

WILPF REPORT:
HUMAN RIGHTS COMMITTEE
THE NETHERLANDS
14 & 15 JULY 2009



One-page Overview:

On Tuesday 14 and Wednesday 15 July, during a 6-hour long session, the Human Rights Committee reviewed the compliance of the Netherlands with the International Covenant on Civil and Political Rights. In their State report the Dutch Government explained how these rights are being implemented. According to this report and the reports the committee received from NGOs (Conscience and Peace Tax International and Dutch Section of the International Commission of Jurists), a list of 27 issues was sent to the Dutch Government. To keep the report insightful, the information shared during the meeting will be represented in tables per issue.

The Dutch Delegation was headed by Mr. Hirsch Ballin, the Minister of Justice and had specific representatives for the Netherlands Antilles and Aruba. The Netherlands Antilles and Aruba are autonomous countries within the Kingdom of the Netherlands. There were no NGO representatives part of the Delegation, which was noted by Mr. O'Flaherty, who also noticed that there were no Dutch NGO representatives present in the room during the session. This critical remark re-entered the discussion multiple times.

Amongst the 27 issues raised prior and during the session, were those specifically interesting for WILPF: counter-terrorism measures, employment rate men/women, asylum seekers, trafficking, violence against women, discrimination of people with a Muslim origin, political participation of women, public statements of racial hatred and involvement of civil society.

The Committee addressed the following issues most extensively: counter-terrorism measures, asylum-seekers, access to lawyer, treatment of juveniles as adults in the judicial system, public statements of racial hatred and unemployment minorities.

The response of the Dutch Delegation was not always evenly specific or open. There were multiple cases in which Minister Ballin promised to provide the requested information in the near future. It is important to note that the Committee informed the Dutch Government early enough of the issues in written, prior to the session. One of the Committee members, Mr. Nigel, said to be disappointed with the lack of self-criticism in the presentation by the Dutch Delegation.

Issues:

1. Reservations

List: *Does the State party envisage withdrawing its reservations to Article 10, paragraph 2 and paragraph 3, and Article 20, paragraph 1, of the Covenant? Has the State party also considered withdrawing or limiting the scope of its other reservations and interpretative declarations?*

Committee: Mr. Baghwati asked the Dutch Delegation whether it wasn't time for a periodic review of the reservations? Mme. Wedgewood added that the reservations on Article 10 were archaic. Mr. Amor said that freedom of expression is part of Dutch domestic law, but Article 20 of the Covenant is equally fundamental, but the Netherlands have made a reservation on this article. Is article 20 really something that can be object to reservations? Paragraphs 8 to 29 and 13E say that even in the case of exceptional circumstances one can not delegate from Article 20. How does one reconcile this?

Answer: Minister Ballin said that the Dutch Government has no problem with Article 10 of the Convention, but emphasized that there are exceptions. Detained suspects and convicted persons can both be put under psychiatric care, but the Government is prepared to reconsider this reservation. The reservation to Article 20 is made, because it is highly difficult to put a ban on war propaganda. This Article requires a balancing act of several rights. The freedom of expression is the main importance and background for the reservation.

2. Invoked in Court

List: *Please cite examples, if any, of cases in which the provisions of the Covenant have been invoked before and by the courts, and to what effect.*

Committee:

Answer:

3. Counter-terrorism measures

List: *Please describe the counter-terrorism legislation adopted or proposed by the State party, including the statute adopted in the European part of the Kingdom in February 2007 (Wet ter verruiming van de mogelijkheden tot opsporing en vervolging van terroristische misdrijven) and the Act on Administrative Measures for National Security. Is there a definition of terrorism, and are there any derogations from ordinary criminal law and procedure in existing or proposed legislation? Does any part of the anti-terrorism legislation amount to a derogation from rights guaranteed by the Covenant? In particular, please explain how the custodial remand of terrorism suspects for up to two years during the criminal investigation is compatible with articles 9 and 14 of the Covenant.*

Committee: Mr. O'Flaherty asked the Delegation about the appropriateness of the Dutch administrative rules in the fight against terrorism. In addition he posed the following questions: How can a Mayor operate under the terms of a disturbance? What systems are in place to the police in the application of these measures? How does the Netherlands ensure that these are only used in terrorism settings? Can these measures be employed against a juvenile? If so, how will the Government ensure the specific rights of the child? Other issues were raised by Sir Nigel. He asked for the specific legal definition of "terrorist purpose". He expressed concern with the high rate of phone tapping and requested the follow-up on the recommendations provided by the Special Rapporteur on torture.

