

# Netherlands Institute for Human Rights

## Report

To the 81<sup>st</sup> pre-sessional working group of the Committee on the Elimination of Discrimination against Women for adoption of the List of issues prior to reporting for the Kingdom of The Netherlands

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## **1 Introduction**

### **1.1 The Institute's submission**

By presenting this report, the Netherlands Institute for Human Rights (hereinafter: the Institute) aims to provide CEDAW with relevant information regarding the implementation of the Convention on the Elimination of all forms of Discrimination in the Netherlands.

The Institute, the National Human Rights Institution of the Netherlands, has been accredited with an A-Status since May 2014. The Institute protects, monitors, explains and promotes human rights in the Netherlands through research, advice, and awareness raising. Its mandate also covers urging the government to ratify, implement and observe human rights treaties. One instrument used by the Institute to carry out its mandate is reporting to human rights treaty bodies, including CEDAW. The Institute can also formulate opinions under the Equal Treatment Act. An overview of relevant cases is submitted as an annex to the present report.

## **2 Violence against women**

Violence against women in the Netherlands is a persistent problem, that has been addressed by CEDAW in its previous concluding observations. The Institute provides information on the follow-up of previous recommendations, and on additional issues.

### **2.1 Need for gender-sensitive and coordinated policy**

CEDAW has repeatedly recommended that the government adopts a gender-sensitive approach to prevent and combat domestic violence. In its Baseline Evaluation Report, the Group of Experts on Violence against Women (GREVIO) of the Council of Europe addresses the consequences of the gender-neutral policy on domestic violence in-depth, and also recommends the adoption of a gender-sensitive policy. The Institute welcomes that the government has commissioned a study to examine how policy and practice can be made more gender-sensitive. The report, that was presented in February 2021, contains concrete recommendations. It is a point of concern that the government has not yet committed itself to the implementation of all recommendations.

Measures should be taken to guarantee an effective and comprehensive policy to combat violence against women. At present, different forms of violence fall within the mandate of several ministries. Similarly, different aspects of the State's responsibilities (prevention, protection and prosecution) are divided among different ministries. Even though they consult each other, coordination of policies should be strengthened in order to make the policies more effective.

Further, municipalities are responsible for the provision of services, including shelter and support services. Coordination among municipalities should be improved to prevent, for example, bureaucratic obstacles experienced by victims of domestic violence who move from one municipality to another. Also, coordination between the central and local level should be improved, for example, in guiding local governments towards a human rights based gender-sensitive policy. The lack of central coordination also results in gaps in monitoring and data collection.

Another major point of concern is that the decentralization seems to have been to the detriment of preventive activities. While municipalities have a responsibility under the Social Support Act to undertake activities to prevent domestic violence, they claim that they often do not have the necessary financial resources means to do so.

Suggestion for questions:

What steps will the government take towards the adoption of a gender-sensitive, comprehensive and coordinated policy on violence against women?

What measures will the government take to guarantee that municipalities will be able to enhance their preventive activities at the local level?

Which steps will the government take to monitor policies and practices at the local level and guarantee that they comply with human rights standards?

## 2.2 Data collection

Gaps in the available data hinder a proper analysis of the scope and severity of all forms of violence against women, and the causes and consequences thereof. The Institute welcomes steps taken to improve data collection. Periodic reports on the prevalence of domestic and sexual violence and on the impact of the measures taken are published.<sup>1</sup> However, several potential data sources do not register the gender of victim and perpetrator, or the relationship between them. Law-enforcement agencies do not use standardised data categories to register the gender of the victim and perpetrator, their relationship and type of violence. According to the government, doing so would constitute an undue administrative burden on the agencies involved. Also, ‘Safe at Home’ agencies, that register reports on domestic violence and provide support services to victims, do not register the victim and perpetrator, nor the relationship between them and do not disaggregate their data according to gender.

Suggestion for question:

Which steps will the government take to further strengthen monitoring and data collection?

## 2.3 Victims of stalking and sexual violence

Following a dramatic case in which a young woman had turned to the police and other authorities several times for protection against her stalking ex-partner, but was killed, Inspectorates examined the response by the police and other authorities.<sup>2</sup> Several areas for improvement were identified. These included the need to take measures to ensure that an assessment of the seriousness of the situation is carried out by all relevant authorities in order to provide the necessary safety and support to the victim.

The criminalisation of rape and other forms of sexual violence is being thoroughly revised in order to provide better protection against sexual violence. It is likely that the entry into force of the new law will result in an increased number of reports of sexual violence. The

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<sup>1</sup> Government’s progress reports to parliament on the programme ‘Violence does not belong at home’.

