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## U.S. Department of State

### The Netherlands Country Report on Human Rights Practices for 1996

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1997.

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#### THE NETHERLANDS

The Netherlands is a constitutional monarchy with a parliamentary legislative system and an independent judiciary. Executive authority is exercised by the Prime Minister and Cabinet representing the governing political parties (traditionally a coalition of at least two major parties). The bicameral Parliament is elected through free and fair elections.

Regional police forces are primarily responsible for maintaining internal security. The police, the royal constabulary, and investigative organizations concerned with internal and external security are effectively subordinated to civilian authority.

The market-based economy is export oriented and features a mixture of industry, services, and agriculture. Key industries include chemicals, oil refining, natural gas, machinery, and electronics. The agricultural sector produces fruit, vegetables, flowers, meat, and dairy products. Living standards and the level of social benefits are high. At just over 6.3 percent, unemployment is a serious problem, and one

which affects minorities relatively more than the general population.

The Government fully respects the rights of its citizens, and the law and judiciary provide effective means of dealing with instances of individual abuse. The Government is taking serious steps to address violence and discrimination against women. The Government has also taken steps to address societal

discrimination against minorities.

Aruba and the Netherlands Antilles, which are two autonomous regions of the kingdom, also feature parliamentary systems and full constitutional protection of human rights. In practice, government respect for human rights on these islands generally is little different from that in the European Netherlands. The two Caribbean Governments have taken measures to address past reports of police brutality. The islands' prison conditions remain substandard.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1 Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Political and Other Extrajudicial Killing**

There were no reports of political or other extrajudicial killings.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

#### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The Constitution prohibits such practices, and there were no reports that officials employed them.

A Dutch government-funded police professionalization program, as well as the establishment of a grievance committee, have contributed significantly to countering incidents of police brutality in both the Netherlands Antilles and Aruba. New incidents have not been reported, nor has there been any allegation of torture.

Prison conditions in the Netherlands meet minimum international standards, and the Government permits visits by human rights monitors.

Publication of two reports of the Committee for the Prevention of Torture of the Council of Europe encouraged the Governments of the Netherlands, the Netherlands Antilles, and Aruba to improve the "inhuman" conditions in Curacao's prison and in cell blocks at the police stations on the islands of St. Maarten, Bonaire, and Aruba. Complaints ranged from overcrowding and deplorable sanitary conditions to poor food and insufficient ventilation. The Dutch Government has offered substantial financial and logistic assistance. The authorities plan to ease overcrowding at Curacao's prison by the construction of a maximum security facility and a new wing for young delinquents, as well as through bilateral agreements with neighboring countries on the transfer of sentenced persons, since most prisoners are from these countries. The Governments of the Netherlands Antilles and Aruba allow access by nongovernmental organizations to prisons.

#### **d. Arbitrary Arrest, Detention, or Exile**

The law prohibits arbitrary arrest, detention, or exile, and the Government observes this prohibition.

#### **e. Denial of Fair Public Trial**

The Constitution provides for an independent judiciary, and the Government respects this provision in

practice. The judiciary provides citizens with a fair and efficient judicial process. The law provides for the right to a fair trial, and the independent judiciary vigorously enforces this right.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

**Section 2 Respect for Civil Liberties, Including:**

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

b. Freedom of Peaceful Assembly and Association

The law provides for these rights, and the Government respects them in practice.

c. Freedom of Religion

The law provides for freedom of religion, and the Government respects this right in practice. State subsidies are provided to religious organizations that maintain educational facilities.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government respects them in practice.

The Government cooperates with the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. There were no reports of forced expulsion of those having a valid claim to refugee status. The Government does not provide first asylum as such, but most asylum seekers (87 percent in 1996), except those who obviously came from a "safe country of origin" or stayed for some time in a "safe third country," are permitted to apply for status. A sizable number (about 40 percent in 1996) of those whose applications are eventually denied are nonetheless permitted to stay temporarily on humanitarian grounds or as long as their country of origin is considered unsafe.

