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## 2010 Human Rights Report: Netherlands

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

April 8, 2011

The Kingdom of the Netherlands includes the Netherlands (population approximately 16.6 million), Aruba (103,000), Curacao (141,000), and St. Maarten (41,000)[1]. 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 June, 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. Security forces reported to civilian authorities.

Aruba, Curacao, and St. Maarten have unicameral parliamentary systems. They are largely autonomous, except for foreign policy and defense. The Kingdom of the Netherlands 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 its territories..

In the Netherlands, individuals were prosecuted during the year for violations of a law prohibiting public speech that incites hatred or discrimination. There were reports of anti-Semitic incidents, societal discrimination, and violence against some religious and ethnic minorities, violence against women and children, and trafficking in persons for sexual exploitation. In Aruba, Curacao, and St. Maarten, prison conditions remained substandard in some respects.

#### 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.

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

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

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. No visits occurred in the course of the year. In Aruba, Curacao, and St. Maarten, prison conditions remained substandard in some respects.

In all kingdom territories, authorities permitted prisoners and detainees to maintain regular contact with the outside world and receive visitors. Prisoners were permitted religious observance. They could submit complaints to a supervisory committee, the penitentiary institution's selection official, the prison system's complaint commission, and in many cases had the option to appeal. Complaints were addressed adequately with respect for due process of law. The government monitored prison and detention center conditions.

In the Netherlands, 11,682 persons were held in detention as of September 2009, approximately 7 percent of them women. The total included about 5,500 persons awaiting judicial disposition, about 4,200 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.

In Curacao and St. Maarten, 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 project begun in 2007 that replaced prison with house arrest for selected inmates continued but involved very few individuals. During the year only one inmate was selected for electronic monitoring.

At Bon Futuro Prison in Curacao, renamed Curacao Detention and Correction Center in September, there were several altercations between inmates, and one brief inmate strike by inmates in May, which resulted in some property damage. Prison guards went on strike in September in Curacao over newly implemented prison regulations. In St. Maarten, inmates struck briefly in April over a Public Prosecutor's Office decision to send two inmates to prison in Bonaire.

In July 2009 the UN Human Rights Committee described reports that prison conditions in Bon Futuro Prison and Bonaire Remand Prison remained "extremely harsh." However, improvements were under way as a result of a 2008 allocation of eight million euros (\$10.7 million) by the Netherlands government. The Council of Europe's Committee for the Prevention of Torture (CPT) based the improvements on recommendations. The CPT's 2009 report cited improvements in the prisons in Curacao and St. Maarten, including the opening of a youth section in St. Maarten. Authorities completed the renovation of the Bonaire detention center in 2009 in accordance with CPT standards. The renovation of Bon Futuro Prison was under way. Work continued on a construction and renovation project for separate holding facilities for undocumented foreign nationals in Curacao, including that section's specific perimeter security. Also in Curacao, construction of new entry and exit facilities and a workshop for prisoner activities continued. No new construction or renovation took place during the year in St. Maarten. The prison director stated that prison staffing was sufficient. Training for six new guards was scheduled for January 2011.

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 had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.**

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#### 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, Curacao, and St. Maarten) and detain them for up to three days (two days in Aruba, Curacao, and St. Maarten), with the possibility of an additional three-day 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, Curacao, and St. Maarten), the prosecutor must bring detainees before an examining magistrate for questioning and a decision whether to extend detention for another 14 days. The court subsequently reviews the validity of continued detention every 90 days. Extensions depend on progress in the preliminary investigation.

In the Netherlands, in terrorism-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 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. In April the College of Prosecutors-General issued instructions on "giving effect to the right of a detained defendant to consult an attorney prior to substantive questioning." Minors are also entitled to counsel during questioning. The Justice Department has established pilot projects to test the practice of having an attorney present during the initial detention and questioning of an adult suspect.

Authorities in Aruba 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 2009 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 2007 the UN Committee Against Torture criticized the excessive length of pretrial detention and the high number of detainees not convicted of a crime in Aruba and the Netherlands Antilles. The governments of the two territories 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. The backlog of detainees awaiting trial has been significantly reduced.

