

Dutch NGOs contribution to the First Universal Periodic Review of the Netherlands by the UN Human Rights Council

This report is submitted on behalf of the following NGOs:

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- **E-Quality**
- **MOVISIE**
- **International Information Centre and Archives for the Women's Movement**
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I INTRODUCTION

The undersigning Dutch NGOs welcome the opportunity provided by the Office of the High Commissioner on Human Rights to submit a report to be considered as input for the First Universal Periodic Review (UPR) of the Netherlands. This review is to be held during the First Session of the Human Rights Council in 2008.

Despite the very short time allocated to the submission of reports of other relevant stakeholders to the UPR procedure, such as NGOs, the undersigned organisations want to raise issues in this report that are of particular, continuing, concern, and impede upon the respect, protection and fulfilment of human rights in the Netherlands.

Paragraph 15(a) Resolution 5/1, adopted by the Human Rights Council on 18 June 2007 states that States are encouraged to prepare the information they submit “through a broad consultation process at the national level with all relevant stakeholders”. While we recognise the short period between the resolution and the deadline for the submission of reports for NGOs we note that this consultation process has not (yet) taken place. We want to emphasise the importance of a continuing dialogue with the Government on human rights issues and believe this is particularly important in the context of the UPR. In order to make the UPR an efficient instrument the continuous involvement of civil society is essential and should at all times be recognised by the Government.

The undersigning organisations recognise the important role traditionally played by the Netherlands in developing international law, human rights law and the international mechanisms of protection of human rights. We also acknowledge the continued financial support to various international mechanisms and the important financial contribution allocated to development cooperation. We furthermore recognise the importance of the continued constructive support by the Netherlands of the important role of NGOs in the UN system, the strengthening of special procedures and attention for specific country and thematic situations, as described in the recent Government’s strategic paper ‘*Naar een menswaardig bestaan.*’¹

The Dutch Government stated in its pledge to the Human Rights Council² that: ‘The Netherlands is firmly committed to the promotion and protection of human rights, both at home and worldwide. For decades, human rights have been a cornerstone of Dutch policy on foreign affairs and development cooperation.’ The Government continues to note that human rights are enshrined in the constitution and The Hague is seen as legal capital of the world.

The undersigning NGOs are increasingly concerned that continued allusions to the role, one may even say ‘leading role’, of the Netherlands in human rights protection worldwide are not put in practice at the national level anymore. Illustrative in this regard is the unwillingness to establish a National Institute for Human Rights. While we recognise the foundations of the assertions can still be found in the overall protection of human rights and national legislation we note a number of disturbing trends, with regard to human rights protection in the Netherlands, the promotion of human rights internationally, and the active involvement in strengthening and setting of human rights standards.

It is important to note that while it is of primordial importance for human rights organisations to monitor human rights compliance and hold the state accountable when violations occur, we

¹ See <http://www.minbuza.nl/binaries/pdf/dossiers/mensenrechten/mensenrechtenstrategie.pdf> (in Dutch).

² See <http://www.minbuza.nl/binaries/en-pdf/nl-human-rights-council-candidacy-pledges-2007.pdf>.

also see it as a primary task for human rights organisations to guard the acquis in terms of human rights protection and promotion, and to keep pressing for better laws, better implementation and better involvement in international institutions. In this report we note a number of (potential) violations of human rights. We also focus considerably on what we believe is a general tendency to attach less importance to human rights, within the Netherlands and outside of the Netherlands.

It is with great disappointment that the undersigning organisations have to conclude that the Netherlands does not in fact fulfil its own core principles. We sincerely hope the findings in this report will lead to an open, honest debate and dialogue.

II LEGAL STATUS OF UN-HUMAN RIGHTS INSTRUMENTS

We express our deep concern about the status of the UN-conventions within the Dutch legal order. The Dutch government has stated at several occasions now that it does not consider all substantive provisions of UN-human rights instrument directly applicable within the Dutch legal order.

