



**Dutch CEDAW Network**

**Unfinished Business - Women's Rights in The Netherlands**

**Shadow report by Dutch NGOs and CSOs**

**CEDAW Session 65, 24 October – 18 November 2016  
15 september 2015**

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## PREFACE

This shadow report has been compiled on behalf of the Dutch CEDAW Network by a team consisting of NGOs and CSOs and several independent CEDAW specialists in the Netherlands. Many other NGOs, CSOs, universities, research and expert institutions connected to the Network also lent their expertise.

It will contribute material for a dialogue with representatives of the State (the Kingdom of The Netherlands) during CEDAW's 65<sup>th</sup> Session which will be convened from 24 October to 18 November 2016, to consider the 6<sup>th</sup> Periodic Report (CEDAW/C/NLD/6). This parallel report follows the structure of the List of Issues (CEDAW/C/NLD/Q/6) and The Replies of the Netherlands thereto (CEDAW/C/NLD/Q/6/Add.1, dated July 5 2016).

The Dutch Ministry of Education, Culture and Science has funded the process by which the shadow report was produced. No funding was provided for research on the CEDAW implementation in the Caribbean territories that are part of the Kingdom of the Netherlands. Hence the report only covers the European territory of the Kingdom, which is here referred to as the Netherlands. The preliminary shadow report (January 2016), endorsed by 56 NGOs and CSOs and produced for the 65<sup>th</sup> CEDAW presession (March 2016), is attached as an annex.

The Network wants to compliment SEDA Curaçao for compiling its shadow report without any funding.

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76 Dutch NGOs and CSOs endorsed this shadow report

- African Sky, Landelijke Organisatie van Oost-Afrikaanse Vrouwen (National Organization of East-African Women)
- Aids Fonds / SOA Aids Nederland (Aids Fund / STD/Aids the Netherlands)
- Asiya (organization committed to the emancipation and integration of Somali Dutch)
- ASKV Steunpunt Vluchtelingen (ASKV Refugee Support)
- Atria, Kennisinstituut voor emancipatie en vrouwengeschiedenis (Institute on Gender Equality and Women's History)
- COC Netherlands (Federation of Dutch Associations for the Integration of Homosexuality COC Netherlands)
- CoMensha (Coordination Centre Against Human Trafficking)
- Defence for Children- ECPAT
- Dona Daria, Kenniscentrum Emancipatie te Rotterdam (Expertise Centre for Emancipation)
- Emancipator, voor mannen en emancipatie (Men and Gender Justice)
- FairWork
- Fanga Musow/Stichting Seguro
- Federatie Opvang (Federation of Shelters)
- Femmes for Freedom
- Fischer Advocaten
- FNV (Netherlands Trade Union Confederation)
- FNV vrouwenbond (FNV Womens Union)
- GWI-NL (Graduate Women International Netherlands)
- HIVOS (Humanist Institute for Cooperation with Developing Countries)
- Huize Agnes/ Agnes Manor (Foundation Agnes van Leeuwenberch)
- HVO Querido
- Ieder (in), Netwerk voor mensen met een beperking of chronische ziekte (Everyone in)

