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2009 Human Rights Report: Netherlands

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

March 11, 2010

The Kingdom of the Netherlands includes the Netherlands (population approximately 16.5 million), the Netherlands Antilles (230,000), and Aruba (103,000). The Netherlands (the term used to designate the European part of the Kingdom) is a constitutional monarchy with a bicameral parliamentary legislative system. The country's 12 provincial councils elect a First Chamber; citizens directly elect a Second Chamber. The most recent general elections, held in 2006, were considered free and fair. A prime minister and a cabinet representing the governing political parties (traditionally a coalition of at least two major parties) exercise executive authority. Civilian authorities generally maintained effective control over the security forces.

The Netherlands Antilles and Aruba are largely autonomous, except for foreign policy and defense, which are "Kingdom matters." They have unicameral parliamentary systems. The Netherlands Antilles held free and fair parliamentary elections in 2006, and Aruba did so on September 25, 2009. The Kingdom (the term commonly used to designate the governance of all of the territories) is required, according to its charter, to safeguard fundamental human rights and freedoms, good governance, legal certainty, and the soundness of administration in all of the territories.

In the Netherlands, conflict between the values of free speech and the protection of religious and ethnic minorities was a continuing subject of debate; there were reports of societal discrimination and violence against some religious and ethnic minorities, of violence against women and children, and of trafficking in persons for sexual exploitation.

In Aruba and the Netherlands Antilles, prison conditions remained substandard in some respects and lengthy pretrial detention was a problem, although authorities took a number of measures to reduce it. Trafficking was a problem in the Netherlands Antilles.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices, and in the Netherlands, there were no reports that government officials employed them.

In the Netherlands Antilles, the St. Maarten court on September 9 ordered the immediate release of a prisoner, D.S. Armstrong, whom authorities in 2007 forced to serve seven months of a 10-year sentence sleeping on the concrete floors of unhygienic and overcrowded jail cells in Philipsburg before transferring him to Pointe Blanche Prison. Authorities appealed the verdict.

Prison and Detention Center Conditions

In the Netherlands, prison and detention conditions generally met international standards, and the government permitted visits by independent human rights observers.

In the Netherlands, almost 12,000 persons were held in detention as of September 2008, approximately 7 percent of them women. The total included 5,450 persons in provisional detention awaiting judicial disposition, 4,400 serving prison sentences, approximately 500 in detention for not paying a fine, and approximately 500 in detention for failing to meet their community service obligations. During 2008 an average of 490 juveniles were housed in separate institutions, of whom fewer than 100 were serving sentences; 320 were in provisional detention awaiting judicial disposition.

In the Netherlands Antilles, authorities have not increased prison capacity sufficiently to allow separate facilities for juvenile offenders, and judges may sentence juveniles under the age of 16 who have committed serious offenses to prisons where they serve time together with adults. A pilot project, begun in 2007, that replaced prison with house arrest for selected inmates continued.

At Bon Futuro Prison on Curacao, there were several escapes, and several altercations resulting in injured inmates. Prison guards went on strike in March and September in Curacao over labor conditions.

In 2008 researchers from the government of the Netherlands investigated detention facilities in Curacao and St. Maarten and found them to be unacceptable. The government of the Netherlands made eight million euros (\$11.4 million) available to the Netherlands Antilles for improving prison and detention facilities, based on recommendations by the Council of Europe's Committee for the Prevention of Torture (CPT). Authorities completed the renovation of the Bonaire detention center during the year in accordance with CPT standards. During the year the Netherlands government deployed prison guards and management staff from the Netherlands to the Bon Futuro Prison in Curacao, based upon recommendations following a visit by the Crisis Investigation Team at the request of the Ministry of Home Affairs and Kingdom Relations.

Work began on a construction and renovation project for separate holding facilities for undocumented foreign nationals in Curacao and St. Maarten.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the regional police forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment while in Detention

Police officers, acting under the authority of the public prosecutor, conduct criminal investigations. A prosecutor or senior police officer must order any arrests. Authorities must promptly inform detainees of the charges against them. Police may question suspects for a maximum of 12 hours (six hours in Aruba and Netherlands Antilles) and detain them for up to three days (two days in Aruba and Netherlands Antilles), with the possibility of an additional three days' extension in cases of "urgent necessity," by order of the public prosecutor without the permission of a magistrate. However, by the fourth day (the third day in Aruba and Netherlands Antilles), the prosecutor must bring detainees before an examining magistrate for questioning and a decision whether to extend detention for another 14 days, and the court subsequently reviews the validity of continued detention every 90 days. Extension depends on progress in the preliminary investigation.

In the Netherlands, in terrorist-related cases, the examining magistrate may order detention for the first 14 days on the lesser charge of "reasonable suspicion" rather than "serious suspicion" required for other crimes.