In its concluding comments of February 2007³ the Committee on the elimination of discrimination against women (CEDAW) calls upon the Netherlands 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. In its reaction to CEDAW's concluding comments towards the Dutch parliament on 13 July 2007,⁴ the Dutch government only promises to further react on this in its next report for CEDAW (mid 2008).

In its concluding observations of November 2006, the Committee on Economic Social and Cultural Rights (CESCR), notes that most of the Covenant's provisions cannot be applied directly in the Dutch legal order. It therefore recommends "(...) that the State party reassess the extent to which the provisions of the Covenant might be considered to be directly applicable. It urges the State party to ensure that the provisions of the Covenant are given effect by its domestic courts (...) and that it promotes the use of the Covenant as a domestic source of law."⁵

Unfortunately the status of the UN-conventions within the Dutch legal order has been our major concern for many years. The issue is pressing, also in the light of the ratification and implementation of the Convention on the Rights of Persons with Disabilities and its Optional Protocol. So far, the Dutch government has only signed the Convention, not the Optional Protocol. Concrete steps to ratify the Convention have not been announced and it is doubtful if the Convention will be directly applicable. This weakens the status of the UN-conventions in Dutch law considerably and is a significant barrier to the implementation of human rights in the Netherlands and in the foreign policy of the Netherlands.

We are also deeply concerned by the status of concluding observations of the various committees. The Government does not consider the concluding observations of treaty bodies as authoritative. The most recent and illustrative example of this, is the way the concluding

³ Concluding comments CEDAW February 2007, para. 11-12.

⁴ See <http://www.minocw.nl/documenten/25791.pdf> (in Dutch).

⁵ E/C.12/NLD/CO/3, Par. 19.

observations of the CEDAW committee have been addressed by the Government in Parliament. There is no inclination on the part of the Government to consider the concluding observations. The committee itself expressed concern that the Government does not take the concluding observations of the Committee seriously. For example, the CEDAW committee found a violation of CEDAW by the Dutch Government in its financial support of the protestant political party SGP. The support was found to be illegal by a Dutch court; however, the Government appealed this decision disregarding the observations of the CEDAW committee.

We recommend the Human Rights Council to urge the Netherlands to acknowledge that substantive provisions of the UN-conventions are directly applicable within the Dutch legal order and to ensure that all of its provisions are fully applicable in the Dutch legal order.

III ROLE OF THE NETHERLANDS IN SETTING STANDARDS IN INTERNATIONAL HUMAN RIGHTS LAW

The undersigning NGOs are concerned with the growing trend of lack of constructive support of the Government for new standards in the field of human rights. Several examples over the last years have been illustrative of this trend.

1. Role of the Netherlands in the elaboration of the Convention Against Enforced Disappearances

The Netherlands wish for effective implementation of existing norms through strengthening the existing monitoring mechanisms. This is why the Government at first was not in favour of the initiation of negotiations for a legally binding instrument for the protection from enforced disappearances. Even when the gaps in the framework for protection against enforced disappearances were made obvious in the report by the independent expert on the issue (Professor Manfred Nowak) and the decision of the Human Rights Commission was made to engage into the drafting of a text, the Netherlands maintained a rather passive attitude. The Dutch delegation only half-heartedly followed the debates in the inter-session open-ended working group of the Human Rights Commission that started the elaboration of that instrument, and hardly made any constructive contribution to the elaboration of the text. It disappointed associations of families of the disappeared, human rights NGOs and the few pro-active country delegations by favouring the option of an optional protocol to be monitored by an existing body rather than an autonomous convention with a new monitoring body.

Though the Netherlands joined the consensus and co-sponsored the General Assembly resolution adopting the Convention Against Enforced Disappearances in December 2006, it was sadly absent from the first group of 57 countries that signed the new convention in February 2007. The Netherlands still has not done so, while the number of signatories has grown to 71 of which 16 are Member States of the European Union. Steps towards signature and later ratification seem to be dragging on, this despite repeated public promises to sign on a short notice.