- Johannes Wier Stichting voor Gezondheidszorg en Mensenrechten (Foundation for Health and Human Rights)
- Kezban Foundation (preventing en combating domestic violence within the immigrant community)
- LNVH, Landelijk Netwerk Vrouwelijke Hoogleraren (Dutch Network of Women Professors)
- Mama Cash
- Movisie (Dutch Centre for Social Development)
- MVVN, Marokkaanse Vrouwenvereniging Nederland (Moroccan Women Association in the Netherlands)
- Nederlandse Vereniging van Vrouwenbelangen, Vrouwenarbeid en Gelijk Staatsburgerschap (Netherlands Association of Women's Interests, Women's Work and Equal Citizenship)
- Nisa for Nisa (Moroccan women organization in Amsterdam West)
- NJCM, Nederlands Juristen Comité voor de Mensenrechten (Dutch Section of the International Commission of Jurists)
- NNID, Nederlands Netwerk Intersekse/DSD (The Netherlands Network Intersex/DSD Foundation)
- NOOM, Netwerk van Organisaties van Oudere Migranten (Network of Organizations of Elderly Migrants)
- NVR, Nederlandse Vrouwenraad (Netherlands Council of Women)
- Oudere Vrouwen Netwerk Nederland (Elderly Women's Network Netherlands)
- Out and Proud
- OXFAM NOVIB
- Passage, christelijk-maatschappelijke vrouwenbeweging (Christian Community Women's movement)
- Proefprocessenfonds Clara Wichmann (Women's Rights Fund Clara Wichmann)
- Professional Latin Women 4 Development (PLW4D)
- PROUD, de Nederlandse belangenvereniging voor sekswerkers (Dutch Union for Sex Workers)
- RADAR/Art.1, Kenniscentrum discriminatie Nederland (Dutch Knowledge Centre on Discrimination)
- RESPECT Network NL (migrant domestic workers)
- Rights4Change (Organization for human rights and gender justice)
- SHOP, Hulp en Opvang prostitutie en mensenhandel (Shelter and Advice Prostitution and Trafficking)
- SONPPCAN (Somali Network for Prevention and Protection against Child Abuse and Neglect)
- Sophiedela (African European Women's Movement)
- Stichting DR Congo à la Carte (DRCC)
- Stichting Fayaz voor Mensenrechten in Afghanistan (Fayaz Foundation for Human Rights in Afghanistan)
- Stichting Landelijke Werkgroep Mudawwanah (Foundation National Workgroup Mudawwanah)
- Stichting LOS (Foundation for Support for Undocumented Migrants)
- Stichting OKIA (Support Committee for Undocumented Workers)
- Stichting Steunpunt Studerende moeders (Foundation for Student Mothers)
- SWexpertise, platform positieverbetering sekswerkers (Platform Improvement Position Sex Workers)
- TAMPEP International Foundation (European Network for HIV/STI Prevention and Health Promotion among Migrant Sex Workers)
- TIYE International (Platform of 21 National Associations of Black, Migrant and Refugee Women and Youth)
- TNN (Transgender Network Netherlands)
- VAM, Stichting Vrouwen en Arbeidsmarkt (Women and Labour Market Foundation)
- Vereniging van Afghaanse Vrouwen (Rabea-e-Balkhi)
- Vereniging voor Vrouw en Recht Clara Wichmann (Association Women and Law Clara Wichmann)
- VHTO, Dutch National Expert Organization on Girls/Women and Science/Technology
- Vluchtelingenorganisaties Nederland (Refugee Organizations Netherlands)
- VluchtelingenWerk Nederland (Dutch Council for Refugees)
- VNVA, Vereniging van Nederlandse Vrouwelijke Artsen (Dutch Association of Medical Women)
- Vrouwen van Nu (Today's Women)
- VTU, Vrouwen Tegen Uitzetting (Women Against Deportation)

- VVAO, Vereniging voor hoger opgeleide vrouwen (Netherlands Association for Highly Educated Women)
- Wemos Foundation
- WGNRR (Women's Global Network for Reproductive Rights)
- Wij Vrouwen Eisen (Dutch Abortion Committee We Women Demand)
- WILPF (Women's International League for Peace and Freedom, Dutch Section)
- WO=MEN, Dutch Gender Platform
- Women for Water Partnership
- WOMEN Inc.
- Women on Waves
- YWCA-NL

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Shadow Report for the List of Issues & Questions by the Dutch NGOs, January 2016

# LEGAL AND POLICY FRAMEWORK

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## 1 COMPLIANCE WITH THE CONVENTION IS AS INVISIBLE AS THE CONVENTION ITSELF

In its report the government mentions procedures it employs to assess its own compliance with international law (CEDAW/C/NLD/6 para 161-164). The NGOs and CSOs point out, however, these seem to be strictly internal and confidential procedures, since neither Parliament nor NGOs or CSOs are able to review them. The database of the parliamentary documents from 1995 to the present reveals that hardly any references to the Convention have been made in legislative proposals or written and oral dialogue with Parliament, let alone references to its specific provisions. Most references concern either to the cycle for reporting to the Committee or the *De Blok et al case* (see para 2). The Network found 258 hits in the government's digital database, largely in country reports produced by the Ministry of Foreign Affairs.<sup>1</sup> These include ratification information and general references to the Convention in its international assistance and human rights policy papers. The references to the Convention in the SDGs are lacking in the first SDG-progress reports. Despite the Committee's urgent recommendation that further steps be taken to raise awareness about the Convention, its Optional Protocol and General Recommendations, hardly any effort has been made (see also Annex para 4 & 5). The NGOs and CSOs are also concerned that the government applies a very limited interpretation of Article 2e of the Convention (as described in CEDAW/C/NLD/Q/6/Add.1 para 3).

