

**COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN
37th SESSION (NEW YORK, 15 JANUARY TO 2 FEBRUARY 2007)**

NETHERLANDS (4TH PERIODIC REPORT)

Information Submitted to the Committee

On 24 January 2007, the Netherlands submitted its 4th periodic report,¹ including a report from Aruba,² under the *Convention on the Elimination of All Forms of Discrimination against Women* (the Convention). It also provided written responses,³ including an annex,⁴ to the list of issues and questions⁵ raised by the Committee on the Elimination of Discrimination against Women (the Committee). Mr. Aart Jan de Geus, Minister for Social Affairs and Employment, led the Dutch delegation for the first portion of the day, but was replaced by Mr. Ferdi Licher from the Directorate for the Coordination of Emancipation Policy for the remainder of the session.⁶

The first portion of the periodic report discusses the State party's General Emancipation Policy, which is described as a 'two-track policy.' The two-track approach focuses on integrating gender issues in all regular policy areas in addition to specific emancipation policies that notably identify new issues and promote collaboration with non-governmental organisations (NGOs). The second part of the report examines the current status of the provisions of the Convention in the Netherlands. However, the report noticeably does not address every article of the Convention, ignoring Articles 2, 3, 4 and 15, an omission that was noted in the Committee's Concluding Comments. The Committee's Concluding Comments and list of issues and questions also point out the lack of information on the Netherlands Antilles. Despite this prompting, the Netherlands' written responses did not include any information on this region. On a positive note, the 4th periodic report is supplemented by a report on Aruba, in accordance with the Committee's previous recommendations.

The Dutch Section of the International Commission of Jurists (JNCM) and Netwerk WN-Vrouwenverdrag (CEDAW-Network), acting on behalf of numerous NGOs, submitted a shadow report entitled *Taking Women's Rights Seriously?*,⁷ a summary of the shadow report, a fact sheet on legal aid and a fact sheet on trafficking and prostitution. The shadow report is divided in two main parts. The first part analyses the Dutch periodic report, finding it lacking in structure and statistics; and looks at the role of the Government in the emancipation policy and the position of immigrant, refugee and minority women in the Netherlands. The second section systematically examines the Government's actions under each article of the Convention, concluding that the Netherlands does not take its obligations under the Convention seriously. The summary of the shadow report briefly highlights areas where the Netherlands failed to address the Committee's 2001 Concluding Comments, such as including statistics disaggregated by sex and ethnicity in its report and taking action to address segregation in the labour market.

¹ <http://daccess-ods.un.org/access.nsf/Get?Open&DS=CEDAW/C/NLD/4&Lang=E>.

² <http://daccess-ods.un.org/access.nsf/Get?Open&DS=CEDAW/C/NLD/4/Add.1&Lang=E>.

³ <http://daccess-ods.un.org/access.nsf/Get?Open&DS=CEDAW/C/NLD/Q/4/Add.1&Lang=E>.

⁴ http://www.un.org/womenwatch/daw/cedaw/cedaw37/responses_annexes/nld.pdf.

⁵ http://www.un.org/womenwatch/daw/cedaw/cedaw37/cedaw37_IandQ/netherlands/0646797E.pdf.

⁶ For full list of delegation see: http://www.un.org/womenwatch/daw/cedaw/cedaw37/delegations/netherlands_e.pdf.

⁷ <http://www.iwraw-ap.org/resources/pdf/Netherlands%20Shadow%20Report.pdf>. Fact sheets include a single page Legal Aid fact sheet dated 23 January 2007 and Trafficking and Prostitution fact sheet dated 22 January 2007.

Themes and Issues

Netherlands Antilles

The Committee's first question concerned the lack of information on the Netherlands Antilles despite repeated requests to this end. The delegation's response about this lack of information was hardly satisfactory to the Committee, as it simply stated that it had no explanation for this omission. Throughout the day, Committee members expressed regret that such information was not available and their dissatisfaction was finally reflected in their Concluding Comments. Committee member Arocha Dominguez expressed particular interest in the incidences of HIV/AIDS in the Netherlands Antilles, while Committee member Belmihoub-Zerdani asked about its governmental structure. The delegation was able to explain that the Netherlands Antilles has its own governmental bodies.

