower-educated immigrants, and its near complete destruction and redevelopment of the city center from World War II. Turkish and Moroccan “guest workers” were originally recruited by the government to enter Rotterdam after a post-war labor shortage and the destruction of the inner city left significant labor demands. Since then Rotterdam has been unique in the Netherlands for its high percentage of immigrants from Turkey, Morocco, Suriname, and more recently, the Dutch Antilles and Eastern Europe. The city identity is still intimately connected to the Port of Rotterdam that provides a substantial share of working-class port jobs and generates a city “can do” spirit of “make it happen”.

Like many Western European countries, the Netherlands has a long history of state intervention in the housing market to create substantial levels of affordable housing (“social housing”) and an intentional planning orientation towards creating mixed-income neighborhoods (Ouwehand, Daalen, and Kullberg 2002). Rotterdam’s development and planning history has been primarily through this framework of high-rates of social housing complimented by mixed-income housing redevelopment to promote neighborhood stability (van Gent, Hochstenbach, and Uitermark 2017). While the city and social housing corporations facilitated neighborhood diversity for most of the late 20th century by distributing social housing throughout the city, since the early 2000s Rotterdam has altered its approach to neighborhood diversity. The city government is attempting to attract higher income families to lower-income neighborhoods while reducing the supply of social housing throughout the city. The primary strategies in this new period are demolition and redevelopment of social housing into mixed-income communities, public sector purchases and upgrades of private rental stock to sell to higher-income families, and selling parts of the social housing stock to be bought or rented by higher income families (Ouwehand and Doff 2013). For example, the city council in 2016 approved a plan through the year 2030 that calls for replacing 20,000 units affordable to lower income families with 36,000 units that are primarily aimed towards middle and high-income families. Among the 20,000 units are 10,000 social housing units that the city will demolish and 10,000 low-cost private rental units that the city will purchase and then demolish or sell to middle and high-income families (Doucet, Berg, and Eijk 2016; Renders 2017).

Much of the immigrant population in Rotterdam has historically lived in an area of the city known as Rotterdam Zuid or Rotterdam South. Located south of the River Maas that bisects the city, the area of nearly 240,000 people has a large enough population to be considered a major city in its own right in the Netherlands. This area was physically isolated from the north of Rotterdam before completion of the Erasmus Bridge spanning the River Maas in 1996. The northern area of the city has the major employment centers, Erasmus University, office buildings, and upscale commercial

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3 For more on the city’s “identity” see the Rotterdam Make it Happen webpage: https://www.rotterdammakeithappen.nl/home_en.pp
facilities. In recent years some areas of Rotterdam South, especially near the Erasmus Bridge, have been foci of new development as part of an intentional city process to increase the supply of housing stock priced for higher-income families, to generate economic development by moving city government buildings to the area, and to direct private investment to the area.

While exact ethnic data are not available because the Netherlands does not collect data on ethnicity, over 30 neighborhoods comprising Rotterdam South range from 40% to 80% non-western immigrants. City-wide, 36% of people are non-western immigrants (Ouwehand and Doff 2013), compared to about 12% in the Netherlands as whole.

Pim Fortuyn and Rotterdam as the grounds for far-right populism. A working-class Native Dutch identity, continuous demographic change as the Netherland’s major entrance for immigrants, and a period of major deindustrialization and economic reconstructing in the late 20th century made Rotterdam a fertile site for the rise of far-right populism in the early 2000s. A decline of well-paying industrial port jobs, continued immigration from Turkey, Morocco, Suriname, the Dutch Antilles, and recently eastern Europe, and rising levels of violent crime converged to create a fertile climate for political leaders to start a far-right movement characterized by Islamophobia, anti-immigration, and support for heavy-handed government interventions to improve safety and security throughout the city. The populism that emerged in Rotterdam during this time have since become fixtures of local elections and were also the precursor to a form of populism that has found electoral success in national Dutch politics (Uitermark 2012).

The movement’s charismatic ideological and political leader was Pim Fortuyn. An openly gay former professor at Erasmus University in Rotterdam, Fortuyn wrote op-eds and participated in widely viewed televised political debates against leaders from city’s moderate Labor Party. He organized a political movement around an ideology of nationalism, islamophobia, and xenophobia.

Fortuyn’s political entrance was the 2002 city council elections in Rotterdam where he led the newly established political party Leefbaar Rotterdam (“Livable Rotterdam”) under his populist banner. In the Netherlands, the primary local elected assembly is the city council, the legislative branch of the government. The positions of mayor and vice-mayors (Alderman) that form the executive branch and implement policy are not elected positions. The mayor is appointed by the national government for a period of six years. The vice-mayors are appointed by the city council and usually reflect the party composition of the majority coalition in the council. As a result, the city council elections are highly contested affairs and are the major avenue for expression of local politics.

In the 2002 elections Leefbaar won a shocking 17 out of the 45 seats on the municipal council. The election, now known across the Netherlands as the “Fortuyn revolt”, was a dramatic disruption to Rotterdam’s politics and the centrist Labor Party (also called the Social Democrats) who had controlled the municipal government without major contestation since the Second World War.

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4 In the Dutch context race is often not a term used to describe people. A primary but no-longer in favor differentiation is between “autochthonous” (“from here” or native ethnic Dutch) and “allochthonous” (“from elsewhere” non-native immigrants and their descendants) to denote Dutch and non-Dutch identities. The term ethnicity is generally used to denote country of origin.

5 Retrieved May 2018 from Netherland’s open data portal “Stat Line”
Fortuyn primarily mobilized a group of autochthonous (native) lower and lower-middleclass Dutch who, before Fortuyn, had not previously been active in local politics but formed a substantial share of the electorate because of Rotterdam’s working-class employment base. These native Dutch felt alienated from the political establishment and cynical towards the government (Uitermark 2012). They felt general cultural and economic competitive threats from immigrants and perceived immigrants who practice Islam as particularly backwards and denigrating to Dutch society (Uitermark and Duyvendak 2008).

Fortuyn was deeply concerned about the development of “parallel societies” or a “monoculture” that he saw as being formed by Rotterdam’s immigrant communities who he believed did not integrate physically or socially into Dutch society. He proposed to prevent the development of these communities through “forced removals” of immigrants (Ouwehand and Doff 2013). Fortuyn justified these measures as part of his overarching ideology of protecting Dutch values and norms from the deleterious behaviors of immigrants and Muslims. As will become clear later in this paper, the Dutch Urban Areas Act is known colloquially as the Rotterdam Act for its political and ideological origins in Rotterdam, and as less often acknowledged, for its reflection of these far-right sentiments from Fortuyn.

Fortuyn’s electoral popularity was not limited to Rotterdam, and he viewed the 2002 Rotterdam city council elections as a testing ground for his party before the national elections. Fortuyn ran for Parliament in the same year that Leefbaar Rotterdam won the local Rotterdam elections in a landslide. Nine days before the Parliamentary elections Fortuyn was assassinated, and his national party went on to another dramatic electoral victory by capturing 26 parliament seats, an unprecedented number for a new party, and becoming part of the new national coalition.

It is difficult to understate Fortuyn’s lasting impact on Dutch politics, and Dutch Urban Areas Act owes much of its origins to how Fortuyn mobilized anti-immigrant sentiments into a political movement. Fortuyn’s political style and ideology represented a remarkable turn in the tone and permissible rhetoric in Dutch politics. By combining an unapologetic anti-Islam ideology that connected Islamic immigration to the perceived denigration of Dutch culture and values (especially support for women’s rights and the LGBT community) with contempt for the leftist political correctness of establishment politics that he perceived as dominating Dutch discourse and preventing the country from naming immigrants as at the root of many issues, Fortuyn was the first Dutch politician to demonstrate how an explicit anti-immigrant and anti-Muslim platform could be an effective device around which to organize a political party. In other words, he “mobilize[d] an electorate cynical of established parties and anxious about social transformations, including the growing presence of minorities and Muslims.” (Uitermark 2012)

Fortuyn’s legacy has been a significant and seemingly permanent rightward shift in Rotterdam and Dutch national politics on immigration and tolerance towards Islam. Justus Uitermark characterizes how the ideological change has shifted focused onto the behavior and values of immigrants and ethnic minorities “stem[ing] from the belief that they are problematic: they do not mix enough, are not liberal enough, do not understand Dutch norms and values, are too often involved in crime, disproportionately drop out of school, are often unemployed, and so on.” (Uitermark 2012). A report from the Open Society Foundation summarizes how the general political climate in the Netherlands changed after Fortuyn because, among other reasons, he legitimized “the right to be
able to say what one thinks, regardless of the offensive character of the statement to some (mostly Muslims). This contributed to a shift in the balance between equal treatment and freedom of speech away from protection against discrimination.” (Open Society Foundation 2010).

Fortuyn’s lasting ideological impact has had a particular impact on changing the conceptualizations of urban policy goals. He helped usher in a general movement away from the “multiculturalism” paradigms – acceptance identity and cultural differences between the native Dutch and immigrant groups – and towards “social integration” (Ouwehand and Doff 2013). The general goal of social integration is for immigrant groups to adopt or embody Dutch culture and values. Also sometimes called an “assimilationist” paradigm, the social integration discourses seeks to minimize ethnic identity and promote policies that try to reduce differences between immigrants and native Dutch across domains of housing, employment, and education. (Bolt, Ozuekren, and Phillips 2010).

National political figures like Geert Wilders, and more recently Thierry Baudet, are highly visible manifestations of the “Fortuynism” political ideology and are the most rightward end in this general shift of thinking and policy around immigrants and Muslims.

Fortuyn’s political legacy is most evident in Rotterdam where he got his start and where his party Leefbaar Rotterdam remains the primary political force in municipal government. In Rotterdam Fortuyn’s “political heir” was Marco Pastors who became a vice mayor under Leefbaar after the 2002 city council elections and then led the party in the 2006 and 2010 elections. Marco Pastors continued promoting Fortuyn's proposals to stop immigration, and, as party leader, proposed preventing the in-movement of new ethnic minorities, an “allochtonenstop” (barring of people “not from here”) that would form a metaphorical wall around Rotterdam (Uitermark and Duyvendak 2008). In the March 2018 city council elections, Leefbaar Rotterdam won 11 of the 45 seats, a slightly lower number than their 2016 election (14 seats) but still the largest among the over nine political parties in the city. As a result Leefbaar will continue to form the council’s majority coalition and also hold positions in the executive branch as vice-mayors.

Throughout their short political history Leefbaar has proposed a variety of heavy handed policy interventions that are targeted at Rotterdam’s immigrant population through a social integrationist perspective. During their early years in the city council Leefbaar rapidly expanded the use and scope of government “intervention teams”. Government administrators conducted household visits in “hot spot neighborhoods” to monitor behavior, immigration status, and occupancy standards of inhabitants under the banner of a spatially-focused safety and security intervention. A more extreme proposal suggested by a Leefbaar city councilor but not implemented was forced abortions for Antillean mothers with criminal records (Schinkel and van den Berg 2011). Most recently, in early 2018, Leefbaar’s vice-mayor for Public Safety and Enforcement implemented a policy to curb youth gang activity that allows police to stop and question young people with expensive clothing such as coats and watches. The police can seize the clothing if youth are unable to show proof of legitimate purchase.^[6]

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Within this turbulent context in Rotterdam that shook local and national Dutch politics, a politician in a neighborhood-level level position from the centrist Labor Party proposed an idea that would become the basis for the Dutch Urban Areas Special Measures Act.

**Origins of the Urban Areas Act: Justifications for an exclusionary policy.**

The first version of the policy that became the Dutch Urban Areas Act emerged in 2003 within the context of the rapid-rise of an electorally dominant far-right populism under Pim Fortuyn in Rotterdam, the assassination of the movement’s charismatic leader, increasing violent crime (albeit at levels far below those in U.S. cities), and a general public sentiment that the city government was not doing enough to adequately address urban decline. Previous analyses of the Dutch Urban Areas Act have shown the origins of the Act as the result of contestation between the new far-right party Leefbaar Rotterdam and the Labor Party on the left reeling from its lost political ground (Ouwehand and Doff 2013; Uitermark, Hochstenbach, and Gent 2017). These analyses suggest some disagreement over the need, purpose, and scope of the Act. What my interviews with the main proponents of the law on both the political right (Leefbaar) and left (Labor Party) revealed is a shared set of base goals and motivations for the Act, and disagreement primarily over the language and framing used to contextualize the Act.

While Pim Fortuyn and Leefbaar Rotterdam ran on a platform of limiting the movement of foreign born people into Rotterdam and protecting native Dutch against the cultural threats of Islam, the first specific policy proposal that formed the basis of the Dutch Urban Areas Act came from Labor Party member Dominic Schrijer. At the time Schrijer was a district alderman (a now defunct type of neighborhood-level political position) in the Rotterdam South district of Charlois.

Andre Ouwehand and Wenda Doff describe how in response to a 2003 demographic forecast produced by the city’s statistic office, Schrijer feared increasing concentrations of poverty in Rotterdam South resulting from continued migration of ethnic minorities and proposed curtailing further migration. The forecast indicated that Rotterdam would become majority non-Dutch by 2017, rising from 35% ethnic minorities in 2003 to 48% in 2017 (Ouwehand and Doff 2013). Moreover the report provided for the first time projected demographic changes among each of Rotterdam’s sixteen districts and predicted that areas of Rotterdam South would experience the greatest increase in ethnic minorities and decrease in Native Dutch. Schrijer’s own Rotterdam South district of Charlois was projected to rise from about 40% ethnic minorities in 2002 to 75% in 2017, and the native Dutch population to decrease from 50% to 15% (Uitermark, Hochstenbach, and Gent 2017).7

Schrijer framed his demand for a measure to limit mobility of foreign-born residents of the Netherlands into Rotterdam South around concerns with regard to increasing concentration of poverty, to the uneven dispersals of disadvantaged households across the city, and to the need to buttress against increasing violent crime. Framing his concerns around class, Schrijer justified the need for a drastic measure with his own lived experience in the diverse ethnic neighborhood of

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7 As of 2016 there was approximately 630,000 people in Rotterdam and 38% are non-western immigrants, far below the 48% projected by the 2003 report, but still higher than the other “big four” cities in the Netherlands of Amsterdam, Utrecht, and the Hague.
Charlois that he suggested had already shouldered a heavy burden from migration and could no longer bear more low-income residents. He implied that his proposal voiced a shared desire across ethnic groups currently in his neighborhood of Rotterdam South to limit the influx of more low-income households. Schrijer’s proposal for limiting the entry into the area was also a political strategy to tap into the sentiments mobilized by Leefbaar and Pim Fortuyn (Ouwehand and Doff 2013). Schrijer was particularly concerned that the prevalence of low quality private rental housing, which at the time ranged from between 30% to 50% of the housing stock among the districts of Rotterdam South, was attracting low-income households and generating overcrowding by rewarding negligent landlords who would rent their dilapidated units to far more households than appropriate for occupancy standards.

As described by Schrijer, the contestation between the Labor Party and Leefbaar around how to frame a policy on limiting migration hinged on whether continued migration of non-white foreign born people into Rotterdam South was a problem of generating concentrated poverty, as migrants were attracted into low quality housing stock, or was a problem of specific immigrant groups and people of color. Schrijer clearly articulated the former, and in our interview, described his motivations for the proposing the Act as one of a color-neutral need to curb neighborhood distress:

I lived there [in Charlois], and I didn’t see a difference between black poverty and white poverty. [I said] cut the bullshit about migration and background and just look at poverty. What’s not fair is that there is a policy that is concentrating poverty and that pattern has to be broken. So you have to work at security, cleaning [physical neighborhood conditions], housing, etc. But cut the discussion about the racial background, and religion. What is important in these areas is to stop the movement of poor people into this area, no more poor people to the poor neighborhoods. Otherwise the poverty will never stop. Make space for wealthy people to come and live.

Schrijer was particularly concerned about how concentrated poverty was leading to violent crime, gun violence, and murders between strangers, a type of crime that he saw as unprecedented in the Dutch context.

Marco Pastors, who by this time had widely become recognized as the political heir to Pim Fortuyn after his assassination, was the then Vice Mayor in the city government responsible for housing and infrastructure and head of Leefbaar Rotterdam. He took up the opportunity presented by Schrijer’s proposal to reframe the issue in explicit anti-immigrant terms and advance the Leefbaar agenda of “ring-fencing Rotterdam” to stop the in-flow of foreign-born households (Ouwehand and Doff 2013). For Pastors and Leefbaar, the problem of neighborhood distress was too many migrants with generally low levels of employment and education and specific cultural and behavioral problems who were attracted to Rotterdam for its cheap housing stock. The overall diminishing of quality of neighborhood life, increased crime, and the introduction of unacceptable non-Dutch behaviors into neighborhood public life could directly be traced to immigrants.

In our interview Pastors described how the migration control policy as a short-term measure would, in combination with improving the quality of housing stock as long-term measure, address neighborhood decline:

We needed a two way policy. We need better houses. But that would take a really long time, we can only change 1% of the housing stock per year. So better housing is a long term approach, which is doing away with cheapest poorest housing that attracts people with biggest problems. But in short term when
people are moving away from the area, the next ones moving in shouldn’t be someone that needs help. They should be someone that with less likelihood of needing professional help. That became the Rotterdam Act. So we asked ourselves, how can we do that? We can’t just say to people [in the neighborhood] that you have problems so we need you to move. So we said let’s grasp the opportunity when someone moves out, the next one moving in should be someone who has a job. It’s a bit of a system approach, you have influx, and you have output, and you do things in between to help people. And if you want to have better neighborhoods, you have to have less people with problems, you have to have an acceptable number of people with problems. So it helps if you decrease the influx of people with likelihood with problems. We thought it was a very logical thing to do.

Pastors is now head of the National Program Rotterdam Zuid (NPRZ), a central government sponsored place-based program targeting Rotterdam South that combines education, employment, and housing investments. The program is unique in the Dutch context for its federal-local collaboration.

The two key political figures who helped mobilize political support and inspired the design of a policy that carried forward Pim Fortuyn’s urban agenda, Marco Pastors and Dominic Schrijer, both fundamentally agreed that the migration of low-income households into Rotterdam South needed to be curtailed. They agreed that an extraordinary measure was needed to prevent what had already become in their eyes unacceptable levels of neighborhood disorder. Despite being seemingly political adversaries – at the time Pastor’s Leefbaar party had just dominated Schrijer’s Labor Party in the municipal election – the two judged that the projected continued demographic change posed immediate and severe consequences for Rotterdam South. They wanted to promise the neighborhood that when housing became vacant it would not be filled by a type of people they saw as likely to bring problems to the neighborhood. Where they disagreed was on how to frame the problem and the solution. Schrijer believed it was a problem of just class or income and Pastors thought it was also a problem of foreignness and people with harmful cultural and religious practices. While Schrijer did not want to frame the policy as one based on ethnicity, for Leefbaar and Pastors, they explicitly said “the color is not the problem, but the problem has got a color.” (Ouwehand and Doff 2013)

They also both rebuffed what they felt had become a prevailing sentiment in the Labor Party around conceding complex social problems as the fault of higher-order social and political processes that could not be addressed by the means available to a city government. Instead, a bold city like Rotterdam could design and enact an extraordinary policy to meet exceptional conditions problems of neighborhood disorder. In other words, they both agreed the city needed to stop attempting half-measure urban policies that would be like “mopping the floor while the tap is still running”.

It is important to note that proposal to curtail movement of foreign born households into Rotterdam South took place in a larger city context that, as a result of the Fortuyn Revolt, had become amenable to such a drastic measure. Interviewees familiar with the city context describe how a sense of urgency in the city to address neighborhood distress spurred the Labor Party at both the local and national level to support an extraordinary measure to address problems of neighborhood distress. A senior member of the Labor Party in the city council at the time of Schrijer request (and Pastor’s attempt at reframing) described how the proposal to came at a time that aligned with general agreement among the Labor Party that something needed to be done:
There was a common sense in the city council that the extreme situation in the city needed extreme measures... The populist politicians in Leefbaar Rotterdam said we had to stop migration. Other parts of the political landscape, the Labor Party and other left and center parties, said we can’t stop it, we have to deal with it and it’s a reality, and we have to master the problems that it arises, and there’s positives too [benefits of migration]. But on the practical level, there was much less divide [between parties]. There was a sense of urgency felt by the city council, by local government, by the municipalities within Rotterdam, that things had gotten out of hand and had to be dealt with, mainly in Rotterdam South, and there was a strong influence in national government from social democrats [Labor Party] as well, to support that idea and to make it possible to experiment with interventions which were not seen yet until then in Holland.

A clear demonstration of the right-ward shift in city politics that created fertile conditions for a severe migration policy to be politically feasible was what happened during a peculiar period between when the Dutch Urban Areas Act became a national policy on January 1, 2006 (after an experimental phase just in Rotterdam that I will discuss further in the next section), and when Rotterdam implemented the policy at the local under the new national legislation on July 1, 2006. In the middle of that six month period Rotterdam had another city council election where Leefbaar Rotterdam fell out of the majority coalition (while still retaining a substantial share of seats), and the Labor Party re-entered the majority coalition. The Labor Party then had the opportunity to stop the Act. However, because of the general rightward shift and continued political pressure from Leefbaar, the Labor Party went forward with implementation. As a result, the first four years of the Act under national legislation in Rotterdam were somewhat ironically under the leadership of Labor Party, the primary political target of Fortuyn’s movement. Leefbaar did not enter the majority coalition until the next cycle of city council elections in 2010.

This surface contestation yet base congruence on the problems of associated with migration is a critical component of the analysis that I will bring in Chapter 5 of this paper.

**Iterations and policy experimentation in Rotterdam before becoming a national policy.**

Once political consensus had been reached in the city government between Leefbaar and the Labor Party on the need to restrict migrant movement into areas of Rotterdam South, the city undertook a multi-year process of experimentation and iteration on the precise policy mechanisms and criteria to exclude people (Ouwehand and Doff 2013). The policy program began in 2003 when the city government released a policy paper called “Rotterdam Preserves: Toward a Balanced City” that became the basis for the policy (City of Rotterdam 2003). The report begins with the same predicted demographic change in the city that had spurred Dominic Schrijer to action when it states “that in the coming years the number of autochthonous [native] Rotterdammers will further decrease and that there will be a significant increase in the number of people from ‘other poor countries’ and the Dutch Antilles”. The report then calls for measures to limit the inflow of disadvantaged households into distressed neighborhoods:

> Neighborhood degeneration is mainly a question of a decline in liveability, for example, due to overcrowding and crime. If nuisance and crime gain the upper hand, the neighborhood will degenerate. If this threatens to exceed the absorptive capacity of the city or neighborhood, then action has to be taken and we have to be more selective about incoming residents (Gemeente Rotterdam, 2003, 42-43, [translation by (Ouwehand and Doff 2013)]).
In order to both limit the influx of households on the basis of their income and to extend controls into the private rental market, the city lobbied the central government to amend the Dutch 1993 Housing Act. The city needed to reintroduce a housing permit system that would cover both the social sector and private rental market.

The first version of the Act was an experiment launched on October 1, 2004 to test the permitting system in one neighborhood of Rotterdam South and a few “hotspot” streets throughout the city. The criteria of excluding prospective movers (who would not receive a permit from the government) into the designated area in this first version was anyone with an income below 120 percent of the minimum wage. The experiment concluded after 6 months in 2005 and, after the city had shown the experiment successfully reduced the inflow of low-income households into the designated areas, became the basis of continued support for the policy at the local level and for the central government to pass national enabling legislation.

In January 2006 the national government passed the Dutch Urban Areas Act. The income criteria screening mechanism became Article 8 in the national law and changed from 120 percent of minimum wage to requiring income from employment and providing exemption for households who had been residents of the metropolitan area for at least 6 continuous years.

Several authors have noted that what was particularly remarkable in the passage of the Dutch Urban Areas Act at the national level was that Rotterdam had once before unsuccessfully tried to obtain central government backing for a similar measure in the early 1970s (Ouwehand and Doff 2013; Uitermark, Hochstenbach, and Gent 2017). This failed precedent for the Dutch Urban Areas Act was a policy that emerged after a 1972 riot in the Rotterdam South neighborhood of Afrikaanderwijk started when native Dutch directed violence against Turkish guest workers living in overcrowded boarding houses. Considered the first “race riot” in the Netherlands, the collective violence against Turkish homes, hostels, and business lasted for six days with little or inconsistent police intervention (Witte 1996). In the aftermath, the city council proposed a policy to spread guest workers across the city, limiting the percentage of immigrants to 5% per neighborhood (Open Society Foundation 2010). The policy was rejected by the central government (The Council of State) as unconstitutional because the Dutch constitution forbids discrimination on the basis of race.