Answer: Limited cases in which pre-trial detention can be applied, only in the more serious crime cases. Only during the first six to nine hours, it is only a police officer who decides upon this. For the first three days a special officer, a police officer with special training, police custody. The requirements of suspicion have to be strong to lead to pre-trial detention. It is only the examining judge who decides that an arrested individual can be pre-trial detained of 90 days. After these 90 days it is a case of public hearing in a court. Only in terrorism cases this public hearing is not. It is always the court who decides about an extended pre-trial custody. 92% of the pre-trial detentions,

ends within the 90 days framework. The vast majority within a few days. Only 8% lasts longer than 90 days. Only 2% last longer than 120 days. Which are most complicated cases, for the investigation to take place. Another issue raised by Mr. Ballin was the biometric passport: he said it was common practice to start a biomedical database. Central storage is the best way of protecting this sensitive information. The Netherlands is said to have high standards of protection, for example the public prosecutor is only allowed to access these data under specific conditions. There is a high standard to ensure that evidence is clear. Wire taps are an important part of gathering evidence for accusing an individual. Wire taps can only be issued by the examining judge. Each tapping will be examined individually by the Ministry of Interior, in the form of a sample of the tapping. Right application of the measures of disturbance is a preventative function of the complaint procedure to the police and the ombudsman. It should not be an administrative measure. Any antiterrorism measures are put under the Dutch criminal framework.

4. Employment rate men/women

List: *Please provide information, including up-to-date disaggregated statistical data, on the differences in the employment rate of men and women, and the discrepancy between men and women with regard to wages. How does the State party plan to overcome the obstacles to women's full participation and advancement in the workplace? Why are women over-represented in temporary and part-time employment, and does the State party have any way to assure that women have full access to full-time and steady positions? (CCPR/C/NET/4, paras. 320-321; CCPR/C/NET/4/Add.1, paras. 11-13; CCPR/C/NET/4/Add.2, paras. 24-26)*

Committee: There is still inequality between men and women, especially regarding salary. Mme. Motoc requested information regarding the measures which the Dutch government is taking? The system is such that women are unable to work full time when they have children. That allows a difference to exist between those women with or without children. What has been done to address this highly prevalent unequal difference?

Answer: The pay gap between male and female can be explained as an effect. The labour investigator looks into the gap every year. Currently there are still investigations on the way on the difference and the Government is working hard to lower the difference. Minister Ballin stated that the Netherlands also aimed at a greater participation of women with children in the work force. Lastly he noted that the increase in unemployment is at the moment relatively higher for women than for men.

5. Euthanasia

List: *Please provide updated information on the "Termination of Life on Request and Assisted Suicide (Review Procedures) Act," and the recent evaluation study undertaken in 2007. How is the statute consistent with the right to life and the human dignity of the elderly and infirm? How does it guard against the possibility that a person may have diminished capacity in making decisions or may be unduly influenced by caretakers or others? (CCPR/C/NET/4, paras. 54-55)*

Committee: Mme. Wedgewood said to speak on the basis of her own experiences. There are so many cases of euthanasia. Why are only doctors involved? Why not clergymen, why not judges, why not an ombudsman? It ought to be as procedurally demanding as death penalties. Expressed personal conviction that euthanasia is not in line with the Right to Life. Mr. Nigel in addition asked the Netherlands did not have such a thorough process prior to euthanasia?

Answer: Minister Ballin said that in parliament it has been made very clear that the Netherlands fundamentally reject any possible motive that has to do with a lack of sufficient treatment. Cases of euthanasia are examined by an independent three-head committee: medical professional, legal professional and ethic professional. There are regional committees to examine the work of these three-head committees, then there is a national committee to examine the regional committees. Only in a few cases, 10 in 2008, there was a requirement for further examination in one of the three areas.

6. Asylum-seekers

List: *Please comment on the reported difficulties faced by asylum-seekers in presenting their claims, under the accelerated procedure provided in the Aliens Act 2000, and explain how such a procedure is compatible with the rule of non-refoulement mandated by article 7 of the Covenant. Please indicate how the State party will assure enforcement of the duty of non-refoulement in the case of the Somali refugee, Salah Sheekh, as recently decided by the European Court on Human Rights. To what extent, if at all, are sexual or domestic violence and the fear of honour killings recognized as grounds for granting refugee status? (CCPR/C/NET/4, paras. 172-191)*