#### 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. The accused is not present when the examining magistrate examines witnesses, but his attorney has the right to question them. 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. In such cases the defense has the right to submit written questions to these witnesses through the examining judge. The law extends the above rights to all citizens.

On July 27, the UN Human Rights Committee took the position that the Netherlands violated the UN International Covenant on Civil and Political Rights by enacting legislation in 2007 that restricts a defendant's right to appeal fines of less than 500 euros (\$665) for minor offenses. The legislation provided that an appellate court must first grant permission to the defendant in such a case to file an appeal "in the interest of proper administration of justice." The committee found, however, that the new procedures denied the defendant the right to challenge his conviction effectively. The government did not respond by year's end.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Regional Human Rights Court Decisions

The government was responsive to rulings by the European Court for Human Rights (ECHR). On August 24, the foreign minister issued his annual report on the previous year's ECHR decisions affecting the country. He noted that of the four cases in which the court issued judgments in 2009, no violation of the European Convention on Human Rights had been found in two, while the other two cases were settled on friendly terms. In response to earlier court judgments, the government consolidated the legal basis for wiretapping.

#### 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 ECHR.

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

The law prohibits such actions, and the government generally respected these prohibitions 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.

Disputes occasionally arose over a journalist's right to protect their sources. On September 14, the ECHR ruled in a Dutch case that the right to protect journalistic sources should include a guarantee of review by a judge or other independent and impartial decision-making authority before the police or the public prosecutor gained access to information that would reveal these sources. The case concerned a police seizure of photographs of an illegal automobile race. The photographs had been taken by a journalist of the publication *Autoweek* who assured the participants in the race that their anonymity

would be respected. The police believed the photographs would help them track down participants in a series of major robberies. The public prosecutor held that the interests of its investigation outweighed the reporter's asserted right to protect his sources. However, the ECHR ruling found that the right of journalists to protect their sources was sufficiently critical to freedom of the press to require greater protection. Legislation being drafted by the government to bring the country's law into compliance with the court's ruling had not been enacted as of year's end.

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 such 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.

In October Geert Wilders stood trial before the Amsterdam District Court on charges of offending, inciting hatred toward, and discriminating against, Muslims. However, due to a number of incidents that raised doubt about the impartiality of the judges, a mistrial was declared, and the case was rescheduled for 2011. Wilders was a member of parliament and a leader of the Party for Freedom. In a number of public statements and in his movie, *Fitna*, Wilders characterized Islam as a violent political ideology that is incompatible with western values. The prosecutor initially declined requests from Muslim and other groups to prosecute Wilders, asserting that his opinions were expressed in the context of a legitimate public debate. However, in January 2009 the Amsterdam Appellate Court ordered the prosecutor to initiate criminal proceedings. In the October trial, the prosecutor requested Wilders' acquittal.

**On August 19, an appellate court fined the Arabic European League (AEL) for placing a cartoon on its Web site that expressed the idea that Jews deliberately invented or exaggerated the Holocaust. AEL had stated that they published the cartoon in reaction to earlier Danish cartoons depicting the Prophet Mohammed in a negative way, with the stated intention of demonstrating double standards in the media and public debate. A district court ruled in favor of the AEL on the grounds that the organization's stated objective had nullified its offensive, punishable character. The appeals court, however, disagreed, asserting that the context was not sufficiently clear. In its ruling the court stated that despite the AEL disclaimer, the cartoon was "unnecessarily offensive." It agreed with the ECHR that freedom of expression must be protected, even if it shocks or offends, but noted that the ECHR makes an exception for denying or trivializing the Holocaust. The court concluded that "the Jewish community... must be able to deal with critical statements to a certain degree, even if they could be perceived as offensive, but it is entitled to be spared serious offense based on the Holocaust."**

On September 21, the Amsterdam Prosecutor's Office decided not to prosecute the cartoonist Gregorius Nekschot ("Deathblow" in Dutch) for some of his cartoons, even though, in the prosecutor's stated view, the cartoons violated the law on intentional discrimination and incitement to hatred. In announcing his decision, the prosecutor noted that the cartoonist had removed the cartoons from his Web site and that the complaint dated from five years earlier. The cartoonist and the Netherlands Association of Journalists expressed regret that a judge had no opportunity to rule on the alleged breach of freedom of expression.