Employment

The introductory statement by the Dutch delegation stated that 'gender equality is more than just having a job.' That being said, the Netherlands has continued to remove impediments to women's participation in the labour market. For example, the Government focused on increasing childcare facilities and making them more affordable by establishing that parents should pay no more than one-third of the cost of childcare. Additionally, the *Law on Child Care* entered into force and requires all schools to provide childcare from 7:30 AM to 6:30 PM. While the Netherlands acknowledges that female participation in the labour market is key in empowering women, improving self-esteem and creating economic independence, it did not share the concern that part-time work is somehow a threat to this independence. The delegation believed that women should be free to choose the level at which they participate in the labour market, if at all.

Some other areas of concern to the Committee included the decreased labour market participation of minority women and the government opposition to quotas that could be used to accelerate women's advancement in public positions like government jobs and academia. The delegation reiterated that the Government finds that quota systems are 'counter-productive'. Despite this, it has established quantitative targets for advancing women, but does not have a legal obligation to enforce these.

Ethnic and Vulnerable Women

The delegation explained that the declining number of ethnic women in the labour market led to the establishment of the Participation of Ethnic Minorities Committee and a Plan of Action on Emancipation and Integration that seek to increase participation in society at all levels. Dutch language education is a central focus, as lack of Dutch language capabilities is an obstacle for entry in the labour market. The delegation stressed that social integration is key for women to understand what rights and opportunities are available to them. It further explained that the Government thinks that finding ways to engage this part of the population in volunteer opportunities can be an ideal way to begin working and enhance societal integration. Combating the isolation of many women and young girls helps to increase their awareness and knowledge of particular dangers that exist as these isolated groups are often the target of honour crimes, domestic violence, trafficking and prostitution. Committee members also asked about concerns expressed to them by NGOs over a ban on headscarves. The delegation explained that such a ban does not exist, instead the Government has introduced a ban on any garment covering the face. This legislative ban is an effort to integrate all groups into Dutch society and to ease law enforcement investigations and security concerns.

When the Committee asked why the State party's report did not provide more statistics on minority groups, the delegation stated that it chose to put forward only the most important statistics to the

Committee, but that much more data was available. Examples of such data sources include the Emancipation Monitor, which is produced every 2 years, and the yearly Integration Report.

The Committee also requested additional information regarding the exact requirements for women to be granted asylum or residency. It specifically inquired whether victims of domestic or sexual assault were required to cooperate with police investigations and court proceedings in order to qualify for residency. The delegation explained that if a victim experiences domestic violence prior to the three years of residency typically required, it is possible for the victim to obtain an independent residency permit in accordance with European Union regulations by cooperating with the police and judicial authorities. Committee member Tavares da Silva was dissatisfied with this situation and questioned whether cooperation should be necessary when objective proof of abuse was available.

Threats to Female Safety

The Dutch delegation addressed issues of honour crimes, domestic violence, sexual violence, genital mutilation and trafficking. It explained the Netherlands' preference, similar to other European Union member states, for comprehensive legislation over specific initiatives directed at separate vulnerable groups in an effort not to exclude any victims. This being said, the Government does target specific groups for assistance and education purposes.

Conspicuously the list of threats to female safety announced by the delegation did not include prostitution, as brothels are no longer banned in the Netherlands since 2001, a policy that the delegation claims is supported by citizens and a number of NGOs.⁸ In fact, the Netherlands sees the regulation of brothels as a key component to combat crimes like trafficking. It argues that as prostitution becomes more transparent and regulated, both the demand and supply side of the industry will cooperate more willingly with authorities, for example on reporting the use of under-aged girls, forced prostitution and trafficking of women and girls. The delegation argued that other States that ban prostitution find that it is now more underground, making it more difficult for law enforcement to discover incidents of human trafficking. An evaluation report on the removal of the brothel ban is due in April 2007.

The delegation provided figures to the Committee indicating that more than 40 per cent of the Dutch population has experienced some form of domestic violence. Ten per cent of the population reports experiencing violence at least on a weekly basis and in 80 per cent of all cases the perpetrators are male. The delegation explained that domestic violence is pervasive in Dutch society, affecting people of all incomes and ethnicities. It then highlighted initiatives taken by the Government to stop violence against women including the draft Law on the Banning Order for Perpetrators, which would allow police to ban perpetrators from the victim's residence for ten days. Committee members expressed concern about the short duration of this ban, to which the delegation explained that this period was only to give immediate assistance and vaguely indicated that after ten days 'other measures' can be taken.