Committee: Asylum seekers should not be detained for a long period in the asylum process, but according to Mme. Wedgewood and Sir Nigel, two or eight days is too short and unfair as well. Most cases are individually specific and a lawyer should have enough time to do their own research to benefit their client. Factual information gathering takes time. In addition, Mr. Sancho raised the issue of refoulement for asylum seekers. He said that the State Party should set a maximum upon the detention time. According to Mr. Salvioli, Amnesty international has expressed concerns about ill treatment of asylum seekers in centres of detention and that these have not yet been dealt with. Investigations should be made into such complaints and specifically: Are there any statistics on the complaints that have been filed? Have there been any convictions? Mr. Nigel raised questions concerning the detention of asylum seekers because they don't claim asylum from the beginning. Do these asylum seekers have to stay in detention until their application has been processed? Are there statistics available about asylum applications that have been granted for people that have been detained before? Mr. Baghwati asked whether women seeking refuge of domestic violence were entitled to a refugee status. Additionally he requested information surrounding the core principles which were the basis of granting individuals asylum. Lastly, he wanted to know if the current five hours of legal aid for asylum seekers turns out to be enough for a fair application procedure.

Answer: Minister Ballin said firstly that there is an increase in the number of asylum seekers, notably from Somalia and Iraq. He said that there is no case that asylum seekers are detained, because this is contrary to Dutch legislation. Once it has been established that somebody is not allowed to stay in the Netherlands, they will have to wait at a detention facility at the airport. The eight days asylum procedure was a result of the research of a committee, into the then existent asylum procedure. Although in general their conclusions were positive, the Dutch Government preferred to have a longer period on which a well founded conclusion can be based. But if this is not possible, then the extended procedure will be followed. The Minister said to be confident to get the majority of parliament on this.

7. Trafficking

List: *Please provide detailed information on the implementation of measures to combat sexual exploitation and trafficking in human beings, in particular women and children, and to assist and protect the victims of trafficking. Please also provide recent statistical data, disaggregated on the basis of gender, age and country of origin, on persons trafficked for the purpose of sexual exploitation, as well as information on prosecutions and convictions, and on the sanctions imposed on perpetrators. (CCPR/C/NET/4, paras. 100-120; CCPR/C/NET/4/Add.1, para. 39; CCPR/C/NET/4/Add.2, para. 39)*

Committee: The Netherlands have been encountering problems surrounding human trafficking. Mme. Motoc identified one remaining issue: the fact that there is no definition in Dutch law on this exploitation of labour. She asked the following questions: Has there already been case law? What is meant by this type of exploitation of labour?

Answer: Minister Ballin explained that there was an increase in the reported cases, due to an increase of in the attention for it. The representative from Aruba said that there was a complete revision of the criminal code and that trafficking of humans is part of this code as a criminal offence.

8. Access to lawyer

List: *Please explain whether persons in police custody have access to a lawyer during the initial period of interrogation, as provided for in articles 9 and 14 of the Covenant. Please also comment on the reported excessive length of custody in police cells and pre-trial detention, and on the allegedly high number of non-convicted detainees in Aruba and in the Netherlands Antilles.*

Committee: Mme. Wedgewood said that once a lawyer is appointed, a lawyer should be granted the request to stop the police to question their defendant. Lawyers should not be interrupted in this right, although in counter terrorism this could occur in the Netherlands. The right of council to interject and to be present at any hearing. The right to silence is part of this. Why does the Netherlands persist with the view that there is no need for the presence of a lawyer in cases of questioning. Taking into account prevention of abuse, why do you feel this is not necessary? Pilot study: has imposed quite notable restraints on the access of lawyers. The lawyer may not even be in sight of the accused. Why have these restraints be proposed. Could you tell us if these findings will be taking into account for the situation of Antilles and Aruba. What is the situation on the Netherlands Antilles with the presence of the lawyer during police hearings? How does it operate in practice? In which circumstances is it required?

Answer: The defense attorney has the right to question the investigation of endangered witnesses. In some cases there is additional protection needed for witnesses, to ensure a fair trial. The European court agreed with this. When the suspect is a minor, mentally weak or in other situations, the defense attorney has increased access to their clients. On another issue: the confidentiality of phone conversations between lawyers and their clients is respected in the Netherlands, but there were some mistakes, said Mr. Ballin. In addition, he said, that standards were set out in Article 6, but the full answer to the question will be provided to the Committee during the summer, including a translation of the letter to the Dutch parliament.

9. Racial profiling

List: *Please comment on the reported use of racial profiling by the police and other law enforcement authorities, particularly in the context of counter-terrorism activities. Does this affect certain groups in a disproportionate and unfair way, such as Muslims and persons of Antillean and Moroccan origin? Please provide recent statistical data disaggregated by race, ethnic origin and nationality on persons subjected to stops, questioning, searches, arrests and other law enforcement investigative procedures, and indicate which measures the State party has adopted to prevent the improper use of racial profiling.*

Committee: Mme. Wedgewood said that the issue of ethnic profiling has been discussed for eight months now and requested information on decisions which have possibly been made, as it is a pressing matter. On behalf of the Committee she asked if the Dutch police use ethnic profiling or not? And if yes, why?

