



# Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General  
2 February 2007

Original: English

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## Committee on the Elimination of Discrimination against Women

Thirty-seventh session

15 January-2 February 2007

### Concluding comments of the Committee on the Elimination of Discrimination against Women: Netherlands

1. The Committee considered the fourth periodic report of the Netherlands (CEDAW/C/NLD/4 and CEDAW/C/NLD/4/Add.1) at its 767th and 768th meetings, on 24 January 2007 (CEDAW/C/SR.767 and 768). The Committee's list of issues and questions is contained in CEDAW/C/NLD/Q/4, and the responses of the Netherlands are contained in CEDAW/C/NLD/Q/4/Add.1.

#### Introduction

2. The Committee expresses its appreciation to the State party for its fourth periodic report, but regrets that it did not contain information on articles 2, 3 and 4 of the Convention. The Committee notes with appreciation the submission of a separate report by Aruba. The Committee also expresses its appreciation for the written replies to the list of issues and questions raised by the pre-session working group and for the oral presentation and responses to the questions posed by the Committee.

3. The Committee commends the State party for its high-level delegation headed by the Minister of Social Affairs and Employment, which included experts from different ministries and departments of the Government, as well as representatives from Aruba. The Committee expresses its appreciation for the constructive dialogue held between the delegation and the members of the Committee. The Committee reiterates its regret at the absence of information, in the report and the responses, on the Netherlands Antilles and of a representative of the Netherlands Antilles in the delegation.

4. The Committee commends the State party for having ratified the Optional Protocol to the Convention in 2002.



### Positive aspects

5. The Committee notes with satisfaction the efforts made to implement the Convention through the adoption of laws, policies and programmes, including the Dutch multi-year emancipation policy plan, 2000-2010.

6. The Committee congratulates the State party for its international assistance and bilateral cooperation programmes designed to promote and protect women's rights. The Committee also congratulates the State party on its efforts, nationally and internationally, to enhance implementation of Security Council resolution 1325 (2000) on women, peace and security.

7. The Committee commends the State party for objecting to reservations entered by other States parties that it considers incompatible with the object and purpose of the Convention.

### Principal areas of concern and recommendations

**8. While recalling the State party's obligation to implement systematically and continuously all provisions of the Convention, the Committee views the concerns and recommendations identified in the present concluding comments as requiring the State party's priority attention between the present time and the time of submission of the next periodic report. Consequently, the Committee calls upon the State party to focus on those areas in its implementation activities and to report on the action taken and the results achieved in its next periodic report. It calls upon the State party to submit the present concluding comments to all relevant ministries and to Parliament so as to ensure their full implementation.**

9. While acknowledging that it has received a report on the implementation of the Convention in Aruba, the Committee expresses its concern that no report was submitted on the status of implementation of the Convention in the Netherlands Antilles and that the delegation was unable to provide any information in that regard during the constructive dialogue.

**10. The Committee calls upon the State party to ensure that information on the implementation of the Convention in the Netherlands Antilles and the practical realization of the principle of equality between women and men on all areas covered by the Convention, as well as sex-disaggregated data, are included in its next periodic report. It further calls upon the State party to ensure the participation in the future of representatives from the Netherlands Antilles in its constructive dialogue with the Committee.**

11. The Committee remains deeply concerned about the status of the Convention in the domestic legal system, and in particular that the Government seems to consider that not all of the Convention's substantive provisions are directly applicable. It notes the delegation's position that it is the responsibility of the judiciary to determine whether a particular provision of the Convention is directly applicable in the domestic legal order. It is further concerned that as a consequence of this position, insufficient efforts have been made to incorporate all the Convention's substantive provisions into domestic laws.

