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## U.S. Department of State

### The Netherlands Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

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#### THE NETHERLANDS

The Netherlands is a constitutional monarchy with a parliamentary legislative system. 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. The judiciary is independent.

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 4 percent; however, long-term unemployment, in particular among ethnic minorities, was 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.

Following a visit to the Netherlands, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a report in August which noted that it did not find any torture and few incidents in which officials did not treat arrested or detained persons correctly. The CPT made a positive assessment of the facilities at most police stations and at detention, secure psychiatric, and asylum centers. However, it recommended that detainees be allowed better access to medical and recreational facilities.

A 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 have there been any allegations of torture.

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

In other reports, the CPT has urged the Governments of the Netherlands, the Netherlands Antilles, and Aruba to improve the "inhuman" conditions in Curacao's Koraal Specht prison and in cell blocks at the police stations on the islands of St. Maarten, Bonaire, and Aruba. The CPT's criticism focused on overcrowding, extremely poor sanitary conditions, poor food, and insufficient ventilation. The Committee also criticized widespread corruption and the mistreatment of prisoners by guards at Koraal Specht. The CPT's most recent report criticized the absence of any major improvement in conditions at the Koraal Specht prison.

The Dutch Government repeatedly offered financial assistance to the government of the Netherlands Antilles for the construction of a new juvenile wing, a maximum security facility, and other improvements at Koraal Specht. The Government also sent experts on prison organization and training of guards. While acknowledging that more work needs to be done, Koraal Specht prison officials point to recent progress in improving conditions (all prisoners now have mattresses, hygiene and food have

improved, and construction has begun on a small new wing to relieve overcrowding). They add that the CPT was invited to visit again to witness the improvement.

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 pyramidal system of cantonal, district, and appellate courts handles both criminal and civil cases. The Supreme Court acts as the highest appellate court and ensures the 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.

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 office of 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 (89 percent in 1997), 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. Some of those (about 15 percent in 1997) whose applications eventually are denied nonetheless are 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. However, the number rose again to 34,400 in 1997 and to over 40,000 in 1998 due in large part to even stricter laws in other European countries. The focus has recently shifted to advancing the return of rejected asylum seekers through financial incentives, job training programs, and assistance with 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 maximum sentence for trafficking in aliens is 6 years. In cases involving minors, severe physical violence, or organized trafficking, the maximum sentence is 10 years.

### **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. A total of 54 of the 150 members of the second chamber of Parliament are women, as are 4 of the 15 cabinet ministers. The Government pursues an active policy to promote the participation of women in politics and public administration.

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**

A recent study reported that about 211,000 women are victims of violence by their former and present

partners each year; about 50,000 of these are subjected to severe violence. In addition to the personal suffering, this form of violence against women cost society about \$175 million (f. 332 million) per year in hospitalization and absence from work.

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 are 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.

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.

Prostitution is legal, and an estimated 30,000 women work as prostitutes. Some 3,000 of these are believed to work under compulsion or in degrading circumstances. High-priority government measures to combat trafficking in women for prostitution include a more aggressive prosecution policy as well as more effective international cooperation. Several police forces have established special units to deal with the problem. A number of arrests were made in October of suspected traffickers who smuggled young girls into the country.

The Dutch Foundation Against Trafficking in Women estimates that each year between 1,500 and 2,000 women and girls 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 victims of trafficking who are forced to work as prostitutes and who are apprehended are offered temporary residence permits by the Government so that they can avail themselves of social, medical, legal, and financial 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 38 percent of women between the ages of 15 and 64 held paid jobs, compared with almost 50 percent at present. Unemployment among women dropped considerably, from 6.8 percent in July 1997 to 4.6 percent in July 1998. Male unemployment was 3.5 percent. 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 made up fully 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 often are 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. According to the Ministry of Social Affairs and Employment, the difference in earnings between men and women remains at 24 percent. 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 that requires employers to allow new mothers and fathers to work 20 hours a week for up to 6 months was made more flexible in 1997. The new law allows parents to take (unpaid) full-time leave during 3 months and 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.

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 largest employer, 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 the abuse of minor children is prosecutable. Since 1996 several Dutch citizens have been tried and convicted for the abuse of minors in other countries. The age of consent is 16. The prosecution of adults for sex with minors between the ages of 12 and 16 only occurs when a complaint is filed by an interested party.

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 Supreme Court has ruled that the mere possession of child pornography is sufficient cause for prosecution. For the first time, in September a Dutch citizen was convicted and sentenced solely on this ground. The discovery of a major child pornography case in July resulted in stricter enforcement of antichild abuse legislation and the allocation of additional resources to enforcement efforts. It also underscored the absence of appropriate legislation to fight the dissemination of child pornography over the Internet. The Government believes that international cooperation is required to deal effectively with the latter problem.

## **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 alleged 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. According to the latest statistics, in 1997, 112 persons or organizations were brought to trial on discrimination charges. These included 37 labor disputes, 20 cases of defamation, and 11 consumer disputes.

Racially motivated incidents ranged 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. As last year, local antidiscrimination bureaus reported over a thousand complaints during 1998. The Discrimination on the Internet Registration Center recorded 155 complaints in 1997 about discriminatory statements, racial discrimination, or anti-Semitism on the Internet. Most statements were removed voluntarily by the authors at the Center's request. In nine cases, the Center requested that a prosecutor initiate criminal proceedings.

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 was higher than among the general population. Despite this, unemployment among ethnic minorities is still about three times as high as within the native population.

On January 1, the Act on the Stimulation of Labor Participation by Ethnic Minorities (SAMEN) became effective. The law, which replaces a similar 1994 act, is intended to increase job opportunities for ethnic minorities. It requires employers with a work force of over 35 people to register their non-Dutch employees. Employers are to strive for a composition of their workforce that reflects the regional working population. They are required to submit their annual social action plans, including recruitment targets, to the regional labor bureaus. The Labor Inspectorate oversees 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 prior 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 strikes are infrequent. In 1997 some 15 labor days per 1,000 workers were lost, mostly over union demands for a 36-hour workweek. There is no retribution against striking workers.

About 28 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 for the government on 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 (see Section 6.c.). 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.

In March the Minister of Social Affairs and Employment announced measures to tighten the ban on working during school vacations by children under 13 years of age. Although child labor is banned, an increasing number of children work for pay during holidays. The parents of such children are to be reported officially by Labor Inspectors, and the Public Prosecutor may decide to prosecute the parents for violating the ban on child labor. In 1997 some 20 employers were cited for employing children under age 13 to do holiday work.

#### 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 statutory minimum wage has been pegged to the average wage in collective labor contracts. The gross minimum wage is about \$1,138 (f. 2,276) 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 the law establishes a 40-hour workweek, the average workweek for those with full-time jobs is 37.5 hours. This workweek is the result of agreements reached in collective bargaining on shorter workweeks, often in conjunction with more flexible working hours. This combination makes it possible to adapt shorter working hours to the specific situation in a particular business or branch of industry. Collective bargaining negotiations generally were heading toward a 36-hour week for full-time employees.

Working conditions, including comprehensive occupational safety and health standards set by law and regulations, are monitored actively 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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