By law defendants have the right to have access to an attorney during questioning; however, after a 2007 visit, the CPT expressed concern that authorities in the Netherlands did not always permit attorneys to be present during the initial period of detention, which may last up to 12 hours. Accordingly, pilot projects initiated in several towns in 2008 allow suspects to consult an attorney prior to questioning by the police and to inform suspects of their right to an attorney.

In Aruba authorities indicated that if a detainee requested a lawyer, no interrogation would take place without one unless the severity of the case dictated otherwise. A legal aid system existed to provide indigent detainees with legal aid, but such lawyers did not always appear before questioning began. In the Netherlands Antilles, beginning in mid-November, authorities reportedly instituted procedures requiring that police inform defendants of their right to have a family member or other person informed of their arrest and that police document this procedure.

There is no provision for bail, but in the Netherlands authorities avoided lengthy detention before trial unless there were compelling reasons to keep a person in custody.

In Aruba and the Netherlands Antilles, the Convention Against Torture in 2007 criticized the excessive length of pretrial detention and the high number of detainees not convicted of a crime. The governments of the two territories have sought to correct this problem by reducing the number of crimes requiring pretrial detention and implementing other policies aimed at reducing the case backlog, particularly more expeditious processing of cases involving illegal drugs.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public. Juries are not used. The law requires that authorities fully inform defendants about the proceedings at every stage. In criminal trials the law provides for prompt access to counsel (inexpensively, for persons with low incomes), the presumption of innocence, and the right to appeal. In most instances, defendants and their attorneys have access to government-held evidence relevant to their cases; however, in certain cases involving national security, special procedures permit an examining judge to assess the reliability of official intelligence reports without exposing the identities

of intelligence officers or releasing confidential intelligence information to the public or the defendant. The defense has the right to submit written questions to these witnesses through the examining judge.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. Individuals may bring lawsuits for damages related to a possible human rights violation before the regular court system or specific appeal boards, and once individuals exhaust national remedies, they may appeal to the European Court for Human Rights (ECHR).

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

The law prohibits such actions, and the government generally respected this prohibition in practice.

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 generally respected these freedoms in practice.

Individuals could criticize the government publicly or privately without reprisals.

It is a crime to engage in public speech that incites hatred, discrimination, or violence against persons because of their race, religion, convictions, gender, sexual orientation, or disability. During the year the government successfully prosecuted several cases, notably cases in which judges considered the language in question to be "unnecessarily offensive." The government urged prosecutors and police to give proper attention to incidents of "discrimination," which in the country's jurisprudence includes racially offensive speech. Convictions for these offenses were rare because courts were reluctant to restrict freedom of expression, especially when it took place within the context of a public debate.

However, on January 21, the Amsterdam Court of Appeals ordered the Amsterdam Prosecutor's Office to prosecute politician and Islam critic Geert Wilders for incitement. The prosecutor earlier declined to indict despite dozens of complaints filed by several organizations and private persons about his anti-Islamic statements in the press and his "Fitna" movie, which many considered offensive to Muslims. The appeals court found that his anti-Islamic statements yielded "a reasonable suspicion of guilt," thus requiring review by a criminal judge. The court recognized the paramount importance of the right to freedom of opinion, but noted that this right was not unlimited. It also stated that such a prosecution would serve the general interest in drawing a clear boundary as to what was permissible in public debate.

On August 18, the Amsterdam Prosecutor's Office dismissed complaints over the dissemination of a series of controversial cartoons, including those of a Danish artist depicting the Prophet Mohammed, determining that they were not offensive to Muslims as a group, nor that they incited hatred, discrimination, or violence against Muslims. The prosecutor's office found one cartoon, which the Arabic European League (AEL) had put on its Web site in reaction to the Danish cartoons, punishable because it offended Jews as a group on grounds of their race or religion. The cartoon expressed the idea that Jews deliberately invented or exaggerated the Holocaust. The AEL accused the prosecutor's office of double standards.

The Amsterdam Prosecutor's Office did not decide by year's end whether to prosecute Gregorius Nekschot ("Deathblow") for some cartoons that the prosecutor believed violated the law on intentional discrimination and incitement to hatred.

Internet Freedom

There were no governmental restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. More than 90 percent of the population had access to the Internet.

During the year the government took legal action against four right-wing Web sites. On February 2, a judge convicted the former leader of the National Alliance for not removing discriminatory texts deemed offensive to Jews and Muslims from the organization's Web site. During the year authorities took measures to deal more effectively with incitement to discrimination on the Internet. Despite the priority given to such cases, there were only three convictions in 2007, the latest year for which data were available.

The police maintained a list of Web sites they have judged to be purveyors of child pornography and reviewed the list periodically. All major Internet service providers in the Netherlands have agreed not to permit access to those sites.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice. There were no reports that the government attempted to limit the freedom or exercise of religion during the year.