12. **The Committee calls upon the State party to reconsider its position that not all the substantive provisions of the Convention are directly applicable within the domestic legal order and to ensure that all of its provisions are fully applicable in the domestic legal order. The Committee points out that by ratifying the Convention and its Optional Protocol, States parties assume the obligation to provide for domestic remedies for alleged violations of any rights guaranteed to individuals by the Convention. It also recommends that the State party increase its efforts to raise awareness about the Convention and its Optional Protocol and the Committee's general recommendations among judges, prosecutors and lawyers to ensure that the spirit, objectives and provisions of the Convention are well known and used in judicial processes.**

13. The Committee is concerned that coordination and effective follow-up and monitoring of the use of the gender mainstreaming strategy in policies and programmes of different departments is not ensured. It is also concerned about the insufficient knowledge of the Convention within different Government departments.

14. **The Committee recommends that one Government department be designated and actively take up the responsibility and leadership role in coordinating the use of the gender-mainstreaming strategy in policies and programmes of all other Government departments, as well as to ensure effective monitoring and evaluation of results achieved. It also encourages that such a department ensure that knowledge of the Convention is effectively promoted at all levels and sectors of Government with the aim of promoting de jure and de facto equality between women and men.**

15. The Committee is concerned about the persistence of gender-role stereotypes, in particular about immigrant and migrant women and women belonging to ethnic minorities, including women from Aruba, which are reflected in women's position in the labour market where they predominate in part-time work, and in participation in public life and in decision-making. It is also concerned about the lack of in-depth studies and analysis about the impact of such gender-role stereotypes for the effective implementation of all the provisions of the Convention.

16. **The Committee urges the State party to undertake research and studies on the impact of gender-role stereotyping for the effective implementation of all the provisions of the Convention, in particular in regard to the ability of migrant and immigrant women, women belonging to ethnic minorities and women from Aruba to enjoy their human rights. It also calls upon the State party to undertake awareness-raising campaigns targeting the general public on the negative impact of such stereotypes on society as a whole.**

17. The Committee reiterates its concern regarding the low presence of women in high-ranking posts in all public sectors, including at the international level, in academia, and in the private and business sectors. It is concerned by the low presence of women in elected bodies at the provincial and local levels. The Committee expresses its concern that there are no statistics on the number of immigrant, refugee and minority women in decision-making positions. The Committee is concerned that the State party did not provide any information on and does not support the adoption of quotas to accelerate the achievement of women's full and equal participation in public life and in decision-making bodies, including of immigrant, refugee and minority women.

18. **The Committee urges the State party to take sustained measures to accelerate women's full and equal participation in public life and decision-making, especially in high-ranking posts, at the provincial and municipal levels and in the private and business sectors. It calls upon the State party to use temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendations 25 on temporary special measures, and 23 on women in political and public life. It encourages the State party to ensure that the representation of women in political and public bodies reflects the full diversity of the population and to include immigrant, refugee and minority women. The Committee requests the State party to provide detailed sex-disaggregated data and information on the representation of women, including immigrant, refugee and minority women, in elected and appointed bodies, including at the decision-making level, and trends over time in its next periodic report.**

19. While acknowledging plans to adopt protection orders, the Committee is concerned about the persistence of violence against women, including domestic violence, and that there is insufficient data on all forms of violence against women, in particular against immigrant, refugee and minority women. The Committee is also concerned that the policy on violence against women is couched in gender-neutral language, which undermines the notion that such violence is a form of discrimination against women. The Committee is further concerned that no free legal aid is provided to victims of domestic violence, under certain circumstances only.

20. **The Committee calls upon the State party to ensure the systematic collection of statistical data disaggregated by sex, by type of violence, by the relationship of the perpetrator to the victim and by ethnicity. It encourages the State party to proceed with the elaboration of effective protection orders and monitor the impact of its laws, policies and programmes on the persistence of violence against women and trends over time. It encourages the State party to engage in awareness-raising campaigns on violence against women. It further urges the State party to ensure that free legal aid is provided to all victims of domestic violence so that they can seek access to justice and remedies and make informed decisions regarding, inter alia, criminal proceedings and family law.**

21. The Committee is concerned at the insufficient evaluation of the abolition of the ban on brothels, noting that the study that was conducted was inconclusive. The Committee is especially concerned about the insufficient assessment of the impact of the law on the position of foreign women engaged in prostitution, since the vast majority of prostitutes are migrant women who are excluded from working legally as prostitutes and who may be especially vulnerable to exploitation and violence.