In 1996 Parliament passed a bill that aims to protect genuine refugees while shutting out economic refugees and illegal immigrants. The new bill will come into effect in early 1997. Since tighter criteria for granting asylum were introduced in January 1995, the number of new asylum applicants has decreased from 52,576 in 1994 to 29,258 in 1995 and to a projected 21,000 for all of 1996. The Government has adopted a remigration program for rejected asylum seekers from selected countries, including Somalia, Sri Lanka, and the former Yugoslavia, which aims to stimulate their voluntary repatriation through financial incentives.

The Government pursues an active policy against alien smuggling, the penalties for which were raised considerably.

### **Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government**

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

There are no restrictions in law or in practice on the participation of women and minorities in government and politics. The second chamber of Parliament includes 49 women among its 150 members. Four of 13 cabinet ministers and 80 of 633 mayors are women.

Although in the minority, women also hold positions in the parliaments and cabinets of the Netherlands Antilles and Aruba.

### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

Human rights groups operate without government restriction, investigating and publishing their findings. Government officials are very cooperative and responsive to their views.

### **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The law bans discrimination on the basis of any of these factors or on sexual orientation or political preference. The Government generally is effective in enforcing these provisions. Under a new Equal Treatment Act, complainants may take offenders to court under civil law.

#### **Women**

The Government supports programs to reduce and prevent violence against women. Battered women find refuge in a network of 48 government-subsidized women's shelters offering the services of social workers and psychologists. In addition, battered women who leave their domestic partners become eligible for social benefits which include an adequate basic subsidy as well as an allowance for dependent children. Nongovernmental organizations also advise and assist women who have been victims of sexual assault. Since 1991 marital rape has been a crime and carries the same penalty as rape. Spousal abuse carries a one-third higher penalty than ordinary battery. However, since the judicial system does not compile statistics distinguishing spousal abuse from battery, it is difficult to estimate the extent of the problem. The most recent study, by the Ministry of Welfare, Health, and Culture in 1989, showed that over 20 percent of women in heterosexual relationships were victims of violence during their lifetimes. Slightly over half of these suffered repeated severe violence.

High-priority government measures to combat trafficking in women for prostitution include a more aggressive prosecution policy as well as closer international cooperation. A number of police forces have established special units to deal with the issue. The Dutch Foundation Against Trafficking in Women estimates that each year around 1,000 women are brought into the Netherlands for the purpose of prostitution, not only from Central and Eastern Europe, but also from the Far East and West Africa. Women who are forced to work illegally as prostitutes and who are apprehended have special exemptions in immigration law and receive counseling and legal assistance.

Women are increasingly entering the job market, but traditional cultural factors and inadequate child care facilities can discourage women--especially those with young children--from working. Although more than 40 percent of the Dutch work force is female, many women work only part time. Only 52

percent of women ages 15-64 have jobs, and only 42 percent of those work more than 35 hours a week. By contrast, 75 percent of men in this age group are employed, 88 percent of whom work 35 or more hours a week.

According to the Dutch Education Ministry, women have fully made up the arrears they had experienced in education. At present, girls form the majority in higher secondary education where they also score better, and in 1996, for the first time, as many women as men entered college and university.

Women are often underemployed and have less chance of promotion than their male colleagues. The unemployment rate of women reentering the labor market is high. A 1993 study of central government civil servants showed that, while 58 percent of those in the lowest salary grade were women, only 9 percent in the highest grade were women. These problems notwithstanding, women are making steady progress by moving into important professional and high-visibility jobs.

In 1988 the Government began instituting affirmative action programs for women. Collective labor agreements usually include one or more schemes to strengthen the position of women. Legislation mandates equal pay for equal work, prohibits dismissal because of marriage, pregnancy, or motherhood, and provides the basis for equality in other employment-related areas. A legislatively mandated Equal Treatment Commission actively pursues complaints of discrimination in these areas as well as allegations of pay differences.