On July 1, 2006 Rotterdam implemented the Urban Areas Act under the new national legislation for the first four year period of 2006 to 2010. At that time the Act covered four neighborhoods in Rotterdam South. Rotterdam added a fifth neighborhood in 2010 when the city requested renewal for an additional four years, and added 10 streets in the western area of the city when the Act was once again renewed in 2014. As a result, currently Article 8 of the Dutch Urban Areas Act in Rotterdam covers five neighborhoods in Rotterdam South (Carnisse, Old-Charlois, Hillesluis, Tarwewijk, and Bloemhof), and streets in the western area of the city known as Delfshaven. Beginning in 2017 Article 9 was applied in the neighborhood of Bloemhof as an “experiment” to give priority to teachers, artisans, policemen and other lower-middle class jobs. The housing in Bloemhof is almost entirely owned by the two major social housing corporations in the city, Vestia and Woonstad. Throughout the designated areas both rental units in the private and social sector are covered, but homeownership units are not covered. Figure 1 from a 2015 paper by Justus Uitermark and colleagues summarizes the geographic expansion of the Act in Rotterdam as it developed from its 2004 pre-national legislation experimentation phase to its current geographic coverage.
Figure 1. Development of the Dutch Urban Areas Act in Rotterdam


Figure 2 zooms into the neighborhoods of Rotterdam South where the Act is being used. Figure 3 shows the extent of designated areas in the Rotterdam metropolitan areas as a whole. Purple indicates areas designated in Rotterdam.
Figure 2. Neighborhoods of Rotterdam South Designated by Dutch Urban Areas Act

Note: Designated neighborhoods are Oud-Charlois, Carnisse, Tarwewijk, Bloemhof, and Hillesluis, and streets in the neighborhood of Delfshaven.

Figure 3. Cities in the Rotterdam Metropolitan Area (Blue) Applying the Dutch Urban Areas Act and Areas in Rotterdam where the Act is Applied (Purple)

Excluding the streets in Delfshaven for which I could not find data, currently the Act in Rotterdam covers a combined designated area totaling 62,200 people living in about 20,100 rental homes (Table
2). About 55% (11,055) are privately owned units and 45% (9,053) are owned by social housing corporations.

Table 2. Population and Units Covered in Rotterdam, by Neighborhood

<table>
<thead>
<tr>
<th>Neighborhood</th>
<th>Population&lt;sup&gt;a&lt;/sup&gt;</th>
<th>Non-Western Immigrant&lt;sup&gt;c&lt;/sup&gt; (%)</th>
<th>Rental Units&lt;sup&gt;b&lt;/sup&gt;</th>
<th>Social Housing&lt;sup&gt;c&lt;/sup&gt;</th>
<th>Private Owner</th>
<th>Total</th>
<th>All Units&lt;sup&gt;b&lt;/sup&gt;</th>
<th>Rental</th>
<th>Owner Occupied</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rotterdam South</td>
<td>57,647</td>
<td>76</td>
<td>18,466</td>
<td>24</td>
<td>76,113</td>
<td>69</td>
<td>34,393</td>
<td>31</td>
<td>110,506</td>
<td></td>
</tr>
<tr>
<td>Designated Neighborhoods</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Carnisse</td>
<td>11,065</td>
<td>40</td>
<td>770</td>
<td>24</td>
<td>2,424</td>
<td>3,194</td>
<td>3,194</td>
<td>54</td>
<td>2,752</td>
<td>46</td>
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<tr>
<td>Oud-Charlois</td>
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<td>2,401</td>
<td>58</td>
<td>1,761</td>
<td>4,162</td>
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<td>64</td>
<td>2,340</td>
<td>36</td>
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<tr>
<td>Hillesluis</td>
<td>11,850</td>
<td>74</td>
<td>2,354</td>
<td>65</td>
<td>1,278</td>
<td>3,632</td>
<td>3,632</td>
<td>72</td>
<td>1,415</td>
<td>28</td>
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<tr>
<td>Tarwewijk</td>
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<td>45</td>
<td>2,313</td>
<td>4,204</td>
<td>4,204</td>
<td>72</td>
<td>1,632</td>
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</tr>
<tr>
<td>Bloemhof</td>
<td>13,735</td>
<td>65</td>
<td>3,639</td>
<td>74</td>
<td>1,277</td>
<td>4,916</td>
<td>4,916</td>
<td>79</td>
<td>1,341</td>
<td>21</td>
</tr>
<tr>
<td>Total Urban Areas Act</td>
<td>62,165</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>20,108</td>
<td>45</td>
<td>9,480</td>
<td>32</td>
</tr>
</tbody>
</table>

Note: Does not include streets in the Delfshaven
Source: http://www.weetmeer.nl/buurt/Rotterdam/0599
<sup>a</sup> year 2017; <sup>b</sup> year 2014; <sup>c</sup> includes government owned units

Between the period of July 1 2006 (when the policy in Rotterdam shifted from its experiment phase to official recognition under national legislation) to July 1 2015 a total of 19,386 households requested to rent a property in the private market in the designated areas. The Act excluded 3,821 of the 19,386 households, or an average of about 425 per year (Bol 2016). I was unable to find exclusion rate data for social housing units.

As discussed above, the central government requires cities at every renewal period to evaluate the policy’s effectiveness and impact to justify an additional four year extension if requested. An evaluation from the University of Amsterdam produced in 2015 covering the Act in Rotterdam between 2006 to 2013 concluded that the Act was effective at excluding the targeted prospective in-movers from the designated neighborhoods as outlined by Article 8 (people without income from work, retirement or student pensions). The evaluation found that this group of people who were stopped from moving into the designated areas in Rotterdam South tended to find housing in adjacent neighborhoods or in other areas of Rotterdam with affordable, often private rental dwellings (van Gent, Hochstenbach, and Uitermark 2017). As a result, the social composition of the designated neighborhoods was slowly changing as prospective in-movers without incomes were excluded from the living in the neighborhood, moved elsewhere, and prospective in-movers who had incomes from employment moved into the neighborhood. Without assigning causality, the evaluation also indicated that neighborhood quality of life in the areas had actually decreased, according to a regression analysis on a neighborhood-level “safety index” across all 58 neighborhoods in Rotterdam for the 2006 to 2013 period. The index includes composites of administrative local crime data related to theft, violence, nuisances, and burglary, and survey data of
resident’s assessment of their neighborhood’s cleanliness, physical conditions, and feelings of safety.\(^8\) Controlling for other neighborhood characteristics and neighborhood-level interventions in the housing market such as new development, the researchers found that the neighborhoods designated under the Act saw decreased scores on the safety index. In response to the mixed results presented by the evaluation – successful exclusion of the intended groups but no improvements in neighborhood conditions – the central government (BZK) said that the changes in the social composition of the neighborhoods alone was sufficient grounds to justify extending the Act in Rotterdam.

At the time of my January 2018 field work, the Rotterdam city government was preparing their application to the central government to, beginning on July 1 2018, once again extend the Act for an additional four years for all currently designated area and to add approximately an additional 30 streets. According to my interviews conducted in January 2018, the city was planning to use Article 10 on these additional 30 streets, as well as Article 8 and Article 9.

**Turning a local policy experiment in Rotterdam into national legislation**

Before analyzing in the next section how cities outside of Rotterdam are applying the Dutch Urban Areas Act, this section briefly describes the central government’s decision for creating the national legislation. I describe the central government’s legal basis for an exclusionary policy and their justification for why other cities outside of Rotterdam should be able to apply the Act. My primary source is the House of Representative’s 2005 document that accompanied the law itself called the “legislative memorandum”. Another important document is legal advice from the Council of State (“Raad van State”) that accompanied the law. The Council of State is a constitutionally established advisory body that the government must consult on all legislation. These two documents were also important sources of information for the European Court of Human Rights in their understanding of the guiding purpose of the Act within their 2017 decision in the *Garib v. Netherlands* that upheld the Act under EU law.

Combined these documents generally confirm what interviewees in Rotterdam described around a sense of shared urgency: the unprecedented severity of neighborhood distress in Rotterdam demanded a commensurately strong policy response. It is worth revisiting these themes around the purpose and scope of the policy in depth to review key areas of agreement and mutual understanding at the important juncture when the Act moved from a highly localized experiment in Rotterdam to a generalizable policy that is permissible across the Netherlands.

The House of Representative’s legislative note begins with reiterating the severe conditions in Rotterdam that in the opinion of the government justified an extraordinary intervention. The problems of Rotterdam were “large in size” and the “absorptive capacity” of neighborhoods for receiving socioeconomically disadvantaged or “weak” households had been reached. The central government believed concentrated poverty created economically weak neighborhoods, generated crime, nuisance, and behavioral problems. The central government believed the experimental pre-

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\(^8\) The Safety Index used by the researchers is a modified version of the Safety Index used in the Leefbaarometer. The researchers modified the index so as to not use indicators on quality of life directly associated with the group of people explicitly or indirectly excluded (e.g. low income households and immigrants), which are used in the Leefbaarometer.
version of the Act in Rotterdam South addressed the legitimate concerns of nuisance, illegality, and crime caused by the combined continuous influx of disadvantaged groups from outside of Rotterdam and by the simultaneous outmigration of households with stronger economic positions who could afford to live elsewhere (Tweede Kamer der Staten-Generaal 2004).

What is new in the legislative memorandum is the House of Representatives judgement that the neighborhood conditions in Rotterdam were also detected in the Netherland’s other major cities. Although the problems in Rotterdam were of a larger scale than other cities, the House believed the issues were of the same general category. As a result of the common metropolitan challenges of neighborhood distress, the central government created the Dutch Urban Areas Special Measures Act not as a special law for the city of Rotterdam but as a generalizable intervention to which all large municipalities should have access. The House wanted the law to be sufficiently flexible to meet local conditions so that cities could determine where and how to apply the intervention of regulating neighborhood composition.

The House viewed the Act as facilitating multiple goals for neighborhoods where “the quality of is under stress”. It would ensure that in-movers have a “minimum level of socioeconomic standing”, retain existing neighborhood residents that have a strong socioeconomic positions, and curtail the influx of generally underprivileged groups. The legislative note also describes the specific challenges posed by “illegal immigrants” who are primarily attracted to the Rotterdam area for its cheap housing and employment opportunities and that research on illegal immigrants in the Netherlands shows “illegality…has an direct relationship with quality of life and safety in neighborhoods…that overcrowding and concentrations of criminal and illegal migrants a significant effect have feelings of insecurity.” The Act also facilitates a sound neighborhood “socioeconomic foundation” to support the social, education, security, and economic functions of neighborhoods. These functions are in turn the “foundations of urban society and enable stable development”. Moreover, the House believes the Act supports the general national imperative of social integration, particularly for immigrants who do not speak Dutch. The government reasoned that social integration is impaired when people who do not speak Dutch are geographically concentrated and socially isolated.

The memorandum also notes that the law facilitates the same goals sought by the major existing urban policy in the Netherlands called the “Big Cities Policy”. This initiative has undergone several iterations since its inception in the early 1990s but has generally sought to address socioeconomic and ethnic segregation, unemployment, and safety through redevelopment of old housing stock into mixed-income neighborhoods (Musterd and Ostendorf 2008). According to the central government, the general imperatives and purpose for the Dutch Urban Areas Act aligned with the Big Cities Policy. That is, the Act addresses the “selective migration” or flight of higher income households out of neighborhoods who are then replaced by lower income households that strain public services and public benefits.

Beyond these general guiding motives, the memorandum describes several specific goals for the Act. The measure specifically is aimed at reducing economic segregation across the city by regulating access to the housing market in certain areas in an effort to improve the living conditions for people currently in those neighborhoods. The Act also helps municipalities that have reached limits on their resources and capacities to address neighborhood distress. Therefore, the Act provides for a “temporary” curtailment of the inflow of new residents with weak socioeconomic positons by
creating “breathing space” for the neighborhoods. The government then reasons that in order to effectively “regulate the inflow of underprivileged people” the Act is necessary in both the private housing market and the social sector. The themes of “breathing space” and “absorptive capacity” are important metaphors that I will return to in later chapters.

The legislative memorandum then provides guidance on the scope and selection of areas, and scenarios under which the Acts is permissible. The law allows local governments to select areas where problems cannot be addressed by others means. The geographic scope cannot be so large as to substantially decrease the housing options elsewhere in the region for households who are excluded from moving into the designated areas. The note reinforces a key understanding that the Act is a severe or drastic measure and can only be used in “exceptional situations”. It establishes the time limitation of four years and requirement of impact evaluations after each four period. The note then says that the central government will withdraw designation of the areas if the Act no longer meets the four legal requirements for its use or if there is not sufficient housing options in the region for households not eligible to live in the designated areas.

The note then clarifies in detail why the Act meets the four legal requirements of legitimate aim, appropriateness, subsidiary, and proportionality. The Act meets a legitimate or compelling government aim of addressing neighborhood distress in areas under considerable pressure by providing for a “temporary” reduction of the inflow of socioeconomically weak households. The governments considers this an appropriate measure but is not meant to be used lightly. The Act is also appropriate because it has the safeguard of only applying to those who lived in areas for six years or less, and as a result does not significantly distort the housing market by applying to all people without incomes. The Act meets the subsidiarity requirement (no other measures could be effective) because it is a short-term approach needed to “prevent the situation from getting worse” to compliment the long-term structural approach of the “Big Cities Policy” for increasing neighborhood diversity. Finally, the Act meets the proportionality requirement because of the safeguard for households excluded from moving into the neighborhoods that they have sufficient housing options in the region. The note says their housing options are only slightly limited as a result of the Act because of this safe guard, which simultaneously provides a de facto limit on the maximum size of the area that may be designated.

The legislative note then specifically addresses how a policy that explicitly discriminates on the basis of income and restricts the movement of households is legal under European law. The focus is on the rights guaranteed by the European Convention on Human Rights. Article 2 of the Convention’s Fourth Protocol guarantees everyone lawfully within the countries abiding by the Convention “the right to liberty of movement and freedom to choose his residence.” The Convention only allows for violations of these rights in cases where it is “necessary in a democratic society in the interests of national security or public safety, for the maintenance of order public [public order], for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.” (“European Convention on Human Rights” 1950)

In the note the House says that the Act constitutes a minimum restriction on the right of freedom of movement for people without incomes from work. By advancing the goal of preventing concentration of socioeconomically weak groups, the government believes the restriction meets the permissible scenario of protecting public interest under which the government can impinge rights of
movement. The benefits of protecting “public order” on “which democratic society is based” outweighs what the House believes is a minimal harm inflicted on the people who are excluded from the areas.

The note then addresses the legality of potential “indirect” discrimination such as on the basis of race that could occur as a consequence of the Act’s “direct” discrimination on the basis of income. The House says the legislation does not directly discriminate or “make distinction” on the grounds of race, color, and national or ethnic identity, but that indirect discrimination on one of these grounds is impossible to completely rule out.

The note ends with specific interpretations of the letter of the law, reiterates that as an “exceptional instrument” the law is only permissible for exceptional circumstances, and clarifies the precise purposes of Articles 8 and 9. At the time in 2005, Article 10 had not yet been introduced into the law. The government understood Article 8 as an “admission requirement” to neighborhoods because potential in-movers who do not meet the requirements in the article are not admitted into the housing stock in the area. Article 9 allows municipalities to grant “priority” in the allocation of housing by designating locally defined socioeconomic characteristics.

The legal advice from the Council of State that accompanies all national legislation generally reinforces the key purposes of the Act described by the House of Representatives. The Council of State says the core goal of the Act is to improve equality of life for residents in the designated areas by limiting the influx of socioeconomically weak households in areas where the “absorptive capacity” has been reached. The Council of State also reiterates that the policy is a short-term intervention that advances the public interest of a democratic society and constitutes a minimal breach of human rights.

The Council of State also anticipates potential concerns of cities surrounding Rotterdam that I will describe further in this paper. Surrounding municipalities could become the recipients of the unemployed households who are not allowed into the areas designated by the Act. The Council of State was concerned that problems of neighborhood distress would simply be displaced from one area or one city to another as the excluded households search for inexpensive housing options elsewhere (Raad van State 2005). Finally, the Council of State briefly noted that the central government did not define a method of determining the remaining availability of housing in the region for people affected by the Act. I will show later why this critical detail has had significant implications in generating regional urban planning challenges in Rotterdam.

3.4. The Dutch Urban Areas Act in Four Other Cities: Deliberation, Goals, and Design

The first cities after Rotterdam to implement the Urban Areas Act were Capelle aan de Ijssel in 2015 and Vlaardingen in 2016, both neighbors to Rotterdam. Following them at least 6 other cities have adopted or have submitted plans to adopt the Act. In this section I describe how the Urban Areas Act is being applied in four other cities with social and political contexts both similar to and highly divergent from those in Rotterdam. These are Tilburg, Zaanstad (Zaandam), Schiedam, and s-
Hertogenbosch, known colloquially as Den Bosch. To my knowledge, this is the first analysis of the Act as applied outside of Rotterdam. For each I describe the broad motives and goals for why the city decided to use the Act. I also describe specific details such as what articles from the Act are applied, in what areas, and to what end. Where they occurred I also describe important political discussions within the city surrounding the Act. Because my primary unit of analysis is the Act itself, and my purpose is to generally understand how the Act is used in other cities and make comparisons, I do not provide as much background on each city’s social and political history as I did for Rotterdam. Figure 4 shows where these cities are in the Netherlands.

Figure 4. Cities Actively Using or Recently Submitted Applications for the Dutch Urban Areas Act

What this section shows is the Act has facilitated highly localized approaches to its goals, design, and scope. Cities are using the Act at highly varied scales, ranging from Tilburg’s targeting of a single social development to Schiedam’s plan to use the Act across a scattering of twelve areas as a compliment to a city-wide neighborhood redevelopment program. Some cities selected all three articles of the Act, while others prefer Article 9 because it is a “preferential” rather than exclusionary mechanism. Cities generally have specific target populations they want to facilitate moving into an area or want to prevent from moving into an area. This includes facilitating the social integrations of Turkish enclaves by introducing higher income households into the area, encouraging the in-movement of graduate students near transit hubs connected to universities, and breaking-up specific
criminal networks. Most often cities are targeting areas long identified by the municipality as having a concentration of social problems. In all cases I analyzed, the Act was designed to meet specific goals identified by the city.

**A university city in South Holland: Tilburg**

Tilburg is the sixth largest city in the Netherlands with a population of about 215,000. The city is over 75% native Dutch. Located in the southern party of the country, the city is home to the elite international Tilburg University.

Tilburg is using the Dutch Urban Areas Act to disrupt an ethnic Dutch criminal network operating in a single 74 unit social housing development in the neighborhood of Groenewoud (“green forest”). Figure 5 from the city’s applications to the central government shows the development in its neighborhood context.

Groenewoud has 7,650 people living in 3,700 units. The neighborhood is home to a reclusive and socially isolated but tightknit nomadic ethnic Dutch population that has lower levels of education than the averages among native ethnic Dutch. This group and the neighborhood have long been associated with producing marijuana in the Netherlands and smuggling it across Europe.

Figure 5. The targeted development (left) in the neighborhood of Groenewoud (right)

The city government began considering applying to the central government to use the Act when the social housing corporation that runs the development approached the municipality for assistance after receiving an unusually high number of requests from people wanting to leave the development and relocate elsewhere in the city. In response the municipal government conducted a statistical analysis to assess patterns of crime and police calls in the area surrounding the development. The analysis showed a high frequency of police calls originating from all developments in the neighborhood with the exception of the particular development in question. The municipality then conducted door to door interviews with every resident in the development and learned that the
development was being controlled by a criminal network operating in the surrounding neighborhood. Through violence and active surveillance, the network was forcing residents of the development to grow and sell marijuana and suppressing resident dissent and calls to the police.

After completing this investigation, the city government approached the Ministry of the Interior and Kingdom Relations to discuss applying both Article 8 and Article 10 to form an intentional two pronged approach to filling vacancies in the development. Article 10 would ensure vacancies were not filled by peoples with criminal backgrounds who would likely strengthen the existing criminal network in the neighborhood, and Article 8 would prevent in-movement of people who as a result of their low socioeconomic positions could be ready targets for manipulation and control by the network. The municipality viewed Article 10 as their primary tool to break-up the network, and Article 8 as an “extra” to protect financially vulnerable people from moving into a development where they would be coerced into criminality.

After consultation with the central government around their intentions for Article 8 and Article 10, the BZK suggested that Tilburg also consider Article 9. BZK reasoned that Article 9 would be necessary for Tilburg to meet its goal of disrupting the criminal network by fully closing the potential for financially vulnerable people to move into the neighborhood. Because Article 8 could still permit the in-flow of certain financially vulnerable people (e.g. someone without a job who but has lived in the city for more than 6 years), Article 9 allows Tilburg to ensure only those that move into the development are employed and/or have a minimum level of secondary education. As result, the addition of Article 9 allows Tilburg to form a comprehensive web around the development, designed to permit housing for people meeting a specific set of characteristics: someone without a criminal record (Article 10), who if they have lived in the area for less than six years is employed (Article 8), but if they have lived in the area for longer than six years is employed and has high enough education and earning power so that they likely will not be targets of coercion by the drug trade (Article 9) (City of Tilburg 2017).

Tilburg received permission from the minister at BZK in September 2017 to implement the Act covering 74 units and 190 people. The 74 units comprises less than 0.5% of the total social housing stock in the city (28,879). Tilburg was the first municipality not in the Rotterdam metropolitan area to use the Act.

There was limited discussion by the executive (mayor and vice mayor) or city council surrounding the Act. After the social housing organization approached the municipal government and the consultation with the BZK, the municipal government proposed the Act and received support from the city council. Some media discussion of the Act presented concerns around Article 8 as stigmatizing the poor and restricting freedom of movement.

The Dutch Urban Areas Act in Tilburg is part of a larger ongoing set of interventions and social supports from the city government the targeted area. Since 2008, the city has provided additional supports in education, health care, sports and after school activities, and employment. However, the municipality decided to apply the Act because, despite these investments, “hundreds of projects, all types of things….nothing really helped. So now we have this Urban Areas Act”.

9 A completed secondary or pre-training degree (e.g. MBO-2)
A suburb in metropolitan Amsterdam: Zaanstad

Zaanstad is a city in the North of Holland and part of the Amsterdam metropolitan area. With a population of just over 150,000, the city is composite of multiple smaller towns or villages.

Zaanstad started considering using the Dutch Urban Areas Act after a prominent video blogger began receiving significant local and national attention around his documentation of problems of physical decline and perceptions of rough policing in the neighborhoods of Poelenburg and Peldersveld. In response the city council adopted a resolution requiring the executive (mayor and vice mayors) to quickly devise a plan to improve the quality of life in the neighborhoods. The resulting plan covers five focus areas of youth development, language skills, early childhood development and child raising, employment, and neighborhood appearance (e.g. cleanliness). However, the city determined that the goals of the neighborhood plan cannot be achieved unless two “essential” preconditions are first achieved: improved neighborhood safety and increased diversity. The city reason that the Act would be a primary tool to facilitate reaching these preconditions, and enabling the broader place-based set of interventions to reach their potential.

In December 2017 the municipality submitted its application for the Dutch Urban Areas Act to the government (BZK) and received approval in March 2018. The application covers the two adjacent neighborhoods of Poelenburg and Peldersveld that are home to 8,500 and 5,500 people respectively. The plan covers social housing units and privately rented units but not owner occupied units. The majority of units in the neighborhoods are owned by the social housing corporation: 2,041 of the 3,421 total units in Poelenburg are social housing and 162 are private rentals; 1,457 of the 2,350 in Peldersveld are social housing and 165 are private rentals. Therefore the Act covers a total of 64% of homes in Poelenburg and 80% of homes in Peldersveld (City of Zaanstad 2017).

The targeted neighborhoods are primarily Turkish. The municipality expressed concerns of a “parallel community” developing in the area, with children experiencing delayed Dutch language abilities because of Turkish as the primary home language. In its application the city shows data (Figure 6) from the national “Leefbaarometer” or liveability index to show the levels of distress in the neighborhood.
Zaanstad is applying Articles 9 and Articles 10 in the two neighborhoods. Article 9 will have a three tiered preference system of socioeconomic characteristics. The first preference goes to people who are employed in non-commercial services, as defined by the Dutch Central Agency for Statistics, which includes job categories in the fields of public administration, education, healthcare, and culture. The second preference are for people with an income from a paid job or retirement, and the third for people with a “starters diploma” in the Dutch education system at the level of “HAVO or VWO” (highest high school achievement), MBO2 (community college) or higher. In effect, the preference is first for people in the preferred job categories, then for anyone employed, and third for people with a certain level of education. Their specific strategy under Article 9 is to attract college or graduate students living in nearby Amsterdam with the lure of lower cost housing yet short commutes into Amsterdam. In fact, they are actively recruiting students from the University of Amsterdam’s department for training social workers who, because of their chosen field of study, might be inclined to want to live in a diverse neighborhood.