Answer: Minister Ballin expressed his dislike with the practice of racial or ethnic profiling. He also said that there is still no clear information if police forces made usage of this method.

10. Ill treatment prisoners in Aruba / Netherlands Antilles

List: *What measures has the State party taken to prevent the ill treatment of inmates by prison staff in Aruba and the Netherlands Antilles, and to promptly investigate inmate complaints concerning the unlawful conduct of members of the penitentiary system? Please provide detailed information on their implementation and measurable results. How many complaints have been recorded by the Independent Police Complaints Committee in Aruba and the office referred to in paragraph 48 of the Netherlands Antilles report? How many complaints resulted in a civil or criminal investigation? Were any findings of misconduct reached, and what were the penalties imposed or compensation granted to the victims or their families? (CCPR/C/NET/4/Add.2, paras. 4 and 41-50)*

Committee: Mr. O'Flaherty said he was especially left with a lot of questions concerning the Netherlands Antilles. He reiterated the question: how many complaints have been received on prison staff and what has happened with them?

Answer: The Antilles Delegation said that all individual complaints about police officers and staff were investigated and will be prosecuted when need be. In the near future the Antilles Representative

said to send the exact numbers of complaints and prosecutions.

11. Prison conditions in Aruba / Netherlands Antilles

List: *Both prisons and administrative detention centres for undocumented foreign nationals in Aruba and the Netherlands Antilles are reportedly overcrowded, resulting in poor conditions and increased incidence of violence in prisons and suicides. Please provide detailed information on the measures adopted by the State party to reduce overcrowding, renovate prison buildings and improve the quality of prison infrastructure.*

Committee: Mr. O'Flaherty thanked the Delegation for Aruba's answer to the written questions. The response of the Netherlands Antilles was lacking though. Many of the issues found could have been dealt with. The issues were of a crude level: inadequate staffing levels, regular meal times, rats, rubbish and lack of beds. Why is there only video surveillance for such a small number of detainees in the Dutch Antilles? Is the Dutch Antilles situation similar to the Dutch system?

Answer: Minister Ballin discussed the penal facilities in Aruba and ensured that new sets of beddings have been purchased, a hygienic committee is put in place and a prison wide cleaning took place. Quality of meals is monitored by a dietician. Increased training has been taken place of prison personnel and a new director for the prison has been recruited. The Antilles Delegation added that there were no restrictions for NGOs to review the detention facilities and they said that there is only video surveillance in specific cases, where there is a clear need for surveillance.

12. Data on prison population

List: *Please provide detailed statistical data, disaggregated on the basis of gender, age, country of origin and reason for detention on the undocumented foreign nationals and asylum-seekers held in administrative detention centres. Are individuals promptly notified of the reasons for their detention? How are they assured of effective access to legal assistance, as well as access to interpretation services and prompt medical assistance? Please provide information on the average length of detention in each of these facilities. Please also comment on the reported increase in detention of children, travelling with their families or unaccompanied, in administrative detention centres for aliens, and provide information on steps needed to ensure that detention of children is used only as a measure of last resort. How is the detention of children consistent with their special needs? (CCPR/C/NET/4, paras. 128-130, 165 and 185-187)*

Committee:

Answer:

13. Arbitrary expulsion of aliens

List: *How many applications for asylum and refugee status have been received and processed under the normal and accelerated procedures, since the entry into force of the Aliens Act of 2000? How many of them were accepted, and how many were rejected? Please supply information, disaggregated by country of origin, race or ethnicity, gender, and, where applicable, the grounds for rejection. Please also provide detailed information on the legislation and policies adopted in Aruba and in the Netherlands Antilles with regard to asylum-seekers and refugees, and indicate which measures the State party has adopted and implemented to protect the rights of asylum-seekers during the refugee status determination process, including the necessity of preventing their deportation prior to the conclusion of this process. (CCPR/C/NET/4, paras. 172-191)*

Committee: Sir Nigel asked the Delegation to describe the procedure for undocumented aliens. According to a Dutch NGO, he said that there were cases in which non-documented aliens were detained.

Answer: Minister Hirsch Ballin said that many of the asylum claims come from undocumented aliens.

He added that non-documented aliens will not be sent back if they face danger in the country of origin. The Minister said that there was a new legislation developed for asylum applicants, to decrease the waiting time frame, but still ensure a well organized procedure to deal with all aspects that an asylum seekers might bring up during an investigation.