We recommend the Human Rights Council to urge the Government to sign the Convention Against Enforced Disappearances and to start the ratification procedure for this convention without further delay.

2. The role of the Netherlands in negotiations for an Optional Protocol to the CESC

In the concluding observations on the third periodic report submitted by the Netherlands to the CESC, the CESC encouraged: “the State party to consider giving its support to the process of discussion and future adoption of the Covenant's Optional Protocol on an individual communications procedure.”

In its internal and foreign policies the Netherlands recognise the universality and indivisibility of all human rights. However, the position of the Netherlands regarding economic, social and cultural rights impedes the effective implementation of these rights and degrades these rights into mere ‘programmatically rights’. This position enhances the differentiation between economic, social and cultural rights on the one side and civil and political rights on the other side, instead of effectively recognising their interdependence and indivisibility.

Involvement in the development of the Optional Protocol, as well as support for the Optional Protocol can only be constructive and effective when the Netherlands recognise the direct applicability of rights under the CESC. Not recognising this will, for the Netherlands, mean that an Optional Protocol is devoid of any meaning, and can not be used to hold the state accountable.

We recommend the Human Rights Council to urge the Government:

- to support the elaboration of an Optional Protocol to the Convention on Economic, Social and Cultural rights;***
- to recognise and confirm the indivisibility between political and civil rights, and economic, social and cultural rights;***
- that it recognises the direct applicability of economic, social and cultural rights in domestic law and domestic court;***
- to support the development of the Optional Protocol actively with the understanding that the rights in the CESC are directly applicable and the state can be held accountable for violations of these rights.***

IV STRUCTURAL DELAYS IN REPORTING

We are extremely disappointed in the persistent delays by the Netherlands in submitting their reports to the various United Nations Treaty Bodies. In general delays in reporting impede gravely on the potential effective monitoring of rights in different international conventions by various treaty bodies.

A flagrant example is the delay of the third periodic report to CESC. The report was due in 2002, but was only submitted in 2006. The results of this delay would have been minimised if the report submitted contained information up to 2006, however this was not the case. The report only contained information up to 2002. This meant, for example, that the consequences of important policy shifts in the fields of health, social security and unemployment, which potentially negatively impact on the economic, social and cultural rights of citizens, were not explained in the report. The CESC, in its concluding observations to the third periodic report, requested: “the State party to submit its combined fourth and fifth periodic reports by

30 June 2007".⁶ We note that up till today the Netherlands have not submitted this combined report.

Additionally currently the Netherlands is too late in reporting to the Convention on the Rights of the Child, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the Convention on the Elimination of All Forms of Racial Discrimination.

Finally, the Netherlands was delayed in submitting its last report to CEDAW and it is unclear if the Netherlands will be succeed in timely submitting its next report to CEDAW, is due for August 2008.

We recommend the Human Rights Council to insist the Government reports without further delay to the committees for:

- the Covenant on Economic, Social and Cultural Rights;***
- the Convention on the Rights of the Child;***
- the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;***
- Convention on the Elimination of All Forms of Racial Discrimination.***

We recommend the Human Rights Council to ask the Government to guarantee that its next report to the CEDAW Committee be submitted no later than August 2008.

We recommend the Human Rights Council to ask the Government to present structural solutions to its persistent delays in reporting to the various committees of UN Treaty Bodies.

V REPORTING ON ALL PARTS OF THE KINGDOM OF THE NETHERLANDS

The Netherlands structurally refuses to take responsibility for the implementation of the UN Human Rights conventions in all parts of the Kingdom of the Netherlands. It does not structurally include information on Aruba and the Netherlands Antilles in its periodic reports. Furthermore representatives from the Netherlands Antilles and Aruba usually do not participate in its constructive dialogue with the UN human rights bodies.

