



## Commissie Gelijke Behandeling

### **Oral statement of the Dutch Equal Treatment Commission**

(check against delivery - het gesproken woord geldt)

**Presented to the CEDAW Committee, January 25th 2010**

**By Laurien Koster (chair)**

Madam Chair, Honourable members of the Committee,

First of all I would like to thank you for the explicit invitation to attend this meeting, in which you mentioned the wish to strengthen the contacts with National Human Rights Institutions. The Equal Treatment Commission appreciates the possibility to address your Committee on a few specific topics. Being here also offers an excellent opportunity to the ETC to prepare for the transformation into a full national human rights institute in 2011 as foreseen in new draft legislation. The ETC expects synergy to rise from the combination of her current legal tasks in horizontal relations and the new overall responsibilities for human rights

I draw the attention of your committee to this joyful development also for a specific reason.

### **All opportunities come with possible threats**

With the establishment of a national human rights institute the government will create a better infrastructure for the promotion and the protection of rights, also women's rights. On the other hand we have to be on the alert not losing or demolishing other structures that play an important role like the NGOs and their networks with precious expertise. The thorough examination and report of the overall situation in The Netherlands by the NGOs is of unmistakable value. It shows that 54 NGOs are together in the capillaries of a society. Your Committee has asked critical questions about the subsidies to NGOs. The NGOs have stressed the fact that most of the experts-centres for gender equality and women's human rights have vanished due to loss of their funding; with consequences for the shadow-reporting capacity and the empowerment of women.

I am not sure that the state is fully aware of the importance and value of the participation of civil society in processes as combating discrimination.

I quote from the letter of the Minister of the Interior to the Parliament 10 July 2009 on the subject of the NHRI:

*“Overheidsorganisaties die subsidie verlenen aan mensenrechtenorganisaties kunnen – als het NIRM taken in uitvoering neemt die in opdracht van subsidieverleners ook door anderen worden vervuld – besluiten om subsidies om te buigen of te beëindigen.”*

Government- organisations, which subsidize human rights organisations to fulfil certain tasks can decide to stop or change subsidies when the NHRI will take up such tasks.

Protection and promotion of rights require contact with and information from civil society. The ETC therefore supports the NGOs in the suggestion to the Committee to raise again the issue of core funding for women's rights organisations and civil society.



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I am aware of the fact that you have studied all comments seriously. Still I want to draw your attention to a number of specific topics

- The situation on the labour market for
  - pregnant women
  - women of non dutch origin
- Access to services and social life for muslim woman wearing headscarfs
- The necessity of combating stereotypes
- Transgender issues
- The role of the government

### **The difficulty of certain groups of women to access or maintain their jobs in the labour market.**

#### **Pregnant women**

Discrimination of pregnant women in working situations has been a problem for women for many years now. The discrimination laws in the Netherlands forbid this kind of discrimination since 1980. This does not seem to be enough to protect women from this kind of discrimination.

Many of the cases concerning sex discrimination are about pregnant women:

- in 2007 one third of the sex discrimination cases were about pregnant women;
- in the reporting period 42 judgements of the ETC were about discrimination because of pregnancy;
- on top of this many women called or e-mailed the ETC because they felt discriminated because of pregnancy.

The complaints that are filed with the ETC concern:

- not being hired for a job;
- not getting a promotion;
- employment contracts that are not extended;
- not receiving bonuses;
- negative consequences for employment conditions.

The ETC focused on pregnancy discrimination in its comments on the 4th and 5th periodic report of the government. Nonetheless the government has taken no measures as of yet to take care of this problem. Given the persistency of this kind of discrimination, the ETC suggests the Committee to recommend the Dutch government to take measures to counter discrimination in the labour market on the grounds of pregnancy.

In this regard the shadowreport by the NGOs contains also important remarks. There is no specific guarantee in the law to return to the former job after a maternity leave. From a strict legal point of view this may not be necessary. However such a clear provision in the law will make women's rights more visible and therefore offer more protection.

As the reaction of the government on the last evaluation of the Equal Treatment Act is still pending and a new legislation will be part of it, a suggestion on behalf of your Committee could be effective.



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### **Women of non Dutch origin**

In the cases brought before the ETC it is very obvious that ethnic minorities (both men and women) encounter more obstacles in obtaining work than people of Dutch origin.

In the period 2005-2008 the ETC delivered 93 judgements on the grounds of race/ethnic origin in the labour market. In more than half of these cases the ETC judged that discrimination occurred.