Rulings of the courts and the Equal Opportunities Committee generally held that any restriction on wearing headscarves in schools or places of employment should be limited and based on security or other narrow grounds. The government banned clothing covering the full face in the administrative and educational sectors.

Societal Abuses and Discrimination

There were some reports of societal abuses or discrimination based on religious affiliation, belief, or practice. Jews and Muslims faced instances of abuse during the year, although the experiences of the two communities differed. The government repeatedly criticized any form of anti-Semitism or anti-Islamic activity and worked with nongovernmental organizations (NGOs) to combat such abuses.

Muslims, who numbered approximately 850,000, faced societal resentment, attributable to perceptions that Islam is incompatible with Western values, that Muslim immigrants have failed to integrate, and that levels of criminal activity among Muslim youth are higher than the national average. Major incidents of violence against Muslims were rare, but minor incidents, including intimidation, brawls, vandalism, and graffiti with abusive language, were common. The Registration Center for Discrimination on the Internet (MDI) noted that the highest instance of reported offensive expressions (346) in 2008 concerned hatred of Muslims.

Some right-wing politicians depicted Islam as incompatible with the country's traditions and social values; however, the government continued a comprehensive outreach campaign to counter anti-Muslim sentiments and right-wing nationalism, including a 25 million euro (35 million dollar) grant for programs in neighborhoods and schools in 2008-11. These efforts raised public awareness and triggered debate, but concerns about the policy's effectiveness remained. The government made clear that it would combat groups espousing violence in support of an Islamist extremist agenda.

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The Amsterdam Prosecutor's Office has not yet decided whether or not to prosecute Gregorius Nekschot ("Deathblow") for some cartoons that the prosecutor believed violated the law on intentional discrimination and incitement to hatred.

The population included approximately 45,000 Jews.

Anti-Semitic incidents, including verbal threats, cursing, and desecration of monuments and cemeteries, continued to occur. For example, at the time of the Israeli incursion into Gaza, three Moroccan boys in Amsterdam harassed and beat a 16-year-old girl wearing a Star of David pendant. Certain groups opposed to Israeli policies in the Occupied Territories, such as the Arab European League and the Stop the Occupation Movement, frequently used anti-Semitic language and images to express political views. Explicitly anti-Semitic sentiments also prevailed among certain segments of the Muslim community and among fringe nationalist and neo-Nazi groups.

During the year the frequency of incidents appeared to be correlated with the political situation in the Middle East. For example, incidents sharply increased during the December 2008-January 2009 Israeli intervention in Gaza. During subsequent anti-Israel demonstrations in various cities, some individuals chanted the slogan "Hamas, Hamas, Jews should be gassed." Police made several arrests, and courts convicted a dozen persons, including four minors whom they ordered to visit the Anne Frank House in Amsterdam.

MDI received 296 reports of expressions of hostility toward Jews in 2008. MDI noted that whereas anti-Semitic sentiments

on the Internet used to be confined to extremist Web sites, they also appeared more recently on mainstream, interactive sites. MDI also stressed the correlation with the situation in the Middle East. The Center for Information and Documentation on Israel (CIDI) called for stronger government action against anti-Semitic Web sites, describing the Internet as one of the main sources for dissemination of anti-Semitic and racist ideologies.

Anti-Semitism was the subject of 123 of the 4,808 complaints received by a network of antidiscrimination bureaus across the country in 2008.

Authorities continued to work with NGOs to combat anti-Semitism. The government urged prosecutors and police to give proper attention to incidents of discrimination, including discrimination on religious grounds. It maintained a cyber crime Web site through which citizens could report radical statements and hate e-mail.

The government took legal action against four right-wing Web sites. On February 2, a judge convicted the former leader of the National Alliance for not removing discriminatory texts offensive to Jews and Muslims from the organization's Web site.

There were no reports of anti-Semitic incidents in the Netherlands Antilles or Aruba.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The laws provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

Authorities denied asylum to persons who came from so-called safe countries of origin or who resided for some time in safe countries of transit. They used EU guidelines to define such countries.

In practice, authorities generally provided protection against the expulsion or return of asylum seekers to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. However, some observers contended that some of the government's procedures were inadequate to avoid this risk. Authorities provided economic assistance to persons who were denied asylum and who chose to return home voluntarily.

The UNHCR and NGOs, including Amnesty International (AI), raised cases in which the right of persons to protection from return to countries where they might be at risk appeared to have been violated and called for stricter policies to prevent future instances. The authorities promised to investigate the allegations. The charges drew intense political scrutiny and resulted in pressure to maintain the temporary protection granted to asylum seekers from Somalia, Iraq, Sudan, and Ivory Coast, as well as homosexuals and Christian converts from Iran.

During the year, however, the government ended its policy of granting automatic temporary protection to certain categories of asylum seekers based on country of origin or other established criteria--a policy favored by the UNHCR and many NGOs. Instead, it adopted a policy of investigating individual asylum applications and determining on a case-by-case basis whether the individuals concerned would face mistreatment if returned to their countries of origin.