For Article 10, the city is taking all of the permissible areas of screening of police records (convictions and police reports) eligible from the Act. Per the rules of the Act, all household members over the age of 16 will be screened, and in cases when a screening indicates a record, the Mayor will be provided a dossier on all household members with records. The mayor will then have full discretion on whether to grant a housing permit and if any living stipulations are required as condition of receiving the permit.
In determining whether and how to use the Act, the municipal council explicitly rejected applying Article 8. The council interpreted Article 8 as an unacceptably exclusionary and discriminatory measure. Article 9 and Article 10 received support from the majority of the council. Another discussion in the city council centered on whether the Act would cause a “waterbed” effect, the decline of other neighborhoods that become destinations for the categories of people who are blocked by the Act in the targeted neighborhoods. It is unclear whether this discussion simultaneously occurred with the decision to not use Article 8, as both discussions implicitly acknowledge that the Act is primarily an exclusionary instrument, but only Article 8 was rejected under this exclusionary argument.

To address the concern of other neighborhoods declining as a result of the Act, for the first four year period of the Act the city is planning to monitor neighborhoods not designated under the Act for changes across a variety of indicators such as poverty rates, average education, and criminal activity at 6 month intervals, rather than their previous practice of yearly analysis.

**Rotterdam’s neighbor: Schiedam’s city-wide plan for the Urban Areas Act**

The City of Schiedam has a population of 76,000 and is bordered by Rotterdam on its east. About 60% of residents are native Dutch and 40% are immigrants. About 29% are immigrants from non-Western origins that while lower than the rate of non-Western immigrants in Rotterdam (38%) is still significantly higher than the national rate of 12% (Statistics Netherlands 2016). Like Rotterdam, many of the non-Western immigrants are Turkish or Moroccan, and to a lesser extent from Surinam and Eastern Europe.

Schiedam had considered using the Dutch Urban Areas Act as early as 2006 when the national enabling legislation was passed. The city council was concerned from the onset of Rotterdam’s implementation of the Act that Schiedam would be the primary landing destination for households excluded from the designated areas in Rotterdam. The concern for “waterbed effects” from Rotterdam was given empirical weight by the 2015 University of Amsterdam evaluation. The report finds that in the year 2013 although 73% of residents excluded from the designated areas of Rotterdam moved into other areas of Rotterdam, 8% moved to the city of Schiedam. As a result, Schiedam was the largest recipient among surrounding municipalities in the metropolitan area, especially the “Oost” (East) district of the city that directly shares a border with Rotterdam. Indeed the report notes that “only Schiedam…stands out as a new destination for excluded residents” among the various other cities where excluded residents from Rotterdam moved. The next closest were municipalities of Vlaardingen10, which borders Schiedam to the west, and Capelle aan Den Ijssel, which borders Rotterdam (both receiving 4% of Rotterdam’s excluded). Vlaardingen and Capelle aan Den Ijssel passed the Act in 2015 and 2016, respectively (van Gent, Hochstenbach, and Uitermark 2017).

Although Schiedam had discussions about the Act since 2006, the majority coalition in the city council between 2006 and 2014 included members of the party GroenLinks, which opposed the Act.

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10 I was unable to interview representatives from Vlaardingen and Capelle aan Den Ijssel. Interviews with individuals familiar with the planning process in Vlaardingen suggest the concern of excluded residents from Rotterdam entering the city was also a major impetus for applying the Act. [Cody]
at both the local and national level. After the 2014 city council elections GroenLinks received a lower percentage of votes and was no longer part of the majority council. Then planning for use of the Dutch Urban Areas Act began in earnest with a city council more likely to approve of the Act.

The 2015 University of Amsterdam report helped catalyze opinion among the sole social housing corporation in the city and political parties that something needed to be done about the potential influx of people that were excluded from the areas designated in Rotterdam. In 2015, the city government organized a round table discussion with members of the city council, the social housing corporation, and representatives from Rotterdam to discuss the potential use of the Act in Schiedam. Out of that meeting came the first proposals to the city council for use of the Urban Areas Act.

After the majority coalition change that allowed for consideration of the Urban Areas Act, there was still disagreement about whether to apply Article 8. The majority coalition included five parties, and those on the left did not want to apply Article 8 because it was perceived as more exclusionary and discriminatory than the others because of its screening based on income. Before Article 9 was introduced as an amendment into Urban Areas Act in 2014, all of the parties on the left in the council were against the Act because it only excluded on the basis of income. In December 2016, with the availability of both Article 9 and Article 10, the city council voted overwhelmingly in favor of the act (33 in favor and 2 opposed from GroenLinks). In effect, Article 9 and Article 10 provided the basis for political parties on the left to support the Act. Before then, all the parties on the left were opposed. The city sent their application to the central government in October 2017, and the Act went into effect on January 1, 2018.

The Urban Areas Act in Schiedam is part of a comprehensive city-wide planning effort to diversify neighborhoods and restructure the housing stock. The city is divided into eight administrative districts, each with smaller neighborhood areas. To identify neighborhoods for the Act, the government conducted statistical analyses to select an initial list of neighborhoods with the lowest quality of life as determined by the Leefbaarometer and other indices, and then excluded from consideration neighborhoods that are undergoing major redevelopment. These areas were already slated for comprehensive physical restructuring of the housing stock (“revive and renew”) and social composition change as the older stock built during World War II in these areas is being redeveloped to include homes at a range off price levels and tenure types. With the revised list of potential neighborhood areas, the city then consulted the police, social workers, and the social housing corporation to further refine neighborhood selection. Based on the statistical evidence and this consultation, the city selected four of the eight districts, and within them specifically designated 12 smaller neighborhood areas for the Act.

Schiedam’s Urban Areas Act covers a total of 2,693 homes across the four districts and 12 specific neighborhood areas. About 80% (2,115) are owned by social housing corporations, 12% (328) are privately owned rentals, and 8% (233) are private owner occupied. Table 3 shows the distribution of units across districts, by article.
Table 3. Distribution of homes by District and Article in Schiedam’s Urban Areas Act

<table>
<thead>
<tr>
<th>District</th>
<th>Article 9</th>
<th>Article 10</th>
<th>Article 9 and 10</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nieuwland</td>
<td>787</td>
<td>216</td>
<td>252</td>
<td>1255</td>
</tr>
<tr>
<td>Groenoord</td>
<td>355</td>
<td>104</td>
<td>233</td>
<td>692</td>
</tr>
<tr>
<td>Oost (east)</td>
<td>75</td>
<td>425</td>
<td></td>
<td>500</td>
</tr>
<tr>
<td>West</td>
<td></td>
<td>246</td>
<td></td>
<td>246</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1217</td>
<td>991</td>
<td>485</td>
<td>2693</td>
</tr>
</tbody>
</table>

The city is applying Article 9 and Article 10 separately in some neighborhoods, and in combination in others. The city chose to use Article 9 and 10 in combination in areas that score lowest on the Leeftaameter. A map of Schiedam from their application (Figure 7) gives an overview where and how the articles is applied across the 12 areas. Blue indicates Article 10, green Article 9, and purple where the two are combined. The size of areas ranges from a single complex of 75 units, a few developments along a single street, to a series of developments covering over 400 units and spanning multiple streets.

Figure 7. Urban Areas Act in 12 areas of Schiedam

Table 4 summarizes the number of units, immigrant share, and article in each of the 12 designated areas. All of the selected areas have higher proportion of immigrants than their district and the city.
as a whole. For example, the area of Hogenbanweg in the Oost district is 82% immigrant (70% non-western) compared to 58% in the district as a whole, and the Roëll Street is 90% immigrant (84% non-western) compared to 66% in its parent Niewuland district.

Table 4. Urban Areas Act in 12 Areas of Schiedam

<table>
<thead>
<tr>
<th>Designated Area</th>
<th>Units Covered (#)</th>
<th>Immigrant (%)</th>
<th>Non-Western Immigrant (%)</th>
<th>District</th>
<th>Non-Western Immigrant (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>East District</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Bierhaavelaan / Van't Hoffplein</td>
<td>265</td>
<td>63</td>
<td>49</td>
<td>58</td>
<td>36</td>
</tr>
<tr>
<td>2. Boylestraat en omgevin</td>
<td>155</td>
<td>71</td>
<td>49</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Hogenbanweg</td>
<td>75</td>
<td>82</td>
<td>70</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Nieuwland District</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Johan de Wittsingel en omgevin</td>
<td>252</td>
<td>84</td>
<td>76</td>
<td>66</td>
<td>56</td>
</tr>
<tr>
<td>5. Parkwed Midde</td>
<td>216</td>
<td>84</td>
<td>79</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Roëllstraat, Mackaystraat en omgevin</td>
<td>194</td>
<td>91</td>
<td>84</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Dr. Schaepmansingel</td>
<td>436</td>
<td>84</td>
<td>73</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Schuttersveld</td>
<td>157</td>
<td>89</td>
<td>84</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>West District</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Nicolaas Beetsstraat/Rembrandtlaan</td>
<td>153</td>
<td>66</td>
<td>29</td>
<td>34</td>
<td>20</td>
</tr>
<tr>
<td>10. Mariistraat</td>
<td>93</td>
<td>79</td>
<td>67</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Groenoord District</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Groenoord Zuid (South)</td>
<td>337</td>
<td>73</td>
<td>64</td>
<td>42</td>
<td>33</td>
</tr>
<tr>
<td>12. Groenoord Midden (Central)</td>
<td>355</td>
<td>72</td>
<td>66</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Green = Article 9  
Blue = Article 10  
Purple = Article 9 & 10

Article 9 will give preference to households with at least one person in a social service field as defined by the Dutch Central Agency for Statistics, which includes employment in government, healthcare, education, and public safety; households where at least one person is employed in manufacturing jobs that tend to be specific to Schiedam like distilleries or the maritime industry; or households where at least one person is studying at a college of university. The preference for people in certain job categories will apply to all areas designated by Article 9, and the preference for students will apply to complexes near public transit nodes. Article 9 only applies to social housing units.

For Article 10, the city is taking all of the permissible areas of police records for screening (convictions and police reports) eligible from the Act. Per the rules of the Act, all household members over the age of 16 will be screened, and in cases when a screening indicates a record, the Mayor will be provided a dossier on all household members with records. The mayor will then have full discretion on whether to grant a housing permit and if any living stipulations are required. Article 10 will apply to both social and private housing.
For each selected area, Schiedam’s application provides detailed maps indicating which developments and how many units are covered. For example, Figure 8 shows that Article 9 (green) will cover 436 units in the area of Dr. Schaepmansingel in the West District, spanning 7 streets and 15 buildings.

Figure 8. Urban Areas Act plan for area of Dr. Schaepmansingel, Schiedam

<table>
<thead>
<tr>
<th>Wmoog artikel 9</th>
<th>Postcode</th>
<th>Huissnummers</th>
<th>Aantal woningen</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prof. Aalberslaan</td>
<td>3118 XB, 3118 XB</td>
<td>2 t/m 112</td>
<td>104</td>
</tr>
<tr>
<td>Schaperlaan</td>
<td>3118 XM, 3118 XM</td>
<td>1 t/m 83</td>
<td>88</td>
</tr>
<tr>
<td>Talmaalaan</td>
<td>3118 XB, 3118 XE</td>
<td>2 t/m 96</td>
<td>72</td>
</tr>
<tr>
<td>Dr. de Visselaan</td>
<td>3118 XE, 3118 XE</td>
<td>2 t/m 96</td>
<td>72</td>
</tr>
<tr>
<td>Dr. Schaepmansingel</td>
<td>3118 XT, 3118 XE</td>
<td>2 t/m 96</td>
<td>72</td>
</tr>
<tr>
<td>Pj Freedstraalen</td>
<td>3118 VB, 3118 VB</td>
<td>1 t/m 114</td>
<td>48</td>
</tr>
<tr>
<td>S van Houtenlaan</td>
<td>3118 XD, 3118 XD</td>
<td>5 t/m 145</td>
<td>56</td>
</tr>
<tr>
<td><strong>Taal</strong></td>
<td></td>
<td></td>
<td><strong>436</strong></td>
</tr>
</tbody>
</table>

In assessing the effect of the Act on the housing supply for low-income households, which is a requirement when applying Article 8 or Article 10, Schiedam determined that its 1,347 homes (private and social) affected by Article 10 represents 7.5% of the social housing and 5.2% of the private stock in Schiedam. Schiedam also assessed the availability of social housing in the metropolitan region as a whole, and determined that among the 189,000 social housing units in the Rotterdam metropolitan area, the Schiedam application only affects 0.5% of the stock. Before the addition of Schiedam, the combined coverage of Rotterdam and Capelle aan den IJssel, the two other cities in the region currently applying Articles 8 or Articles 10, was 23,696 total homes, which
was 12.5% of the region’s social housing stock. With the addition of Schiedam, the total coverage would rise to 13.0% of social housing in the metropolitan area (City of Schiedam 2017).

Schiedam’s Urban Areas Act demonstrates how the policy can be used a city-wide planning initiative to precisely structure the demographic composition of neighborhoods by selectively applying the Act at different scales in different areas. In areas of the city where physical redevelopment of the stock is not occurring, the Act also allows the city to effect some of the demographic changes that redevelopment would have incurred.

**Den Bosch: The Act as a hindrance to current practice**

The City of Den Bosch is in the south of the Netherlands with a population of about 152,000.

Before using the Dutch Urban Areas Act, the city had already developed a practice of screening residents for social housing units in certain neighborhoods, requiring an income from employment and a “certificate of good behavior” from police, essentially a clean criminal records check. The requirements dates back to a 2002 riot in one of the neighborhoods that spurred discussions on how to address neighborhood safety and security. These screenings on the basis of income and criminal records were developed and applied along with a broader set of interventions, including funding from the central government’s Big City Policy. As the Netherland’s primary central government neighborhood policy in major cities since the early 1990s, the Big City Policy has undergone various revisions in scope and specific goals but has primarily sought to address socioeconomic and ethnic segregation, unemployment, safety, and redevelopment of old housing stock (Musterd and Ostendorf 2008).

The screening occurred in two neighborhoods as an informal agreement between the municipality, the social housing organization, and the police. Since 2005, in the neighborhood of Hinthamerpoort-Zuid applicants were screened for the 630 social housing units in the neighborhood on the basis of criminal records. Since 2009, in the three areas of the Hambaken neighborhood, applicants to the areas’ combined 940 social housing units were screened on basis of criminal records and a requirement of having an income from employment (City of Den Bosch 2017).

This history of screening is one of the more well-known and publicized examples of a practice that predated Dutch Urban Areas Act across the Netherlands at the very local level of various informal agreement between municipalities, the police and social housing corporations to reject applicants to select social housing developments in particular neighborhoods (Ouwehand and Doff 2013). The central government was aware of these limited and informal agreements. Without a legal basis, the central government was concerned about how these practices breeched privacy and data sharing regulations, but nonetheless they looked the other way as these screening procedures were generally considered a necessary part of operating a substantial stock of social housing.

To continue their screening practice, the city of Den Bosch applied for the Dutch Urban Areas Act in 2017. As early as 2015 the city was made aware of how the Act would impact their informal practices by outlining formal legal requirements and restricting the scope of their screening. As a
result, the city’s decision to apply the Act was more a reluctant concession of their locally designed practice to conform to a new national legal basis than an opportunity to implement a new policy. The primary new legal requirements for which they had to adjust their current practices was around privacy, sharing of personal records data from the police with the municipal government and social housing organizations. Evaluations every four years and reporting to the central government of impacts were also new requirements for the city. Although Den Bosch’s overarching goal in applying the Act was in effect to ensure the law was the least disruptive to their current practices and bring those practices into legal compliance, their application also describes how screening advances the city’s general goals of reducing concentrations of poverty and achieving more balanced socioeconomic diversity across neighborhoods, and the Act will be implemented in conjunction with a wider set of ongoing initiatives to address neighborhood safety and security.

As continuations of their previous screening criteria around income and police records, the city is applying Article 8 and Article 10. Their goal as described in their application for the Act around Article 8 (income screening) is to reduce the concentration of residents in the designated areas susceptible to coercion into criminal activities due to being financially vulnerable. Article 10 (criminal records screening) is designed to disrupt longstanding organized criminal networks in the designated areas that are often multi-generational kin-based and tend to be native Dutch. Like Tilburg and other cities in the South of Holland, Den Bosch is known as a location for production of marijuana. Criminal activity in the areas are further buttressed by poor relationship between residents and government and lack of reporting of crimes to police, often due to intimidation from the criminal families. Article 10 is being applied as part of ongoing and wider sets of safety and anti-crime activities in the area, some undertaken in collaboration with the central government agency Ministry of Justice and Security.

The Act is applied to six areas spread across three neighborhoods. One of the neighborhoods, Hambaken contains four of the six areas. The other two areas are coterminous with the neighborhoods of Gestelse Buurt and Hinthamerpoort. As mentioned above, the informal screening agreements already covered areas of Hamabaken on the basis of income and criminal records, and Barten-Zuid on the basis of criminal records. Gestelse Buurt was not part of the previous informal agreements. Articles 8 and 10 will apply to the three areas of Hamabaken that were already being screened on income and criminal records, and the fourth area of Hamabaken that was added as part of the Urban Areas Act will only be covered by Article 10. The neighborhood Hinthamerpoort-Zuid will only have Article 10, in line with the previous practice of only screening on police records in the area. Gestelse Buurt will apply Article 10.

Table 5 summarizes the number of units covered under each article across the six areas. The 1,349 social housing unit in areas designated under both article 8 and 10 represent 5.6% of the social housing stock in the city, and the total of 2,749 units represents 11.3% of the housing stock. Figure 9 is a map of the three neighborhoods and six areas from Tilburg’s application.
Table 5. Coverage of Informal Screening and Urban Areas Act in Den Bosch

<table>
<thead>
<tr>
<th>Neighborhood</th>
<th>Previous informal screening</th>
<th>Article 8 + 10</th>
<th>Article 10</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Hinthamerpoort-Zuid</td>
<td>Income</td>
<td>636</td>
<td></td>
<td>636</td>
</tr>
<tr>
<td>(2) Hambaken</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sprookjesbuurt</td>
<td>Income + Criminal Record</td>
<td>763</td>
<td></td>
<td>763</td>
</tr>
<tr>
<td>Edelstenenbuurt</td>
<td>Income + Criminal Record</td>
<td>233</td>
<td></td>
<td>233</td>
</tr>
<tr>
<td>Muziekinstrumentenbuurt</td>
<td>Income + Criminal Record</td>
<td>353</td>
<td></td>
<td>353</td>
</tr>
<tr>
<td>De Hambaken</td>
<td></td>
<td></td>
<td></td>
<td>291</td>
</tr>
<tr>
<td><em>Hambaken Total</em></td>
<td></td>
<td>1349</td>
<td>291</td>
<td>1640</td>
</tr>
<tr>
<td>(3) Gestelse Buurt</td>
<td></td>
<td></td>
<td></td>
<td>473</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>1349</td>
<td>1400</td>
<td>2749</td>
</tr>
</tbody>
</table>

Source: City of Den Bosch Application for the Dutch Urban Areas Act, 2017

Figure 9. Map of three designated neighborhoods in Den Bosch

Source: City of Den Bosch Application for the Dutch Urban Areas Act, 2017

It is unclear from the application why Den Bosch added more areas in its Dutch Urban Areas Act than were covered in its previous informal agreements. In its application, the city described how the
6 target areas were selected among 9 potential areas for the Act that all had low quality of life. The three non-selected areas were excluded from consideration because they are undergoing physical redevelopment and have a lower presence of organized crime. The city is 80% native ethnic Dutch, and the targeted areas range from about that of the city wide rate in the neighborhood of Hinthamerpoort-Zuid, 60% in the neighborhood of Gestelse buurt, to a low of 48% ethnic Dutch in the areas comprising Hambaken.

The Act only covers social housing units in the designated areas. The city describes in its application several reasons related to precedence and efficiency for why it decided not to cover privately held rental housing. Their previous informal agreements only covered social housing and covering private housing would add additional administrative and relationship building work, on top of the new requirements already imposed by the Act. Also the marginal impact of including private landlords would be minimal because nearly all of units (>95%) in the designated neighborhoods are owned by the social housing corporations. Relatedly, its administratively easier and more efficient to work with a few housing corporations that own a substantial portion of the housing stock than to also work a multitude of private landlords that each only operate a few units.

Given its near complete parallels to the city’s previous informal practices, there was unsurprisingly little opposition to the use of the Act in Den Bosch. Among the 39 council members, 4 voted against the application, and those four were from the Socialist Party whose national platform is to vote against the Act. All other council members from all other parties agreed. In addition to the critiques of how the Act imposes administrative and legal requirements to the city’s existing practices, a primary concern from the city government is how the Act actually is more limited in it screening potential than their previous screening practices. Before the Urban Areas Act, specifically Article 8 of the Act, the city was able to screen individuals on the basis of income without regard to length of residency. With Article 8, the city is now limited to only rejecting people without incomes from employment who have lived in the metropolitan areas for fewer than six years.

Den Bosch’s use of the Dutch Urban Areas Act is primarily designed to continue a set of practices that predate the Act by bringing them under new bureaucratic and legal requirements. As a result, the city is implementing the Act primarily under the lens of administrative efficiency and minimizing disruption to these former practices, as reflected in the parallels between areas and articles applied under the Act. Its concerns with the Act then are primarily not ideological or political, but around the increased administrative burdens and how the Act has circumscribed and limited their previous informal practices.

**Summary of the Dutch Urban Areas Act across Rotterdam and four other cities**

What the preceding section demonstrates is that the Dutch Urban Areas Act has become a sophisticated nationally enabled policy in the Netherlands. No longer is it a unique policy developed out of the unprecedented conditions of neighborhood distress in Rotterdam. As a formal, institutionalized mechanism for addressing neighborhood distress, cities across the Netherlands are designing locally tailored approaches for applying the Act that vary significantly in their specific goals, number of units and geographic area covered, and in the mix of articles used to regulate demographic composition. Moreover, we see highly varied frameworks or discourse at the local level to mobilize support for the Act and justify its use as an explicit restriction on movement and
residency. While the discourse in Rotterdam focused on the influx of a highly diverse population of foreign born residents without employment, in other cities the target population varies from disrupting a native ethnic Dutch criminal network, to addressing the social isolation and social integration of specific Turkish immigrant enclave, to encouraging the in-movement of people with specific socioeconomic characters like teachers or graduate students. Thus in comparison to its blunt original goals and blanket application across Rotterdam South, this analyses shows the Act has become more precise in goals, specific in targeted areas and groups, and diverse in the rhetoric used to understand its purpose, mobilize support, and justify its use as it has gained momentum across the Netherlands.

CHAPTER 4. Assessing the Dutch Urban Areas Act on Its Own Logic

4.1 Existing Critiques of the Dutch Urban Areas Act

As a policy that explicitly relies on exclusion and discrimination on the basis of income (Article 8), it is unsurprising that the Dutch Urban Areas Special Measures Act has received criticism from Dutch researchers who question its foundational premise (Ouwehand and Doff 2013; van Gent, Hochstenbach, and Uitermark 2017). This section presents a summary of commonly voiced substantive critiques that emerged from my interviews across cities, social housing corporations, government agencies, and advocacy groups that have not yet been thoroughly considered in previous analyses of the Act. Where relevant I also draw on supporting literature from the U.S.

I show three general categories of critique that operate at different levels: a legal critique around the general violations of right; a social critique of how the Act stigmatizes neighborhoods, cities and people; and a set of pragmatic concerns around administering the Act and specific details in the law. A final observation that is variably expressed as critical, simple observation, or as a strength of the Act is the open recognition that much of the law is symbolic by demonstrating government is doing something to address real problems of neighborhood distress. I argue that while these critiques are all important and valid, they are varied, but not consistent or commonly shared.

Social Critique: Stigmatization of people, communities, and cities. The most common critique that interviewees expressed was the way in which the Act stigmatizes people, communities, and cities. The primary shared concern is the Act’s stigmatization of people, through its negative portrayal of the poor and those on public assistance. As a critique of Article 8, interviewees were concerned that the Act conveyed the message that the poor are the cause of neighborhood disorder and security problems. Interviewees were also concerned that Article 8 would stigmatize the designated areas or neighborhoods as undesirable. Implicit in this critique is that the policy expresses
a deficit approach to neighborhood distress and that its exclusionary approach indicates the people and places designated under the Act do not have the capacities to improve a neighborhood.