<sup>2</sup> Inspectorate of Justice and Security, [Inspectorates’ investigation into dealing with the stalking by Bekir E.](#), The Hague: Inspectorate of Justice and Security, 2019.

Institute draws the Committee's attention to problems that exist in dealing with reports of sexual violence. According to research, a number of victims experience that the police discourages them from proceeding with the criminal law procedure. Further, there is a shortage of specialized police officers to investigate sexual violence. It takes a very long time before the perpetrators of rape are brought to trial, which is detrimental to victims.

Suggestion for questions:

Which measures will the government take to effectively protect the victims of stalking?

Which measures will the government take to protect victims who report sexual violence?

#### **2.4 Netherlands in the Caribbean: developing domestic violence policies and practices**

On the Caribbean islands Bonaire, Statia and Saba, violence against women is even more prevalent than in the European part of the Kingdom. Measures to prevent and stop this violence are lagging. Under the new 'Governing covenant' (2020), the Dutch government and the governing bodies of the islands agree to undertake extra efforts to prevent and combat domestic violence. The envisaged concrete plan for 2021 has not yet been published. The Institute welcomes the efforts, but reiterates its concern that the Dutch government does not implement the Convention of Istanbul in the Caribbean municipalities. It also recalls that the Convention on the Elimination of all forms of Discrimination against Women applies in full.

Suggestion for question:

Which steps will the government take to strengthen the prevention and protection of women in the Dutch Caribbean against domestic violence?

#### **2.5 Domestic violence and the Covid-19 pandemic**

There are no comprehensive data on the prevalence of domestic violence during the pandemic. While professionals continued to provide support, personal contacts with (potential) victims of domestic violence were less intense. They have expressed their concern about the likeliness that the number of cases of domestic violence has increased and that more grave violence was committed. That may result in an increased number of reports after the pandemic.

Suggestion for question:

How does the government examine the prevalence of domestic violence during the pandemic and which measures will it take during and after the pandemic to provide for support to the victims?

### 3 Article 5: Stereotypes and harmful practices

#### 3.1 Discriminatory stereotypes and hate speech against Muslim, migrant and asylum-seeking women

In its concluding observations, the Committee recommended the government to intensify efforts to combat stereotypes against Muslim, migrant and asylum-seeking women who are targets of hate speech and racially motivated violence (par. 22(d)).

A recent study on the role of sexism in the political debate, on social media and in the press, showed that female politicians received an overwhelming number of hateful comments during the campaigns for the 2021 elections for parliament. Women with a migrant background were targeted in particular.<sup>3</sup>

Hate speech against Muslim women is prevalent. According to another recent study, 91 percent of the women who reported expressions of islamophobia wore some type of hijab.<sup>4</sup> After the introduction of ‘the burqa ban’ in 2018, Muslim women reported more hateful comments, threats or even violence.<sup>5</sup> More efforts to prevent and combat this speech are necessary.

Suggestion for question:

What measures will the government take to combat stereotyping based on gender, with due attention for Muslim, migrant and asylum-seeking women?

### 4 Participation in political and public life (article 7)

In its previous concluding observations, the Committee recommended that the government continues to take targeted measures to further increase women’s representation in political and public life, particularly in local government, academia and the foreign service (par. 32 (a)).

The March 2021 elections have resulted in an increased number of women in the House of Representatives: 59 women and 91 men (39%).<sup>6</sup> As from 2020, 33% of the members of the Senate are women.<sup>7</sup> A new government is yet to be formed. At the local level, the number of women in local councils is on average 31%. Local councils appoint aldermen. The number of female aldermen remains low. 75% of all aldermen are men. In 103 out of 355 municipalities, there is not a single female alderman. Mayors are appointed by the Crown (the King and the minister of the Interior and Kingdom Relations), upon nomination by local councils. 85 municipalities have a female mayor. 120 municipalities have never had a female mayor.<sup>8</sup>

The low political representation of women is one of the main reasons for the Netherlands’ relatively low ranking (31 in 2021) in the Global gender gap report.<sup>9</sup> In a discussion in

<sup>3</sup> Karlijn Saris & Coen van de Ven, [Misogyny as a political weapon](#), *De Groene Amsterdammer*, 3 March 2021.

<sup>4</sup> Ibtissam Abaâziz, [Everyday islamophobia in the Netherlands](#), Meld Islamofobie, 2019.

<sup>5</sup> Ibtissam Abaâziz, [Burn book “burqa ban”. A plea for the abolition on the burqa ban](#), Meld Islamofobie, 2020.

<sup>6</sup> Via [www.parlement.com](http://www.parlement.com)

<sup>7</sup> CBS & SCP, [Emancipatiemonitor 2020](#), p. 72.