Several organizations, including AI and the Council for the Administration of Criminal Law, criticized the manner of detention of aliens prior to deportation. They maintained that since the aliens were not criminals, authorities should not subject them to a criminal regime or keep them in detention for extended periods of time, especially if there was little or no prospect of actual deportation. Courts have ordered the aliens' release if there was no prospect of actual deportation. The state secretary for justice noted that there was no evidence of structural abuse in the treatment of aliens in detention centers. Some NGOs continued to argue that the government did not always keep families with children out of detention. The state secretary countered that it was at times unfair and inhumane to separate families awaiting deportation.

Authorities did not permit asylum seekers still awaiting decisions on their applications, or whose asylum applications had been rejected, to work and denied them many social services; however, they were provided with basic sustenance and health care, and their children were permitted to attend schools.

Stateless Persons

Citizenship is primarily based on the mother's citizenship (*jus sanguinis*). According to UNHCR statistics, there were 4,591 stateless persons in the country at the end of 2008.

Parliament has revised the law governing citizenship repeatedly to counter and prevent statelessness, including by providing the opportunity to gain Dutch citizenship. Immigrants may naturalize after five years of legal residence, or three years if they are married to a citizen. Migrants who are not naturalized are allowed to work, including in the civil service, with the exception of the police force and the army. After five years of legal residence, nonnationals have the right to vote in local elections. To become citizens, they must complete a written naturalization examination that tests both their Dutch language proficiency and their knowledge of the country's culture and society.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. These constitutional rights also apply to the Netherlands Antilles and Aruba, where they were also exercised in practice.

Elections and Political Participation

Parliamentary elections in the Netherlands held in 2006 were considered free and fair.

On June 4, the country held elections to the European Parliament that were considered free and fair.

Political parties operated without restriction or outside interference. One of the oldest political parties, the Protestant **Political Reformed Party (SGP)**, continued to deny women the right to run for office, despite a 2007 ruling by The Hague Appellate Court that, by doing so, it was in violation of the Convention on the Elimination of All Discrimination against Women. The same court ruling ordered the government to take action to force the SGP to change its policy. At year's end both the SGP and the government had appeals pending with the Supreme Court against the ruling.

There were 63 women in the 150-seat Second Chamber of parliament, four female ministers in the 15-member cabinet, and six women among the 11 junior ministers. Women also held positions in the parliaments and cabinets of the Netherlands Antilles and Aruba, including the position of prime minister of the Netherlands Antilles.

Approximately 15 members of ethnic minorities--Turkish, Moroccan, and Surinamese--served in the 150-seat Second Chamber of parliament. One junior minister in the cabinet was a Muslim of Turkish background.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented the law effectively. There were isolated reports of government corruption during the year.

In 2008, the most recent year for which information was available, authorities imposed disciplinary sanctions on 399 central government employees for abusing their positions.

There were no laws requiring officials to make financial disclosures. The government pursued an active anticorruption policy coordinated by the Internal Affairs Ministry's Bureau for Promotion of Integrity of the Public Sector. The National Criminal Investigation Service coordinated investigations under the supervision of the national prosecutor for corruption.

The law provides for public access to government information, and authorities generally respected that right for both citizens and noncitizens, including foreign media. Whenever information is denied, authorities provide reasons based on the law. Those seeking information could appeal any refusal to the regular courts. Disputes occasionally arose in court over the scope of the government's right to withhold information based on the public interest. For example, there were disputes over whether to release certain classified internal memos.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

A delegation representing the UN Children's Fund visited St. Maarten in March and met with government agencies and NGOs for preliminary discussions regarding the implementation and monitoring of the Convention on the Rights of the Child.

In the Netherlands there are no ombudsmen or parliamentary committees dealing exclusively with human rights. However, a citizen may bring any complaint before the civil and criminal courts, the Equal Opportunity Commission (CGB), the national ombudsman, the Commercial Code Council, the Council of Journalism, the European Court of Justice, or the ECHR, depending on the circumstances.

On April 20, the government reacted to the recommendations made by the Council of Europe's commissioner for human rights following his visit to the Netherlands in September 2008. It noted that a number of his recommendations were in the process of implementation.

The government has a long tradition of hosting international legal tribunals, including the International Court of Justice, the International Criminal Tribunal for the former Yugoslavia, the International Criminal Court, and the Special Court for Sierra Leone.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on age, race, gender, disability, language, political preference, sexual orientation, and social status, and the government generally enforced these prohibitions.

Women

Rape, including spousal rape, is a crime and the government effectively prosecuted such crimes. The penalty for rape is imprisonment not exceeding 15 years or a fine. The maximum sentence for marital rape is eight years' imprisonment.