The Netherlands most recent periodic report to CEDAW for example lacked information on the Netherlands Antilles. In its concluding comments of February 2007 CEDAW expressed its concern that no report was submitted on the status of implementation of the Convention in the Netherlands Antilles and that during the constructive dialogue the delegation was unable to provide any information in that regard. CEDAW called upon the Netherlands 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.

⁶ E/C.12/NLD/CO/3, Par. 34.

It further called upon the State party to ensure the participation in the future of representatives from the Netherlands Antilles in its constructive dialogue with the Committee.

In its reaction to the CEDAW's concluding comments towards the Dutch parliament on 13 July 2007, the Dutch government only promised to send a message on this issue to the Netherlands Antilles. To our opinion this is not a sufficient reaction. The Dutch government has the full responsibility for the implementation of and to provide for periodic reports on the CEDAW and other UN Human Rights conventions in all parts of the Kingdom of the Netherlands.

In its conclusions and recommendations of August 2007⁷ the Committee against Torture (CAT) asked the Netherlands to cover all parts of the Kingdom of the Netherlands, in particular the Netherlands Antilles, in its next periodic report.

Finally the Human Rights Committee (HRC) noted in its concluding observations of August 2001⁸ that the delegation was unable to respond to questions raised by HRC members on the human rights situation in the Netherlands Antilles and Aruba.

We recommend the Human Rights Council to remind the Netherlands that it has the full responsibility for the implementation of the UN Human Rights instruments in all parts of the Kingdom. As a result the Netherlands will have to make sure its periodic reports cover all parts of the Kingdom of the Netherlands. The Netherlands must also ensure the participation in the future of representatives from the Netherlands Antilles in its constructive dialogue with the UN human rights bodies.

VI ASSESSMENT OF POLICIES AND LAWS

While the undersigning NGOs are aware of the great potential of mainstreaming of human rights when it is fully implemented, we are concerned that the discourse on mainstreaming has effectively led to less effective consideration of human rights.

We consider mainstreaming of human rights only effective when there are processes that structurally provide for systematic integration of human rights in policies and legislation. We note that while it is said that human rights are always considered, it is unclear how this is done and whether this is consequently monitored and evaluated.

Effective implementation of human rights through policies and legislation can only happen when international human rights are considered touchstone of these policies and legislation. The undersigning NGOs note, with concern, that international human rights law is rarely taken as a touchstone for policies and legislation in the Netherlands.

1. Need for assessment of the effect of policies and legislation on human rights

The undersigning organisations believe that the use of human rights as a touchstone for policies and legislation can be made apparent through systematic assessment of the effect of policies and legislation on human rights. This means that the effect of policies and legislation on human rights need to be considered in the formulation and implementation of policies and

⁷ CAT/C/NET/CO/4.

⁸ CCPR/CO/72/NET.

legislation. An example of doing this would be to structurally add a paragraph on human rights in policy papers and explanations of legislation (“Memorie van Toelichting”). Subsequently human rights must be used as a yardstick in monitoring and evaluation of these policies and legislation. Negative effects can then be more easily corrected. This makes monitoring by the Parliament, NGOs and the Committees of the treaty bodies more efficient and effective.

We recommend the Human Rights Council to urge the Government to use human rights as a yardstick in the formulation, implementation, monitoring and evaluation of the effect of policies and legislation.

We are particularly concerned that the lack of consideration of human rights in policies and legislation particularly affects groups of people within the Netherlands. The human rights of these groups have come increasingly under pressure with the implementation of a number of policies and laws that negatively effect the rights of groups of people. These groups are, for example, women, migrants, migrant women, asylum seekers, children of asylum seekers and minorities.

The CEDAW Committee, for example, urges the Netherlands in its concluding comments with regard to various issues, amongst others its policy towards violence against women, legislation and policy on (im)migration, to (further) assess the gender effects of measures taken (para. 20-22,28, 35-36 concluding comments CEDAW February 2007). In its reaction on CEDAW’s concluding comments towards the Dutch parliament the government has given no reaction on this important point.