14. Treatment juveniles as adults in justice system

List: Please provide detailed information on the legal framework for the administration of juvenile justice. Please comment, in particular, on the reported increase in the number of 16-18 year-old children who have been tried and sentenced as adults and detained in adult prisons, and provide information on the measures adopted to ensure that detention of children is limited to cases where it is strictly necessary. Please also provide additional information on the measures adopted by the State party to eliminate the practice of detaining children and juveniles with behavioural problems in youth custodial institutions, pending the placement in a youth treatment centre. (CCPR/C/NET/4, paras. 144-148; CCPR/C/NET/4/Add.1, paras. 44-47)

Committee: Mme. Wedgewood emphasized that juveniles should be stay separated from adults in detention facilities and expressed concern with the duration of the pre-trial detention. Mr. Bhagwati requested the statistics of juvenile convictions in the last years and the purpose of the young offenders act? Mr. Bhagwati focused further on the issue of pre-trial detention. It is said to provide the opportunity to quickly assess the problems of young persons and provide necessary community based care and supervision. He wanted to know in what manner this is done and how the training is provided? What is the legislation on influencing the behavior of young persons? when new criminal law introduced and what difference will it make? Have the new measures to improve juvenile detention practices been taken? What are the effects of them?

Answer: The Antilles Delegation said that judicial system seeks to hold minors as short as possible. The 10 day pre-trial detention is only meant for the most serious offences. Mr. Peters, representing Aruba, explained that juveniles between 12 and 18 may only be detained as a last resort and that each individual case is discussed. 80 % of all juvenile cases in Aruba are dealt with by alternative means, like community service. There are programs for reintegration in society, including training of parents and possibilities to complete school while detained. Minister Ballin said that the main purpose of the Offenders Act is to report safety in youth institutions. Efforts to improved safety in institutions are undertaken which focus on the behavioral aspect, facilitate interventions and ensure individual supervision and family therapy. The Antilles Representative informed the Committee of the existence of new juvenile criminal law, which is taken from the Dutch law and gives judges the possibility to convict juveniles for prison sentences in specific youth facilities. The new law in addition abolished life sentences for minors.

15. Violence Against Women

List: Please provide updated information on the legal framework to combat violence against women, including domestic violence. Has the State party adopted specific legislation to prevent and punish this? Please provide recent statistical data, disaggregated by ethnic origin, age, type of violence and relationship between aggressor and victim, describing how many complaints have been received and registered, civil or criminal investigations conducted, penalties imposed, and compensation awarded to the victims or their families. What are the number of shelter facilities available in the State party for victims of domestic violence, and how many women have been hosted in such facilities? (CCPR/C/NET/4, paras. 271-272).

Committee: Following the wave of migrant workers. Mme. Motoc wanted to know if it was true that there is an increase in cases of FGM. It is known that FGM still occurs in the Netherlands: in the diaspora community and when young girls go on holiday back to the country of origin. Mr. Baghwati requested information on whether FGM could be a legitimate reason for granting asylum to an individual. Mme. Motoc in addition asked how many NGOs are dealing with this issue and whether there are places for women to go to and telephone lines to call.

Answer: Domestic and honour related violence, have specifically been mentioned as reasons for asylum by Minister Ballin. Applications can be made on a humanitarian ground, which is seen as an

applicable category for domestic violence. FGM is seen as a ground for an asylum permit as well. The danger of FGM is considered a violation of Article 3 of; when the country cannot protect the individual or a regional country and when return to the country will result in social outcast. In the fight against domestic violence and human trafficking, the fight against FGM is one of the three priorities. There is an intensified approach needed. It is very likely that many of these cases are not detected. They take place when these girls are on holiday in their home countries mostly. In February 2009, in Aruba, the government started a programme to improve the registration of data on domestic violence. In answer to Mme. Motoc, a national helpline is existing that allows victims, perpetrators and relatives, neighbours and bystanders to report cases of violence against women.

16. Discrimination of persons with Muslim origin

List: *Please discuss how the State party acts to prevent discrimination against persons of Muslim origin. Are there any restrictions on the wearing of religious symbols or clothing, including headscarves, in educational institutions and public places? If so, what is the justification, and how is it compatible with the Covenant? (CCPR/C/NET/4, paras. 238-246)*

Committee: Mr. Baghwati requested more detail on the measures taken to combat discrimination. The date for the entry into force of the Action Plan (Paragraph 25) was requested by Mr. Baghwati and the steps which have been taken so far. Mme. Wedgewood said that religious symbols may be prohibited from public schools, as the right to education is so fundamental.