Literature from the U.S. has suggested that neighborhood stigma is a real concern that may contribute to employment discrimination and enhanced police scrutiny experienced by people living in stigmatized neighborhoods. A recent study demonstrated significant neighborhood stigmatizing effects on market transactions. Residents living in disadvantaged areas were significantly less likely to receive responses to online advertisements for their used iPhones, an effect that was further magnified in primarily black neighborhoods (Besbris et al. 2015). Finally, in addition to stigmatizing people and neighborhoods, many interviewees were concerned that use of the Act itself carries a stigma. Emerging out of Rotterdam, its very nickname of the “Rotterdam Act” implies for some a tool developed by the city of Rotterdam to discriminate against people with low incomes, and can signal that a city using the Act is not inclusive.

**Legal Critique: Violation of rights.** In addition to its stigmatization, interviewees were also concerned with how the Act violates certain rights. Though the Act explicitly impinges on freedom of movement (Article 8), more subtly it has greatly expanded the use of criminal records data outside of the domain of law enforcement (Article 10), and has generated concerns around violation of privacy rights. As discussed above, the violation of rights of movement – to freely choose one’s residence – was the focus of the 2017 EU Court of Human Rights case that ruled the policy was permissible, among other reasons because the general public interests of the local community and order that are advanced by the Act outweigh the potential hardships and restrictions to the individual’s affected by the Act, particularly in light of the various “safe guards” in the Act to assure adequate housing options remain elsewhere in the region for people excluded from the designated areas (European Court of Human Rights 2017).

**Pragmatic Critique: Administrative costs and the challenges of Article 10.** In addition to the broad notions around stigmatization and symbolism, interviewees also expressed substantial concern over particular elements of the Act covering administrative challenges, transaction costs, and the selection of criteria of who can be excluded. Beginning with administrative costs, the Act creates new costs associated with compliance, reporting and evaluation, and forming partnerships for implementation. However, concerns about administrative costs as a purely negative outcome were not universal, as some interviewees viewed the new costs as insignificant compared to the costs of previous urban policies that set out to achieve a similar set of goals as the Act. If the Act can achieve the same goals of neighborhood diversity, social mixing, and reduced concentrations of poverty that comprehensive redevelopment of social housing sought to achieve (“the old style”), then it meets a pressing public interest while requiring far less investment of capital and time.

Among those concerned with new administrative costs, most associated the costs with Article 10 (exclusion based on criminal records) and the transaction costs, enforcement challenges, and lack of transparency around selection of screening criteria permitted by Article 10. The clearest example of specific costs associated with administering the Act are those for social housing corporations engaged in the process of screening tenants under the criteria permitted by Article 10. If after receiving the dossier of police data on an applicant, the Mayor decides to reject the applicant, the applicant can appeal the decision. The law requires that the social housing corporation must hold the unit that the person applied for off the market for the duration of the appeals process. Appeals can
take upwards of three months, which significantly increases the turnover time or vacancy rate for the unit and thereby reduces the rental income for the social housing corporation. This threatens bottom line fiscal sustainability for the organization. Even in cases where the applicant does not appeal, the general process of coordinating the necessary data sharing and Mayoral review process for Article 10 between the municipality, mayor’s office, and social housing corporation generally takes two to three days. With some variation between cities, the general process for review to meet privacy requirements is general as follows: Once the applicant applies to the social housing corporation, the corporation then asks the municipality to conduct the police records check, the municipality requests the data from the police, the police provide the data to the municipal government and the mayor’s office, and then mayor’s office returns the notice of approval or rejection to the social housing corporation.

The transaction costs to administering Article 10 extend past the screening process and into its enforcement phase once a Mayor has rendered a decision. As discussed above, the Mayor has discretion to selectively reject or approve applicants who have criminal records and, for those approved despite their records, can attach stipulations or conditions under which the person can receive the unit. Interviewees are concerned that the Mayor’s broad authority to define those conditions will lead to enforcement difficulties. Examples of “behavior order” stipulations provided in documentation from the central government include “prohibition on receiving multiple visitors in the home after hours or an order to seek professional social help”. One interviewee gave a somewhat hyperbolic but still illustrative example of how a Mayor could grant a permit under Article 10 to allow a person with a nuisance violation from her previous residence for owning too many cats into the area designated under the Act but only under the condition that she own two or fewer cats throughout her residency. The social housing organization would then be required to monitor and enforce the cat stipulation.

In addition to the specific costs of administering Article 10, many interviewees were also highly critical of the specific types of criminal and nuisance behavior outlined as permissible screening criteria. The types of records are not necessarily related to good behavior, or even types of crimes that may be most harmful to neighbors and surrounding community. For example, while noise, vandalism, and other public disturbances are primarily areas of screening, many types of violent crimes (e.g. sexual assault, murder, armed robbery) that are likely most determinant of neighborhood disorder are not screened. It is unclear for many administrators of the Act, and from my own research, how the list of criminal records permitted as screening were selected, and how excluding people who have committed those specific violations is logically related to the goals of improving neighborhood life. For example, if Article 10 is primarily concerned with addressing neighborhood safety, rather than physical deterioration and neighborhood cleanliness, it is unclear why acts of vandalism and noise disturbances are a screening criteria. Moreover, many of the acts themselves are not criminal activities or convictions, but are civil complaints that could be simply noted in police records such as excessive noise. The potential for certain groups of people to have disparate exposure to policing based on their ethnicity, age, neighborhood location or other characteristics, and the resulting disparate recordings of civil violations in police records, has not been explored in the original development of the Act, in its review by the EU European Court of Human Rights, or in its diffusion to other cities I interviewed. This is a critical line of underdeveloped critique I take up later in this chapter.
The most ambiguity around implementation of Article 10, and one that some interviewees predicted would expose the Act to further legal examination, is how it will address and disrupt radicalization and the spread of ISIS. While most of Article 10 describes the types of behaviors or acts in police databases related to criminal or civil records, the last part of Article 10 permits screening for extremism, specifically “radicalizing, extremist or terrorist acts”. How to define extremist or radicalizing Acts has not been determined, whether this is a trip to Syria or an actual terrorist act. For the social housing corporations who administer the Act, they will not know why a person was denied a permit, and if it relates to extremist activity. This puts the social housing corporations in the awkward, and potentially dangerous position, of telling an applicant they were denied a unit because the corporation got a “red light” returned from the mayor’s office, but without being able to also provide specifics of why the person was denied.

*Observations on symbolic politics.* Another observation is the remarkable symbolic value of the policy. Variously expressed as critique or as an actual value of the Act, interviewers consistently pointed to its powerful symbolic expression. The policy allows government to demonstrate a proactive stance towards neighborhood distress through a policy intervention that expresses a level of seriousness and commitment to action commensurate with public concern around neighborhood distress. The symbolic value of the Act is important because it demonstrates how a policy originally conceived as a method of last resort (a “final” instrument to only be used as part of an integrated approach) that, once shown to have marginal impacts on its intended goals, has retained value not as a particular policy instrument to meet certain goals but by how it demonstrates action. This line of inquiry around why the Act is continuing and what value it retains is what I take up in the next chapter, especially in light of the repeated observation from interviewees that the 2015 University of Amsterdam evaluation showed no improvements to neighborhood conditions.

The symbolic value is clear in Rotterdam, where the Act originated and emerged out of a shared sentiment of urgency that the city government needed to take action to address the seriousness of neighborhood distress. As one interviewee familiar with the development of the Act described, the agreement in the city council within the Labor Party to support and implement the Act, despite its headwinds of support from their political opponents Leefbaar Rotterdam, was cemented by a shared agreement across parties that “the extreme situation in the city needed extreme measures”.

For many interviews, that the Act continues after the 2015 Amsterdam evaluation showed no impacts on neighborhood livability and security is a demonstration of its symbolic expression of government showing their seriousness to address neighborhood concerns and to take responsibility. Perhaps ironically, many interviewees in Rotterdam in response to the evaluation acknowledge that the Act has a marginal impact yet still has significant value to demonstrate the government’s seriousness to addressing problems. This long-lasting symbolic value was perhaps best expressed by Marco Pastors:

> What I like about the Rotterdam Act is you have in this country and in the US, you say you have a democracy and functioning state, and usually people who are born here prosper. But you see in some parts of your city and your country the same laws don’t work enough or they work the wrong way. [Like when] the unemployed benefits keep people unemployed, instead of helping people temporarily in-between jobs. For those areas, you need to have exception[al] laws, and the exception[al] laws are the Rotterdam Act and the Big Cities Policy. In the whole country, when you find a house, you can find an owner to rent it. But here in Rotterdam it is not enough. We are not sure if that person moving in is
good for you, or for your neighborhood and people moving in. That’s the ying-and-yang thing that’s needed. If you think about it, it is very well-balanced in the legal discussions. Sometimes you can and sometimes you shouldn’t use the law. But the law broadens the scope of what you can do as the government, and that is what gives Rotterdam a lot of confidence. We know that if we have big problems, we can do something about it. (italics mine)

One interviewee in Rotterdam pointed out that the domains of housing, land use, and residency are particularly well-suited for symbolic expressions of local government effort because they are one of the few policy spaces where local decision-making especially from the executive of the Mayor and Vice Mayors can exercise direct control and therefore demonstrate the ability to implement a political agenda.

The symbolic value of the Act is also seen in how Zaanstad decided to use the policy. As discussed above, the city government began considering the Act in response to the agitation and attention garnered by the video blogger over neighborhood disorder in certain areas of the city. The Act in Zaanstad was partially a response to this blogger, to show that the government was proactive in addressing his concerns.

4.2 The Dutch Urban Areas Act is in Conflict with its Own Terms

What I demonstrated in the last section is a set of existing loosely connected critiques of the Dutch Urban Areas Act. These critiques are varied and operate at different levels, but are not entirely coherent, do not intersect with each other, are not commonly held and have not been the basis for significant political momentum or traction against the law. Some cities and social housing corporations are concerned about administrative burdens of the Act, while others think it less costly than the alternative method for achieving social mixing; some organizations are concerned about Article 10 of the Act, but primarily from a standpoint of compliance and enforcement. The one sustained critique across most interviewees is the potential stigmatization of the Act and its violation of freedom of movement. The latter has potential been rendered legally mute due to the EU European Court of Human Rights ruling that upheld restricting individual movement in order to benefit the collective public. While all these concerns are important, they generally indicate a lack of shared critique beyond those gesturing towards notions of stigmatization and criminalization of the poor at the broadest, and concerns around administrative details of the Act at the most specific.

Without a clear critique of the Act on its own legal and administrative basis, an argument directed at the Act’s internal coherence, it is unlikely the Dutch Urban Areas Act will find significant detractors beyond those few researchers in the academic community who have critiqued the Act.

In this section I argue that existing critiques have failed to interrogate the most immediate question posed by the Urban Areas Act: Why is the Act continuing to gain momentum and adoption across the Netherlands despite a common understanding that the Act does not achieve its stated goal of improving neighborhood living conditions? As discussed in Chapter 3, the 2015 evaluation from the University of Amsterdam indicated that neighborhood quality of life in the areas had actually decreased in the designated areas of Rotterdam, according to a regression analysis on a neighborhood-level “safety index” that includes composites of administrative local crime data and survey data of resident’s assessment of their neighborhood’s cleanliness, physical conditions, and feelings of safety. Why despite an acknowledgement that the Act is a fundamental breach of the
right of freedom of movement and despite a government finding that the Act does not actually advance its stated goals do cities continue to find value in the Act and seek permission for its use?

This is a key question from both a general a policy standpoint – how can the Netherlands design effective policy to address real challenges of neighborhood distress – but also from the specific legal requirements regarding implementation of the Act. According to the statute, the measure is not supposed to be prolonged after four years if an evaluation has shown it has not made progress in improving neighborhood quality of life (the “appropriateness” legal test). According to the Dutch government and European Court of Human Rights, the Act must satisfy the “appropriateness” requirement in the legislation of effectively meeting the goal it seeks to address. Under the Court’s ruling, the law must further the collective public order of a neighborhood in order justify its interference with individual freedom of movement. The most fundamental question then is why are cities allowed to use the Act at all?

Drawing on my analysis of the Act’s genesis in Rotterdam and its adoption in other cities, in this section I present the first of my two core arguments in this paper by describing three factors that explain why the Dutch Urban Areas Act has continued to spread across the Netherlands. I then show a variety of intentional and unexpected consequences as a result.

To summarize my argument, three reasons explain why the Act continues. First, the central government and the European Court of Human Rights have conflated the original ends and means of the Act by identifying neighborhood composition change in of itself as the primary goal of the Act. This muddling and confusing of the goals of the Act have dramatically lowered the standard of success that city’s must meet. Second, as the Act has spread to other cities, the conditions under which the central government have allowed cities to use the Act have become severely detached from the original unique conditions and circumstances in Rotterdam that gave rise to and were the core justification for an exclusionary policy. The animating spirit of the Act in Rotterdam as an extraordinary policy to match the extraordinary circumstances has faded as other cities adopt the Act. Third, the Act provides enough flexibility to configure forms of exclusion that provide alternatives palatable across a spectrum of politically and socially diverse cities. This last point is what I call the chameleon-like character of the Act. I will then show the spread of the Act is presenting new challenges and problems of regional planning, is disparately impacting the most marginalized groups, producing unintended forms of exclusion and placing burdens on a variety of social services systems. Finally I argue that the most severe consequences of the Act has been how it has institutionalized a policy platform that legitimizes exclusion as a basis for policy.

**Why the Dutch Urban Areas Act Continues Despite Evidence from Rotterdam of No Impact**

*Conflating the Means and ends of the Dutch Urban Areas Act.* The 2015 evaluation commissioned by the Ministry of the Interior and Kingdom Relations (BZK) and conducted by the University of Amsterdam showed the implementation of the Act in Rotterdam had no effect on neighborhood safety and livability. Nevertheless, BZK has continued to grant approval for Rotterdam to use the Act and has approved the applications from other cities to implement the Act. The Act has been strengthened because the ends and means for improving neighborhood have been conflated. The goal originally conceived for the Act was to address neighborhood disorder through
the mechanisms of demographic change and increased neighborhood socioeconomic diversity. The goal post has now swapped, and demographic change in of itself has become the goal. A senior official in the federal government exemplifies this shift when asked about the effectiveness of the Act: “The Act is working. You have more working people in designated areas. Fewer people with social support, social security, that’s a positive effect of the Act.”

Shifting goalposts is not unexpected, however, given that both proponents and critics of the Act in my interviews repeatedly acknowledge the substantial social science challenge of defining and measuring neighborhood conditions and assessing policy impacts on those conditions. Without a tightly controlled experimental design, assigning causality from any policy to improved neighborhoods conditions is nearly impossible. Compared to demonstrating improvement along the original goal of neighborhood conditions, evaluating effects on the population change is relatively easy. Demographic change is the only clear effect shown by the 2015 evaluation. As discussed earlier, without assigning causality, the evaluation also indicated that neighborhood quality of life in the areas had actually decreased, according to a set of living condition indicators.

In response to the evaluation, it is unsurprising that proponents of the Act now say social mixing in and of itself has now become the goal. The European Court of Human Rights, which did not consider the findings of no neighborhood effects relevant for their decision because the evaluation was completed after (ex post facto) the policy decision was made to pass the Act and after the plaintiff was denied housing, nonetheless also takes up the same line of reasoning around the Act’s effects: “The Court also notes, in particular, that the said report finds that the socioeconomic composition of the districts to which the Act is applied has begun to change – more new settlers being in work than before – and that data concerning the effects of other measures on security and quality of life are not available.” (European Court of Human Rights 2017). This peculiar statement at once acknowledges that the change in employment is due to people who are not employed being unable to move into the neighborhood while implying that improvements in the neighborhood are representative of existing residents.

The shifting goalpost is a key insight because one of the Act’s key “safeguards” to “limit any detrimental effects”, as emphasized by the European Court of Human Rights is that “the restriction in issue [freedom of movements] remains subject to temporal as well as geographical limitation, the designation of particular areas being valid for no more than four years at a time.” (European Court of Human Rights 2017). At each four year increment, an evaluation must demonstrate the Act’s effectiveness in order for the minister at the Ministry of the Interior and Kingdom Relations to grant an extension to the municipality. If, however, the standard for effectiveness has changed, then this “temporal” safeguard has been effectively rendered toothless. As long as the Act can demonstrate that it is changing the neighborhood composition, then it can be extended. This is a radically lowered standard for continuation that essentially only requires demonstrating effectiveness of implementation, rather than any impact on neighborhood living conditions. The shifting goal posts to a lower standard around simply showing effectiveness implementation is most evident in how approved applications from other cities to the BZK often include in the “evaluation” section measures of demographic change as indicators of success in the designated areas. This includes a decrease in share of people on social benefits (City of Zaanstad 2017; City of Tilburg 2017), increase in
the number of people with incomes (City of Schiedam 2017), or a decrease in the number of people with criminal records (City of Zaanstad 2017).

In response to the evaluation and reports from the municipality of Rotterdam, critics of the Act pointing to its lack of neighborhood improvement will also often concede that the Act only has a “marginal effect”. That is, so far in Rotterdam, it tends to excludes few people each year. As I described in Chapter 3, between the period of July 1 2006, when the policy moved from its experiment phase to official recognition under national legislation, to July 1 2015, a total of 19,386 households requested to rent a property in the private market in the designated areas. The Act excluded 3,821 of the 19,386 households, or an average of about 425 per year (Bol 2016). This concession by its critiques that even though the Act has not been shown to be effective, it only excludes a few people is important to unpack. What is happening is that interviewees simultaneously attribute the lack of neighborhood improvement to the marginal exclusionary impacts of the Act, and dismiss concerns around lack of neighborhood effects on a measure restricting rights because it has a marginal reach. This is a circular logic that says the Act is not working to improve neighborhoods because it reaches few people, but at the same time says concerns about the Act’s restrictions on freedoms is overblown because it reaches few people.

With a central government environment still supporting the Act and encouraging municipalities to submit applications and the EU Court decision upholding the legality of the Act, despite the 2015 Amsterdam report, the Act will likely continue to be adopted by other cities, and the means and ends may be further conflated. What is perhaps most ironic in the shifting goalpost is that preparation for the application to the central government requires extensive use of data and analytics, such as measures of neighborhood conditions presented by the Leefbaarometer, consideration of number and types of units covered, and analysis of housing choice in the region. But the core finding of no impact of the 2015 Amsterdam report, which relied on subsets of similar data, has not gained significant traction in slowing down the Act. This selectively deployment and legitimatization of data further supports the observation from researchers at the University of Amsterdam who in their subsequent papers reflecting on their process of analyzing the Act described how the use of data and analytics is two-faced (Uitermark, Hochstenbach, and Gent 2017). Data are selectively deployed to support and justify the Act, especially in the planning and preparation process, and then data are selectively determined as insufficient, or irrelevant or not appropriate for determining the true effectiveness of the Act. The Act is at once a highly empirical and positivist exercise in data and analysis, to select the most distressed neighborhoods and outline plans for their improvement, and at the same time its diffusion and continuation is a fundamental rejection of empirical methods and notions that neighborhood change can be accurately assessed. This rejection calls into question the very purpose of requiring evaluations of neighborhood development policies if it is assumed the effects from neighborhood interventions cannot be accurately evaluated.

**The Dutch Urban Areas Act's detachment from it “extraordinary” origins.** The Act is also continuing because its purpose has become detached from its genesis, the unique confluence of circumstances in Rotterdam in the early 2000s that animated social and political will for an explicitly exclusionary policy measure. As described in the previous chapter, the perceived unprecedented levels of neighborhood distress, a city with the highest portion of immigrants in the Netherlands
that was projected continued immigration and concentrated poverty that promised to further exacerbate neighborhood problems in Rotterdam South, a new populist leader of Pim Fortuyn able to organize and capitalize on anti-immigrant sentiments into a political movement through the Leefbaar Rotterdam party, and the pressure from this movement on the longstanding Labor Party fomented to generate the ideas for and give a political opening to create a policy in Rotterdam to exclude people without incomes from certain predominately immigrant neighborhoods.

When the idea for the Act first gained traction among the Labor Party in Rotterdam, whose support Leefbaar Rotterdam needed, it was originally justified as the “final” but short-term measure for addressing neighborhood distress. It was an extraordinary policy to match an extraordinary set of problems. A vignette of opinions from key proponents and officials involved in the origins of the Act and in current documents underscores this shared understanding of an extraordinary yet short-term policy. A senior member of the Labor Party on the city council during the original deliberations of policy in the early 2000s described how “there was a common sense [agreement] in the city council that the extreme situation in the city needed extreme measures…There was a sense of urgency felt by the city council, by local government, by the municipalities within Rotterdam, that things had gotten out of hand and had to be dealt with, mainly in Rotterdam South, and there was a strong influence in national government from social democrats [Labor Party] as well to….make it possible to experiment with interventions which were not seen yet until then in Holland.” Similarly, the central government’s English summary of the Act describes how in some neighborhoods “occasionally, the problems reach a critical point and cannot be solved using existing instruments” and “in such cases, measures that are more drastic are needed….the Act therefore is to be treated as a last resort measure.” (The Ministry of the Interior and Kingdom Relations 2017). As noted by the European Court of Human Rights, the House of Representatives in their explanatory memorandum that accompanied the proposal for the national legislation similarly understood the Act as a short-term measure that would provide for “a temporary restriction of the influx of socioeconomically (more) deprived groups” to create “a sort of breathing space…so that the measures generally already ongoing to provide durable improvement of the situation in those areas or districts can actually produce their effects.” (European Court of Human Rights 2017). Finally, the dissenting opinion of the European Court of Human Rights trying to reconcile why the policy has continued despite the 2015 Amsterdam Report concluded that “…the façade of the “limited duration” attached to the measure of “indirect distinction”, to use the Council of State’s wording, has fallen away. After more than ten years of application of a discriminatory policy vis-à-vis the poor, without seeing the slightest success, neither an increase in living standard, nor a reduction in criminal behaviour and public disorder in the districts concerned.” (European Court of Human Rights 2017)

What connection to its genesis has remained is an understanding that the Act is a “final” measure that should only be applied when all else has failed to improve living conditions, and ideally in combination with other, less drastic measures to improve the neighborhood. However, even this strand of continuity from the Act’s origins is not uniformly held, as evidenced by how the Act in Den Bosch is designed to continue an already existing practice. Now that the Act has become standardized by the central government and validated by the European Court of Human Rights, no longer is it a unique, short-term tool specifically created to address the particularly severe and unique conditions in the city of Rotterdam that were unprecedented in the Dutch context. It is a standard policy intervention that conceivably any city can apply for up to 20 years to whatever neighborhoods
are distressed relative to that city’s context. Moreover, if, as I have argued, the means and ends of the Act have become muddled, it is now simply sufficient to demonstrate effective implementation as the hurdle for its continuation after each four year period.

The result of the Act’s detachment from its original purpose is evidenced by a scattering of motivations and justifications in how cities arrived at using the Act and in the specificity and geographic scope in its design. Beginning with its scope, the desirable or permissible geographic scope of the Act is unclear. In official documents, the Act is seen as only appropriate for the most distressed neighborhoods, areas where “despite the best efforts of municipal authorities, housing associations, institutions, active residents and local businesses, there are always some neighbourhoods and districts that are unable to achieve long-term improvements in quality of life.” And as a result, “in these situations, it may be necessary to give such vulnerable areas the time to recover” through “the application of a far-reaching measure in the form of selective housing allocation” (The Ministry of the Interior and Kingdom Relations 2017). Although intended to grant significant local discretion, an immediate and unresolved question is when is exclusion appropriate for just a few streets, a single development, a few adjacent neighborhoods, or a patchwork of streets and neighborhoods across the city? To take a stylized but realistically permissible example, when would excluding people without incomes (Article 8) or who have committed vandalism (Article 10) be appropriate for the homes on one side of a street but not on the other side?

A brief sketch of the scope and level of specificity in the Dutch Urban Areas Act plans across cities illustrates the inconsistencies. In Schiedam the Act is a complimentary tool to a city-wide neighborhood planning process to redevelop and diversify neighborhoods. It is primarily intended to have the most impact in neighborhoods not undergoing redevelopment and to facilitate the strategic location of particular demographic groups (e.g. students around transit nodes). In Rotterdam it is applied to specific streets in the West of the city and then a blanket across five neighborhoods in Rotterdam South, areas that while are predominately and disproportionately immigrant neighborhoods, are not homogenously poor and have significant diversity in housing typology, concentrations of social housing, and income levels. In Tilburg the Act is an almost surgical tool to disrupt a specific criminal network in a single housing development.

Going a step deeper below the design of the Act, an analysis of the justification for using the Act in other cities underlines just how far it has become detached from its origins. Rather than a measure of last resort, in Den Bosch the primary goal of the Act is to comply with new legal requirements for an informal practice the city already had with the social housing corporation. The Act was designed to minimize disruption to their current practices. In Schiedam, one of the key motivations was to address the potential for spill-over of people from Rotterdam’s excluded areas into distressed neighborhoods of Schiedam. In Zaandam, the origins were partially to demonstrate city government responsiveness to pressures organized on the city to address neighborhood conditions, and the Act was considered a “precondition” to making other neighborhood development goals effective, rather than as a means in of itself.