The CERD Committee noted explicitly that the Employment of Minorities Act (*Wet Samen*) ceased to be in force on 31 December 2003 and expressed concern about possible negative consequences that may ensue, given that the *Wet Samen* was the only legislative instrument containing regulations on the participation of ethnic minorities in the labour market and requiring employers to register the number of members of ethnic minorities employed by them. CERD explicitly encouraged the Netherlands to be more active in monitoring all tendencies which may give rise to racist and xenophobic behaviour and to combat the negative consequences of such tendencies.

We recommend the Human Rights Council to urge the Government to asses the effect of policies on human rights, particularly concerning particular groups in society such as women, minorities, migrants.

We recommend the Human Rights Council to urge the Government that it follow-up on recommendations from treaty bodies.

2. Quality of the reports to treaty bodies

In the last four years reports submitted by the Netherlands to treaty bodies have been noticeably weak in addressing the results of policies in terms of human rights. Much of this is a consequence of a lack of clear human rights objectives when formulating and implementing these policies.

The state reports submitted to the CEDAW Committee and the CESCR Committee were, for example, a mere enumeration of policies, projects and initiatives. None of these were analysed with regard to their effect on specific human rights as enumerated in the relevant

conventions. The initiatives themselves lacked clear and systematic objectives in terms of human rights. Statistics and other results were therefore not formulated in terms of improvement in human rights terms. This level of analysis was lacking.

In general we find that, because there is no assessment of the effect of policies on human rights, reports miss much of the level of desegregation of data needed in order to establish whether the policies affect, or will affect, disproportionately a particular group of people. The concluding comments to CEDAW, for example, ask for more data about effects and results, disaggregated by sex and ethnicity. Also the Government is requested to provide more information about the position of elderly women and women with disabilities.

We recommend the Human Rights Council to urge the Government that state reports to the various treaty bodies provide information with regard to the effect of policies and legislation on human rights as they are enshrined in various conventions. A state report may not be just an enumeration of policies, legislation and other initiatives.

VII CO-ORDINATION OF GENDER POLICY, GENDER MAINSTREAMING AND IMPLEMENTATION OF THE CEDAW-CONVENTION

We are 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. Also CEDAW expressed its concern with regard to this issue in its concluding comments of February 2007.

For example, the co-ordination of emancipation policies used to be a task of the Department for Coordination of Emancipation Policies (DCE). In 2004 this co-ordination task has been abolished. As a result of this for example the mainstreaming of policies on gender-based violence – coordinated by the Ministry of Justice – has meant that the focus is mainly on criminal measures and not on prevention. Violence against women hardly figures in emancipation documents at other ministries and, when it is, it is limited to women from ethnic minorities.

When a policy is gender-mainstreamed, it is important to collect data, disaggregated by sex (and ethnicity, age, and other relevant factors). Only then it is possible to evaluate and monitor the policy and its effect on gender impact, and to acquire information necessary for launching appropriate measures to combat discrimination.

We recommend the Human Rights Council, in accordance with the concluding comments of the CEDAW 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.

VIII COUNTER-TERRORISM

Recently several laws and measures have been developed within the Netherlands in the fight against terrorism. The undersigning organisations are concerned these laws and measures will restrict several human rights of persons.

1. Expanding criminal law

A law expanding state powers to investigate and prosecute terrorist acts, came into effect in the Netherlands in February 2007. In order to use such investigative powers it is no longer required that the requirement of a reasonable suspicion is met. It now suffices that there are 'indications' (aanwijzingen) that a terrorist attack is being prepared. Also, the law increases the maximum period of pre-trial detention from 90 days to two-years, and allows for the authorities to withhold the suspect access to his file, when there is the chance that it might compromise the preparation of the case or the preparation of cases of co-suspects. This situation can be postponed up until a maximum of two years.