Domestic violence was the most prevalent form of violence in society. A fact sheet issued by the Ministry of Justice in May indicated that there were approximately 500,000 incidents of household violence annually. Approximately 40 percent of the population experienced some form of domestic violence during their lives; 10 percent of these reported experiencing some form of physical, sexual, or mental abuse at least weekly; and 4 percent had been raped. According to police records, approximately 85 percent of victims were women. Police estimated that victims reported approximately 12 percent of all cases. The government was implementing a 2008-11 national action plan to intensify the fight against household violence that included a national survey on its scope.

Spousal abuse carries a penalty one third more severe than ordinary battery. Police records indicated that approximately 3 percent of spousal abuse cases reported to police resulted in arrests. The government provided support to the national organization Movisie (formerly TransAct), which assisted victims of domestic violence and those investigating and prosecuting related crimes. The government subsidized shelters for battered women. In January legislation became effective that enabled mayors to impose temporary restraining orders on perpetrators of household violence. In September the government repeated a public information campaign against domestic violence.

In June the Justice Ministry, together with several NGOs, started a national information campaign to combat both forced marriages and the abandonment by immigrants of their spouses in their country of origin. The campaign used informational programs to inform young persons of the risks of these forms of mistreatment.

There were no recent statistics on so-called honor killings or honor-related violence. In 2006 there were 279 and 158 reports of honor-related violence in The Hague and Amsterdam respectively. The government continued a 2006 program to combat honor-related violence; authorities allocated approximately 13 million euros (\$18.6 million) to the program, which focused on prevention, protection, and criminal prosecution. In November 2008 authorities set up a National Expertise Center for Honor-Related Violence (LEC) with the regional police department in The Hague. The Justice Ministry commissioned the LEC to develop and exchange expertise among Dutch police forces about honor cases.

In the Netherlands, prostitution is legal for persons age 18 or older who engage in the practice voluntarily. It is also legal in the Netherlands Antilles. In Aruba prostitution was not a criminal offense but soliciting in public places was prohibited.

The law provides penalties for Dutch nationals and legal residents who abuse minor children abroad, even if the offense is not a crime in the country where the abuse occurs.

Sexual harassment was a problem. In July an NGO (the Rutgers Nisso Group) published a study on sexual violence in the Netherlands indicating that one in three women and one in 20 men had been victims of physical sexual aggression at some point in their lives. The law requires employers to take measures to protect workers from sexual harassment. The government continued a public awareness campaign and continued to take measures to counter harassment among civil servants, but no information was available on their effectiveness.

The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. There were no restrictions on the right to access contraceptives. The government provided skilled attendance during childbirth, including essential obstetric and postpartum care. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Under the law women have the same rights as men, including rights under family law, property law, and in the judicial system.

In the Netherlands, approximately 65 percent of women were employed, nearly 75 percent of them part time. Female and male unemployment rates were 5.2 and 4.2 percent, respectively. The Ministry of Social Affairs and Employment reported that the higher rate of unemployment among women, their reduced chances for promotion, and their generally lower-ranking positions than men resulted primarily from their part-time employment. According to the ministry, the disparity between men's and women's earnings in the private sector narrowed from 23 percent in 2006 to 18 percent in 2007; adjusted for level of experience and expertise required for the jobs, the differential was 7 percent.

The government provided affirmative action programs for women, and collective labor agreements usually included provisions to strengthen the position of women. In 2008 the Netherlands' Equal Treatment Commission received 432 complaints of discrimination, 13 percent of which related to gender.

Children

Children obtain citizenship through their parents (*jus sanguinis*). Birth registration is mandatory.

Child abuse was a problem. In a study conducted in 2007, Leiden University concluded that more than 100,000 children were victims of abuse. Many of them were physically or emotionally neglected. The study estimated that 4,700 children were victims of sexual abuse and 19,000 experienced physical abuse. Experts estimated that approximately 50 to 80 children died each year from some form of abuse. In 2008 the Child Abuse Reporting Center received almost 53,000 reports of possible child abuse, 5 percent more than in 2007. In March the government launched a two-year publicity campaign to encourage the population to report signs of possible child abuse. In September 2008 the government began to require physicians to report child abuse, overriding professional confidentiality. Despite increased government funding for the Council for the Protection of Children, there still were long waiting lists for assistance.

The law prohibits female genital mutilation (FGM). In May the Ministry of Health published an FGM prevalence study showing that, of the 1,200 pregnant women and girls from high-risk countries (Somalia, Ethiopia, and Egypt) examined by Dutch midwives in 2008, a total of 470 had undergone FGM. In 2007 the government's National Public Health Council estimated that at least 50 girls a year underwent FGM; the FGM committee established by the Ministry of Health estimated the number of girls and women at risk at 16,000 and 34,000 respectively. In 2006 the government launched a long-term program to combat FGM through primary prevention and early identification. Through 2008 authorities committed more than one million euros (approximately \$1.5 million) per year to combat FGM. The maximum penalty for FGM is six to nine years in prison.

