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## U.S. Department of State

### The Netherlands Country Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

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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 under 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. Unemployment is 5.7 percent; however, long-term unemployment, in particular among ethnic minorities, is still a problem.

The Government generally respects the rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of 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 in 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, but 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. No new incidents were 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.

The 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 consider the improvement of the "inhuman" conditions in Curacao's prison and in cell blocks at the police stations in the islands of St. Maarten, Bonaire, and Aruba. Complaints ranged from overcrowding and deplorable sanitary conditions to poor food and insufficient ventilation. On Curacao prisoners violently protested poor prison conditions, taking control of Koraal Specht prison in August. A local commission inquiry into prison conditions after the riots reported 32 claims of mistreatment by prison guards through October, the majority occurring after the prison takeover, and termed the overall situation in Koraal Specht "completely unacceptable."

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 offenders, as well as through bilateral agreements with neighboring countries on the transfer of sentenced persons, since most prisoners are from these countries. However, little progress was made towards the realization of these plans.

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 judicial system is based on the Napoleonic Code. A national pyramidal system of cantonal, district, and appellate courts handles both criminal and civil cases. The Supreme Court acts as the highest appellate court and guarantees uniform interpretation of the law. In criminal trials, the law provides for a presumption of innocence and the right to public trial, to counsel (virtually free for low income persons), and to appeal. The law provides for the right to a fair trial, and the independent judiciary vigorously enforces this right.

In April the European Court for Human Rights in Strasbourg ruled that the Netherlands violated Article 6 of the European human rights convention in a court ruling in which a conviction was based "to a decisive extent" on anonymous testimony. Accordingly, it ruled that there had been no "fair" trial. In response to this decision, the Government is reviewing its policy on the issue in order to avoid renewed violations.

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 resident 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 recent years, new legislation has aimed to protect genuine refugees while excluding economic refugees and illegal immigrants. More stringent criteria for granting asylum resulted in a significant decrease in the number of new asylum seekers, from 52,576 in 1994 to 29,258 in 1995, and 22,857 in 1996 (latest available statistics). The focus has recently shifted to advancing the return of rejected asylum seekers through financial incentives and assistance to reintegration projects in their countries of origin. To this end, the Government concluded bilateral agreements with countries such as Ethiopia and Somalia.

The Government has 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. About one-third of Members of Parliament are women, as are 4 of the 13 cabinet ministers.

Although a 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 nonmarital 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 document 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.

In addition to helping victims of sexual abuse, the Government has pursued an active prevention campaign through commercials and awareness training of educators. A recent evaluation of the results of the first 5 years of this campaign demonstrated greater awareness of the problem, particularly among the target group of men between the ages of 15 and 35, but little change in their attitudes.

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 problem. 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. The number of women in the labor market is rising steadily. In 1983 only some 38 percent of women aged between 15 and 64 held paid jobs, compared with almost 50 percent at present. However, unemployment among women is still high: 7.1 percent of the working-age population, compared with 4.8 percent of male workers. About 67 percent of working women work part time, compared with 17 percent of the male working population. The Government established favorable conditions for part-time employment by adopting a law that prohibits employers from treating part-time workers differently from those in full-time jobs.

According to the 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. They often hold lower level positions than men, mostly because of their part-time jobs. Despite this, some women are making steady progress by moving into professional and high-visibility jobs.

In 1988 the Government started 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 social welfare and national health systems provide considerable assistance to working women with families. Women are eligible for 16 weeks of maternity leave with full pay. The Parental Leave Law, which allows new mothers and fathers to work only 20 hours a week over a 6-month period, was made more flexible in July. The new law allows parents to take (unpaid) full-time leave during 3 months or to extend the leave over a period longer than 6 months. People working fewer than 20 hours per week will

also be entitled to parental leave. In addition, the child's age limit at which parental leave may be taken has been extended from 4 to 8 years. 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 problems 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 funds 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 the law. Since 1996 three Dutchmen have been tried and convicted for abuse of minors in the Philippines and Thailand respectively. 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 no longer must prove that a person possesses child pornography for the purpose of distribution or public display. The possession of pictures of sexual behavior with minors itself will be sufficient cause for prosecution. The age of consent is 16. Prosecution of adults for sex with minors between the ages of 12 and 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

The 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. In 1997 the prosecution norms for discrimination were tightened: Penalties were raised for discrimination by political parties, companies, and institutions, because it was considered more dangerous when this is

done by such organizations than by individuals. The police were required to report any complaint of discrimination meticulously. Any policeman guilty of discrimination now risks disciplinary measures as well as criminal legal proceedings. The latest statistics show that in 1996, 86 persons or organizations were brought to trial on discrimination charges. In 8 cases, the charge was incitement to hatred, discrimination or violence; 11 cases concerned distribution of racist pamphlets; and 3 cases concerned discrimination in the exercise of a profession.

Over a thousand racially motivated incidents occurred, ranging from racist pamphlets and painted slogans to bomb threats, harassment, physical abuse, and destruction of property. However, no officially recorded incidents of a life-threatening nature were directed against ethnic minorities. Research by the Ministry of Justice established that most of the antiforeigner violence is committed by thrill-seeking youths for nonpolitical reasons. Such youths often feel threatened by ethnic minorities in their immediate living space. The Criminal Investigation Service believes that the number of rightwing activists has dwindled to a hardcore group of 50 to 60 individuals out of a total population of 15.5 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.

The 1994 law requiring employers with a workforce of over 35 people to register their non-Dutch employees has been simplified, in consultation with employers and workers organizations. Employers must strive for a workforce composition that reflects the regional working population. They are required to submit their social action plans, including recruitment targets, to the regional labor bureaus. The Labor Inspectorate controls implementation of the law.

## **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. Workers 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. Industrial relations are very harmonious, and the number of strikes each year is very low. In 1996 some 10 labor days per 1,000 workers were lost, mostly over disputes about a 36-hour workweek. 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, including that performed by children, is prohibited by the Constitution and does not occur.

## d. Status of Child Labor Practices and Minimum Age for Employment

The law prohibits forced and bonded labor by children, and this prohibition is enforced effectively. 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.

The Government takes a leading role in an international campaign against child labor in developing countries. The main Dutch labor federation, together with the United Nations Children's Fund and several nongovernmental organizations, also started a campaign against the sale of products suspected of being made through child labor, and for a "trademark" for clothing made without child labor.

## 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. Over the last few years, the link between statutory minimum wages and the average wage increase in collective labor contracts (approximately 2.5 percent in 1997) has been maintained. The gross minimum wage is about \$1,120 (f. 2,244) 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 set 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.

A reduced minimum wage applies to 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.

Although a 40-hour workweek is established by law, the average workweek for full time jobs now stands at 37.5 hours. This is the result of agreements reached in collective labor agreements on shorter working weeks, often in combination with more flexible working hours. This combination makes it possible to gear shorter working hours to the specific situation in a particular business or branch of industry.

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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