#### 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 authorities continued to pursue policies to counter incitement to discrimination on the Internet. There were a number of convictions in 2009 and during the year.

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

For a description of religious freedom, see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt/](http://www.state.gov/g/drl/irf/rpt/).

#### 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

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. Asylum seekers are granted adequate opportunity to present their cases.

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. In response to criticism that some of the government's procedures were inadequate to avoid this risk, the asylum procedures were revised on July 1 to ensure expedited and more scrupulous processing of asylum applications. Authorities provided economic assistance to persons who were denied asylum and who chose to return home voluntarily.

During the year the government ended its policy of automatically granting 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 nongovernmental organizations (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. The UNHCR and NGOs, including Amnesty International (AI), challenged the government when it considered returning persons to countries where they might be at risk. For example, AI asserted that authorities planned to

return persons to territory in and near Mogadishu that was controlled by the Transitional Federal Government of Somalia based on an agreement with that government. However, in AI's view, no part of central or southern Somalia was a safe destination. These and similar charges resulted in pressure to return to the practice of not deporting persons in certain categories, including asylum seekers from such areas as Somalia, Iraq, and Sudan or those meeting other criteria, such as gays and lesbians, and Christian converts from Iran.

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 release of aliens 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 deportable children out of detention. The state secretary countered that it was at times unfair and inhumane to separate families awaiting deportation. The Council of Europe's European Committee of Social Rights, NGOs, and Dutch courts criticized the government for violating the rights of children by failing to give basic assistance to children whose adult family members had been denied asylum. The government reviewed the situation and decided during the year not to terminate care for children of rejected asylum seekers.

According to the UNHCR, there were slightly fewer than 100,000 asylum seekers and refugees in the country. Official data from Statistics Netherlands (CBS) indicated that at the beginning of 2008 more than 70,000 refugees were living in the country with residence status. Refugees received government assistance in finding housing and they are entitled to social welfare and other social services.

An average of approximately 17,000 persons per year apply for asylum. They are usually housed in asylum centers until a decision has been made on their applications. Rejected asylum seekers, once they have exhausted all possible appeals, are denied further assistance. Several thousand rejected asylum seekers and illegal immigrants were in detention during the year awaiting deportation.

Rejected asylum seekers and those still awaiting decisions on their applications were not permitted to work and they were denied many social services; however, they were given basic sustenance and health care and permitted to attend school.

#### Stateless Persons

Citizenship is based primarily on the mother's citizenship. According to UNHCR statistics, there were 5,034 stateless persons in the country at the end of 2009.

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 after three years if they are married to a citizen. Migrants who are not naturalized are allowed to work, including in the civil service but not the police force or the army. After five years of legal residence, nonnationals have the right to vote in local elections. To become citizen, they must complete a written naturalization examination that tests both their proficiency in the Dutch language 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 rights also apply to the Aruba, Curacao, and St. Maarten.

## Elections and Political Participation

During the year, parliamentary elections in the Netherlands were considered free and fair.

Political parties generally operated without restriction or outside interference. On April 9, the Supreme Court, upholding a 2007 appeals court decision, ruled that the government was obliged to ensure that the Protestant Political Reformed Party (SGP) grants women the right to run for office. The SGP maintained that the decision constituted interference with religious freedom and freedom of association, and that the party's female members were not seeking to run for office. The party had already agreed to permit women to become party members following an earlier court decision that would have cost it its subsidy for not doing so. The government did not respond to the Supreme Court ruling by year's end. The SGP, however, has filed an appeal with the ECHR.

There were 61 women in the 150-seat Second Chamber of parliament ("House of Representatives"). Of the 20 Dutch cabinet members four were women. Women also held positions in the parliaments and cabinets of the former Netherlands Antilles, Curacao, St. Maarten, and Aruba, including the position of prime minister of St. Maarten and the prime minister of the Netherlands Antilles prior to its dissolution in October.

In the Netherlands, 17 members of the Second Chamber of parliament were of immigrant descent, including six of Turkish and five of Moroccan descent.

## 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 2009, the most recent year for which information was available, authorities imposed disciplinary sanctions on 295 central government employees for abusing their positions.