The country has a statutory rape law. The penalty for rape is imprisonment not exceeding 15 years, a fine, or both. The minimum age for consensual sex is 16. The law prohibits production, possession, and distribution of child pornography for which there is a maximum penalty of eight years' imprisonment. In November parliament approved legislation to ratify the Lanzarote Treaty, which makes gaining access to child pornography on the Internet a crime with a maximum penalty of four years' imprisonment. In Aruba and the Netherlands Antilles, this treaty awaited ratification.

Trafficking in Persons

Trafficking in persons occurred in the Netherlands, in Aruba, and in the Netherlands Antilles. The laws, the trafficking patterns, and the responses of the authorities differed in the three territories.

In the Netherlands, the law prohibits all forms of trafficking in persons; however, trafficking in persons was a problem. The country was a destination and country of transit for trafficked persons, and trafficking within the country was also a problem. NGOs and police estimated that the number of women and girls trafficked for commercial sexual exploitation ranged from 1,000 to 3,600. The antitrafficking NGO Comensha registered 826 victims in 2008, an increase from 716 in

2007. The top five countries of origin were the Netherlands (320 victims), China (78), Nigeria (64), Hungary (45), and Sierra Leone (44). Men and boys accounted for 46 of the victims, and 169 were girls and boys younger than 18. According to Comensha, most female victims were exploited through prostitution. In addition, 13 of them worked in massage parlors, six as domestic servants, and three in the catering sector. Of the male victims, seven were exploited through prostitution, four in catering, one in the cleaning sector, and one in the illegal drug trade.

Girls seduced and coerced into prostitution by "pimp boys," primarily young men and boys of Moroccan or Turkish ethnicity, accounted for 180 of the Dutch trafficking victims registered by Comensha in 2008. Most traffickers used threats of violence towards victims or their families to control their victims. Underage girls and young women of Moroccan and Turkish descent, underage asylum seekers, women with dependent residence status obtained through fraudulent marriages, and women recruited in Africa were the most vulnerable.

In July Dutch authorities increased the maximum sentences for trafficking in persons from six to eight years' imprisonment for a single offense, from 12 to 15 years in case of serious physical injury, and from 15 to 18 years in case of death. Longer sentences for trafficking also allowed the public prosecutor to try traffickers for certain punishable preparatory acts of human trafficking, such as creating a Web site for the purpose of recruiting trafficking victims.

In 2007 the Dutch Public Prosecutor's Office prosecuted 221 traffickers, compared with 216 in 2006; courts rendered decisions in 120 cases, convicting 97 suspects, acquitting 14, and dismissing nine. In July 2008 the court sentenced six members of a Turkish-German trafficking gang to prison terms ranging from eight months to seven-and-a-half years. The considered the sentences too low and appealed the verdict; the appeal was pending at year's end. In 2008 there was only one conviction for labor trafficking. In two other cases that resulted in acquittals, the Public Prosecutor's Office exercised its right to appeal in hope of obtaining a guilty verdict. In one case involving Chinese workers in a restaurant, the Supreme Court in October annulled the verdict by the appellate court and referred the case back to the appellate court for re-trial.

In the Netherlands, the Ministries of Justice, Internal Affairs, Foreign Affairs, Welfare and Health, and Social Affairs are the principal government agencies for combating trafficking in persons. Local police forces established special units to deal with trafficking, and the National Crime Squad's Expertise Center on People Trafficking and Smuggling (EMM) brought together experts from the National Police Criminal Investigation Service, military border police, regional police forces, the Immigration and Naturalization Service, and the Social Information and Investigation Service. The national prosecutor for trafficking in persons supervised investigations conducted by the EMM, which also provided specialized training to police in the identification and protection of trafficking victims. The national rapporteur on trafficking in human beings headed an independent, publicly funded agency that reported annually to the government on the nature, extent, and mechanisms of trafficking as well as on the effects of national policies.

Authorities participated in international investigations and cooperated closely with other governments on trafficking. In February 2008 a human trafficking task force was set up that included the chief public prosecutor in Amsterdam, the national rapporteur, senior officials of various ministries, police, and local government and judicial officials.

The central government provides a temporary residence mechanism that gives trafficking victims three months to consider pressing charges against their traffickers. A victim who does so may remain in the country until the legal process has been completed. During this period the victim receives legal, financial, and psychological assistance, and may work or receive vocational training. Victims may request a permanent residence permit on humanitarian grounds.

Specially trained police conducted regular inspections of brothels and other commercial sex establishments to verify that individuals in the sector were working voluntarily and to identify any potential trafficking victims.

The central government subsidized NGOs working with trafficking victims. For example, Comensha offered victims social support, legal advice, medical aid, shelters, and counseling. The Justice Ministry cofinanced the La Strada program, which focused on preventing trafficking in women from Central and East European countries.