22. **The Committee encourages the State party to appoint a neutral, independent body to conduct an impact assessment of the intended as well as unintended effects of the law abolishing the ban on brothels. Such an assessment should also cover the risks of violence and health risks, in particular for women without residence permits who are engaged in prostitution. It requests the State party to provide the findings of such an assessment in its next report, including information about steps and measures taken in response thereto.**

23. The Committee is concerned about the number of women and minor girls who are victims of trafficking. It is also concerned about the exclusion from protection under the B-9 regulation of victims who do not cooperate in the investigation and prosecution of traffickers.

**24. The Committee urges the State party to provide information in its next report on the number of women and minor girls who are victims of trafficking. It calls upon the State party to provide for the extension of temporary protection visas, reintegration and support services to all victims of trafficking, including those who are unable or unwilling to cooperate in the investigation and prosecution of traffickers.**

25. The Committee notes with concern that a political party continues to discriminate against women and exclude them from party posts, which is a violation of articles 1, 2 and 7 of the Convention. The Committee notes with concern that the State party has appealed a decision by the District Court of The Hague of September 2005, No. AU2088, which gave direct effect to article 7 of the Convention in national law and which held that the State's funding, under the Political Parties (Funding) Act, of a political party that excludes women from membership was in violation of its obligations under the Convention.

**26. The Committee recommends that the State party adopt legislation to bring the qualification for seeking political office into conformity with its obligations under articles 1, 2 and 7 of the Convention, as well as to consider withdrawing its appeal and acknowledging the direct effect of the Convention in the domestic legal order.**

27. The Committee is concerned that immigrant, refugee and minority women continue to suffer from multiple forms of discrimination, including with respect to access to education, employment and health and prevention of violence against them. The Committee is particularly concerned that racism persists in the Netherlands, particularly against women and girls. The Committee is further concerned that many immigrant, refugee and minority women are unable to qualify for independent residence permits because of stringent requirements in law and policy. The Committee is especially concerned about the requirement that migrant victims of domestic violence must press charges against their abusers before they may be considered for an independent residence permit, the mandatory requirement in the Integration Act that women follow expensive integration courses and pass integration examinations and the increase in the income requirement for family reunification. The Committee is also concerned that, with the exception of female genital mutilation, sexual and domestic violence is not recognized generally as grounds for asylum.

**28. The Committee urges the State party to take effective measures to eliminate discrimination against immigrant, refugee and minority women, both in society at large and within their communities. It encourages the State party to increase its efforts to prevent acts of racism, particularly against women and girls. The Committee urges the State party to conduct impact assessments of the laws and policies which affect immigrant, refugee and minority women and to include data and analyses in its next report. The Committee also requests the State party to include information on the number of women who were granted residence permits, as well as those who were granted refugee status on grounds of domestic violence.**

29. While the Committee notes the efforts made by the State party to improve the situation of women in the labour market, it remains concerned about the serious disadvantages women continue to experience in employment. It is particularly concerned that the number of women in the higher echelons of the labour market remains low, that women are concentrated in certain low-wage sectors and in part-time work and that a considerable wage gap between men and women persists. It is further concerned about the absence of proper procedures to deal with complaints from employees about discrimination, as well as the repeal of the Invalidity Insurance (Self-Employed Persons) Act in 2004, which resulted in the termination of maternity allowance for independent entrepreneurs.

**30. The Committee urges the State party to intensify its efforts to ensure equal opportunities for women and men in the labour market. The Committee recommends that the State party take measures to eliminate occupational segregation, in particular through the further diversification of educational and training opportunities, and to take steps to ensure that all wage differentials in the workplace are eliminated. The Committee further urges the State party to create more opportunities for women to gain access to full-time employment and to encourage men, including through awareness-raising, to share responsibility for childcare equally. The Committee calls upon the State party to adopt legislation designed to ensure that companies and organizations introduce proper complaints mechanisms, as well as to reinstate maternity benefits for all women in line with article 11 (2) (b) of the Convention. The Committee calls upon the State party to consider the findings of the Equal Pay Working Group, which is due to report in 2007, and to take relevant follow-up steps.**

31. The Committee is concerned about the termination by the State party of compensation for the cost of contraception for women over the age of 21 and its consequences on the sexual and reproductive rights and health of women with lower incomes.