There are 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 authorities denied requests for information, they provided 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.

## 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.

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

## 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 in prison. According to a 2008 report on crime and law enforcement published by the Justice Ministry's Scientific Research and Documentation Center and the CBS, in 2007 there were 3,459 registered cases of rape and sexual assault involving 2,118 suspects.

Domestic violence was the most prevalent form of violence in society. A factsheet issued by the Ministry of Justice in May 2009 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 continued to implement a 2008-11 national action plan to intensify the fight against household violence that included a national survey on its scope. In June the College of Prosecutors-General, which supervises the operation of the national and regional prosecutors' offices, issued new instructions for investigating and prosecuting cases of domestic violence and so-called honor violence.

In Aruba, the criminal code specifies additional penalties for violent offenses when committed against family members.

In the Netherlands, spousal abuse carries a penalty that is 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 and sexual violence and trained police and prosecutors in investigating and prosecuting related crimes. The government subsidized shelters for battered women. Mayors may impose temporary restraining orders on perpetrators of household violence; police figures indicated that 2,150 restraining orders were issued nationwide in 2009. In October the government repeated a public information campaign against domestic violence.

In May the Justice Ministry, together with several NGOs, repeated the annual national information campaign to combat forced marriages and the abandonment by immigrants of their spouses in their country of origin. The campaign was intended to generate awareness among certain groups of young immigrants regarding the risks which they might be running in this regard and inform them about precautionary measures they could take to prevent forced marriage or being left behind during vacations in their parents' country of origin.

According to a report published in August, the National Expertise Center on Honor-Related Violence (LEC-EGG) received 445 reports of possible honor violence in 2009, compared to 553 in 2008 and 493 in 2007. Of the 445 reports received in 2009, 54 percent involved threats, 31 percent physical violence, 3 percent allegations of murder, 3 percent attempted murder, and 2 percent rape. The government has addressed the problem vigorously and continued a five-year program started in 2006 to combat honor violence that focused on prevention, protection, and criminal prosecution. In 2008 the government set up LEC-EGG within the regional police department in The Hague. The center, accessible seven days a week and 24 hours a day, developed a checklist to help the police and other professionals identify honor violence cases.

Female genital mutilation (FGM) was practiced on both women and young girls (see section 6, Children).

The law requires employers to take measures to protect workers from sexual harassment; however, sexual harassment was a problem. In June the CBS published a study on sexual harassment which estimated that in 2009 one in 40 women

was subject to unwelcome sexual advances. The study indicated that 20 percent of the unwanted advances occurred in the workplace and that only 10 percent were reported to the police. The government continued a public-awareness campaign and took measures to counter harassment among civil servants; no information was available on their effectiveness. The Working Conditions Act commits employers to protect employees against aggression, violence, and sexual intimidation. Complaints against employers who fail to provide sufficient protection can be submitted to the CGB. Victims of sexual assault or rape in the workplace must report the incidents to the police since they are criminal offenses.

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 obstetric and postpartum care. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV. According to 2008 estimates published by the World Health Organization, the United Nations Children's Fund (UNICEF), the UN Food Program, and the World Bank, the maternal mortality rate was nine deaths per 100,000 live births.

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

In the Netherlands, approximately 68 percent of women were employed in 2009, nearly 75 percent of them part time. Female and male unemployment rates were 5.3 and 4.5 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 compared with men resulted primarily from their higher level of part-time employment status. According to EU statistics, the disparity between men's and women's earnings in the country's private sector was 23.6 percent in 2008; 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 2009 the CGB received 473 complaints of discrimination, 16 percent of which related to gender.

#### Children

Children obtain citizenship through their parents. Registration of all births is mandatory.