*The NGOs and CSOs suggest that the Committee asks the government to make its compliance checks transparent and available to the public, enquires why the government maintains a low profile for the Convention, the Optional Protocol and the General Recommendations and questions its limited interpretation of Article 2e.*

## 2 ABSENCE OF EFFECTIVE REMEDIES FOR VIOLATIONS OF RIGHTS GUARANTEED BY THE CONVENTION

As demonstrated by its disregard of the Committee's recommendations in the *De Blok et al case*, the government does not ensure effective remedies for all women, let alone 'particularly migrant women' (CEDAW/C/NLD/Q/6/para 1). The NGOs and CSOs wonder why the government ratified the Optional Protocol if it is not prepared to follow the Committee's recommendations concerning an individual complaint and compensate the complainants.

The Network notes that the government's opinion regarding the limited scope of Article 11(2), as expressed in its explanation (CEDAW/C/NLD/Q/6/Add.1 para 22&23), is new. Before 2004, it included legislative arrangements with respect to maternity benefits for self-employed women in its periodic reports to CEDAW without such wording as "out of its own volition" (para 23). In parliamentary debates it applied a broad interpretation of the scope of Article 11 several times<sup>2</sup>, and did not insist on a limited scope in the earlier case regarding maternity benefits under the Optional Protocol.<sup>3</sup>

The government has so far refused to enter into follow-up dialogue with the Committee, arguing that "the contentious proceedings before the Committee have been terminated by the adoption of the Committee's views" and lately that legal procedures by complainants are pending.<sup>4</sup> The NGOs and CSOs object to this attitude. It is precisely because of the government's disregard of the Committee's views that complainants have been unable to see any solution other than to start new proceedings. In the interim, one out of the six complainants has received the maternity benefits. Two others lost their case at the District Court Amsterdam (July 18 2016) and are preparing an appeal, and a fourth complainant is awaiting the verdict of the District Court Central Netherlands.

*The NGOs and CSOs suggest that, while leaving the juridical aspects to the follow-up dialogue and Dutch legal processes, the Committee asks the government how it can justify the fact that only one of the six complainants actually received the recommended compensation.*

## 3 DISPARITIES IN IMPLEMENTATION AND INTERPRETATION OF THE CONVENTION

The NGOs and CSOs deplore the government's unwillingness to address disparities in the implementation of the Convention in the four countries of the Kingdom and three Caribbean Dutch municipalities. They are also worried about disparities in the Convention's interpretation. How can two governments consider that improvement of academic performance by boys is a priority in the implementation of the Women's Treaty?<sup>5</sup>

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<sup>1</sup> [www.officielebekendmakingen.nl](http://www.officielebekendmakingen.nl) and [www.rijksoverheid.nl](http://www.rijksoverheid.nl).

<sup>2</sup> In 2004 the maternity benefit for self-employed women was abolished. Sources are cited in the complainants letter to CEDAW dated 30 October 2014.

<sup>3</sup> Communication No. 3/2004, *Ms. Nguyen v. Staat der Nederlanden*, CEDAW/C/36/D/3/2004.

<sup>4</sup> Quote taken from a letter from the Agent of the Government of the Netherlands to CEDAW, dated 11 December 2015.

<sup>5</sup> CEDAW/C/NLD/Q/6/Add.1 para 13 & 156

#### **4 REDUCED ACCESS TO EFFECTIVE REMEDIES**

In 2015 the Supreme Court slashed the range of options of Civil Society Organisations (CSOs) to launch public interest litigation regarding discrimination or other illegal actions perpetrated by state bodies.<sup>6</sup> It is now no longer possible for a CSO to bring a civil suit against local or national bodies on behalf of a group of citizens, if those citizens are able to lodge an individual objection before the administrative judge. This has a particularly negative impact on marginalised and disadvantaged groups, whose members may not dare to litigate individually for fear of social or other repercussions. For stigmatised groups such as sex workers, who do not want their identity to be publicly exposed, it presents a major problem. Precisely because individual citizens are often fearful of negative consequences, or do not have the knowledge and the means to go to court, it is crucial that CSOs, including trade unions, are able to litigate on matters of principle that affect an entire group.