Answer: Minister Ballin acknowledged that it is important to include anti-discrimination law in policy, dialogue and action plans. There have not been cases of prosecution of discrimination of persons with Muslim origin. He said that it is important to act in different manners against hatred, a part of that is the application of criminal law and a part is the improved registration system of discrimination. The Dutch Government already has been taking steps to combat discrimination and is now working on further detailed planning and recruitment to implement plans. Written information will be sent to the Committee in the near future. Public schools prohibition of religious clothes. Background ± a few women in burkas appeared on the streets – much attention. Someone with fully covered face difficult to interact with students in classrooms. Will bear in mind the high level of freedom of ex.

17. Crime of blasphemy

List: *Is there any proposal to broaden the crime of blasphemy, incorporated in article 147 of the Criminal Code? If there is such a proposal, how is it compatible with the freedoms of thought, opinion, and expression guaranteed by articles 18 and 19 of the Covenant?*

Committee: Mr. Thelin requested clarification again concerning Article 147 of the Dutch criminal code. He said that if you repeal something that really did not work, you are not doing anything to promote freedom of expression. If you do something that in symbolism improves freedom of expression, but in practice does not, you may in fact diminish freedom of expression.

Answer: Minister Ballin said that there are tensions that are attached to the freedom of expression that should be discussed carefully. The criminal code does not only combat discrimination or hatred in general. As far as freedom of expression is concerned, the Dutch Government does what is in their power to foster a society based on mutual respect and freedom of expression for all. As well as be aware of their responsibility to all these fundamental values.

18. Anti-Semitism

List: *What measures has the State party taken to prosecute anti-Semitic incidents?*

Committee:

Answer:

19. Restrictions to family reunification

List: Please comment on the new restrictions to family reunification introduced in immigration and naturalization legislation, including new income requirements and age limits. How are these measures compatible with articles 2, 23 and 26 of the Covenant? (CCPR/C/NET/4, paras. 179, 190, 330-333).

Committee: Mme. Wedgewood recapitulated that an individual has to be 21 years old and has at least 120 % of the minimum wage before he or she is able to reunite their family. According to her this has the biggest impact on women and minors.

Answer: Minister Ballin that regulations surrounding family reunification are meant to ensure that everyone has the ability to take up a role in the Dutch society. The Dutch Government is said to constantly evaluate the effects of measures. The problem consists of the high level of immigrant family relations frauds. The Government is determined to continue to apply reality tests.

20. Child abuse

List: Please provide detailed information on measures to combat child abuse. Please describe how many children are the victims of child abuse, with data disaggregated on the basis of gender, age and racial, ethnic or national origin. What are the rates of prosecution and conviction, and the average sentences, as well as compensation to the victims? (CCPR/C/NET/4, paras. 275-280; CCPR/C/NET/4/Add.2, para. 111)

Committee: Mr. O'Flaherty congratulated the Dutch Delegation on the quick response to questions voiced concerning child abuse and the provision of insightful figures. But he was not positive about the implementation of the national action plan and the reporting of child abuse. He noted serious waiting lists for access to youth care centers and a significant number of undocumented children without health insurances. On the basis of the Immigrants Act 2000, undocumented children can not have the same protection as a documented child.

Answer: Minister Ballin said that the Dutch Government adopted a national action plan against child abuse in July 2007. Prevention is one of the plan's objectives, as is a two year national campaign to raise public awareness, which started December 2008. He said that the new law on domestic violence, including 10 day restraining orders, appears to be effective. The Antilles representative informed of the set up of a special reporting center for complaints on child abuse. Aruba as well, is currently strengthening its legislative framework and center to act as a central registration point for child abuse. Minister Ballin added that undocumented minors benefit from the same protection and services as children with documents. They are lawfully staying in the country during the process. Documents are not a condition according to the Minister.

21. Children born within wedlock in Netherlands Antilles

List: Please provide updated information on the measures the State party has adopted or intends to adopt to eliminate – in line with the recommendation formulated by the Committee in paragraph 21 of the previous Concluding observations – the distinctions existing in the Netherlands Antilles in the field of inheritance law between children born within wedlock and those born out of wedlock and not recognized by their father. Please also provide updated information on efforts to amend the law on names, which currently provides that children born within wedlock or recognised by their father can only take the surname of the father, in order to bring it in line with the requirements of articles 2, 3, 24 and 26 of the Covenant. (CCPR/C/NET/4/Add.2, paras. 8, 107 and 110)

Committee: Mr. O'Flaherty applauded the new possibility of registering the naming of a child. He raised the issue of paternity of cases of denial of inheritance rights, where the father is already dead for 5 years or where inheritance can have serious effects on the financial situation of widows.