Stereotyping

Committee member Arocha Dominguez stated that the Netherlands needs additional measures to combat stereotypes and found that the report and responses submitted to the Committee represented mostly 'wishful thinking' rather than providing details of concrete measures and evaluations of their impact. Committee member Shelton then shifted the focus to stereotypes in the home, commending

⁸ This claim is supported by the NGO fact sheet provided at the session on 22 January 2007 titled Fact sheet trafficking and prostitution.

the Government on efforts in the labour market, but inquiring about policies to reverse negative stereotypes at home.

The Committee's previous Concluding Comments expressed concern over Government subsidies of a Calvinist political party known as the Reformed Political Party (SGP) that excluded women. The delegation explained that Government subsidies to the SGP stopped after a court decision found the subsidies violate Articles 7(a) and (c) of the Convention.⁹ The Government appealed the decision and the appellate decision is expected toward the end of 2007. Committee members focused questions on why the Government chose to appeal, arguing that this sends the wrong message to society and helps to reinforce stereotypes that women are not suitable for the political arena. The delegation's response repeated the argument in its introductory statement, which was that caution is needed when intervening in the constitution of political parties and that there was a need to balance the right to stand for election and the prohibition of discrimination with the freedom of assembly. The situation has changed a bit since the appeal, as the SGP has now allowed women to become members, although they still cannot hold office within the party.

Status of the Convention

Committee Chair Šimonović asked the delegation for clarification on whether the Convention is directly applicable in the Netherlands. Her question follows the Netherlands's response to a complaint filed with the Committee under the Optional Protocol to the Convention¹⁰ in which the Government stated that the Convention was not directly applicable in domestic law. The delegation explained that, according to Article 93 of the Dutch Constitution, an international convention may be binding and directly applicable if it is found to be binding on all persons by the national courts. In light of this, Committee member Tavares da Silva questioned the Government's decision to appeal the SGP judgement if national courts are said to have the final word on whether the Convention is directly applicable or not. The Chairperson asked which articles are directly applicable and wondered why articles that are not directly applicable are not incorporated into national law to achieve the same result. The delegation did not provide a lengthy reply, stating only that the Government thinks that in the case of the SGP case it is important for the highest court in the country to make the final decision as issues like the right of assembly and representation of women are at stake.

Conclusions and Next Steps

Aruba

It was apparent from Aruba's introductory statement that many important developments occurred since 2000. Some of the highlights include the equalisation of the maternity leave length to 12 weeks and 100 per cent pay for private and public sectors, the establishment of a Victim Support Centre and the entry into force of the *New Civil Code*. Additionally, new legislation extended the reporting period for sexual assaults, updated provisions on trafficking and offered specific provisions on marital rape, forced prostitution and stalking. Aruba also introduced legislation to begin the implementation of the *UN Convention against Transnational Organized Crime*.

⁹ Article 7(a) and (c) state that women should be eligible for election to all publicly elected bodies and have the right to participate in non-governmental organisations and associations concerned with public and political life.

¹⁰ The Optional Protocol establishes a communications procedure whereby people can communicate claims to the Committee and also a procedure allowing the Committee to complete inquiries into situations.

For Aruba, the Committee requested that data be tracked and disaggregated by gender and ethnicity for future reports, particularly in regard to prostitution and domestic violence. The Committee also hoped that Aruba will focus on sex education, with an emphasis on preventing HIV/AIDS and early pregnancy.

The Netherlands

The Committee's previous Concluding Comments called for increased awareness-raising of the Convention. This year,¹¹ the Committee specifically asked that these efforts be directed toward the people responsible for ensuring harmonisation of the Convention with domestic laws, such as judges, government officials and attorneys. The Committee also called for one governmental department to head efforts to monitor and coordinate gender mainstreaming. Regarding women's safety, and in particular the safety of minority women, the Committee urges the delegation to allow additional grounds for asylum such as domestic and sexual violence since the Netherlands presently only allows this in cases of female genital mutilation. Additionally, extra protection for migrant women could be afforded through the Netherlands becoming a signatory to the *Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*.

The Concluding Comments further call for the Netherlands to reconsider its opposition to quotas and temporary special measures to advance the *de facto* equality of women and to consider withdrawing the appeal of the SGP decision. Finally, and not surprisingly, the Committee asks that the Netherlands Antilles be included in the next delegation and periodic report due in August 2008 and for the Netherlands to provide a follow-up report on the Netherlands Antilles by January 2008.

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