*The NGOs and CSOs suggest that the Committee asks the government how it will ensure access to justice for marginalised and stigmatised groups, in particular through public interest litigation.*

### **NATIONAL MACHINERY AND GENDER MAINSTREAMING**

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#### **5 FUNDING POLICIES PLACE SMALL WOMEN'S ORGANISATIONS AT A DISADVANTAGE**

Dutch funding policies increasingly favour large, often non-gender-specific organisations to the disadvantage of small or recently-established women's organisations, especially those representing organisations of black, migrant or refugee women and those working with volunteers. Most of the Ministry of Foreign Affairs' funding schemes that are relevant to women's rights organisations and gender equality initiatives employ threshold criteria that effectively exclude small organisations, making them dependent on the (often non-existent) willingness of large(r) organisations to partner with them (see also Annex para 6 & 7). This includes such criteria as: having a substantial turn over and proven track record over the previous three or more years; having a considerable income from other sources; and the capacity to work with elaborate formats requiring detailed planning. It is almost impossible for innovative initiatives to apply for small(er) amounts of money. Similar thresholds appear in the new funding scheme on gender and LGTB equality, which means only so-called 'strategic partnerships' will be accepted for funding. Though one of the criteria for alliances is 'diversity', it is unclear how this is defined and will be assessed. It seems unlikely that even one of the alliances will have black, migrant or mixed representation in the leadership. This hinders the creation of an inclusive and just emancipation structure.

*The NGOs and CSOs suggest that the Committee asks the government the following: how it defines and assesses diversity, how it will ensure an inclusive emancipation structure and whether it is willing to take measures to prevent small, black, migrant or refugee women's organisations from being excluded from its funding schemes or being made dependent on bigger organisations.*

#### **6 INVISIBILITY OF GENDER IMPACT ASSESSMENTS AND GENDER MAINSTREAMING**

Gender impact assessments, if carried out at all, are not accessible to the Parliament, NGOs and CSOs. The government has never used the instrument of gender budgeting. The NGOs and CSOs were surprised to read the announcement of an exploratory study on gender mainstreaming (GM) in the government's replies (CEDAW/C/NLD/Q/6/Add.1 para 35). In the body the letter referred to gender mainstreaming was only mentioned in the context of the historical background of the Beijing Conference. The NGOs and CSOs are unaware that GM has been stepped up (para 36). On the contrary: useful instruments for GM developed in previous decades seem to have got lost. In the view of NGOs and CSOs the situation is best described as 'gender away streaming': as soon as gender is being integrated into mainstream policy it becomes invisible, disaggregated data is rarely maintained and the policy's result remains unknown. Hence GM utterly fails to contribute to substantive equality.

*The NGOs and CSOs suggest that the Committee enquires about the governments' definition of gender mainstreaming and asks what results have been achieved by 'stepping up' its efforts.*

#### **7 GENDER SPECIFIC EFFECTS OF THE GOVERNMENT'S RESPONSE TO THE ECONOMIC CRISIS**

The economic crisis has had a negative impact on the labour market position of men. Male dominated sectors, such as the real estate and construction sector, have been hit hard. While the government tried to mitigate these effects via fiscal measures, its austerity response to the crisis worsened the position of women on the labour market. Budget cuts in the child-care allowances (see para 47) and the decentralisation of social care service (see para 8, 57 and Annex para 1 and 31 ) resulted in thousands of redundancies, particularly affecting older women in the less urbanised parts of the country and black and migrant women in the urban areas. Consequently for the first time

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<sup>6</sup> State/Privacy First, Judgement 22 May 2015, ECLI:NL:HR:2015:1296. See also: ECLI:NL:HR:2016:1049.



since 1992, more unemployment benefits were paid to women than to men in 2015!<sup>7</sup>

*The NGOs and CSOs suggest that the Committee invites the government to reconsider its refusal to use instruments such as gender impact assessments (ex ante + ex post) and gender budgeting.*

## **8 LOCAL GOVERNMENTS' TENDER PROCEDURES PLACE WOMEN AT A DISADVANTAGE**

The government has not explained why it hasn't adopted the Committee's recommendation that a consistent scheme for promoting equality in public contracts be introduced (CEDAW/C/NLD/CO/5 para 19).<sup>8</sup> The NGOs and CSOs note that at the local level the introduction of tendering procedures for the provision of services as home-care, specialised youth care, cleaning and transportation of school children, elderly or disabled people has been disastrous for the primarily female workers in these sectors. To be competitive companies often submit tenders at rock-bottom prices that can only be fulfilled by worsening workers' labour conditions. The results include lower pay, fewer hours, increased work pressure, more on-call contracts and homecare workers losing their employment contracts and having to accept re-employment with fewer rights under the Home Help Services Scheme. Consequently, several homecare and specialized taxi-branch companies have gone bankrupt, causing unemployment for their workers. If these workers succeed in finding another job in the sector they often have to accept temporary contracts and lower salary scales.