Answer: The Antilles representative informed the Committee that paternity can now be acknowledged outside of marriage. Paternity can be determined even if the father has not acknowledged the child. Before introducing draft legislation on paternity issues, the Netherlands

Antilles will first need to receive advice from the advisory council.

22. Political participation of women

List: Please provide current data on: (a) the political participation of women, including representation in parliament, government, and other public positions, such as mayors and Queen's Commissioners; (b) women in managerial and high-ranking posts in the public service, including the judiciary, the police and academia; and (c) the representation of women in managerial and high-ranking posts in the private sector. Does the State contemplate any measures to increase the representation of women in publicly-elected and appointed bodies, as well as in high-level and managerial positions in the public and private sectors? (CCPR/C/NET/4, para. 287; CCPR/C/NET/4/Add.1, paras. 12-13)

Committee: According to Mme. Motoc more precise data is required on the political participation of women and also of the participation of women in the top layers of the private sector. How does the government intend to increase the number of women?

Answer: The Antilles Representative said that until now the Netherlands Antilles has had five female prime ministers so far. Minister Ballin said that the Minister for Interior specifically implements a policy which actively looks for female candidates for mayor and other political positions and is not only waiting for candidates to come forth. Dutch companies are requested to report on the gender balance in their managerial layers.

23. Political parties excluding women

List: Please provide updated information on the measures adopted by the State party to comply with the judgement of the District Court of The Hague of 7 September 2005 (No. AU2088), which considered the provision of State subsidies to a political party that excludes women from its membership to be in violation of the State party's obligations to equal treatment of women. Please also explain how the exclusion of women from leadership posts in a political party can be considered to be in compliance with the State party obligations under articles 2, 3, 25 and 26 of the Covenant. (CCPR/C/NET/4, paras. 268-269)

Committee: The Decision which was taken by the Court in The Hague in September 2005 showed that there was a political party that was prohibiting women from participation. Mme. Motoc described this as discrimination. What was the reaction to this decision from the Dutch Government? What is context for this decision? What has been done to encourage political parties to include more women? How will women's participation in political parties be maintained?

Answer: Minister Ballin that the Decision concerned a small Dutch political party, which only has 2 out of 150 seats in Parliament. There is freedom for political parties in the Netherlands. All other political parties encourage women to take part in prominent positions. Currently the Government awaits the decision of the Supreme Court, scheduled at the beginning of 2010, regarding the legal position of this political party.

24. Public statements of racial hatred

List: Please give a detailed description of the application of the State party's prohibition of public statements concerning racial superiority or hatred, both in political discourse and on the Internet, as well as the prohibition of incitement to racial discrimination. How does the State party balance the need of minorities for full protection and the freedom of expression guaranteed by the Covenant?

Committee: Persons are said to be punished for deliberate insult on the basis of race. Mr. Baghwhati wanted know whether any actual punishment has been afflicted, and specifically for Antilles: is there specific legislation prohibiting discrimination? How is this prohibition secured in the Antilles and how is it enforced? Mr. Amor said that some manifestations of racism, hatred and discrimination, do seem to be developing in the Netherlands. He asked if the authorities have given the cost effective means to deal with this phenomenon?

Answer: Due to the financial crisis, according to Minister Ballin, there seems to be an increase in discrimination, which is accordingly taken seriously by the Dutch Government. The Antilles representative apologised for the mistake made on page 36 of the State report. He ensured that discrimination is a criminal offense in the Netherlands Antilles. Minister Ballin lastly and practically added that soccer games are ended when supporters are shouting racially discriminatory phrases.

25. Unemployment amongst minorities

List: *Please provide detailed information on the employment/unemployment rate of persons belonging to racial, ethnic or national minorities, and comment on the obstacles faced by persons of Turkish, Moroccan and Antillean origin in the field of employment. What measures have been adopted to combat ethnic discrimination, as well as discrimination on the basis of religion, in the field of employment, and to increase employment opportunities for persons belonging to minority groups? (CCPR/C/NET/4, paras. 338-341)*

Committee: Several reports have spoken about the situation of migrant women in the labour market and discrimination based on gender. The body that has been set up for this, has taken up a number of cases dealing with some of these. Mme. Motoc said that the Committee had received information on a draft law on domestic violence, which is said to have been prepared in January 2009. The Delegation was requested to inform the Committee upon the status of this law and its implementation. What is outcome of practical steps taken by the social and cultural planning office? Have any steps been taken for removal of the effect of different sounding names?