**32. The Committee encourages the State party to monitor the effects of the withdrawal of compensation for the cost of contraception for women over the age of 21, and to include information in its next report on its impact on the reproductive rights and health of women.**

33. The Committee reiterates its concern that the Law on Names provides that, where the parents cannot reach an agreement as to the name of a child, the father has the ultimate decision, which contravenes the basic principle of the Convention regarding equality, in particular article 16 (g) thereof.

**34. The Committee repeats its recommendation that the State party review the Law on Names and amend it to comply with the Convention.**

35. The Committee regrets the absence of sufficient information and data, including statistical data, on the impact on women with disabilities and elderly women, of its legislation and policies in the social sector, including in regard to health and benefits.

**36. The Committee requests the State party to provide in its next report data and information, disaggregated by ethnicity, on the impact on disabled women and elderly women of its social sector legislation and policies, including with regard to their health and other benefits.**

37. The Committee is concerned that there is not sufficient information in the report of Aruba, in particular on prostitution and trafficking. The Committee is further concerned about the high rate of teenage pregnancies and the number of women infected with HIV/AIDS. The Committee is further concerned about the absence of specific measures to address violence against women in the penal code of Aruba.

**38. The Committee recommends that Aruba compile data, including sex-disaggregated data, on prostitution and trafficking and include such information in its next report. It further recommends that sex education be widely promoted and targeted at both girls and boys, with special attention to the prevention of early pregnancy and the control of sexually transmitted diseases and HIV/AIDS. It calls upon Aruba to ensure the effective implementation of its HIV/AIDS strategies and to provide detailed statistical and analytical information about women and HIV/AIDS in its next periodic report. The Committee recommends that Aruba pass specific legislation on violence against women.**

39. The Committee is concerned about the new approach the Government is taking for funding work done by non-governmental organizations. It is concerned that the new approach, under which non-governmental organizations must apply for project funding, may restrict their ability to obtain funding for monitoring compliance with the Convention.

**40. The Committee recommends that the State party ensure that non-governmental organizations are able to effectively contribute to the continuing implementation of the Convention. It recommends that the State party conduct an assessment of the effect and impact of its new funding scheme to non-governmental organizations and consider revising it in the event that non-governmental organizations are negatively affected in their ability to monitor governmental compliance with the Convention.**

41. **The Committee urges the State party to utilize fully, in its implementation of its obligations under the Convention, the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.**

**42. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Goals, and requests the State party to include information thereon in its next periodic report.**

**43. The Committee notes that adherence by States to the seven major international human rights instruments<sup>1</sup> enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore,**

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<sup>1</sup> International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination against Women, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

**the Committee encourages the Government of the Netherlands to consider ratifying the treaty to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

**44. The Committee requests the wide dissemination in the Netherlands of the present concluding comments in order to make the people, including governmental officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure de jure and de facto equality of women and of the further steps that are required in that regard. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".**

**45. The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention, which is due in August 2008.**

#### **Request for a follow-up report**

46. The Committee expresses its dissatisfaction with the failure of the State party to submit information on, and the lack of responses to questions pertaining to, the status of implementation of the Convention in the Netherlands Antilles. Consequently, it requests the State party, in conformity with article 18, paragraph 1 (b), of the Convention, to submit a follow-up report in January 2008 for consideration by the Committee later in 2008 pertaining to the implementation of the Convention in the Netherlands Antilles. The follow-up report should follow the Committee's guidelines for the preparation of periodic reports. The follow-up report would not replace the fifth periodic report of the State party, which is due in August 2008 in accordance with article 18 of the Convention.

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