Some may argue that the diversity of design and intentions beyond the Act is a demonstration of its effectiveness. It is true that the Act is successfully encouraging tailored approaches to meet particular local conditions as understood by each city. However, my point is that the Act has lost sight of the set of unique circumstances in Rotterdam that was claimed to justify an explicit breach
of human rights. Now the exercise of exclusion is seen as appropriate for whatever justifications and particular local conditions exist in cities that are interested in availing themselves of the Act’s tools.

The Dutch Urban Areas Act is a political chameleon that can exclude without being exclusionary. A swapping of the ends and means has, purposefully or not, allowed for the central government to discard the original goals of the Act and to dramatically lower the bar that cities must meet to demonstrate that the Act is “appropriate” (the legal requirement) to addressing neighborhood distress. Moreover, cities using the Act, the central government, the European Court of Human Right and other organizations involved have lost sight out how the Act emerged out of what the confluence of what was considered exceptional conditions in Rotterdam that, in the eyes of Rotterdam officials and the central government at the time, justified a drastic but intended to be short-term policy. Instead, exclusion is now seen as an appropriate and standard tool for any municipality. These previous two points on why the Act is continuing despite a demonstration that it is not effective leads to my primary argument explaining the why cities continue to adopt the Act and why from my research I have not seen a coherent and shared critique emerge against a policy based on exclusion and discrimination.

The Dutch Urban Areas Act’s three articles have sufficient flexibility so that it can be configured as a policy to exclude without being perceived as exercising exclusion. As a result, city governments can frame for the public or interpret for themselves the Act as a tool for inclusion, shedding its potential stigma as an exclusionary tool, at the same time they exercise remarkable exclusion. Said differently, the Act allows for cities to deploy exclusion through the rhetoric of inclusion. I use the metaphor of a chameleon to describe this shifting and evasive nature of the Act. The exclusion-through-inclusion is clearest in examining how cities outside of Rotterdam designed their plans for the Act in the face of local political opposition to Article 8 (income exclusion).

Political opposition to the adoption of the Act in Zaandam and Schiedam was primarily over Article 8, which the opposition saw as a discriminatory and stigmatizing tool. This is plainly stated by an official in Zaandam familiar with the city’s planning process for the Act:

For Article 8, the people in politics [municipal council] here did not want Article 8 at all. They didn’t want to exclude people from benefits, they found it not acceptable to use Article 8. But what we decided on, and everyone agreed, [is] that we do want the police to do screening [Article 10], and we do want people who have an income because they are employed somewhere [Article 9]…They [municipal council] thought Article 8 was discrimination. If the municipal council says people with social benefits can’t apply to these neighborhoods anymore, then we exclude them straight away, and that’s such a negative message for these people…That was one of the main reasons we did not want Article 8, and this was true in almost all the political parties…That’s why politics here said we don’t want Article 8. But we do want to attract the teachers, the social workers, the police officers, and see if we can get more of these people. So not necessarily fewer people on social benefits, but getting more people with income and a little bit of education, and comprehension of normal behavior and work ethics and things like that. (italics mine)

When Article 8 is seen as too discriminatory, cities can achieve the same ends facilitated by Article 8 – fewer people who are without incomes from wages in an area – through the Article 9 alternative that is considered progressive, preferential, or inclusive. By allowing for “preference to target groups in certain socio-economic categories when allocating housing”, Article 9 achieves the same goal as Article 8 but through a preferential rather than exclusionary mechanism. The extreme irony of this rationalization that has gone unrecognized throughout official documents and in interviewees across
cities is that Article 9 is perhaps the most exclusionary among the three articles. By “prioritizing” housing for certain groups defined by often narrow job or educational characteristics, Article 9 can exclude everyone who does not have those characteristics. Said differently, prioritizing households that meet a narrowly defined set of characteristic is the same as excluding all other types of households that do not meet those characteristics. Prioritizing for example policemen, government workers, or graduate students, is better understood as excluding anyone who does not fit these categories. This exclusionary effect from Article 9 is likely magnified at the lower end of the housing market where there is a limited supply of high-quality but low-cost homes. As result, Article 9 effectively excludes even more categories of people than Article 8, the part of the Act that carries the most stigma. But as a preferential mechanism, Article 9 shields from immediate view its highly exclusionary nature.

That Article 9 is not considered an exclusionary mechanism is implicitly written into the Act’s requirement around a regional analysis of the effect on housing supply for low-income households when areas are designated under the Act. This requirement is only triggered when cities want to apply Article 8 and Article 10.

The flexibility of the Act not only grants political coverage and selective reframing to recast an exclusionary tool as preferential, but also grants cities enough flexibility to effectively configure the Act to exclude any group from an area. This is clear in how the layering of the three articles in Tilburg will allow the city to permit only a narrowly defined group of people into the social housing development controlled by a criminal network. In this development Tilburg wants people who are without a criminal record and not considered financially vulnerable. To reach this group, and exclude all others, Tilburg is applying Article 10 to stop the in-movement of people with criminal records, Article 8 to block financially vulnerable people who lived in the area for less than six years, and Article 9 to block financially vulnerable people who nonetheless meet the six year residency requirement. Tilburg judges each article not as a means of achieving distinct or different goals but as compliments to fill in the gaps left by the others. For example, Tilburg is applying Article 9 not with just the goal of giving preference to people with certain types of jobs, but to further block a group of people that Article 8 cannot fully exclude (people without incomes but who have lived in the area for more than six years).

We can see from Tilburg’s example how a creative layering of the articles in the Act allows cities to exclude virtually any group from moving into the neighborhood. To further illustrate this dynamic it is helpful to describe other potential examples. Using the highly exclusionary power of Article 9, cities could exclude men from a neighborhood by prioritizing a highly gendered profession (e.g. nurses), exclude large families from a neighborhood by targeting professions that tends to employ single unmarried men (e.g. foreign-born workers in heavy industry), or exclude younger people by layering Article 9 target to professions that tend to employ the middle-aged adults (e.g. highly-educated professions) with Article 10 to give the mayor discretion to review public nuisance violations that are disproportionately committed by the young (e.g. loud noises). The potentialities are numerous and only limited by the creativity of a city. But the key point is that the Act can be configured to be highly exclusionary by narrowing targeting the in-movement of certain groups through Article 9 (or other configurations of the three articles that rely on Article 9) while enjoying the political and public relations benefits of being framed as a progressive measure.
The Consequences of the Dutch Urban Areas Act’s expansion.

Before turning to the consequences of the Act’s diffusion, I want to briefly recap my core argument in this section on three factors that explain why the Urban Areas Act has continued. It is difficult or impossible to show the Act is effective in meeting its original goal of improving neighborhood life, and so the standard for its success has shifted to a lower bar of achieving the very demographic changes that the Act facilitates. The Act has also become detached from its original justifications as an extraordinary measure only applicable in the most extraordinary of circumstances. Finally, the flexibility of the Act allows for selective reframing as a tool of exclusion to one of preference that elides the highly exclusionary nature of its preferential elements.

In this section I describe three major current and emerging consequences of the Act’s diffusion to additional cities and its legitimization as a standardized national policy. These consequences to date have not yet been systematically interrogated by existing analyses of the Act, and I believe will be compounded as additional cities apply the Act.

“Waterbed effects” compel other cities to adopt the Act. One of the major concerns expressed by government officials and social housing corporations in Rotterdam and other cities is that rather than resolving underlying causes of neighborhood distress the Urban Areas Act will simply displace problems from one area to another. Repeatedly referred to as the “waterbed effect”, this potential consequence is, critically, also an implicit goal of the Act. If taking the purpose of the Act on face value, then the “exclusionary” mechanisms of the Act are intended reduce the concentration of poverty (Article 8) and people with certain police records likely to contribute to neighborhood distress (Article 10) in the designated areas. While official documents do not explicitly state this goal, it follows that the implicit assumption is the excluded group will move elsewhere, where, presumably, people with their characteristics are less concentrated. This is a generous assumption because people on the margins in the housing market with the least buying power are likely to simply move to another neighborhood of concentrated poverty. Indeed the 2015 evaluation from the University of Amsterdam showed people who were prevented from moving into the five neighborhoods of Rotterdam South designated under the Act tended to move to adjacent neighborhoods of Rotterdam South.

Putting aside the problems in the dispersal assumption, if the implicit goal is for excluded residents to move elsewhere, one of the primary consequences has been to accelerate the adoption of the Act in municipalities surrounding Rotterdam. A clear “waterbed effect” is actually for other cities nearby Rotterdam to determine that adopting the Act is an imperative. The reason is twofold. First and most obvious, as is readily acknowledged in Schiedam, is because nearby cities are concerned about being the recipients of those excluded from Rotterdam. What is emerging in the Rotterdam metropolitan area is a game of exclusion hot-potato. Cities are adopting the Urban Areas Act because they do not want to be the recipient of the excluded residents from other cities, primarily those people who excluded from the large neighborhood areas designated within Rotterdam South (recall from Table 2 that the Act covers nearly 30,000 units in Rotterdam). This is creating a new form of regional planning issues that has an embedded “first-mover” advantage, where cities are incentivized to adopt the Act before excluded residents from other cities relocate to their
neighborhoods. But this aspect of the first mover’s advantage only partially explains the odd incentive structures placed on metropolitan areas that are starting to become clear.

The second reason the Act is self-propelled to other cities by its exclusionary mechanisms is because the finite number of units in a metropolitan area that can be designated under Articles 8 and 10 incentivizes cities to adopt the Act. This limit is understood by the central government and European Court of Human Rights as providing two key safeguards. It ensures excluded people still have sufficient housing options in the region and provides a mechanism for revoking designation of areas if insufficient housing is not available. However, as the Council of State noted in their 2005 advice to the central government, the Act does not provide exact figures or methods of calculation for determining the permissible limitations on regional housing supply for excluded people. This unresolved problem calls into question whether the housing regional limit is actually acting as a safeguard.

In the likely scenario that the central government is eventually forced by necessity to issue a determination on the regional limit (likely in the Rotterdam area), that the number of units is limited nevertheless still creates a persevere incentive for cities to gain as much control as possible over the regional share of homes that can be designated under the Act. Each subsequent city’s number of units in its application must be considered in relation to the areas designated by all the cities before it. This creates an accumulation of additional barriers to entry upon each subsequent city’s designation. As a result, not only is the first mover within this regional incentive structure the least likely to end up with the excluded residents from other areas, the first mover also has the lowest initial barrier to showing impact on regional housing supply. The Act incentivizes cities to designate as large of an areas as possible, to gain the most control over the resources to exclude, and so to be in the strongest bargaining position among cities in the region in case areas need to be revoked. In effect, exclusion has become a limited regional resource to hoard or barter, quantified by the number of units that can be designated under the Act in the metropolitan area. This key insight has gone entirely unexamined in existing analyses of the Act.

As of my January 2018 research, the regional housing limit in the Rotterdam metropolitan area had yet to be reached. However, during the city of Schiedam’s 2017 application (the fourth and latest in the Rotterdam metropolitan area to adopt the Act) to the central government, the provincial government of South Holland, which covers the Rotterdam metropolitan area and other regions, advised the central government that there are limited remaining housing options left in the Rotterdam region to support additional areas designated under the Act. The provincial government said the approaching limit is mostly because the area in Rotterdam South is already so large, but also because the city of Capelle aan den IJssel in 2015 also implemented Article 8. While supporting Schiedam’s application on its own merits, the provincial government then advises the central government that, in addition to expanding the overall supply of social housing in the region, the central government needs to adopt a regional, collaborative approach to determining which areas should be designated under the Act and to prevent a “first come first serve” approach to determining who can apply the Act (Provincie Holland Zuid 2017). In my interview with officials in Schiedam, the city readily acknowledges this analysis, but believes their application is valid because they assessed that the problems of neighborhood distress in Schiedam are as severe as those in
Rotterdam, and reasoned that other cities in the Rotterdam area that had already passed the Act did not have as severe of problems.

If you take my argument in the previous section that Article 9 is just as exclusionary as Article 8 or 10, then the constrained housing options as a result of the Act in the Rotterdam region is likely under counted because the calculation does not include areas designated under Article 9. If Article 9 were included in the calculation, it would bring into consideration the units also covered by Vlaardingen (adopted in 2016), in addition to those already in the calculation from Rotterdam and Capelle aan Den IJssel.

One could argue that a potential solution to this finite resource of exclusion is for a metropolitan approach to selecting areas designated under the Act, to collectively determine what areas are the most distressed, as suggested by the South Holland provincial government. This could remove the first-mover incentive, but more importantly also reduce the possibility of how the adoption of the Act continues in Rotterdam’s surrounding municipalities new neighborhoods of concentrated poverty will likely emerge as the de facto only places left where excluded residents could find homes in the metropolitan area. Regionalism is generally aligned with perspectives developed in the US on how to address neighborhood inequality that recognizes problems in neighborhoods have causal mechanisms stemming far beyond the people and area of that neighborhood (Katz and Bradley 2013; Frug 2001; Orfield 2011).

This regional approach to the distribution of exclusion however would have to consider much more sophisticated questions than which neighborhoods in the region are the most distressed, most deserving of exclusion. For example, at what point would neighborhoods in the region designated under the Act reach a point when they would no longer need designation? How does the region affirmatively direct excluded residents from these areas to disperse them so that new areas of concentrated poverty are not created?

**Disparate impact, intersectionality, and disruption to human service systems.** In this section I argue the Dutch Urban Areas Act will displace people from their neighborhoods, has a disparate impact that further marginalizes those already likely to experience forms of discrimination, places additional pressure on social service systems that are connected to the housing market, and that these consequences should have been anticipated had the Act had considered basic policy lessons from the concept of intersectionality. Intersectionality as an analytic tool provides “the critical insight that race, class, gender, sexuality, ethnicity, nation, ability, and age operate not as unitary, mutually exclusive entities, but as reciprocally constructing phenomena that in turn shape complex social inequality” (Collins 2015). Intersectionality explains how people who embody multiple oppressed identities will experience overlapping systems of oppression. Disparate impact occurs when rules or policies are constructed so that they are formally neutral (individuals are treated equally) but the effect of the rules or policies disproportionately burden or favor one group over another. Applied to race, disparate impacts occur when decisions, processes, or policies do not have explicitly racial intentions but their effects result in producing or reinforcing racial disadvantage (Pager and Shepherd 2008).
The case of Ms. Garib presented to the European Court of Human Rights is a highly illustrative entry point to understanding how the Act facilitates displacement, disparate impact, and compounding of disadvantage for those already likely to suffer from systemic discrimination. In 2006 when Rotterdam implemented the Act the new national legislation (after its experimental period in the city), Ms. Garib, a white native-Dutch single mother, was already living in the neighborhood of Tarwewijk. She had moved to her Rotterdam South home in 2005 and had previously lived outside the metropolitan region. In early 2007, her landlord asked her to relocate to another unit he owned in the same neighborhood so that he could renovate her existing unit for his own use. Ms. Garib agreed after determining the new home would better meet her and her children’s need – it had more bedrooms and a garden where her children could play. On March 8, 2007 her landlord asked for a permit from the city government to grant her residence in the new unit. The city government, having implemented Article 8 of the Act on June 13, 2006 for Tarwewijk, denied the permit because Ms. Garib did not meet the requirements under Article 8 – she was not employed and had lived in the region for fewer than six years. Instead of moving into the new unit on the same block, Ms. Garib had to move elsewhere, and decide on the nearby city of Vlaardingen (European Court of Human Rights 2017).

Ms. Garib’s case shows how the Act can restrict movement for people already living in the neighborhoods, potentially acting as a de facto displacement mechanism if someone needs to relocate within their own neighborhood. The dissenting opinion in the Court noted how this displacement calls into question the very purpose of the six-year residency requirement. If someone already living in the neighborhood is forced to leave the neighborhood when they move, because they do not meet the residency requirement, then, the dissenting opinion reasoned, the measure is a not just about furthering the “legitimate aim” or compelling government interest of increased social diversity by preventing influx of new poor households as it is described in law, but also has the effect to remove the poor from the designated areas (European Court of Human Rights 2017).

Using a lens of intersectionality, Ms. Garib’s case also demonstrates how the Act disproportionately impacts people who are already likely to be vulnerable in the housing market. In this case, it is poor single mothers. But the potential categories of vulnerable people who will experience disparate impacts are numerous, and compounded when people embody multiple forms of marginalized identities. Take the example provided by one interviewee of the extreme predicament that the Act may place on people experiencing intimate partner violence (domestic violence). Article 8 may dissuade victims of IPV from escaping their abusive partners because, if they are not working, they will have their housing and neighborhood options limited. However, going a step further, we can see how Article 10 (police records) also could disproportionately punish the most vulnerable like IPV victims and single mothers. Article 10 of the Act risks further punishing people like victims of intimate partner violence and single mothers with young children who may disproportionately be subject to nuisance complaints. This often happens to people experiencing IPV because of the very noise and “nuisance” from their abuse and abuser, and to women with children because children are noisy. Thus it becomes clear how a woman without income, with children, and living with an abusive partner could be limited in her ability to escape by receiving noise complaints resulting from her own abuse and from her children (Article 10) and by her poverty (Article 8).
The intersectional analytic strategy of assessing the compounded harm to those embodying multiple marginalized identities also, importantly, extends to cultural practices. One interviewee described the clash of cultural norms that occurred in Rotterdam South throughout the 1970s and 1980s as Turkish and Moroccan households moved into native-Dutch areas. For example, the immigrant families tended to allow their children to play on the street at night through 9 or 10 pm, while it is the norm in Dutch culture for children to go to bed at 7 pm. As a result, native Dutch complained to police and social housing corporations about the noise and nuisance of these children. If, hypothetically, Rotterdam decided to apply Article 10 to Rotterdam South (in addition to Article 8), we can then clearly see how the police records screening based, which includes nuisance complaints, would likely disproportionately impact Turkish households.

This example illustrates a general point about Article 10: it will severely disparately impact any group who is disproportionately exposed to policing and the criminal justice system based on their residence (e.g. living in a heavily policed neighborhoods), group characteristics (e.g. young ethnic minorities who are disproportionately profiled), or both (e.g. young Moroccan immigrant families with children in heavily policed neighborhoods).

Here the parallels to the eviction crisis in America’s private rental market are helpful to understanding how disparate exposure to the criminal justice system leads to residential instability and compounds the consequences of poverty and ethnic discrimination. In the U.S. poor single-mothers, particularly women of color, face staggering eviction rates. Among the many reasons for their high rates of eviction are that children may be a source of noise complaints and calls to the police (Desmond 2012). We can easily see then how any type of households likely to have disproportionate exposure to the criminal justice system, even just nuisance complaints, will in turn be disparately impacted by the Act. Simply put, when police records are used to make decisions in the housing market, we should expect disparate impacts for anyone with disparate exposure to the criminal justice system.

What this discussion on intersectionality should make clear is that a blanket policy restricting the movement of people without incomes and with certain police records will inevitably have a disparate impact on those people who experience disadvantage along other identities or group characteristics. This intersectional analysis of the Act, that those with identities that make them subject to other forms of discrimination – the poor, people of color, single-mothers, refugees – experience disparate impacts, is the primary subject of the rebuttal to the European Court of Human Rights case and an Amicus brief submitted to the court:

To tackle the harm produced by compounded stereotypes...we respectfully invite the Court to assess the present case from an intersectional perspective...intersectionality serves to identify the unique types of violations produced by the interplay of two or more grounds. Importantly, the latter does not merely reflect the interaction between multiple identities, such as gender, class and ethnic origins. It also reflects the interplay between the systems of social hierarchies accorded to those identities. As such, this approach is essentially apt to tackle violations connected to institutional or structural biases, de facto discrimination and indirect discrimination experienced by the most disadvantaged. (Human Rights Centre of Ghent University and the Equality Law Clinic of the Universite Libre de Bruxelles 2016)

Finally, while the disparate impact of the Act along lines of migration status and ethnicity should not be a surprise given the Act’s origins with Pim Fortuyn, it is still important to name that the Act...
facilitates indirect discrimination along ethnic lines because of overrepresentation among ethnic minorities in categories of excluded residents (van Gent, Hochstenbach, and Uitermark 2017).

The disparate impacts to groups of people based on race, ethnicity, religion, or migration status, is a line of critique that should be further unpacked by researchers in the Dutch context who are more familiar with who is disproportionately impacted by the criminal justice system (Article 10). While the examples I have provided here are built-up from the case of Ms. Garib, from examples provided by interviewees, and by my own knowledge of the US criminal justice system, there are likely many different dimensions of identity and groups who will experience disparate impact because of their exposure to the criminal justice system and because they are more likely to receive civil complaints in their neighborhoods. In addition to Article 10’s disparate impact through the criminal justice system, Dutch researchers should also assess the potential for Article 9’s disparate impacts from group stratification between job categories or educational qualifications. For example, what ethnic groups will be disproportionately impacted by Zaanstad’s plan to use Article 9 to recruit graduate students into the Turkish neighborhoods?

In addition to disparate impacts on groups of people, the policy is also disrupting the operations of government systems that tend to serve marginalized groups. The homeless system, criminal justice system, refugee resettlement system, and social housing organization’s processes for placing people with physical or mental disabilities are all human service systems disrupted by the Dutch Urban Areas Act. One interviewee described how placing people coming out of homeless shelters into permanent housing in the Rotterdam area is becoming increasingly difficult as these individuals are often excluded under Article 8 or Article 10. The same is obviously true for incarcerated people leaving the criminal justice system, as the Act poses additional barriers to resocialization and re-entry.

Multiple interviewees in the Rotterdam area were concerned about how the policy is creating new forms of concentrated poverty by limiting options for refugee resettlement. Social housing organizations are obliged by law to house people with disabilities and asylum seekers, the latter who, especially since the European refugee crisis in 2015, have become more numerous. One organization described how the Act has disrupted their normal approach to disperse these populations throughout their stock in the city. The Urban Areas Act has significantly limited the areas where people can be dispersed because they either do not meet the residency requirement (refugees) or often the income requirement (people with disabilities).

A variety of human service systems and organization are experiencing detrimental impacts from the Dutch Urban Areas Act, a condition that likely will only become more severe as more cities implement the Act. The criminal justice system, homeless system, organizations involved with sexual violence and intimate partner violence, and virtually any human service organization that intersects with people at the margins of society should be seriously concerned with how the Act exercises forms of exclusion directed at people who already have highly compromised positions in the housing market.

**Legitimized a method of addressing neighborhood distress through exclusion.** The final consequence of the Act’s diffusion and continuation is the simple observation that it legitimizes a platform for exercising exclusion while leaving unresolved the many vexing policy and planning questions it poses. That exclusion is seen as a method to improve neighborhoods is the fundamental
puzzle. But how the Act has evolved and become legitimized over time is perhaps even more alarming. We see in the Dutch Urban Areas Act a national policy onto which over time additional forms of spatial exclusion have been continuously attached over time. The Act started with exclusion based on income (Article 8), expanded to include exclusion based on job or educational characteristics (as I argue Article 9 ought to be properly understood), and then to exclusion based on criminal records, civil complaints, and suspicion of extremism (Article 10). An essential question then is where and how does the expansion of exclusion end?

If the overarching goal of the Act is to improve the quality of live in distressed neighborhoods, then, using the same reasoning used to justify including Articles 9 and 10, the Act could conceivably extend beyond excluding certain types of people and into regulating establishments and public spaces. Barring certain types of businesses (e.g. liquor stores or fast-food), prioritizing other types of stores (e.g. healthy food markets) and closing of public spaces that may facilitate criminal activity (e.g. parks) could conceivably be legitimate under the logic of the Act.

More fundamentally, if the Dutch Urban Areas Act limits freedoms of movement to reduce levels of socioeconomic segregation that cause neighborhood distress, why should the Act not include a new Article, say Article 11, that excludes wealthy residents from wealthy neighborhoods and prioritize the poor’s movement into those areas? Article 11 could operate under the same premise of Article 8 that justifies regulating the housing market in areas to reduce economic segregation across the city. Article 11 could prevent the further concentrations of the wealthiest people and the native-Dutch population, by limiting their access to areas that already have a concentration of people with their similar group characteristics. Then when a vacancy in one of these segregated areas of wealth becomes available, the next in-mover could be someone who would increase the neighborhood diversity like an ethnic minority, recent immigrant to the Netherlands, refugee, or a poor single mother. By providing for a “temporary” curtailment of the inflow of new residents with strong socioeconomic positions, Article 11 would then provide “breathing space” for the neighborhood to accept people with weak socioeconomic positions. We can see how then Article 11 would nicely compliment the city-wide goals of reduced segregation that Article 8 seeks advance by targeting distressed neighborhoods.