Answer: Minister Ballin said that although the Netherlands is supportive of the Convention on Migrant Workers, it sees that parts are not compatible with Dutch domestic law. The exact wording is the issue. Will give additional info in writing, numbers and q by Ms. Motoc, women. We have put action plans in effect on part of women.

26. Living conditions minorities

List: *Please provide detailed information on the disproportionate concentration of persons belonging to racial, ethnic or national minorities in de facto racially segregated neighbourhoods, and the measures taken to combat this. Please describe the implementation of the Urban Areas (Special Measures) Act, which reportedly would prevent persons who do not meet certain income requirements from residing in certain areas characterized by a high concentration of 'disadvantaged persons'. How is this law compatible with articles 2, 12 and 26 of the Covenant? (CCPR/C/NET/4, paras. 168-169)*

Committee: Mr. Bhagwati asked the question: How are urban renewal investment budgets contributing to the region's low income settlement groups? Mme. Wedgewood said that municipalities should be prohibited from refusing poor persons from living in places they can afford to live in.

Answer:

27. Involvement civil society in reporting

List: *Please indicate what steps the State party has taken to involve civil society in the preparation of the present report, its examination by the Committee and the implementation of the Committee's previous concluding observations. How are the rights guaranteed by the Covenant, and the remedies of the Optional Protocol, made known to judges, public officials, police and law enforcement officers, legal advisers and the public at large, including in Aruba and the Antilles?*

Committee: General observation: extraordinarily we do not have a single representative of a Dutch NGO. There are only Geneva based colleagues present. It is for the first time that we have seen this. How could the Dutch Delegation ensure a stronger representation of civil society organisations next review under any of the HR Treaty Bodies?

Answer: Minister Ballin explained that the government really appreciates the input of NGOs and said

that they invited NGOs to discuss the asylum process.

28. Other issues raised

Medical experiments:

[Mme. Wedgewood]: Article 7 says that “the State party should remove any individual from any medical experiment when individuals are not consenting to it”. The Dutch State stipulated that in cases of indecision, the State can positively advise individuals to take part in experimental medical testing. Could the Delegation explain this policy further?

[Minister Ballin]: *Only under very strict regulations minor can be part of medical research. Minister Ballin will request colleague to look further into this question.*

Legalisation of prostitution:

[Mme. Motoc]: The Netherlands has received a lot of compliments for their legalization of prostitution. On the contrary, some organizations think that consent is limited in the sector of prostitution. What we've seen is that permits are available for prostitutes which are handed out by municipalities. To what extent has the government been able to manage these cases?

[Minister Ballin]: *Said that the Netherlands is actively targeting exploitation in brothels, protecting women who have been misguided when coming to the Netherlands, which is part of asylum law.*

Constitutional arrangements Dutch Antilles:

[Mr. O'Flaherty]: Concerning future constitutional arrangements in the Dutch Antilles: How is the Netherlands planning for these developments in taking into accounts a sturdy human rights regime? Could the Aruban model be used for the work underway for the Dutch Antilles?

Death penalty:

[Mr. Sancho]: The findings of a national survey showed the society's supports for the establishment of the death penalty. If the government would have acted with this, there would be issues with the ICCPR. How is the State going to act vice vi the public opinion?

National Human Rights Institute:

[Mr. Sancho]: The Kingdom of the Netherlands has an ombudsman and commission on equal treatment, but there is still no proper NHRI functional, on the basis of the Paris Principles.

Optional Protocol Convention Against Torture:

[Mr. Sancho]: There is a special ombudsman for torture. The Commission on the prevention of Torture has expressed serious concern with the current situation, in which there is no ratification of the Optional Protocol of the Convention Against Torture. Is the State Party planning to do this soon?

[Minister Ballin]: The Netherlands will start the ratification of the Optional Protocol soon.

Corporal punishment:

[Mr. Bashif]: Corporal punishment is prohibited in the Netherlands, but in Aruba and the Dutch Antilles it still exists. Could you provide more information?

[Antilles Delegation]: Corporal punishment is not allowed in the Netherlands Antilles.

Awareness raising of covenant:

[Mr. O'Flaherty]: The committee was not informed on the efforts on disseminating the concluding observations from prior review. What level of seriousness does the State Party take in incorporating human rights in its primary and secondary education?

[Minister Ballin]: The Netherlands considers Human Rights education as important. Dutch schools have the duty to inform students of the concept of legal citizenship. Furthermore there is a national house for democracy and rule of law, which provides information for visiting groups of students. The minister promised to provide the Committee with more information on the Dutch HR education in the near future.