This is to our opinion in breach with the right to liberty and security of person (article 9 Covenant on Civil and Political Rights) and with the right to a fair trial (art. 14 Covenant on Civil and Political Rights)

We therefore recommend the Human Rights Council to urge the Netherlands to withdraw the law expanding state powers to investigate and prosecute terrorist acts.

2. The Bill on Administrative Measures for National Security

The Bill on Administrative Measures for National Security (Wetsvoorstel Bestuurlijke Maatregelen) proposes to expand the possibilities to administrative measures for the aim of preventing activities related to terrorism. In March 2007 the bill passed the Parliament and it is pending before the Senate at time of writing. The bill enables the Minister of the Interior and Kingdom Relations, in accordance with the Minister of Justice, to impose a prohibition on persons to be in the surroundings of certain objects or in certain parts of the Netherlands, to be in the immediacy of certain persons or an obligation to report periodically to the police. These measures can be imposed on persons who "can be connected to terrorist activities or the support of such activities, based on the behaviour of that person".

The bill limits the freedom of movement and foresees in an interference to the right to respect ones private life, but does not contain a further description of the term "terrorist activities or the support of such activities". Therefore, it remains unclear what kind of (terrorist) activities are aimed at and under what conditions a person can be "connected" to these activities. These measures will be imposed in a phase where powers based on criminal law can not (yet) be exercised. Since Dutch criminal law is already highly expanded, the administrative measures will take effect in a very early stage, where there are not even indications (aanwijzingen) that a terrorist act is being planned. Judicial supervision will only be triggered if the person concerned appeals.

This is to our opinion in breach with the right to freedom of movement (art. 12 Covenant on civil and political rights) and the right to respect ones private life (art. 17 Covenant on civil and political rights)

We recommend the Human Rights Council to urge the Netherlands not to adopt the Bill on Administrative Measures for National Security (Wetsvoorstel Bestuurlijke Maatregelen).

3. Disturbance of an individual

The so-called disturbance of an individual (Persoonsgerichte maatregel) aims at preventing terrorism by disturbing a person in his daily life. The measure is carried out by police officers and can consist of making house calls, inviting the person to the police station, approaching acquaintances (family, friends, colleagues), visiting public spaces where that person is present, spreading cards in the neighbourhood saying that reporting to the police can be done anonymously etc. In short, all kinds of explicitly public actions to let that person know he is being watched and scrutinized.

The measure is an interference in the right to respect one's private life. The Government states that the measure is not based on penal law and refers to the Municipality Act and the Police Act as the legal basis for these actions under supervision of the mayor. These Sections determine that the mayor is empowered to maintain public order and divides the powers between mayor and police force. Such an unclear, unspecified and general term as "maintaining *public order*" cannot serve as a legal basis, let alone that this legal basis could meet the standard of foreseeability. It remains completely unclear under what conditions the Mayor can impose the measure and which activities the person involved has to engage in, in order to impose this measure. Moreover, there is no requirement that a judge authorizes the measure and judicial supervision will only be triggered if they are appealed against.

This measure is to our opinion in breach with the right not to be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed (art. 15 Covenant on Civil and Political Rights) and the right to privacy (art 17 Covenant on Civil and Political Rights)

We recommend the Human Rights Council to urge the Netherlands to withdraw the measure 'Disturbance of an individual' (Persoonsgerichte maatregel).

IX ALIENS

1. Right to an adequate standard of living for aliens

In its concluding observations of November 2006, the Committee on Economic Social and Cultural Rights (CESCR) and in its conclusions and recommendations of August 2007 the Committee against Torture (CAT), ask for the attention of the government concerning the right to an adequate standard of living for aliens. Several categories of aliens in the Netherlands are excluded from the right to an adequate standard of living, including food, clothing and housing from facilities. Many of them are forced to live in the streets without money for food or clothing. This also affects families with children. These categories include:

- asylum seekers whose application for asylum has been rejected by court;
- aliens who have a regular (non-asylum) procedure running for a permit to stay in the Netherlands;
- aliens rejected in the short 48 hour procedure as soon as their application for a permit to stay has been rejected for the first time, even when there is not yet a final decision by a court in their case.