The Dutch social welfare and national health systems provide considerable assistance to working women with families. Women are eligible for 16 weeks of maternity leave at full pay. The Parental Leave Law allows new mothers and fathers to work only 20 hours a week over a 6-month period. The Netherlands Antilles and Aruba allow 60 days of paid maternity leave at up to 80 percent of full salary.

Women have full legal and judicial rights and enter marriage with the option of choosing community property or separate regimes for their assets.

Women's groups dedicated to such issues as equal rights in social security, the legal position of women, sexual abuse, taxation, education, work, and prostitution operate freely. The law requires employers to take measures to protect workers against sexual harassment; research showed that one in three working women has experienced sexual harassment in the workplace. The Government runs an ongoing publicity campaign to increase awareness of the problem. As the biggest employer in the country, it has taken measures to counter harassment among civil servants, for example, in the police force.

## Children

The Government works to ensure the well-being of children through numerous well-funded health, education, and public information programs. The Council for the Protection of Children, operated through the Ministry of Justice, enforces child support orders, investigates cases of child abuse, and recommends remedies ranging from counseling to withdrawal of parental rights. In addition, the Government has set up a popular hot line for children and a network of pediatricians who track suspected cases of child abuse on a confidential basis. There is no societal pattern of abuse of children.

International sex tourism involving abuse of minor children is prosecutable under Dutch law. For the first time ever, a Dutchman was tried in the Netherlands in 1996 for abuse of minors in the Philippines. On October he was convicted and sentenced to 5 years' imprisonment for sexual abuse of minors, some as young as age 11. The maximum penalty for child pornography was raised from 3 months' to 4 years' imprisonment, 6 years in the event of financial gain, and the maximum fine was more than tripled. New

legislation allows for provisional arrest, house searches, and criminal financial investigations. Moreover, the authorities will no longer have to prove that a person possesses child pornography for the purpose of distribution or public display. The possession of pictures of sexual behavior with minors alone will be sufficient cause

for prosecution. The Government is considering raising the age limit under which sex with minors is automatically a criminal offense from 12 to 14 years. At present, the age of consent is 16. Prosecution of adults for sex with minors between the ages of 12 to 16 only occurs upon the filing of a complaint by an interested party.

### People with Disabilities

There is no discrimination against disabled persons in employment, education, or in the provision of other state services. Local governments are increasingly mandating access to public buildings for the disabled.

### National/Racial/Ethnic Minorities

Integration of racial and ethnic minorities into the social and cultural mainstream remains a difficult problem.

The Government pursues an active campaign aimed at increasing public awareness of racism and discrimination. The Constitution prohibits discrimination on the basis of race and nationality and allows those who claim that they have been discriminated against to take offenders to court under civil law. The rising trend in recent years in incidents of violence against ethnic minorities has been reversed. The Criminal Investigation Service reported in 1996 a significant decrease in racist incidents, particularly in those of a life-threatening nature. The decline in incidents was attributed to waning interest in racist extremism in politics and to a decrease in rightwing activists to a hardcore group of 50 to 60 in a total population of over 15 million.

Immigrant groups face some discrimination in housing and employment. These groups, concentrated in the larger cities, suffer from a high rate of unemployment. The

Government has been working for several years with employers' groups and unions to reduce minority unemployment levels to the national average. As a result of these efforts, in recent years the rate of job creation among ethnic minorities has been higher than among the general population.

A 1994 law requiring employers with a work force of over 35 people to register their non-Dutch employees has run into implementation problems. Some employers find the law burdensome, and some minority employees object to being counted as "non-Dutch." Employers must submit confidential affirmative action plans, including recruitment targets and proposed means of reaching that target.