The Justice Ministry continued to fund the Anonymous Crime Reporting Center to extend and expand its multiyear campaign against trafficking and sexual exploitation.

Reports suggested that the five Antillean islands were transit and destination points for the trafficking of men, women, and possibly children for sexual exploitation and domestic servitude, as well as forced labor in the construction and agriculture sectors. According to local observers, the Antillean islands of Curacao and Dutch St. Maarten were destinations for women trafficked for the sex trade from Peru, Brazil, Colombia, the Dominican Republic, and Haiti. Over the course of a year, an estimated 500 foreign women, some of whom had been trafficked, were reportedly involved for part of that time in prostitution. Groups vulnerable to labor trafficking included Haitian men in the agriculture and gardening sectors and Latin American and Caribbean men in construction. Concern continued that debt bondage could be taking place, especially among some Asian migrants in restaurants and local businesses; accordingly, authorities monitored the situation closely.

There is no specific antitrafficking law in the Netherlands Antilles; however, authorities successfully used existing criminal statutes, including those penalizing smuggling, slavery, abduction, and coercion to prosecute traffickers.

Antilles authorities gave training to government and service providers that provided counseling and protection to victims of trafficking. The Web site of the Antillean Ministry of Justice provided information on trafficking. The national coordinator on trafficking gave lectures to the public at large, to teachers, and to groups considered vulnerable (e.g. scouts, other youth groups). The ministry funded public service announcements, including the telephone number of a trafficking hotline, that were broadcast over a six-week period. The national coordinator on trafficking maintained a personal Facebook page for outreach, from which she regularly updated key officials and others with information pertaining to the prevention of trafficking.

In Aruba the law prohibits all forms of trafficking. During the year authorities in Aruba investigated several cases of suspected trafficking, including that of a 15-year-old girl and 12 Haitian youths who may have been trafficked. The foreign victims were almost immediately repatriated and the offenders were arrested pending prosecution.

In January the justice ministers of the Netherlands Antilles, the Netherlands, and Aruba signed a memorandum of understanding to promote increased anti-trafficking cooperation. With the help and expertise of the Netherlands, organizational changes were begun, including in the areas of prevention of trafficking, prosecution of traffickers and protection of victims. A joint team of Antillean, Aruban, and Netherlands representatives was created to investigate trafficking cases with the participation of Netherlands experts to provide greater expertise to police and prosecutors.

The State Department's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

Discrimination against persons with disabilities is prohibited in all three territories, but government enforcement was inadequate, and there were some reports that such discrimination occurred. The penal code provides penalties for discrimination in employment, education, access to health care, and the provision of state services. In the Netherlands, the CGB received several dozen complaints, mostly labor related, of such discrimination. Although CGB rulings are not binding, they were usually implemented. The law requires access to public buildings for persons with disabilities, but public buildings and public transport often were not easily accessible in practice.

National/Racial/Ethnic Minorities

The Constitution of the Kingdom of the Netherlands prohibits racial, national, or ethnic discrimination in all three territories.

In the Netherlands, incidents of physical assault against minorities were rare, but members of minority groups experienced verbal abuse and intimidation and were at times denied access to public venues, such as discotheques.

A Muslim community of approximately 850,000 persons faced frequent discrimination. Members of immigrant groups also faced discrimination in housing and employment. According to Statistics Netherlands, in 2008 the minority unemployment rate (9 percent) remained roughly three times that of the ethnic Dutch workforce (3.2 percent), while the unemployment rate among minority youth was 17 percent compared to 6 percent for native Dutch youth.

A February 2008 European Commission against Racism and Intolerance (ECRI) report asserted that a number of government practices both stigmatized and discriminated against members of minority groups. As an example, the ECRI cited reports that Netherlands police singled out individuals from the Netherlands Antilles living in the Netherlands for searches without apparent reason.

The Dutch government pursued an active campaign to increase public awareness of racism and discrimination. In June, following a pilot project in two police regions, the government initiated a national campaign to counter discrimination and to improve the reporting of hate crimes, including hate speech, by using a special Web site. Depending on circumstances, persons could file complaints of racism or discrimination with the civil and criminal courts, the CGB, the national ombudsman, the Commercial Code Council, the Council for Journalism, the European Court of Justice, or the ECHR.

Within the police, a National Discrimination Expertise Center (LECD) dealt with discrimination. The LECD worked closely with the prosecutor's offices, local antidiscrimination units, and the MDI. These organizations also registered incidents and issued reports. Data from the LECD, the CGB, and the Monitor on Racism and Extremism of the Anne Frank Foundation provided insights into the extent of incidents of discrimination. These organizations voiced concern about the reluctance of victims to report incidents.

In each region a Discrimination Consultation Body, which includes police, the prosecutor's office, and antidiscrimination units, discussed incidents of discrimination. In the spring the LECD analyzed 2,240 recorded incidents from 2008 and found that the most frequent form of discrimination was verbal. Defamation was involved in 16 percent of the incidents, threats in 19 percent, right-wing symbols in 18 percent, physical violence in 13 percent, and vandalism in 8 percent. Discrimination on ethnic or racial grounds occurred in 40 percent of the incidents.