This exercise in imagining a new article points to the most fundamental question that the Dutch Urban Areas Act poses but leaves entirely unanswered. Why does a policy attempting to improve neighborhoods and reduce levels of segregation constrain choices among groups of people who based on their characteristics (income, criminal records, job or education levels) are the most likely to already have compromised positions in the housing market and the least likely to have significant choices deciding where to live?

The Urban Areas Act has created a highly nimble method to ostensibly improve neighborhoods through the exercise of exclusion. But the Act’s fundamental premise that exclusion can improve neighborhoods is without any theoretical or empirical evidence. The national government has essentially offered the Urban Areas Act as a means for addressing segregation, neighborhood distress and safety, and facilitating demographic change through a platform of exclusion. Moreover, the Act has become a vehicle to easily exclude new categories of people who are considered sources of neighborhood problems (most recently those suspected of extremism). What will be the next request for exclusion that will be made possible and facilitated by the existence of the Urban Areas
CHAPTER 5. Race and the Dutch Urban Areas Act

5.1 The Dutch Urban Areas Special Measures Act as a Racialized Policy

In the last chapter I presented my arguments for why the Dutch Urban Areas Special Measures Act has continued in Rotterdam and has been adopted by other cities despite a lack of evidence of its effectiveness. Among other concerns, that the Act continues is seemingly a breach of its own statutory and constitutional basis. I then described the major emerging consequences of its continuation and diffusion. The arguments from that chapter in of themselves justify a reexamination of the Act from both legal and policy efficacy perspectives. However, I have not yet discussed whether the law would be justifiable if it were actually shown to be effective in addressing neighborhood distress, if it were redesigned to limit its negative consequences and externalities, and if it met the legal requirements outlined to restrict freedom of movements. The key question I ask in this final chapter is if Dutch Urban Area Act did meet its goals, would it be a justifiable state intervention to change neighborhoods?

In this chapter I answer this question by arguing that the Dutch Urban Areas Act is an unjust racial policy because it was conceived in Rotterdam to exercise a racialized form of state control over geography. By racial policy, I mean a policy or law that creates, relies on, or reinforces racialized categories and hierarchies by targeting a racialized group. Racialized groups are those who due to their culture, religion, physical appearance such as skin color or to some other characteristic are socially constructed as an out-group category. As a socially constructed category of people, groups become racialized through a “dialectical process of construction: that is the creation of a category of ‘other’ involves the creation of category of ‘same’” (Bonilla-Silva 1997). For example in the United States, black people are a racialized group because they are seen as a category of non-normal others compared to white people. In the Dutch context immigrants, ethnic minorities, and Muslims (and people who constitute any combination of those identities) are all racially constructed as non-normal out-groups. Because they are an “allochthones” group of people who “came from elsewhere” they are constructed in opposition to native white Dutch who are considered as an “autochthones” group of people “who are from here”. As demarcated by either their color, religion, or culture, this group of “allochthones” people are racialized through the binary paring of categories of “autochthones” versus “allochthones” in which “everyone knows that they reference whites and people of color respectively” (Wekker 2016).
In brief, I argue that the animating proposition at the foundation of the Act’s origins Rotterdam is Pim Fortuyn’s judgement of certain people as problems and the source of neighborhood distress. The social and political genesis of the Act in Rotterdam identifies those problem causing groups as Muslims and non-white immigrants primarily from non-Western countries, both racialized groups. Pim Fortuyn’s political movement conceived of non-white racial others as constituting the main source of Rotterdam’s problems, people who in Fortuyn’s ideal scenario the city would bar from entering its boundaries, but who at the very least the city needed to manage and constrain their movements so that their problems could be contained. As a result, the ideological origins of the Act from Pim Fortuyn makes it a racialized policy that I argue could not have been conceived unless its intended targets were understood as racial others who are inferior and deviant.

My primary method in this chapter is that of comparison to the United States and South Africa. I draw on evidence from my interviewees and analysis of primary documents of the Urban Areas Act to show at the conceptual level that the policy’s original racialized logic – non-whites as problems to be managed because they cause disruption to public order – finds remarkable similarities to the logics embedded in the most severe forms of racial segregation policy in United States and South African history. In addition to connections at the theoretical and discursive level to those highly racist expressions of state power in the US and South Africa, the Act’s specific mechanism of exercising exclusion through controlling movement and residences also bears remarkable resemblance to those in the racial segregation ordinances and “red-lining” processes in the United States and the “pass” system in Apartheid South Africa. As a racial policy that exercises a form of exclusion by regulating space, I argue that the Dutch Urban Areas Act is a racial segregationist policy.

I begin this chapter by describing three key reasons why drawing connections between the Act and racial segregationist history in other Western contexts is a necessary and important heretofore missing analytic move. I then establish that the fundamental overarching connection between the Dutch Urban Areas Act and Western racial segregationist history can be seen by creating a definition of ethnic or racial segregation that is derived from black liberation theory in the U.S. Elucidating the parallels between the Dutch Urban Areas Act and racial segregationist policy in the US and South Africa requires both theoretical concepts and specific policy examples. While there is much theoretical work on the social and political origins of segregation in the US and South Africa, I specifically draw on Charles Mills “Racial Contract” as the conceptual bridge.

By making a paradigm shift facilitated by lessons and concepts developed in the U.S., I believe it becomes evident how the Act as originally conceived in Rotterdam is a perverse and oppressive uses of state power against racial and ethnic minorities. After this chapter I hope readers will see that regardless of the Act’s effectiveness, its unexpected consequences, or how justifications for the Act have evolved or warped over time, the fundamental injustice of is how the Dutch Urban Areas Act was conceived in Rotterdam as a policy intended to marginalize and restrict the choices of racial others.

**Why a paradigm shift in analysis of the urban areas act is necessary.**

Before presenting my core arguments in the remainder of the chapter, I want to outline three guiding imperatives for making the connection between the Act and Western racial segregation
history. The first is simply that the Act has received almost no coherent or compelling criticism as a racialized policy despite the highly racialized political and social context from which it emerged around Pim Fortuyn in Rotterdam.

The most critical analysis to date that have approximated a racial critique have come from previous authors who have debated whether Pim Fortuyn and the political party Leefbaar Rotterdam that continues his populist agenda can be described as a European variant on revanchist urbanism (Ouwehand and Doff 2013; Uitermark and Duyvendak 2008; Schinkel and van den Berg 2011). This version differs from the U.S. paradigm where revanchist is directed primarily at the city’s poor by a political and social elite trying to make the city desirable for the return of capital and the middle-class. Rather some authors have argued that Rotterdam’s variant of revanchism is instead “directed in large part to ethnic minorities and especially to Muslims…[it is a] renewed attempt to discipline marginalised ethnic groups.” (Uitermark and Duyvendak 2008).

Justus Uitermark and his colleagues have also critically analyzed the Act but from the important perspective around the hypocritical and selective use of data throughout the development of the Act in Rotterdam, in its expansion from a single neighborhood to other neighborhoods of Rotterdam South, and in its extension at each four year interval (Uitermark, Hochstenbach, and Gent 2017). The city of Rotterdam and central government carefully mobilized data as “objective” measure to justify the Act and specifically construct “exceptional territories” in Rotterdam South to demonstrate severe problems for which an exceptional measure like the Act is justified. At other times the local and central governments dismiss or entirely ignore data analysis as insufficient or too limited to determine the Act’s effectiveness when justifying its continuation in Rotterdam. These researchers also conducted an important process of deconstructing the relative impact of the dozens of metrics within the Leefbaarometer, the composite index that local governments rely on to select (and justify their selection of) distressed neighborhoods. This process that they call “reverse black-boxing” revealed that the single strongest predictor of “livability” among the 49 variables in the index is the measure of the neighborhood share of ethnic minorities (non-western non-native residents).

All of these previous critical perspectives go a long ways towards revealing the multiple hypocrisies, irregularities and logical problems with how the Act developed in Rotterdam and became a national policy. But as I will demonstrate in this chapter they all fail to grasp that the essential injustice is how the Netherlands has institutionalized a racialized policy, designed to further marginalizes already disadvantaged groups who are understood as racial others.

The second imperative for drawing comparisons to segregationist history is to provide an appropriate theoretical lens that properly investigates what I think is a pernicious element of the Act: how it is ostensibly about deconcentrating poverty and facilitating neighborhood socioeconomic diversity, policy goals commonly associated with progressive governments in Western countries that are concerned with racial inequalities. I hope to reveal how a racially laden exclusionary mechanism has been recast as a positive measure to address segregation and neighborhood inequality.

The Act’s façade of improving distressed neighborhood and addressing segregation begins to unravel when we see how it confounds policy perspectives developed over the past 30 years in the United States and European Union. A comparative look at the implicit theory behind how the Act
seeks to address neighborhood distress shows how the policy does not align with current perspectives and as a result reveals the farce underneath. The Act certainly confounds the two main US policy prescriptions of “mobility” and “place-based” approaches to combat segregation and concentrated poverty. The former is often an individualistic strategy that facilitates increasing housing options for low-income individuals in wealthier areas (usually through a housing voucher or access to a vehicle) and latter encompasses a variety of intensive reinvestments targeted to particular neighborhoods to improve the conditions for people living in the area. As originally conceived in Rotterdam to ostensibly address the problem of neighborhood distress in Rotterdam South, the Act combines elements from both the place-based and mobility-approach. It is an intervention in a relatively distressed neighborhood because it applies to geographically bounded areas in Rotterdam South. But as understood but its proponents in Rotterdam and in the House of Parliament, the Act also implicitly has goals similar to a mobility program because it has the effect of dispersing prospective movers into the neighborhood across other areas in the city that presumably have fewer people with the characteristics of the excluded group. The implicit desirability of the “waterbed effect” is then a less informed and strategic version of mobility strategies in the U.S, where it is assumed the people who are excluded will move to less distressed neighborhoods thereby reducing segregation across the city.

The law similarly cannot be understood by perspectives developed in the EU on addressing segregation and concentrated poverty. At the city-level, Europe has largely responded to concentrations of poverty and ethnic minorities through one of two approaches, “social mix” policies or “area-based initiatives” (Musterd 2002; Phillips 2010). Social mixing or “balanced communities” is often achieved through demolition of parts of social housing stock and redevelopment with construction of higher price, and mixed tenure units to attract higher income households (Bolt, Phillips, and Van Kempen 2010). The HOPE VI public housing program was the United States’ general equivalent to this approach. Area-based initiatives primarily connect segregation to problems of social integration, assimilation, and participation in society. Area-based initiatives emerged in 1990s and 2000s as more holistic approach to neighborhood development than social-mixing approach which tends to only focus on physical development (Musterd 2003; Bolt 2009; Kearns 2002). They deploy a variety of strategies to improve housing, education, and employment simultaneously in a neighborhood, while inducing more income mixing, often through introducing higher income residents and demolishing housing for low-income residents. As a generalization, these programs can be translated into the equivalent of the comprehensive “place-based” approaches to addresses segregation from the U.S. Major area-based initiative’s sponsored by national government in EU countries include the Swedish Metropolitan Initiative, the Netherland’s own Big Cities policy, and the English New Deal for Communities. (Musterd 2003). Since the late 2000s most national area-based initiatives in EU have been dissolved (van Gent, Hochstenbach, and Uitermark 2017).

National and local level refugee, immigrant, or asylum seeker dispersal policies represent a third form of addressing segregation, though they are often not framed as such (Robinson et al., 2003). The implicit idea is often to avoid further spatial concentration of immigrants or refugees in already immigrant or refugee dense regions, cities and neighborhoods. At the national level this is done by intentionally spreading these populations across cities, often on a per-capita or other quota basis, and at the city level by spreading them across the area’s social housing stock (Wren, 2003).
As a geographically targeted policy that disperses by excluding prospective movers from the targeted area, we see then how the Urban Areas Act also does not fit neatly into any existing well-developed prescriptions for addressing concentrated poverty in Europe. Similar to its relationship to the perspectives developed in the US the Act takes partial and warped cues across different approaches from the EU. In the designated neighborhood, it tries to facilitate the socioeconomic diversity sought by “social-mix” redevelopment approaches, and encourages cities using the Act to simultaneously deploy other investments in the neighborhood akin to the area-based initiative approach (“It is important to do this [use the Act] in combination with existing, less drastic measures as part of an ongoing, integrated plan to improve local quality of life”) (The Ministry of the Interior and Kingdom Relations 2017). Finally, the Act implicitly has a dispersal approach to addressing segregation by deflecting incoming residents to other areas of the metropolitan area.

Taken together, the underlying premise of paradigms in the US and EU on addressing the complex challenge of neighborhood distress is to expand neighborhood choice for low-income families. Increasing choice means robust and sustained investments to improve the viability of distressed areas so that they are realistically places where people can thrive, policies that offer the possibility for low-income households to remain in neighborhoods that are improving, and policy and legal strategies to remove the barriers for low-income families to live in areas that offer more economic opportunities, better schools, and improved safety (Turner, n.d.). In each of these strategies, a low-income family’s choice set is expanded by increasing the viable choices of neighborhood that meets their needs, aspirations, and preferences.

The Dutch Urban Areas Act defies the paradigms from the US and EU and presents an entirely new perspective on how to address neighborhood distress because it is premised on the opposite of expanding neighborhood choices. The Act constrains the housing choices for people with low-incomes (Article 8), for people who do have not have certain job or educational qualifications (Article 9), and for people with police records (Article 10). As will become clear by the end of this section, I argue that the Act confounds both US and EU policy perspectives for addressing neighborhood distress and lowering racial and socioeconomic segregation precisely because it is rooted in the racial segregationist perspective of constraining choice. This key analytical shift that I make in this chapter of demonstrating how the Act is a segregation policy opens an entire new set of theoretical frameworks for interpreting and making sense of the Act.

The third reason it is important to draw a connection between the Act and racial segregationist history elsewhere is to build on the small but important body of literature on the international transmission of racialized urban policy and planning ideas. The global history of racial segregation shows remarkable consistency in the underlying processes that created residential color lines across the world’s major cities (Nightingale 2012). Three common forces of institutions of government, land markets, and international networks of planners, lawyers, social scientists and other actors enabled the global spread intentionally segregated cities and facilitated the political and social capital expenditures necessary for segregation to be realized in different contexts. The intentional and unintentional exchange of segregationist methods and ideas across national boundaries is most evident in the specific example of Apartheid South Africa and Jim Crow US. These notorious hyper black-white segregationist regimes shared remarkable similarities within their parallel timeframes of developments. The term segregation in both the South Africa and US context is first seen in early
years of 20th century, and there is some evidence that South African white supremacists directly borrowed the term from the US. In both contexts the guiding purpose for creating legalized segregation was to designate in the physical landscape the base dichotomies of blacks a noncitizen or subhuman status in society, and through the mechanisms of exclusion generated by segregation, to cement the political, economic, and social superiority of the white population (Fredrickson 1982). Applying the line of questioning and methods developed by other authors on comparing segregationist regimes across contexts helps illuminate why the Dutch Urban Areas Act is a racial segregationist policy.

**The bridging concept: segregation as an expression of the Racial Contract.**

Charles Mill’s “Racial Contract” provides what I think is the critical conceptual bridge as a starting point to connect the Urban Areas Act and racial segregationist history in the United States and South Africa (Mills 1999). Rather than a specific theory to describe segregation, the Racial Contract is a broader conceptual basis for understanding why Western societies historically developed relationships between citizens of different races that ensured non-white citizens occupy inferior social, economic, and political positions. Spatial segregation is one of many intentional mechanisms designed to undergird a relationship where one group dominates another. In this section I lay the theoretical groundwork for defining the Dutch Urban Areas Act as a racial segregationist policy by illuminating how the core paradigms of the Racial Contract are expressed in the Act.

In brief, the Racial Contract is a “global theoretical framework for situating discussions of race and white racism”. Constituting the contract is a “set of formal or informal agreements” between white people to “categorize the remaining subset of humans as nonwhite and of a different and inferior moral status, subpersons, so that they have a subordinate civil standing in the white or white-rulled polities”. It is agreement between white people that they are the only people who count, who are actually people. The purpose of the contract is “always the differential privileging of the whites as a group with respect to the nonwhites as a group, the exploitation of their bodies, land and resources, and the denial of equal socioeconomic opportunity to them”.

The Racial Contract determines that “different rules apply” for how the state relates to nonwhites. As separate categories of beings, humans and subhuman, laws apply differently for whites and nonwhites, creating a “moral hierarchy and “partitioning” of laws. The “natural” freedoms, rights, and equality of humans is restricted to white men, while nonwhites occupy a lower moral rung for whom there are different and inferior sets of rights and liberties. Nonwhites as subhumans must be theorized about, require intervention for their improvement, and are not capable of autonomy, self-rule, and morality. In treating nonwhites as subpersons to fulfill the Racial Contract, the state uses coercion through physical violence and ideological conditioning.

The Racial Contract can also help explain the contradictions in Western nations’ withdrawal from racially explicit forms of oppression toward “colorblind” or “race neutral” policies at the same time that racial inequality has widened and seemingly become entrenched. Mills explains that the contract had two periods. In its early period “de jure white supremacy” a racial polity was explicit, as was obvious in trans-Atlantic slavery and colonialism, the eras of racial terrorism, lynching, and complete separations of public life in Jim Crow in the United States, and the long history of Apartheid South Africa. In the second period, the present, the contract “has written itself out of formal existence”,
and the state has granted a formal extension of rights to nonwhites but the reality of de facto white supremacy continues through the compounded value of wealth, property, and opportunity accumulated through hundreds of years of racial privilege. These deep-seated configurations of racial inequality are upheld in the present color-blind period in the US through mass incarceration, our history of state-endorsed residential segregation that has gone without serious remedy, and a legal structure undergirding local governance that reinforces disparities between communities in funding for public education, parks, and other local services. All are seemingly colorblind or “post-racial” constructs that often allow whites to refuse to acknowledge the relevancy of race at the same time that practices reinforce the centrality of race in structuring society. The two periods of the Racial Contract demonstrate how the contract is malleable and its exact terms and manifestations in law, policy, and custom will change or be re-written in order to maintain white-domination.

The Racial Contract as a theoretical tool provides a basis for conceptualizing what role spatial segregation and control of racial others in geography plays in creating and enforcing a racial hierarchy. In general, explicit state sponsored segregation such as Apartheid South Africa demarcates space to physically reflect the underlying premises and base dichotomies within the Racial Contract around personhood for whites and subpersonhood for nonwhites. If the natural state in the Racial Contract is one of freedom and equality for white men, then the various types of exclusion (social, economic, political) facilitated by segregation is one mechanism underwriting the contract (Young 2002).

**A theoretical definition of racial segregation:**

Racial segregation is a racialized spatial method of control and regulating space. In other words, a spatial method of racial exclusion. Segregation reflects demarcates in physical geography the core premises of the Racial Contract between personhood versus sub personhood, inclusion versus exclusion for whites and nonwhites.

**Racial segregation reflects in geography the state’s different role and responsibilities towards nonwhites:** Segregation reflects the geographic beginning and end of the “state’s full obligations” and the “different rules apply” axiom of the contract. In segregated, nonwhite areas the state’s responsibilities and obligation are often diminished (e.g. poor public services, less policing) or are distorted (e.g. more violent policing, and easily justified abnormal or extraordinary policies in nonwhite spaces). Segregation as a policy reflects how rules or laws apply differently for white and nonwhites such as natural rights like freedom of movement that can be suspended (e.g. who is given complete freedom of movement and who has their movement controlled).

When understood through the lens of the Racial Contract, it becomes clear how the repeated themes and metaphors within the development and application of the Urban Areas Act reflects a racialized judgement of its targeted population. The areas of the city and types of people for whom “different rules apply” with the state’s use of power are what constitute the “exceptional” and “drastic” nature of the Act; restricting movements and access to areas among a racialized category of people who are not seen as deserving of and able to bear the responsibility of having full rights is an implicit if not explicit goal of the policy; areas of the city where exceptional rules and interventions are justified because they are inhabited by racial others, where human rights like freedom of
movement can be impinged and suspended; and the belief that a racialized group of people cause problems for the public are all central paradigms expressed in the development of the Act in Rotterdam and in the actual letter of the law. These are all highly racialized notions in the Act that could be predicted by the Racial Contract.

I am not arguing that all propositions from the Racial Contract perfectly explain or map onto the contours of the Urban Areas Act. The Racial Contract primarily understands segregation in its explicit, hyper-segregationist forms from U.S. and South African history. But the general principles and themes of the contract provides the critical conceptual bridge for understanding the overarching purposes and values across time and contexts imbedded in racial processes such as segregation, which in turn helps explain why the Dutch Urban Areas Act is a racial expression of state power in how it controls and regulates space. Even the color-blindness of the Act in the national legislation, despite the highly color conscious origins surrounding Pim Fortuyn, is a racialized configuration that refuses to acknowledge the existence of race itself.

In the remainder of this chapter I further draw out these connections in beliefs and rhetoric and then make specie connections to actual policy mechanisms from U.S. and South Africa segregationist history.

5.2 Connecting the Urban Areas Act to Segregationist History in US and South Africa

After explaining in the previous section how policies of racial segregation reflect the principles of the Racial Contract, I can now in this section draw in greater detail connections between the beliefs, rhetoric, and justifications for the Dutch Urban Areas Act to those principles of the Racial Contract, and in turn to the similarities to racial segregationist history in U.S. and South Africa. To be sure, bridging these contexts is a substantial leap across different time periods, geography, and highly varied social, political and institutional arrangements. Therefore I want to be clear about what I am and am not arguing in this section.

I am not suggesting that the Dutch Urban Areas Act exercises anywhere near the severity of violence, oppression, domination and explicit white supremacy found in Apartheid South Africa or Jim Crow United States. These extended periods of racial separation in all aspects of public life were remarkable coordinated uses of state sanctioned power and violence to maintain the general political and economic dominance of whites (and subservient position of blacks) and the specific color line of segregation. Nor am I suggesting that cities outside of Rotterdam are not seeking to address legitimate social problems in how they applying the Dutch Urban Areas Act or that these cities have conceptualized their application as a racialized practice to the degree that it was in the policy’s origins in Rotterdam. My analysis of how other cities in the Netherlands have designed their applications of the Dutch Urban Areas Act indicated a general spirit of reaching the actual stated goals outlined by each city.

I also want to note the important and dynamic work currently actively happening in Rotterdam South by a variety of government agencies, social housing corporations, non-profit organizations,
and community groups. What is clear from my interviews is that the people constituting and policies operating in Rotterdam South are not a monolith. Many organizations are deeply engaged in addressing real challenges around neighborhood distress. My focus on the Dutch Urban Areas Act is not intended to narrowly define or limit the experience of this highly dynamic and complex community to that of a single government policy developed during a unique moment in the city’s history. For example, the National Program Rotterdam South is a highly unique central-government sponsored place-based intervention to address neighborhood conditions in Rotterdam South that draws on many of the best practices developed in the US and EU on addressing distressed neighborhoods through coordinated supports for children and their families. None of my critiques in this section are indictments of this type of important work or a dismal or reduction of the dynamism and creativity among the diverse communities in Rotterdam South.

My core argument in this thesis is that the foundations of the Dutch Urban Areas Act, as developed in Rotterdam in the early 2000s, are the same ideas of controlling the movement of a racialized group of people who are considered harmful, who are in need of discipline or punishment, or otherwise seen as inferior, unnecessary, or disruptive to society, as expressed by state sanctioned segregation policies found historically in the United States and South Africa. When segregation is understood not as simply a concentration of people of certain characteristics, but as racialized method of control and exclusion over space, then we see how the Urban Area Act emerged not as an anti-segregation measure but as a spatial policy of racial exclusion.

In the first part of this section I return the origins of the Act in Rotterdam with the analytic tools of the Racial Contract. My goal is to re-center what has been pushed to the periphery over the past 15 years of how the Dutch Urban Areas Act emerged with an explicit racial character and formed a racial practice of marginalization. In the second part of this section I show how the Act is a racial expression of power not only because of its racialized judgement around who is worthy of equal rights, but also in its concrete policy mechanisms of emulating a racial hierarchy where whites have “the license to draw physical segregation” imposed on other races (Bonilla-Silva 1997).

**Similarities in ideas: Tracing Pim Fortuyn’s ideas from its origins and into a national policy**

To show how the Dutch Urban Areas Special Measures Act is an expression of the Racial Contract, which is embedded in segregationist history in the US and South Africa, it is important to return to the specific ideas from Pim Fortuyn, the ideological father of the Act. Regardless of the various revisions to and reinterpretations of the Act over the past 15 years as it moved from a local experiment in Rotterdam to a national policy, the birth of the Urban Areas Act is directly traceable to the anti-immigrant ideas and sentiments organized into political force by Pim Fortuyn. As a result, we need to reexamine under the lens of the Racial Contract the precipitating events and the ideology and visions for society of Pim Fortuyn (and his political party) that eventually found policy expression in the Act.