## Section 6 Worker Rights

### a. The Right of Association

Membership in labor unions is open to all workers including military, police, and civil service employees. People are entitled to form or join unions of their own choosing without previous government authorization, and unions are free to affiliate with national trade union federations. This right is freely exercised.

Unions are entirely free of control by the Government and political parties. Union members may and do participate in political activities.

All workers have the right to strike, except for most civil servants who have other institutionalized means of protection and redress. The right to strike is exercised freely, but the number of strikes each year is very low: on average about 17 labor days per 1,000 workers are lost each year. There is no retribution against striking workers.

About 25 percent of the work force is unionized, but union-negotiated collective bargaining agreements are usually extended to cover about three-quarters of the work force. The white-collar unions' membership is the fastest growing.

The four union federations are active internationally, without restriction.

#### b. The Right to Organize and Bargain Collectively

The right to organize and bargain collectively is recognized and well established. Discrimination against workers because of union membership is illegal and does not occur.

Collective bargaining agreements are negotiated in the framework of the "Social Partnership" developed between trade unions and private employers. Representatives of the main union federations, employers' organizations, and the Government meet each autumn to discuss labor issues, including wage levels and their relation to the state of the economy and to international competition. The discussions lead to a central accord with social as well as economic goals for the coming year. Under this umbrella agreement, unions and employers in various sectors negotiate sectoral agreements, which the Government usually extends to all companies in the respective sector.

Antiunion discrimination is prohibited. Union federations and employers' organizations are represented, along with independent experts, on the Social and Economic Council. The Council is the major advisory board to the Government on its policies and legislation regarding national and international social and economic matters.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

Forced or compulsory labor is prohibited by the Constitution and does not occur.

#### d. Minimum Age for Employment of Children

The minimum age for employment is 16 years, and for full-time work it is conditioned on completion of the mandatory 10 years of schooling. Those still in school at the age of 16 may not work more than 8 hours per week. People under the age of 18 are prohibited by law from working at night, overtime, or in areas dangerous to their physical or mental well-being. The laws are effectively enforced by the tripartite Labor Commission, which monitors hiring practices and conducts inspections.

#### e. Acceptable Conditions of Work

The minimum wage for adults is established by law and can be adjusted every 6 months to changes in the cost-of-living index. Since 1982 few adjustments have been made, and the rise in the minimum wage

has lagged well behind the rise in the index. The gross minimum wage is \$1,350 (f. 2,204) per month. For workers earning the minimum wage, employers currently pay \$3,750 a year (f. 6,000) in premiums for social security benefits, which includes medical insurance. Only 3 percent of workers earn the minimum wage because collective bargaining agreements, which are normally extended across a sector, usually fix a minimum wage well above the legislated minimum. The Government, unions, and employers have taken measures to increase the number of minimum wage jobs and to decrease employers' social payments in order to lower the cost of hiring new workers and to create more jobs, especially for the long-term unemployed.

There is a reduced minimum wage for young people under the age of 23--one of the demographic groups with the highest rate of unemployment--intended to provide incentives for their employment. This wage ranges from 34.5 percent of the adult minimum wage for workers 16 years of age to 85 percent for those 22 years of age. The legislated minimum wage and social benefits available to all minimum wage earners provide an adequate standard of living for workers and their families.

A 40-hour workweek is established by law, but collective bargaining agreements often set a shorter workweek. The rapid increase of telecommuting and high level of part-time work have lowered the estimated actual workweek to 35.8 hours. As a job creating measure, the Government now permits flexible hours. For some, this could mean more than an 8-hour day, within the weekly legal limits. However, collective bargaining negotiations are heading toward an eventual 36-hour week for full-time employees.

Working conditions, including comprehensive occupational safety and health standards set by law and regulations, are actively monitored by the tripartite Labor Commission. Enforcement is effective. Workers may refuse to continue working at a hazardous work site. The Ministry of Labor and Social Affairs also monitors standards through its labor inspectorate.

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