The MDI registered more than 1,000 instances of Internet discrimination in 2008 that it asserted were punishable, a 10 percent increase over 2007. Jews, Muslims, Moroccans, and Africans were the main target groups. Those responsible removed most (90 percent) of offending sites voluntarily when the MDI asked them to do so. The MDI reported seven cases to the prosecutor's office; cases brought before a court produced several convictions.

Most defamation cases filed in criminal courts concerned racial defamation. Civil lawsuits often alleged discrimination against persons who were not ethnically Dutch in the supply of such services as cell phones and access to clubs. The CGB focused on discrimination in the labor market, including discrimination in the workplace, unequal pay, termination of labor contracts, and preferential treatment of ethnically Dutch employees.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

In the Netherlands, there are no government impediments to the organization of gay events. However, the lesbian, gay, bisexual, and transgender communities were not well organized. There were no gay pride marches.

During the year the Justice Ministry reported a rise in harassment of homosexuals. Most incidents consisted of verbal epithets and abuse. Police placed a high priority on combating antigay violence.

Other Societal Violence or Discrimination

There were no specific reports of societal violence against persons with HIV/AIDS. However, the government sponsored a national campaign against societal stigmatization of persons with HIV/AIDS.

Section 7 Worker Rights

a. The Right of Association

The law allows workers to form or join independent unions of their own choosing without prior government authorization or excessive requirements, and workers exercised this right in practice. Approximately 25 percent of the legally employed workforce was unionized. The law allows unions to conduct their activities without interference, and the government protected this right in practice. The right to strike is based on the European Social Charter, and workers exercised this right by conducting legal strikes. Requirements for conducting a legal strike were not excessively lengthy or cumbersome. Regulations prohibit retaliation against legal strikers. Public sector workers generally have the right to strike, but a magistrate may forbid a strike that threatens the public welfare or safety. For example, magistrates have often prohibited police actions because of the essential services they perform.

b. The Right to Organize and Bargain Collectively

The law provides for the right to organize, and specific laws provide for the right to collective bargaining; workers exercised these rights in practice. According to the Christian Trade Union Federation, collective bargaining agreements covered approximately 85 percent of the workforce

The law prohibits antiunion discrimination.

There were no special laws or exemption from regular labor laws in export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor; however, there were reports that adults and children were trafficked for commercial sexual exploitation and adults for labor exploitation. According to the Dutch national rapporteur for trafficking in persons, the highest risk sectors for labor exploitation included domestic employment, temporary employment agencies, agriculture and horticulture, restaurants, hotels, and construction (see section 6, Trafficking in Persons). In 2008 the Labor Inspectorate conducted approximately 11,000 inspections at many of these high-risk workplaces.

d. Prohibition of Child Labor and Minimum Age for Employment

The government enforced laws and policies to protect children from exploitation in the workplace; however, children were trafficked for commercial sexual exploitation. In 2008 the Dutch Coordination Center against Trafficking in Persons registered 103 trafficking victims under the age of 18.

The minimum age for employment is 16 years. Sixteen-year-old schoolchildren may not work more than eight hours per week. The law prohibits persons under the age of 18 from working overtime, at night, or in activities dangerous to their physical or mental well-being. A tripartite labor commission composed of representatives of government, enterprises, and unions monitored hiring practices and conducted inspections. The commission enforced the laws effectively.

Holiday work and after-school employment are subject to very strict rules set by law. The Ministry of Labor's inspection office, which is responsible for enforcement, found during the year that 70 percent of companies employing holiday workers and children under 18 complied with regulations.

e. Acceptable Conditions of Work

In the Netherlands, the minimum wage for adults is 1,398.60 euros (\$2,000) per month, which provides an adequate standard of living for a worker and family. The Labor Ministry establishes the minimum wage. The minimum wage in the Netherlands Antilles was 7.30 Netherlands Antillean Guilders (\$4.10) per hour and that of Aruba was similar. Dutch law establishes a 40-hour workweek. The average workweek was 30.6 hours (38.7 hours for full-time and 20 hours for part-time workers). Persons working more than five hours per day were entitled to a 30-minute rest period. Overtime is regulated. There are no exceptions for legal foreign workers. The Labor Inspectorate effectively enforced the labor laws.

A tripartite labor commission actively monitored and effectively enforced working conditions, including comprehensive occupational safety and health standards set by law. The Ministry of Labor and Social Affairs also monitored standards. Workers could remove themselves from dangerous working conditions without jeopardizing their continued employment, and they exercised this right in practice.

Workers in the significant underground economy enjoyed neither the minimum wage nor any of the other legal, administrative, or safety protections available to other workers.