Child abuse was a problem. The Ministry for Youth and Family reported in September that an estimated 107,000 children were abused annually, of whom fewer than 50 percent were known to professional organizations. Experts estimated that approximately 50 to 80 children died each year from some form of abuse. In 2009 the Child Abuse Reporting Center received almost 60,000 reports of possible child abuse, 12 percent more than in 2008. In March 2009 the government launched a two-year publicity campaign to encourage the public to report signs of possible child abuse. In 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 FGM. The maximum penalty is 12 years in prison. In May 2009 the Ministry of Health published an FGM prevalence study which indicated that, of the 1,200 pregnant women and girls from high-risk countries (Somalia, Ethiopia, and Egypt) examined by 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, probably in the native countries of their parents; the FGM committee established by the Ministry of Health estimated that 16,000 girls and 32,000 women had been subjected to the procedure. The government continued a long-term program to combat FGM through primary prevention and early identification, and the Health Ministry committed more than one million euros (approximately \$1.3 million) annually to combat FGM. The funds were used for information campaigns for at-risk groups and among professionals whose

occupations bring them into contact with immigrant girls. They were also used for projects designed to engage key individuals in communities where FGM occurred. In August 2009 the College of Prosecutors-General issued new instructions for investigating and prosecuting cases of child abuse, including a chapter devoted to FGM.

Prostitution under the age of 18 is illegal. Anyone who forces a minor to engage in prostitution is liable to a sentence of up to eight years, or up to 12 years if the victim is under 16. Because there were no reliable statistics on the number of underage prostitutes, the government in 2009 asked Comensha, the national human trafficking victim registration center, to set up a national registration system for underage prostitution. During the year the system became operational.

The Netherlands and the Caribbean parts of the kingdom were not destinations for child sex tourism. The law provides penalties for nationals and legal residents of the country who abuse minors abroad, even if the offense is not a crime in the country where the abuse occurs. In November 2009 the government installed the Taskforce on Child Pornography and Child Sex Tourism to intensify the fight against these crimes. 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 January legislation came into force that makes gaining access to child pornography on the Internet a crime with a maximum penalty of four years in prison. In Aruba, Curacao, and St. Maarten, this awaited ratification.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html)

#### Anti-Semitism

According to the Jewish Social Work organization, approximately 45,000 Jews resided in the Netherlands.

Anti-Semitic incidents, including threats, verbal abuse, and desecration of monuments and cemeteries, continued to occur. The Center for Information and Documentation on Israel (CIDI) reported a significant rise in the number of reported incidents in 2009 and 2010. CIDI stated, however, that "serious incidents" remained rare. The frequency of incidents appeared to be correlated with the political situation in the Middle East. For example, incidents sharply increased in June following the Israeli action against the Gaza Flotilla. They included spraying red paint on the front doors of synagogues in the towns of Amersfoort and Utrecht and an incident on June 6, during which passers-by shouted "Heil Hitler" when Chief Rabbi Binyomin Jacobs was speaking at a memorial ceremony at the former concentration camp in Vught. CIDI pushed for more action against anti-Semitic Internet sites, which it characterized as one of the main means of disseminating anti-Semitic and racist ideologies. It also sought tougher action against Holocaust denial, better registration of anti-Semitic incidents, and more attention to Holocaust education. Explicitly anti-Semitic sentiments were widespread among certain segments of the Muslim community, pro-Palestinian groups, and fringe nationalist and neo-Nazi groups.

In its most recent report, the Registration Center for Discrimination on the Internet (MDI) in 2009 reported a sharp increase in anti-Semitic statements. During that year it received 399 reports of anti-Semitism, of which it considered 258 to be punishable, including 41 denials of the Holocaust. Whereas the Web sites of right-wing extremists traditionally accounted for most of the anti-Semitic expressions on the Internet, the MDI found that such expressions were increasingly present on mainstream interactive websites.

On August 19, the Arnhem Appellate Court fined the AEL for a cartoon on the AEL Web site that expressed the idea that Jews deliberately invented or exaggerated the Holocaust (see Section 2.a.).

In September the government initiated an updated action plan to combat discrimination in general and anti-Semitism in particular. The plan underlined the importance of a local approach through cooperation between local authorities and Jewish and non-Jewish organizations to include the reporting and filing of complaints, improved tracking down and

prosecution of offenders, and education and the dissemination of information on discrimination. For example, the government sponsored special training courses for teachers, peer education projects, and education programs that focused specifically on anti-Semitism and Holocaust denial. It also sponsored the Jewish Moroccan Network, which sought to reduce tensions between Jews and Moroccans.