<sup>8</sup> Henk Bouwmans, ‘Difficult to remove the male-dominated establishment, Investigation into diversity of mayors and aldermen’, *Binnenlands Bestuur*, week 40, 2020, p. 16-21.

<sup>9</sup> World Economic Forum, *Global gender gap report 2021*, Geneva: WEF, 2021, p. 10.

parliament on the previous edition of this report, the minister responsible for women's emancipation said that it was the government's intention that after the 2021 parliamentary elections and the 2022 elections for local councils, the number of women and men would be more balanced: the aim is 40-60% in the future. She referred to the government plans to steer towards inclusive selection and procedures for selection, actively inviting and seeking candidates, and adequately equipping candidates for political office. The government points to its limited sphere of influence in this regard.<sup>10</sup> In July 2019, the government announced these plans to advance women's political participation. These plans contain a number of promising initiatives, without, however, establishing concrete targets. The first *Monitor political officeholders* was published in 2020.<sup>11</sup> It would be useful to discuss the lessons the government can learn from this report, that contains a wealth of information and addresses the political participation of women and the obstacles they encounter in performing their tasks.

Suggestion for questions:

To what extent have the measures that the government has taken to increase women's political since the previous report been successful?

If the aim of enhancing political participation is not achieved, which measures will the government take to accelerate equal representation?

## 5 Article 11: Right to work

### 5.1 Economic independence

In 2019 64% of the women were economically independent (versus 81% of the men). This is an increase compared to 2017 (when this percentage was 61%), but women still lag far behind men. For women with a migrant background this is even more the case due to their lower labour market participation.<sup>12</sup> Economic dependency leads to extra economic vulnerability of women in case of divorce, illness or death of the partner. Despite government measures to increase the financial and economic independency of women, a large number of women are not economically independent.

Suggestion for question:

What is the government planning to do to promote the economic independence of (migrant) women?

### 5.2 Combining employment and care

Employment and care tasks of women and men are not balanced. In 2018 75% of the working women had a part-time job (versus 25% of the working men). Women spend 1,5 times as much time on unpaid caring tasks than men (26 versus 17 hours a week).<sup>13</sup> These caring tasks are often the reason for women to work less (57% of the women versus 27% of the men). Almost 8 out of 10 women with part-time jobs would like to work more hours if

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<sup>10</sup> Minister of Education, culture and science, [Response to Global Gender Gap Report WEF](#), 3 July 2020, p. 3, with reference to a letter by the Minister of the Interior and Kingdom relations dated 2 July 2019.

<sup>11</sup> Giedo Jansen, Bas Denters & Sabine van Zuydam, [Monitor on political office holders](#), 2020.

<sup>12</sup> CBS & SCP, [Emancipatiemonitor 2020](#).

<sup>13</sup> SCP, [Paid work and care tasks](#), 2018.

there was a better balance between work and caring responsibilities.<sup>14</sup> Also, 6 out of 10 fathers would like to work less to spend more time with their children. Even so, in 2017 only 11% of men with children made use of parental leave. This percentage was the same in 2015.<sup>15</sup> The government has taken measures aimed at a better work-care balance. For example by introducing a law in 2020 that gives fathers the right to 6 weeks of leave when the baby is born. The first 5 days the father receives full pay and the rest of the leave he receives 70% of his salary. The government has announced it will monitor the use of the right to birth leave.

Suggestion for questions:

How is the government going to encourage fathers to make use of their right to birth/parental leave?

How will the government monitor whether the right to birth/parental leave contributes to a better work-care balance between women and men?

### 5.3 Discrimination in the labour market

#### 5.3.1 Recruitment

Women still often encounter discrimination when applying for jobs. Many of the complaints that the Institute receives are about pregnancy discrimination during recruitment. Further, it occurs that employers only ask for and employ men for certain jobs. Research commissioned by the Institute shows that algorithms of recruitment sites can also lead to a disadvantage for women. Women looking for the same kind of jobs as men may get to see less job offers when they use search terms that are not genderneutral such as ‘handyman’.<sup>16</sup> Another problem is that it is relatively easy to place a discriminatory job offer on recruitment sites and that some of these sites offer the possibility to filter candidates on basis of their gender, nationality, age or work experience.<sup>17</sup>

Suggestion for question:

What measures will the government make to ensure that recruiter sites do not have discriminatory effects on women?

#### 5.3.2 Unequal pay

Women on the Dutch labour market still receive less pay than men for the same work. In 2018 the hourly pay for women was 8% less than for men when working for the government and 19% less when working for private companies. When differences such as age, experience and the kind of work are taken into account women earn 4% less in government jobs and 7% less in jobs for private companies. A study by Statistics Netherlands shows that the difference in pay has not decreased in the period between 2016 and 2018.<sup>18</sup>

The government has announced several measures to fix the pay gap.<sup>19</sup> These measures entail the update of a checklist on equal pay, financial support of an organization that puts

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<sup>14</sup> CBS & SCP, [Emancipatiemonitor 2018](#).