We recommend the Human Rights Council to urge the Netherlands to immediately grant facilities to aliens whom are not (yet) expelled from the country.

2. Stereotyping

A large number of Muslims live in the Netherlands and most of them are of non-Dutch origin. Some of the women with Islamic religious convictions wear a headscarf. Some of the men wear beards. These men and women are experiencing more and more problems because of increasing Muslim intolerance. This is happening in all areas of public life: at work, in schools, and also in establishments such as cafés, restaurants and sports schools.

We are also very 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 and the Netherlands Antilles, 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.

We see a great lack of interest at Governmental level of in-depth studies and analysis about the effect of such stereotypes as well as to ensure the implementation of existing laws guaranteeing the principle of non-discrimination, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups CERD Concluding observations 2004.

We recommend the Human Rights Council to urge the Netherlands to pay extra attention to eliminating negative stereotyping in the Netherlands.

X HEALTH

While in several of the chapters above the issue of the right to the highest attainable standard of health has been touched upon, this issue will be addressed more specifically in this chapter. The issue of the right to health in the Netherlands has been a prominent feature of shadow reports submitted by NGOs to various Committees, and it has subsequently been dealt with in many concluding observations.

1. CESC

We express our concern that the right to the highest attainable standard of health care is not guaranteed for all. In particular we note that a great number of people, for whatever reason, do not have health insurance. These people are running serious health risks due to inaccessible or not affordable health care (facilities). Apart from personal risks also public health might be affected.

We recommend the Human Rights Council to urge the Netherlands to strive towards guaranteeing the highest attainable standard of health to all people within its territory. This means the number of people not enjoying this standard must decrease in the future.

2. CERD

We express our deep concern at the discrimination which is encountered by (undocumented) migrants who are withheld medical necessary care (as defined in the alien law including the amendment of Member of Parliament Rouvoet).

We recommend the Human Rights Council to urge the Netherlands to take appropriate action as to reduce the discrimination encountered by undocumented migrants as soon as medical necessary care is of not delivered what so ever, or of an inferior quality or intensity compared to the highest attainable standard in the Netherlands.

3. CAT

We express our concern at the continued expulsion of aliens (former asylum seekers or (ir)regular migrants) who were sentenced to placement under a hospital order (TBS) and who are unable to return to their country of origin because such psychiatric care (as they have been receiving while being detained) is inaccessible to them, or because of other reasons beyond their control. Declaring them as “illegal (unwanted) aliens” is not solving the problem and lifelong imprisonment is an inhumane treatment for someone with o a serious mental disorder.

We recommend the Human Rights Council to urge the Netherlands not to expulse aliens, sentenced to placement under a hospital order (TBS), to States where they can not get the needed psychiatric care.

XI EDUCATION

We express our deep concern that the Government does not take action on the issue of segregation in the field of education . There still is an increase in the number of schools that enrol over 50% racial and ethnic minority pupils, so-called ‘black schools’(CERD General Recommendation 19 [1995]). An important cause for the existence of ‘black’ and ‘white’ schools is the so-called ‘white flight’, caused by the Dutch school system allows all parents to choose any school. Many parents of native Dutch background bring their children outside their neighbourhood to schools with a majority white population, thus increasing the ethnic segregation.

Furthermore we note that the Netherlands ignores for many years that children of ethnic minorities are under-represented at higher education level (CERD Concluding observations 2004 para. 10).

We recommend the Human Rights Council to urge the Netherlands to (further) assess the issue of segregation in the field of education and to take up the task to promote general awareness of diversity and multiculturalism for all persons at all levels of education.