What I argue is that Fortuyn’s core anti-immigrant and islamophobic ideology of how a white dominant society needed to address the perceived problems from racial others are similar to those ideas found in various forms of state sanctioned segregation in the US and South Africa. The
historical racial segregation policies in these two countries legalized physical separations of non-white population thereby designating in the physical landscape to reflect their noncitizen or subhuman status in society. The actual design and operations of policy differed significantly across the two contexts, but in both countries segregation as a tool control the movement and constrain the residential choices of blacks advanced the same purpose of undergirding a racial hierarchy based on the belief that black people were harmful, deviant, disruptive and (besides perhaps their labor value) unnecessary to society.

Pim Fortuyn clearly expressed core ideas from the Racial Contract through his defense of the Netherlands against the intrusion of ethnic minorities, of immigrants and of Muslims with “backward” values, culture, and habits that he believed were incompatible with those of the native Dutch (namely the protection of women’s and LGBTQ rights). As discussed in Chapter 3, Fortuyn’s political legacy was a general rightward anti-immigrant shift across Netherland’s politics. While Muslims, recent immigrants, and black-skinned former colonized populations have long been the most problematized populations across Europe and perceived as threatening to white status and privilege (Phillips 2010), Fortuyn demonstrated how explicitly problematizing these racialized groups could lead to profound electoral success. He was unabashed in his explicit islamophobia and xenophobia and proposed various discriminatory policies specifically aimed at marginalizing and controlling these groups. At the national level Fortuyn once proposed banning all Muslim immigration into the Netherlands saying “if it were legally possible, I'd say no more Muslims will get in here” (Allen 2010).

In Rotterdam Fortuyn believed the continued inflow of ethnic minorities and Muslims would result in the city being taken over and overwhelmed. For Fortuyn distressed neighborhoods with high concentrations of ethnic minorities and “forced removals” of current residents to break up the “monoculture” in these neighborhoods. In his 2002 assessment of demographic change in Rotterdam he said:

Nowadays, 56 percent of the Rotterdam population is of foreign origin, which is too high. […] Rotterdam’s neighboring municipalities have to absorb the Rotterdam underclass. […] The monoculture in certain districts has to disappear. We have to break with Moroccan, Turkish and Surinamese neighborhoods, and that calls for forced removals (Leefbaar Rotterdam, 2002, translated by (Ouwehand and Doff 2013))

Fortuyn justification of forced removals of people from their neighborhoods and barring new migrants into the city exactly reflects the Racial Contract’s judgement of nonwhite racial others as having values, norms, and behaviors that are deviant and deleterious to society. In Rotterdam Fortuyn traced the overall diminishing of quality of neighborhood life, increased crime, and the introduction of unacceptable non-Dutch behaviors into neighborhood public life directly to these groups. What Fortuyn expressed and what is at the heart of Act is an understanding of these people as problems. This racialized judgment is the essence of the Racial Contract and could only be conceived when directed against a nonwhite group of people who because they differ from white norms are not considered to be normal or fully human, but as subhuman and problems to be controlled and managed.

Marco Pastors became the political heir to Pim Fortuyn after he was assassinated in 2002. As Vice Mayor for Leefbaar Rotterdam after its landslide victory in the 2002 city council election, Pastors
continued Fortuyn’s agenda by proposing “ring-fencing Rotterdam” to stop the in-flow of migrant households (Ouwehand and Doff 2013). Taking up the political window of opportunity when the district-level political leader Dominic Schrijer proposed a measure to limit the flow of low-income households into Rotterdam South, Marco Pastors gave policy expression to Fortuyn’s ideas through the early experiments of the Act. As I argued in Chapter 3, Schrijer and Pastors disagreed on how to frame the test-case phase of the Act but agreed that in order for neighborhoods in Rotterdam South to be improved a policy was needed that “closes the tap” of problematic in-moving groups so that the “floor can be mopped” to improve the neighborhoods.

Although race or ethnic neutral in letter, the 2003 original policy experiment in Rotterdam that prevented households from moving into the neighborhood of Carnisse who did not have at least 120 percent of the minimum wage was explicitly designed to prevent the in-movement of ethnic minorities (Ouwehand and Doff 2013). This original experiment preceding the national Dutch Urban Areas Act was not as comprehensive as Fortuyn would have liked because it did not involve “forced removals” of racialized groups currently living in their neighborhoods, nor did it accomplish Pastor’s vision or a complete “ring-fencing” of Rotterdam. However, it was still intended to designate neighborhoods in the city where the migrant population could not enter. This is exactly how the Racial Contract would define racial segregation: a racialized method of control and regulating space targeting a racialized group that designates in the physical geography a reflection of the state’s belief that nonwhites are subhumans and have a noncitizen status in society. As the Racial Contract would predict, the “exceptional” nature of this policy in its suspension of human rights could only be leveled through an understanding that it would affect a racialized group. Conceived as not fully citizens, the rule of law could then be suspended or altered for the targeted racialized “allochthonous” group, such as a policy that limits freedom of movement and constrains residential choices.

The “exceptional” nature of this policy, as understood by both its original proponents during its 2003 experimental phase in Rotterdam, by the House of Parliament in their 2005 legislative note accompanying the national policy, and by the 2017 European Court of Human Rights in the Garib v. Netherlands case, I argue is one of the clearest indicators that it is a racialized policy. Take for example Marco Pastor’s response to my question on when the Act will no longer be necessary to improve conditions in Rotterdam South:

When you see the labor level improve and level of education improve. We have the settlement control, that’s the Rotterdam Act, and [a policy to] improve participation [livelihood] of households living here, that’s the National Program Rotterdam South [the place-based intervention]. We are very happy with the Rotterdam Act. There’s a Dutch expression that you “should not mop the floor when the tap is still running”. The Rotterdam Act is the tap, and the mopping the floor is the National Program Rotterdam South…It’s kind of a local immigration policy, in which immigration aren’t especially people from abroad, but with people with a high likelihood of putting pressure on your system, and there are situations in which you want to do that…What I like about the Rotterdam Act is that you have in this country and in the US, you say you have a democracy and functioning state and usually people who are born here prosper. But you see in some parts of your city and your country the same laws don’t work enough or they work the wrong way. The unemployed benefits keep people unemployed, instead of helping people temporarily in-between jobs. For those areas, you need to have exception[al] laws, and the exception[al] laws are the Rotterdam Act and the Big Cities Policy.
Similarly a senior member of the Labor Party who served on the Rotterdam city council during the period in which the original policy experiment was debated between the city’s political parties noted the exceptionality of the policy within the Dutch context:

There was a common sense in the city council that the extreme situation in the city needed extreme measures...The populist politicians in Leefbaar Rotterdam said we had to stop migration. Other parts of the political landscape, the Labor Party and other left and center parties, said we can’t stop it, we have to deal with it and it’s a reality, and we have to master the problems that it arises, and there’s positives too [benefits of migration]. But on the practical level, there was much less divide [between parties]. There was a sense of urgency felt by the city council, by local government, by the municipalities within Rotterdam, that things had gotten out of hand and had to be dealt with, mainly in Rotterdam South, and there was a strong influence in national government from social democrats [Labor Party] as well, to support that idea and to make it possible to experiment with interventions which were not seen yet until then in Holland.

Perhaps the clearest description of the exceptionality of the policy came directly from an official in Rotterdam who helped draft the original policy experiment. When asked about the permitting mechanism within the Act and whether it has precedence elsewhere in the Netherlands, the official said “first of all you don’t have to have a permit, as a principle, that’s the starting point. You can settle wherever you want. There is free settlement in the city of Rotterdam. But there is only one exception, and that is those 5 neighborhoods [of Rotterdam South designated by the Act] where you have to have permit it if you want to live in a rental home.”

In addition to the “exceptionality” of the law, other vestiges of the racialized judgements from Fortuyn and Pastors are still found in the ideas and metaphors used to describe the purpose of the Act in its official documents. Even though these documents have lost the color explicit terms originally used in Rotterdam, repeated in these documents are patterns around the general theme that the neighborhoods of Rotterdam South needed “breathing space” and “time to recover” from the problems associated with racialized groups, namely the influx of immigrants. For example, the House of Parliament’s 2005 legislative note accompanying the document judged that “the emergence of concentrations of ‘socioeconomically underprivileged’ in distressed inner-city areas had been observed, with serious effects on the quality of life owing to unemployment, poverty and social exclusion”. The neighborhood in Rotterdam South had reached their “absorptive capacity” for receiving socioeconomically disadvantaged or “weak” households, and the problem of “illegal immigration” throughout the Netherlands was particularly acute in Rotterdam South because cheap housing stock in Rotterdam South led to their concentration in the area. The document also noted how existing research in the Netherlands had shown “illegality...has an direct relationship with quality of life and safety in neighborhoods...that overcrowding and concentrations of criminal and illegal migrants [leads to] a significant effect on feelings of insecurity.” (Tweede Kamer der Staten-Generaal 2004).

Even the recent 2017 official English summary of the Act in describing the areas and circumstances when the Act is necessary contains traces of understanding a racialized population as causing problems and requiring an exceptional policy beyond the law to constrain their movement:

Municipalities sometimes find themselves confronted with residential complexes, streets or areas where an accumulation of problems is negatively affecting quality of life. Occasionally, the problems reach a critical point and cannot be solved using existing instruments. In such cases, measures that are more
drastic are needed. Despite the best efforts of municipal authorities, housing associations, institutions, active residents and local businesses, there are always some neighbourhoods and districts that are unable to achieve long-term improvements in quality of life. In these situations, it may be necessary to give such vulnerable areas the time to recover… Application of the Act can help to balance local demographics and to counter antisocial behaviours and criminal activity in a particular district or neighbourhood… The Act therefore is to be treated as a last resort measure…. Areas that are eligible for application of the Act tend to be characterised by selective migration flows and a uniform population makeup (italics mine) (Dutch government 2017)

In summary, I return to the political origins of the policy in the early 2000s in Rotterdam and then to official documents produced by the central government to demonstrate my core argument that the Dutch Urban Areas Act originated as a racial policy in how it restricted the choices of a racialized group. The racialized group of people are the “allochthonous” group of immigrants, ethnic minorities, and Muslims, who because of their cultural, ethnic, religious, and national backgrounds are constructed as different, not normal, or inferior, and with harmful behaviors and values that cause problems for neighborhoods and society. As a result of their problematized characteristics, the policy judged that where these groups have become concentrated they cause neighborhood disorder, and so they must have their residential decisions and movement controlled and directed to protect the stability and collective order of society. The physical areas where these people live or are moving into can then be subject to exception rules, places where normal freedoms of movement no longer apply and the rule of law can be altered or suspended. This belief was at the core of Pim Fortuyn’s political revolt in Rotterdam and carried into the municipal government by Marco Pastors, and now continues to find implicit expression in official documents of the Act.

Some may argue that the mostly race or ethnic neutral-terms in official documents invalidates concerns around the Act’s racially explicit origins. Following this line of reasoning, even though the Act emerged from Pim Fortuyn’s movement, the Act has lost its islamophobia and racism when in 2003 it became an experiment in Rotterdam that only used class as the basis for exclusion. Moreover, this argument would continue that the Act was thoroughly scrubbed of ethnicity and race when it became a national policy in 2006, as upheld by the recent EU European Court of Human Rights decision. This argument misses the key insight that the Act originated with the shared understanding that it would be directed at racialized groups, and is a racial segregationist policy because it was conceived to be a racialized method of control and regulating space.

**Similarities in policy mechanisms.**

In the previous section I explain at the discursive and theoretical level how the Act emerged as a racialized policy. As a missing critique of the Act, its targeting of racial groups explain why the Act is a racialized expression of state power and connects the Act at a theoretical level to racial segregationist history in the US and South Africa. But if this evidence is not sufficient to convince readers of the connection, the Act also contains specific mechanisms for controlling access to space that are startlingly similar to the most segregationist policies in the history of South Africa and the United States.

In this section I describe in brief key parallels between the specific justifications and mechanisms undergirding racial segregationist policy in the US and South Africa and those in the Dutch Urban Areas Act. This section continues to build on the conceptual bridge provided by the Racial Contract.
Once we understand racial segregation not as the confinement of a racialized group to a particular area, but as general spatial method of control and regulating space for racial exclusion, reflecting the propositions of the Racial Contract that different rules apply for nonwhites and human rights like freedom of movement that can be suspended for racialized groups, then we can see how the Dutch Urban Areas Act is a spatial policy of racial exclusion that is similar to some of the most notorious racial segregationist policies in Western history.

**Regulating a surplus population: the Natives Urban Areas Act in South Africa.** Unlike the context surrounding the Jim Crow era in the United States that institutionalized segregation in public life, in South Africa the white population was a numerical minority. For segregation to maintain white dominance, it needed to provide absolute control and subservience of the black population through a severe form of “native segregation” or “separate development”. Blacks were restricted to living on land reservations that formed only a fraction of the total land area, spaces with the least natural resources areas and serviced by few if any public institutions. The Native Land Act of 1913 first established the land reserves (at only 13% of the country’s land) and prohibited Africans from owning land outside these areas. Blacks were only allowed to enter white spaces, which were primarily urban centers, to provide the labor that served as the foundation for economic development and wealth of whites. Africans in white areas were considered “temporary urban sojourners” who could cross the color line and enter into white cities on an implicit time-limited basis to provide labor. Afterward they were then “shunted back to the reserves when their contracts were fulfilled or their labor was no longer required locally” (Fredrickson 1982).

The key mechanism regulating black movement was an identification or pass card system. African laborers from reservations were issued “passes” that allowed them to enter white cities. This was an “influx control” to direct and manage the movement of Africans, and to remove Africans from white cities who were considered surplus labor or otherwise unnecessary (Maylam 1995). Police would routinely check the passes of African labors leaving reservations who were required to carry their passes at all times while in white cities. Violations of the pass system such as an African without proper pass credentials or overstaying in white urban areas would be punished through the police forcibly removing them back to rural areas or more severe violence such as imprisonment or forced agricultural labor.

The 1923 Natives [Black] Urban Areas Act in South Africa established the pass system. By limiting and controlling the movement of Africans the pass system was a foundational pillar of what would later become institutionalized apartheid. Historian Paul Mayam who chronicled the development of apartheid pins the 1923 Native Urban Areas Act and its permit system as foundational because:

[The Natives Urban Areas Act] represented the first major intervention by the central state in the business of managing the urban African labour force and ensuring its reproduction. The Act empowered municipalities to establish segregated locations for Africans, to implement a rudimentary system of influx control, and to set up advisory boards, bodies which would contain African elected representative and which would discuss local issues affecting Africans, but without any power to change policy…The key elements of later, more refined, urban apartheid practice were to be found in the 1923 Act in embryonic form. These included the principle of segregation and the ensuing practice of relocation that aroise out of that principle; influx control mechanisms; a self-financing system which shifted as far as possible the burden of reproduction costs on to urban Africans themselves; and an institution for coopting potential collaborators in the shape of the advisory board (Maylam 1990).
In 1945 the South African government replaced the 1923 version of the Act with an amended version called the Natives Urban Areas Consolidation Act. The 1945 version included a new provision called Section 10 that outlined conditions under which Africans could legally reside in white areas as permanent residents. Section 10 was further modified in the Black (Natives) Laws Amendment Act of 1952. The Act limited the right to residency in urban areas to blacks “who were born there, those who had lived there continuously for fifteen years, and those who had worked continuously for the same employer for ten years” and "Africans who did not fall into one of these ... categories were treated as 'temporary sojourners' in an urban area, and could not remain there longer than 72 hours without securing official permission" ("1952. Natives Laws Amendment Act No 54 - The O'Malley Archives” n.d.)

The 1923 Native Urban Areas Act and the Dutch Urban Areas Special Measures Act therefore share both key racialized premises and specific mechanisms around regulating the movement of a racialized group of people. Africans in South Africa and the set of racialized groups in Rotterdam were both considered inferior or surplus, and the specific method of regulating their movement as a form of “influx control” involved a government issued pass or permit system. The parallels in mechanisms between the pass system in South African and to the housing permit system in the Dutch Urban Areas Act should be clear. The permit system in Rotterdam was designed to reduce the influx of ethnic minorities through a state approval mechanism regulating access to the housing market that only allows certain people into certain spaces of the city. In its own words, Article 8 “restrict[s] the influx of tenants without income from employment or business” and in the words of Marco Pastors the Act helps “decrease the influx of people with likelihood with problems”. The Act outlines specific conditions under which people could be permitted to live in the area, and these conditions generally indicate the types of people considered desirable, necessary, productive and not surplus, to the well-being of the area. Specifically, Article 8 of the Urban Areas Act restricts movement and access to space based on length of residency (six years) and perceived productivity to the community as indicated by their employment status. Like the Native Urban Areas Act provision for allowing Black workers providing labor to urban whites, the Dutch Urban Areas Act provides exemptions for students and retirees (people over age of 65) who while not having an income from work are still considered productive members for a neighborhood, and in the case of retirees with pensions are more likely to be white.

The Native Urban Areas Act confined black people to specific areas (reservations) and permitted them only temporary visits into the white urban areas from which they are barred. The origins of the Dutch Urban Areas Act in Rotterdam also designated a physical space where racialized groups cannot enter. We can interpret both policies as simultaneously confining a racialized group to particular areas (e.g. non-designated areas in the Dutch Urban Areas Act and reservations in the Native Urban Areas Act) or as demarcating areas where the racialized group cannot go (e.g. designated areas in the Dutch Urban Areas Act and white urban areas in the Native Urban Areas Act).

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11 In addition to the residency requirement bearing similarities to the pass system in South Africa, its temporal component of exclusion also highly similar to the “grandfather” clauses adopted by states across the US south after Reconstruction to restrict voting rights to only citizens whose grandparents had the right to vote, effectively rendering black citizens without the right to vote.
A final similarity is around enforcement of regulating space. While not yet exercised in Rotterdam, one interviewee at a social housing corporation in Rotterdam described how the law also grants the ability for a local government to perform door-to-door checks on the permits for people living in designated areas. If the permit enforcement team finds that a tenant is living in a social housing unit without proper credentials, the social housing corporation that owns the unit can be punished through fines. I was unable to determine from my research whether residents themselves would face penalties, as they could conceivably be evicted if they had moved into the area without a permit. Regardless, the potential state sponsored enforcement mechanism of the permit system through home visits is an additional similarity to the police enforced pass system in Apartheid South Africa.

**Protecting public order: Segregation ordinances and racial zoning in the United States.**

Following Reconstruction in the United States, southern cities began implementing “racial zoning” practices to maintain separate neighborhoods for black and white families. Baltimore passed the first segregation ordinance in 1910 and prohibited blacks from buying homes in majority white neighborhoods, and vice versa. Residential segregation ordinances then quickly spread to other cities. Often with the consultation of Northern planners, southern cities developed the racial zoning schemes to maintain segregation, both before and after such schemes were declared unconstitutional in the 1917 Supreme Court case *Buchanan v. Warley* (Silver 1991). The *Buchanan* decision invalidated racial zoning as unconstitutional because it impinged on the “freedom of contract” of private owners to sell to whom they wished. At least 33 cities passed racial segregation ordinances between 1910 and 1920, including 25 large cities like Dallas, Texas, Louisville Kentucky, Atlanta Georgia, and Richmond Virginia (Steil and Delgado 2019; Steil and Faber, n.d.)

Following *Buchanan* cities across the country through at least 1940 continued to illegally design and enforce racial zoning, or use racial zoning maps to make planning decisions. More often than flouting *Buchanan* however, cities simply shifted to using other zoning mechanisms that did not express open racially exclusionary intent but were designed to have the same exclusionary effect as racial zoning. The beginning of “economic zoning” such as barring multi-family apartments is directly traceable to the fallout of the *Buchanan v. Warley* that invalidated racial zoning. Economic zoning became a way to circumvent the legal barriers to explicit racial zoning posed by *Buchanan* (Rothstein 2017).12

There are two key similarities between the rationales for racial zoning and those embedded in the origins and development of the Dutch Urban Areas Act that I want to emphasize. The first is that

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12 This same process of racially explicit exclusion being replaced by racially intentional mechanisms that are not explicitly discriminatory parallels the development of the Dutch Urban Areas Act. Pim Fortuyn’s origin call for “forced removal” and country wide bans on Muslims eventually became a less extreme and more subdued policy that excluded people based on income and length of residency that would be constitutionally justifiable. In both case, we see movement away from an explicitly racially discriminatory policy that have been (or likely would be) ruled unconstitutional to one that is designed to have the same racialized impact but protected from legally scrutiny because they without a clear racially motivated intent. In the US economic zoning around multiunit development, which replaced racial zoning as a mechanism of excluding black people, was rare before World War I but adopted to continue method of racial exclusion that segregation ordinances permitted but were then invalidated by the Supreme Court. The Supreme Court would eventually consider the segregationist effects of economic zoning. The Court determined that even in cases where the racial intent were barely veiled, determined economic zoning ordinances were constitutional because there was no evidence that proponents had specific discriminatory intent to exclude blacks and not just all low-income families (Rothstein 2017).
both determined that a racial policy of exclusion, which limited freedoms of movement for a racialized group, was justifiable because it advanced the collective benefit of society. This argument of constraining individual rights for collective public order is what I call the generalized “public benefit” rational of segregationist policy. The second commonality is how proponents behind both policies argued the practices are necessary for the benefit and well-being of the people against whom exclusion is exercised. These are blacks in the case of segregation ordinances, and, in the Netherlands, the racialized group of ethnic immigrants, Muslims, and various other racial and cultural others.

The first propositional similarities between segregation ordinances and the Dutch Urban Areas Act is that both justified a racialized policy of exclusion and control as necessary to advance and maintain public order. Planners, city officials, and courts understood these ordinances as preventing racial conflict, maintaining public order, and importantly, protecting property values from the presence of black people. All three public benefit themed justifications were in the Atlanta’s 1922 racial zoning plan, written by prominent city planner Robert Written, that judged “race zoning is essential in the interest of the public peace, order and security and will promote the welfare and prosperity of both the white and colored race (Rothstein 2017)”

Justin Steil and Laura Delgado recently analyzed the decisions in the early 20th century across the country to adopt racial zoning after the first ordinance in Baltimore and the subsequent changing conceptualizations of property law that allowed for these racial segregation ordinances. They find a repeated justification for the segregationist policy of restricting individual rights (e.g. of black property owners in white areas from residing in their own residence and vice versa), were, in the words of one city, necessary to advance “good order, good government, or [the] general welfare of the city” (Steil and Delgado 2019). Although protecting “good order” in the era of racial zoning often meant preventing “race riots” of white supremacist violence where whites beat, intimidated or otherwise terrorized blacks moving into white neighborhoods, the public order argument operates under the same proposition as the Dutch Urban Areas Act. The collective benefit to society outweighs the wrongs imposed on individuals from a racial policy that restricts rights around movement and residence.

It is important to note that not only city governments in the United States advance the public order argument for racial zoning. The judicial system did as well, as reflected in state court decisions upholding racial zoning. Some state courts struck down the racial zoning ordinances on the grounds that it unduly restricted property rights that allowed owners to determine to whom they could sell, lease, or allow to occupy their residence. However other courts agreed with cites in their public order augment. For example, the Supreme Court of Appeals of Virginia found that rights surrounding property use could be justifiably suspended in segregationist ordinances because the presumed collective benefit advanced by racial zoning outweighed the breach of property rights. The court agreed with assessments from the cities of Richmond and Ashland that the “close associations of the races tend to breach of the peace, unsanitary conditions, discomfort, immortality, and disquiet” and the property rights could be breached to advance the public good because “like all other social and convention rights, [property rights] are subject to such reasonable limitations in their enjoyment as shall prevent them from being injurious”. Birmingham, Alabama perhaps most bluntly put forward the public order argument when it said “that the need to maintain order should
trump the constitutional rights” of individual blacks due to the immediate and severe threat of blacks and whites living near each other (Steil and Delgado 2019).

This evidence of cities in the United States consistently using a public order rational for a racialized policy restricting freedoms of movement applies the exact same as those given by the central government for the Dutch Urban Areas Act, and subsequently upheld by the EU Court of Human Rights. The Netherland’s House of Parliament, when describing the purpose for the Dutch Urban Areas Act, believed that advancing the goal of preventing concentrations of socioeconomically “weak” groups meets the permissible legal condition of protecting public interest under which the government can restricts rights of movement. The benefits of protecting “public order” on “which democratic society is based” outweighs what the House believed is a minimal harm inflicted on the people who are excluded from the areas (Tweede Kamer der Staten-Generaal 2004).