<sup>15</sup> CBS, [Use of leave by fathers has hardly changed](#), 2019.

<sup>16</sup> Daniel Everts *et al.*, [Who searches, will find, or not?](#), 2021.

<sup>17</sup> Inspectorate SZW, [Final report discrimination possibilities online platforms](#), 2021.

<sup>18</sup> CBS, 26 November 2020, [No further decrease in pay gap between men and women between 2016 and 2018](#).

<sup>19</sup> [Main lines Action plan discrimination in employment 2018-2021](#).



unequal pay on the agenda of women, employers and others and research to monitor unequal pay. These measures have not led to more equal pay between men and women. This is also what the European Committee for Social Rights has concluded.<sup>20</sup> According to the Institute, a legal obligation on transparency of salaries will make it easier for women to see if they are being paid equally for equal work.

Suggestion for question:

Which steps will the government take to guarantee equal pay for work of equal value?

### **5.3.3 Pregnancy discrimination**

Discrimination on the ground of pregnancy continues to be an impediment to the labour market participation of women. Research of the Institute in 2020 shows that four out of ten women have experienced pregnancy discrimination.<sup>21</sup> In 2016 and 2012 the situation was the same. Many cases of pregnancy discrimination involve the non-renewal of temporary employment contracts, or a renewal under altered conditions. In the research one out of five women did not get a job because of their pregnancy. The Institute is concerned about pregnancy discrimination, especially because there is no progress in tackling this problem. Active enforcement of the law prohibiting pregnancy discrimination is still lacking.

Suggestion for question:

What measures is the government planning to take to prevent and combat pregnancy discrimination?

### **5.3.4 Sexual harassment**

Although sexual harassment at work is prohibited by law, a significant number of women are a victim of sexual harassment at work. One out of seven women who are civil servants and younger than 35 experience sexual harassment at work.<sup>22</sup> Of women employees 14,2% experience sexual harassment by third parties such as clients and patients, often in healthcare jobs or in the catering industry. 4,7% of the women employees experience sexual harassment by their colleagues or superiors.<sup>23</sup> The government needs to do more to raise awareness about and prevent sexual harassment, to ensure there are complaint mechanisms, to provide support to women victims and to ensure that measures are taken against the perpetrators. Furthermore it is essential that the government makes sure that all employers have a plan to prevent sexual harassment and have procedures when they receive complaints about sexual harassment. Also ratification and implementation of ILO Convention 190 would lead to more protection of women against sexual harassment at work.

Suggestion for question:

What is the government planning to do against sexual harassment of women at work?

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<sup>20</sup> ECSR, 6 December 2019, [University Women of Europe \(UWE\) v. the Netherlands](#), Complaint No. 134/2016.

<sup>21</sup> Netherlands Institute for Human Rights, [Pregnant and work: cause for concern](#), 2020.

<sup>22</sup> Ministry of Interior, [Research paper social safety national government](#), 2020.

<sup>23</sup> CBS, [National Survey Working Conditions 2019](#).

## 6 Article 16: Marriage and family relations: marital captivity

In its previous concluding observations, the Committee recommended the government to conduct awareness raising campaigns and training on marital captivity for the judiciary and law enforcement officials in order to eradicate this phenomenon (par. 44(d)). The government has submitted a legislative proposal to end marriages of spouses in marital captivity. This has been accepted by the House of Representatives in November 2020.<sup>24</sup> In this proposal, the judge will have the authority to order the spouse's cooperation in the dissolution of religious marriages. This amendment facilitates that the judge can issue an order to the reluctant spouse to cooperate in the dissolution of the religious marriage as part of the procedure dissolving the civil marriage. This is a step forward since it is no longer necessary to start separate proceedings to dissolve the religious marriage. A point of concern is that the proposed legislation does not address measures to ensure the safety of parties involved in case of a risk of reprisal by the other spouse or other family members. Further, it is not exactly clear what measures will be taken to inform judges on the different types of religious marriages, rituals and traditions or specific actions which must be fulfilled to end the religious marriage. Religious marriages are various and may differ substantially from one another.

Suggestion for questions:

What measures will the government implement to ensure the safety of the parties involved in case of a risk of reprisal by the other spouse or other family members?

What measures will the government take to inform judges about the different types of religious marriage and the specific actions to end the religious marriage?

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<sup>24</sup> Proposed legislation, [Combatting marital captivity and other subjects](#), 17 November 2020.