Muslim women form a specific group. They are discriminated because of their race or ethnic origin. Some of them **also** encounters discrimination because of wearing headscarves and therefore discrimination on the grounds of religion.

The number of headscarf cases has increased over the last few years. Half of the 28 judgements of the ETC on the ground of religion in 2007 concerned headscarves. The Dutch equal treatment laws forbid discrimination on the grounds of religion. Muslim women are more vulnerable for this kind of discrimination than men as the expression of their religion is visible.

In order to realise that these women have the same chances of access to work and jobs equally for all men and women a clear and firm government-opinion in favour of the protection of these women could make it clear to employers that the Dutch law forbids to ban headscarves in most cases.

I will come back on the general attitude of the government.

### **Access to services and social life of muslim women**

In it's comments the ETC mentions that women are confronted with the problem that they are denied acces to establishments - such as restaurants, café's and gyms, - because they wear headscarves. This leads to discrimination of muslim women. The ETC has given several judgements in this regards and has brought these judgements to the attention of sectororganisation and the Minister in charge.

As for the denial of access by certain gyms, two meetings have been held with the ETC, the gyms sector organisation and civil servants of the Ministry of Health, Welfare and Sports. It has not stopped certain gyms from maintaining their policy to not accept women wearing headscarves.

The ETC still receives complaints from muslim women who are not accepted at gyms. Also several women have reported to the police that they have been refused at such gyms. These cases are being handled by the district attorney, but it is obviously a slow process. The ETC has addressed the Minister for Health, Welfare and Sports again. She has publicly underlined the interest of participation of women of non Dutch origin in sports, but there are no signs that this has altered the situation.



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In order to enforce article 7 of the Convention it is necessary that the government investigates these discriminatory practices and takes effective measures. The anti-discrimination law at itself and the judgements of the Commission have not been effective to prevent the exclusion of these women from services and social life.

### Combating stereotypes

Many of your questions to the Netherlands and remarks of the NGO's were related to the lack of relevant figures to base policies on or to be able to evaluate effectiveness of measures. I think it will be one of the major focus for the NHRI to see to such data-collection.

However, sometimes a journalist can have an unexpected role. A national newspaper has published an interview with a young 29 year old entrepreneur. He tells the success-story of his business. He runs a company providing chauffeur services in Amsterdam. His clients are lawyers and consultants, but also big companies like Heineken. This chauffeur service employs male students only. For commercial reasons.

Let me quote the young entrepreneur: "I can imagine that it will not make a manager's wife very happy if her husband is picked up by a young blonde in a short-skirted suit" Unquote.

Only one sentence, how many stereotypes did you count? At least 6:

- employers are male and women are blond;
- women all wear short skirts;
- women pose a threat to marriages;
- managers are men;
- their partners are always women;
- those women are jealous.

I think no one needs figures anymore to get a sense of urgency for combating stereotypes. How about a recommendation in this regard?

The issue of stereotyping produces an easy association to the transgender issues, which I want to bring to your attention.

### Transgender issues

Transgenders are a - maybe small - but extremely vulnerable group. Leaving the body of a woman or getting it or being somewhere in between breaks stereotypes and therefore causes strong reactions in society. In this respect it is also worth mentioning that as we speak the ETC is holding a hearing about a gym that that allegedly denies the access to a transgender woman (a man who has had a sex change and therefore now is a woman).

The practice of the ETC shows that their problems in society have a very diffuse and varied character. That makes it difficult to develop an elaborate specific policy. The counterpart of this fact should be that the government takes judgements of the ETC and signals of the NGOs like COC seriously. Also in individual cases.

The ETC appreciates the intention of the government to draft legislation in order to abolish the demand of removal of all reproductive organs before the sex-change can be formally granted. It would certainly encourage the government to take a progressive role if the Committee would formulate a recommendation with regard to transgender issues.



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### **The gender pay gap**

Only two words on the persisting phenomenon of the gender pay gap. The NGOs have broadly commented on this issue. The persistence and the extent of the damage have brought the ETC to use its powers of investigation on its own initiative. The ETC will complete this year such an investigation in the hospital sector.

### **The overall role of the government**

The government has its specific role as the most important state organ to fulfil all treaty obligations. In every day life the public administration also acts as an employer, renders goods and services and has special obligations for public schools. The ETC experiences in many cases that the public administration falls into the same pitfalls as employers in the private sector. It would contribute enormously to the awareness of the rights and needs of all people if the government acts as a role model. This can also contribute to the daily awareness of civil servants in what may still lack in state policies and measures in order to promote and protect women's rights.

Members of the Committee, I thank you for your attention. I will be happy to answer any questions.