The public order argument also appears in the judicial record surrounding the case of Ms. Garib. Before her final appeal to the EU Court of Human Rights, her case first appeared before the Netherland’s Administrative Jurisdiction Division of the Council of State, the highest court of appeals in the Netherlands for cases brought against municipal governments. The EU Court of Human Rights found the following decision from the Council of State relevant (“in so far as relevant to the case before the Court, its reasoning included the following”) for their final decision on the Garib case:

The Administrative Jurisdiction Division observes in this connection that the concept ‘public order’ in the [International Covenant on Civil and Political Rights] includes, in addition to the prevention of disorder, public safety, the prevention of crime and all universally accepted fundamental principles corresponding to human rights on which a democratic society is based. The arrangement set out in section 2.6(2) of the 2003 Housing By-law [The Dutch Urban Areas Act] constitutes a restriction on Garib’s free choice of a place of residence. It is not disputed that this restriction is provided for by law and is inspired by the interest that society has in [ensuring] the quality of life in districts of major cities. The Administrative Jurisdiction Division finds that, considering that the area in issue is one designated under section 5 of the Inner City Problems (Special Measures) Act, the Burgomaster and Aldermen were entitled to take the view that the restriction [on freedom to choose one’s residence] is justified in the general interest in a democratic society within the meaning of Article 12 § 3 of the 1966 International Covenant on Civil and Political Rights. The area in issue is a so-called ‘hotspot’, where, as has not been disputed, the quality of life is under threat.

On face value, comparing the public order rationales for restricting rights found in the Dutch Urban Areas Act to those in racial zoning may seem odd. The racial segregation ordinances often restricted the property rights of white and black owners alike for the purpose of maintaining segregation, while the Act only formally restricts the rights of low-income people (Article 8) and people with criminal records (Article 10). However, what they share in common is clear when we understand that the Act was developed to target a racialized group. In both cases, the state exercised a racialized method of control and regulating space that suppressed or suspended a racialized groups’ rights under the rationale of providing for the stability and order of society.

The second reason that the Dutch Urban Areas Act bears similarities in rationales to those of racial zoning is that both were justified as benefiting the targets of exclusion. Although it may seem ludicrous now, proponents of racial segregation ordinances in the United States believed that part of the public good advanced by the ordinances was protecting the interests of blacks by preventing
blacks from living near whites. There is certainly some truth to this assessment because, as noted above, blacks entering white neighborhoods became targets of white supremacist violence and intimidation. “Race riots” of collective white violence against intrusion of blacks into white homeowners was a spurring motivation for the original racial zoning ordinance in Baltimore. The then Mayor of Baltimore Barry Mahool justified that racial zooming was necessary and benefitted blacks because “the reasons leading up to this so-called segregation ordinance have been going on in the City of Baltimore for the past ten years... since first the negro began to have a desire to push up into the neighborhood of the white resident... Many blocks of houses formerly occupied exclusively by whites have now a mixture of colored—and the white and colored races cannot live in the same block in peace and with due regard to property and security.”

In perhaps an accidental acknowledgement that the Act targets a racialized group, the House of Parliament also understood the Dutch Urban Areas Act as benefiting both immigrant and Native Dutch: “Living in an area of concentrated [low-income groups], in the eyes of the government, impedes the integration of especially low or untrained and poor Dutch speaking part of the immigrant population. This threatens both immigrant and autochthonous [Native] households, [as they] end up in social isolation in certain urban neighborhoods”. Returning to the segregation ordinance in Atlanta, we see a similar reason was given for racial zoning because separation of races “is essential in the interest of the public peace, order and security and will promote the welfare and prosperity if both the white and colored race.” This curious logic suggests that the Act helps those groups already on the margins of society, who are the most likely to have limited options in the housing market and constrains on their movement, by further limiting their freedom of movement.

At this point it is interesting to return to the original precursor to the Dutch Urban Areas Act, the failed attempt to institute a 5% immigrant quota in each neighborhood across the city following the 1972 “race riots” in Rotterdam. Following the white supremacist violence against Turkish immigrants in Rotterdam South, city officials called for this dispersal policy which would limit the movement and residential choices of the Turkish guest workers. The parallels here are striking between the experience of blacks entering white neighborhoods in the US and the Turkish in 1972 in Rotterdam South. In both cases groups faced racialized violence from whites, and the government responded with a call for a racial policy to control movement of a marginalized group in order to advance public order in the form of quelling the racialized violence.

In addition to similarities in the justifications of benefit to the collective public, and specific benefit of those excluded, the Dutch Urban Areas Act also has remarkable similarities the conundrums and contradictions facing residents and policymakers in determining how to implement and comply with racial zoning schemes in the United States. For example, the case of Ms. Garib, the white Dutch woman who was evicted from her neighborhood when she tried to move from one unit to another unit after Article 8 was implemented in Rotterdam South, bears remarkably similarities to the perplexing enforcement and implementation that emerged in Baltimore under the United States’ first racial zoning ordinance. In Baltimore the segregation ordinance outlined blocks of the city for blacks and blocks for whites. However, as an already somewhat integrated city, the immediate passage of the ordinance caused confusion. Richard Rothstein explains that “after [Baltimore] adopted the ordinance, the city pursued twenty prosecutions to evict wrong-race residents. Judges had to grapple with such questions as whether an African American should be allowed to buy a home on a block
that was evenly divided between white and black. A white homeowner moved out while his house was being repaired but then couldn’t move back because the block was 51 percent black.” To resolve some of these puzzles, the racial zoning ordinance had to be revised so that it applied to only blocks that were already entirely white or black (Rothstein 2017). Both Ms. Garib and the city of Baltimore faced the same general problem: what happens to a person living in an area designated as a space of exclusion when they attempt to move within their own neighborhood only to discover that they have suddenly become an ineligible resident of their neighborhood.

It also interesting to note how segregation ordinances, and later restrictive covenants, which prevented resale of specific homes to blacks, exempted domestic servants employed by the white homeowner or occupant. Like the labor value of Africans understood with the Native Urban Areas Act, these primarily black women servants were implicitly judged as necessary for the productive life in the white areas, and their presence did not pose a threat to public order. There are gestures here to Article 8 in the Dutch Urban Areas Act to certain types of people who are without incomes from work but are seen as not constituting threats to public order, such as students and people of retirement age who are on fixed incomes. In all cases, there are exceptions to exclusion within a category of people who are generally seen as undesirable for general public life.

**State identification of unlivable neighborhoods: redlining in the US and the Leefbaarometer.**

The United States has a long and deeply disturbing history of state led or sanctioned practices to create and maintain residential racial color lines through regulating the housing market (Coates 2014). One of the chief mechanisms for creating nation-wide patterns of hyper-segregated cities was the discriminatory design of the Federal Housing Administration and Veteran Administrations mortgage programs in the middle of the 20th century.

Nationwide discrimination in the housing market began with practices of the Home Owners Loan Corporation (HOLC), the 1933 New Deal agency designed to provide mortgage assistance to homeowners facing foreclosure. The HOLC created an appraisal method for determining the risk of insuring mortgages in urban neighborhoods through “residential security maps”. Neighborhoods were given a quality rating ranging from “A” (highest quality) to “D” (lowest quality neighborhoods coded with the color red). The first grade A neighborhoods were new and homogenous and the second grade B neighborhoods were those that had “reached their peak” but were still considered desirable (Massey and Denton 1993). The A and B neighborhoods received the overwhelming majority of HOLC loans. The bottom two categories were racially or ethnically mixed neighborhoods, or inner-city neighborhoods, that almost never received mortgage assistance from the HOLC. Every neighborhood with black residents, regardless of how small, was rated “fourth grade” or “red” neighborhoods (Jackson 1987). This practice of “red-lining” neighborhoods that facilitated neighborhood segregation were institutionalized and magnified across the country when the federal loan programs of the Federal Housing Administration (FHA) and the Veterans Administration (VA) adopted the HOLC’s discriminatory rating system.

The FHA and VA, established in 1937 and 1944 respectively, guaranteed or insured private bank loans. This significantly lowered the cost for working and middle-class people to purchase homes, allowing an entire generation of homeowners to secure dream houses and granted them the wealth homeownership entails. Over one-third of all homes purchased in the 1950s were financed through...
FHA or VA loans and by 1972 the FHA had helped almost 11 million families to own homes. However, since the FHA and VA provided these loans under the criteria of the HOLC rating system, the programs were intentionally designed to subsidize homeownership and suburbanization for white families (Jackson 1987). Between 1946 and 1959 blacks purchased less than 2 percent of all housing financed under the FHA and VA loans and few loans were provided for purchasing or remodeling homes in the city. The FHA’s blatant encouragement of discrimination and segregation was most notoriously represented in its Underwriting Manual’s warning of introducing “inharmonious racial or national groups” into a neighborhood and, that for neighborhood stability to be maintained, households “must be occupied by the same social and racial classes.” Furthermore, the manual openly recommended the use of restrictive covenants – judicially enforced provisions in housing deeds preventing the homeowner from selling the house to blacks and other minorities that were used pervasively until ruled unconstitutional in 1948. The practices of the FHA and VA represented federally endorsed racial discrimination and resulted in a nationwide pattern of white suburbs and blacks confined to the core of the inner city.

These and other selective government interventions in the credit market effectively created the modern mortgage market, generated until that point a previously unknown level of demand for homeownership, and became the bedrock of wealth for a generation of white homeowners (David Fruend in (Kruse and Sugrue 2006). Much of the modern black-white gap in wealth can be traced to these state interventions to create a new housing market for mass consumption (Oliver and Shapiro 2006), and current racial disparities ranging from life expectancy to employment rates all have deep connections to unremedied patterns of residential segregation created by this history.

To draw comparisons to racial segregationist history in the United States and the Dutch Urban Areas Act I want to direct particular attention to similar methods of determining high-quality neighborhoods. The HOLC maps that red-lined black neighborhoods as undesirable, thus dooming them to disinvestment and entrenched segregation, bear remarkable similarities to the function served by the Leefbaarometer in the Urban Areas Act. As I described earlier, the Leefbaarometer (“Livability Index”) is a composite index of indicators to assess neighborhood “livability” or quality that cities are encouraged to use in determining which areas are appropriate for the Urban Areas Act. The “reverse black-boxing” process conducted by researchers at the University of Amsterdam to deconstruct the assumptions behind the index in terms of the relative weight of variables revealed that the single strongest predictor of “livability” among the 49 variables in the index is the measure of the neighborhood share of ethnic minorities (non-western non-native residents) (Uitermark, Hochstenbach, and Gent 2017).

There are at least three key similarities between the HOLC maps and the Leefbaarometer. First, is simply that the index includes as an indicator the share of the population that are ethnic minorities. Both the HOLC maps and the Leefbaarometer rely on the racial composition of a neighborhood to determine neighborhood quality. The HOLC maps judgment of neighborhood quality were used to make both public and private mortgage lending decisions. Neighborhood quality as determined by the Leefbaarometer is used to determine which areas are appropriate for the Dutch Urban Areas Act, in addition to general need for reinvestment. While they differ in specific purpose, they both determine which geographies are subject to racialized policy decision that exercises a form of spatial exclusion.
Second, as Justus Uitermark and colleagues have noted, the Leefbaarometer “locates social problems at the neighborhood level and allows the translation of complex local realities into a single universal measure, enabling national and local authorities to rank neighborhoods and prioritize their policies accordingly” (Uitermark, Hochstenbach, and Gent 2017). This logic of the causes of neighborhood distress as emanating from within the same geographically defined area as the neighborhood are also implicit how the HOLC maps encouraged lenders to avoid black neighborhoods. The HOLC maps categorically ranked neighborhood from best to worst based on a racialized assessment that entirely located the perceived problems within black neighborhoods as originating within the neighborhood boundary itself.

Third, and most striking, is the use of color categories on maps to communicate to the public, local government, and private actors the quality of a neighborhood. Presented side by side in Figure 10 is the Leefbaarometer from Zaanstad’s application used to justify targeting the heavily Turkish neighborhoods of Peldersveld and Poelenburg and the HOLC map of Boston and Cambridge. The redder the areas in the Leefbaarometer, the lower the living conditions, the greener the better conditions. The darkest areas of “zeer onvoldoende” have “very inadequate” livability, and the darkest green areas of “uitstekend” have “excellent” living conditions. Similar, the red areas in the HOLC security maps for Boston show in red the lowest or “fourth grade” neighborhoods.

Figure 10: Leefbaarometer in Schiedam and HOLC Red-Lining Maps in Boston/Cambridge

Source: https://www.leefbaarometer.nl/home.php
Taken together, the Leefbaarometer and HOLC maps both created racially coded assessment of neighborhood desirability and undesirability or worthiness and unworthiness and these assessments in turn are explicitly intended to guide public decision-making processes around neighborhood interventions.

5.3 The Institutionalization of a Racialized Policy

I conclude this chapter on arguing how the Dutch Urban Areas Act is a racialized method of control and regulating space by outlining what I think are three important and interrelated implications from my argument. The primary implication I believe is that the Netherlands has legitimized as national policy a practice that was developed in Rotterdam to be a spatial method of regulating the urban environment for the purpose of racial exclusion. Although race or ethnic neutral in letter now that the practice is a national policy, the Netherlands has nevertheless institutionalized an idea that was conceived in Rotterdam to be a spatial policy of racial exclusion that limited the choices of racial groups. Other cities in the Netherlands can now access and deploy this policy of exclusion.

By comparing the mechanism of exclusion in the Dutch Urban Areas Act to racial practices in Western segregation history it becomes clear how the Act contributes to a racial hierarchy within a social system. The exclusion of people understood to be inferior, non-useful racial others from basic citizen rights is at the core of why the Act is an injustice and why the Act is a racial practice that embodies a form of oppression common in segregationist history (Young and Allen 2011). As
developed in Rotterdam, the Act is an injustice because it relies on racialized categories of groups to limit the rights and choices of people who have been victims of past discrimination, who are likely to experience contemporary discrimination, who already have a limited options in the housing market, and who are generally underprivileged groups in society. At its foundation, the Act further marginalizes, excludes, and reinforces the domination of a group that is already at the margins of society. It also further reinforces the idea that already marginalized and racialized groups are somehow different, not equal, or inferior, and further stigmatizes them by controlling where they can go.

The second major implication is around the warping and perversion of the legitimate aims of reducing levels of racial and socioeconomic segregation and concentrated poverty in cities. The Urban Areas Act is ostensibly a measure to readdress these important mechanisms that undergird structurally unequal societies. But as conceived and developed in Rotterdam, the Act exercises similar racialized mechanism of exclusion and reproduction of racialized disadvantage that was at the core of the most notorious Western segregationist policies which helped create these inequalities in the first place. As I discussed above, the Act confounds evidence developed in both the United States and in the European Union on how to address neighborhood distress. It should now become clear that this is because rather than forming a new category within the spectrum of strategies to address segregation, the policy is on a different spectrum, that of segregationist policies.

Previous authors have discussed how from an international point of view the Act is peculiar as an exclusionary mechanism because instead of excluding people from wealthy neighborhoods, the Act excludes disadvantaged groups from distressed neighborhoods. In other words, it excludes the marginalized from their own neighborhoods. For this reason, these authors reasoned that the Act defies the history of previous exclusionary mechanisms such as redlining that generated spatial inequalities (Uitermark, Hochstenbach, and Gent 2017). However, while this perspective is a movement in the correct direction by attempting to analyze the Act through paradigms of exclusion rather than of addressing concentrated poverty, this perspective still too narrowly understands segregation and spatial exclusion solely as preventing the movement of racial others into areas of the dominant group. When we take the more general definition of racial segregation provided by the Racial Contract as a racialized method of control and regulating space, we see how the Act is a segregationist policy. Even though these areas in Rotterdam South were already heavily immigrant communities, the same underlying premise of state sponsored segregation in the US and South Africa applied: areas of the city were off limits to a racialized portion of the population whose movements and choices needed to be constrained for the collective benefit of society.

Third is that in the long-run all evidence from the United States on the consequences of segregation indicates that the Dutch Urban Areas Act will likely cause harm to the individuals excluded. The “wrongs” of racial segregation, as argued by Iris Marion Young are not related to group clustering itself, but that segregation facilitates exclusion from privilege and hoarding of opportunity. Specifically, the four “wrongs” of segregation are how it (1) wrongly limits choice and inhibits freedom of movement; (2) reproduces structures of privilege and disadvantage; (3) “obscures the privilege it creates” and makes privilege invisible to the privileged because those in the dominate group come to see their lives, troubles, worries, as normal; and (4) impedes political communication
because it renders few available sites and mechanism for political communication between groups (Young 2002). I think these “wrongs” are appropriate for understanding current and likely future consequences from the Dutch Urban Areas Act. We already see how the Act wrongly limits choice for a racialized group (wrong “1”). As it further develops in Rotterdam, it will likely also reproducing structural inequality between the categories of those who are excluded (primarily the racialized groups) and those not excluded (primarily native white Dutch) in terms of differences in material wealth, political power, economy opportunity, and quality of life (Young 2002; Tilly 1999).

CHAPTER 6. Conclusion

All of my fieldwork generally indicated a lack of current public awareness about the Dutch Urban Areas Act. The awareness that did exist appeared to be subsumed by the general frenzy surrounding Pim Fortuyn’s political revolt from which the Act emerged. What will it take to have renewed debates about the appropriateness and justifiability of an urban policy that takes exclusion and discrimination as its foundational premise? I presented two distinct arguments that could be a basis by taking-up where other authors have left-off in analyzing the Dutch Urban Areas Act. I analyzed two key missing perspectives: how cities outside of Rotterdam are applying the Dutch Urban Areas Act and how to understand the Act through what has to date been a sorely missing analytical frameworks of race and racial justice.

My first argument is that the Dutch Urban Areas Act has continued to diffuse despite no evidence to effectiveness, with a variety of emerging consequences for cities, social services agencies, and regional governance. I found multiple factors that help describe why the Act continues in Rotterdam and other cities are allowed to use it. It is difficult or impossible to show the Act is effective in meeting its original goal of improving neighborhood life, and so the standard for its success has shifted to a lower bar of achieving the very demographic changes that the Act facilitates. The Act has also become detached from its original justifications as an extraordinary measure only applicable in the most extraordinary of circumstances. Finally, the flexibility of the Act allows for selective reframing from a tool of exclusion to one of preference, while eliding the highly exclusionary nature of its preferential elements. Simply put, my first argument is that how the Dutch Urban Areas Act is being used is in conflict with its own statutory terms.

The second core argument is what I believe merits a radical reexamination of the Act. Through a complete reassessment of how the Act developed in Rotterdam, we see that rather than forming a new paradigm for addressing segregation and concentrated poverty, the Act recycles a racial segregationist perspective masked as an effort to address neighborhood distress. Pim Fortuyn’s mobilizing ideology that a racialized group of people in Rotterdam were the source of the city’s problems and needed to have their movement curtailed has found expression in the Dutch Urban Areas Act. The Act therefore has at its foundations the same ideas of controlling the movement of a
racialized group of people who are considered harmful, who are in need of discipline or punishment, or otherwise seen as inferior, unnecessary, or disruptive to society, as expressed by state sanctioned segregation policies found historically in the United States and South Africa. I revealed this at the theoretical level through black liberation theory developed in the US and by showing concrete similarities to racial segregation policies elsewhere in Western history.

If readers take my argument that the Dutch Urban Areas Act, as developed in Rotterdam, is a spatial policy of racial exclusion, then they must reject it the Act as an unjust use of state power. This should be the fundamental basis for rethinking the law. In a society that prides itself on being free of anti-discrimination, the Netherlands has institutionalized a remarkably racist law. But even if readers do not agree with my assessment of the Act as a racialized policy, then I have shown more than enough evidence to demonstrate how the Act is incoherent on its own terms.

Before concluding this paper, I think it important to make a brief note on my own experience of conducting this research. As a black American who has studied and worked professionally to address racial inequality and understand the root causes and consequences of neighborhood segregation, I was initially fascinated by the Dutch Urban Areas Act because I initially saw from abroad glimpses of its connections to our highly problematic history segregation in the United States. These inklings were substantiated by my field work. As a researcher with lived experience rooted in racist history of the US, it is impossible for me to be a neutral observer and interpreter of social phenomena outside of my identity. Rather than invalidating my perspective, I think my identity has helped me to pierce through the race-neutral mask covering what was clearly a highly racialized motive underpinning the Act’s origins.

Throughout my fieldwork, I was confronted by the contradictions of seeing the remarkable foregrounding of race in the racially laden rhetoric and propositions surrounding the Act, and the lack of use of the term race in the Dutch context in general. My outsider status as an American undoubtedly blinds me to some dynamics in Rotterdam and the Netherlands surrounding race and ethnicity, and I hope readers will forgive any misinterpretations of Dutch culture and history that I may have committed. But what remains jarring is the absence of rigorous discussion of the dynamics of race within a policy that was borne out of far-right discourse that primarily problematized immigrants of color and other racialized group. The Dutch Urban Areas Act deserves to be analyzed with the same methodological rigor using theories of race that have been applied to severe forms of segregation in Western history. As a result, this paper has added to our collective understanding of how the most problematized groups in different contexts (e.g. blacks, Muslims, immigrants) become understood as “problems” in their neighborhood patterns and movement, and then how these conceptualizations affect and justify state policy responses.

A key reason for my analysis that compares the Act to segregationist history is to learn from our terrible history of racial inequality in the United States. As an American student deeply engaged in the history of the relationship between government policies and spatially determined racial inequality, it's clear to me how our segregationist history has fundamentally shaped our cities. The fallout is what many policymakers, planners, and activists are still grappling with today. Our history provides incisive analytic racial justice lenses to shed light on the fundamental dynamics at play in the Dutch Urban Areas Act. But the policy perspectives that have emerged in the United States to
attempt to remedy our history can also benefit other Western countries grappling with real challenges (but also opportunities) posed by demographic change and neighborhood distress. We have developed paradigms that could reconstruct the Dutch Urban Areas Act, strip out its segregationist core, and replace it with a policy that seeks to address the real problems of neighborhood disorder but without exercising racial exclusion (Anderson 2013; Turner, n.d.).

The paper also adds to the small body of literature that have used comparative approaches to analyze similarities in segregationist policies ideas across contexts. While I did not answer the question of whether and how a racial policy of exclusion was transmitted from other contexts to inform the Dutch Urban Areas Act, I found the body of literature developed on comparing the transmission of ideas from the United and South Africa as instructive analytical tools.

I also found the Racial Contract theory to be highly incisive in understanding the common conditions under which Western states suspend, modify, or ignore laws for the purpose of controlling racialized groups. The Racial Contract theory was not a comprehensive map in my analysis and left me without guides for trying to understand some of the racially coded dynamics operating in Rotterdam at the Act’s origins. In particular, where the Racial Contract and other theoretical perspective on the history of racial segregation fall short is in understanding how the state will intervene with spatial policies of racial exclusion in geographies that are already somewhat integrated. The areas of Rotterdam South where the Act emerged had some neighborhoods where white working class Dutch and racial minorities were residing side by side.

One particularly important insight from the history of racial segregation that I was unable to test in the Dutch Urban Areas Act are the economic motives that drove state sponsored segregation in the United States and South Africa. In addition to controlling the black labor force, in the United States segregation was used by white elites to prevent black-white working class solidarity and interracial social movements (such as diving the populist movement). Racial segregation was part-in-parcel of developing the division of white and black workers that constituted capitalism in the United States, a division still evident today (Thompson, Phillip 2017; Du Bois 1935). The economic motivation for segregation was much more explicit component in South Africa than in US. In South Africa, segregation maintained white supremacy through the political dominance by white oligarchy by providing cheap and coercible black labor for the development of the white economy. Similarly, in South Africa, segregation was used to divide workers, and provide a consistent labor pool for the white elite. As a result, other texts and theories could also likely provide further insights into the social and political dynamics surrounding the Dutch Urban Areas Act’s origins in the context of economic reconstructing and demographic change in the working class city of Rotterdam.

To conclude I urge Dutch authors to take cues from Dutch cultural anthropologist Gloria Wekker’s analytical method of the “cultural archive” to rigorously interrogate where within Dutch history and memory did the idea for the Dutch Urban Areas Act come from. Wekker centers Pim Fortuyn in her book White Innocence: Paradoxes of Colonialism and Race that explores the contradictions between the Dutch identity construction as a proud color-blind and anti-racist society with the implicit and explicit race-based logics that motivated 400 years of imperial and colonial history. She further examines the current discourses around immigration from majority Muslim countries as well as representation of black Surinamese history in the Netherlands (e.g. “Black Pete”) that are highly infused with race-based logics and rhetoric (Wekker 2016). From where within in the Dutch cultural
archive did an idea for using housing policy to restrict movement of a racialized group emerge? Why is it that controlling, limiting and directing movement of people understood as racial others is such a common expression of a white dominated polity addressing the perceived problems of racial others? Why are these ideas so similar across Western contexts? These are unanswered questions that I think Dutch researchers need to examine when trying to understand the Dutch Urban Areas Act.

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