In early December, Dutch politician and former EU commissioner Frits Bolkestein advised Dutch Jews, particularly those that stand out due to their dress, to leave the country because of what he described as increasing anti-Semitism, especially amongst Dutch Moroccans. After he was criticized for this statement, Bolkestein stated that his intentions were to urge the Dutch "not look away" from the realities and denied that he ever called on Jews to leave the country.

The government-funded Article 1 National Association Against Discrimination set up several projects at elementary, secondary, and vocational training schools to counter racism and discrimination.

There were no reports of anti-Semitic incidents in Curacao, St. Maarten, or Aruba.

#### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

#### Persons with Disabilities

Discrimination against persons with disabilities is illegal in all parts of the kingdom, 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 2009 the CGB received 473 complaints of discrimination, 17 percent of which related to persons with disabilities. Although CGB rulings are not binding, they usually were implemented. The law requires that persons with disabilities have access to public buildings, information, and communications, but public buildings and public transport often were not easily accessible in practice.

#### National/Racial/Ethnic Minorities

The kingdom's constitution prohibits racial, national, or ethnic discrimination in all kingdom 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 the CBS, in 2009 the minority unemployment rate (11 percent) remained roughly three times that of the ethnic Dutch workforce (4 percent), while the unemployment rate among minority youth was 25.3 percent compared to 11.6 percent for native Dutch youth.

The government pursued an active campaign to increase public awareness of racism and discrimination. 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.

Within the police, the National Discrimination Expertise Center (LECD) worked to optimize the criminal processing of discrimination cases. The LECD cooperated 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 Racism

and Extremism Monitor 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 included police, the prosecutor's office, and antidiscrimination units, evaluated incidents of discrimination. In 2009 the LECD registered 160 reported offenses of discrimination. This number was lower than the annual average over the previous decade, but the apparent decline could have been the result of a new method of registering such offenses. The offenses were discrimination based on race (51 percent) and religion (anti-Semitism, 35 percent; and anti-Islam, 5 percent). Also in 2009 officials prosecuted 194 offenses, brought 137 indictments, obtained 135 convictions, and entered into 20 out-of-court settlements.

In 2009 the MDI registered 577 instances of Internet discrimination that it asserted were punishable, a significant decrease from 2008. Half of these instances were anti-Semitic. Those responsible removed most (86 percent) of offending sites voluntarily when the MDI asked them to do so. The MDI reported six 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. The gay rights organization COC called for government policies to increase societal acceptance of homosexuality, for example, through mandatory information at schools on homosexuality and the transgender community. There were several gay pride marches during the year. During the year the Justice Ministry reported a rise in harassment due to homosexual activity. Most incidents consisted of verbal epithets and abuse. Police placed a high priority on combating antigay violence.

Caribbean society remained much less accepting of homosexuality and the transgender community; however, there were no known cases of abuse or violence against individuals in this community in Aruba or the former Netherlands Antilles during the year. There were no gay pride marches.

#### 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 workers were 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 police 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 exemptions 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 such practices occurred. See the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip)

According to the 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. In 2009 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 effectively enforced laws and policies to protect children from exploitation in the workplace; however, children were trafficked for commercial sexual exploitation. See the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip)

The minimum age for employment is 16 years. Special rules apply to schoolchildren 16 and 17 years of age. For example, 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 from the 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 that during the year 70 percent of companies employing holiday workers and children younger than 18 complied with regulations.

#### e. Acceptable Conditions of Work

In the Netherlands, the minimum wage for adults is 1,416 euros (\$1,883) 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 Curacao and St. Maarten was 7.30 Netherlands Antillean Guilders (\$4.10) per hour.

Dutch law establishes a 40-hour workweek. The average workweek in the Netherlands was 38.7 hours for full-time workers and 20 hours for part-time workers. Persons who work more than five hours per day are entitled to a 30-minute rest period. Overtime is regulated. 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.

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[1] With the dissolution of the Netherlands Antilles on October 10, Curacao and St. Maarten became separate, largely autonomous, entities within the Kingdom of the Netherlands; three smaller islands, Bonaire (12,800), St. Eustatius (2,700), and Saba (1,600) became special entities with direct ties to the Netherlands.

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