*The NGOs and CSOs suggest that the Committee asks the government why it did not follow its recommendation on public procurement, how it will ensure the use of public contracts to further the position of women, and how it will prevent local governments' tender procedures from disadvantaging women. Since the Committee views the Convention as binding on all branches of government and structures at all levels (CEDAW/C/NLD/CO/5 para 8 & 9), it could also enquire how the government ensures that local governments abide by its obligations.*

## **9 ABSENCE OF CONCRETE BENCHMARKS AND MEASUREMENT OF RESULTS**

In its report the government describes a range of initiatives to promote equality and counter discrimination and violence. But the NGOs and CSOs observe an absence of clear targets and benchmarks. Reports on the actual results of these initiatives are also missing. This applies to such projects as *Kracht on Tour*, *On your Own (Eigen kracht)* and the *Table of One (Tafel voor Een)* (CEDAW/C/NLD/6 para 22 and CEDAW/C/NLD/6/Add. 1 para 172-173).

*The NGOs and CSOs suggest that the Committee asks the government for concrete targets and benchmarks and reports on the actual results of the initiatives described.*

## **TEMPORARY SPECIAL MEASURES**

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### **10 WOMEN IN TOP-LEVEL POSITIONS: BARELY ANY PROGRESS BUT NO SANCTIONS**

The NGOs and CSOs are not surprised by the absence of figures in the government's response to the Committee's question regarding the results of temporary legislation aimed at promoting women to top-level positions (CEDAW/C/NLD/Q/6/Add.1 para 45). Euphemisms such as 'boost', 'progress' or 'intensify' do not convince them (see also Annex para 26).

*The NGOs and CSOs suggest that the Committee asks the government what figures hide behind the words 'boost', 'progress' and 'intensify' and how non-white women fit into these figures.*

### **11 LACK OF AN INTERSECTIONAL APPROACH IN DISCRIMINATION ACTION PROGRAMS**

The NGOs and CSOs welcome the launch of the government's Program of Action on Discrimination in the Labour Market and the National Program of Action to Combat Discrimination (CEDAW/C/NLD/Q/6/Add.1 para 46-50, 56-58, 139-140). In their view, however, these programs should not be defined as 'temporary special measures'. Actions against discrimination should be carried out on a permanent basis, though some temporary measures may form part of these. The NGOs and CSOs note that both programs include special actions to combat gender discrimination as well as other forms of discrimination, but that the intersection of gender with other forms of discrimination is barely explored, let alone addressed, despite the Committee's specific recommendation that this should take place (CEDAW/C/NLD/CO/5 para 25). The NGOs and CSOs raised the issue of intersectional

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<sup>7</sup> CBS News, September 2015.

<sup>8</sup> The government mentions (the possibility) of terminating contracts in cases where there is a conviction for discrimination (CEDAW/C/NLD/Q/6/Add.1 para 28). This possibility has recently been introduced in debates on racism and LGBT-discrimination. The NGOs and CSOs, however, feel it has no added value, as there has not been a single conviction relating to gender discrimination since it was included in the Criminal Code. NGOs and CSOs prefer the positive approach of the Committee: promoting equality in the issuing of public contracts.

discrimination of women with disabilities already in the preliminary shadow report (see Annex para 40). In respect of the other forms of discrimination, such as age, ethnicity etc. the language employed in the programs is gender-neutral (apart from when it refers to lesbian women): ‘people’, ‘non-western migrants’, ‘students’ and ‘youth’. This gender neutral approach is also applied to the policies and measures as well as to the general action points. In addition, the programs fail to pay specific attention to the need to eliminate gender and racial stereotypes. With regard to the intersection of discrimination on gender and religion recent research shows that (young) women wearing a headscarf are overrepresented in figures of the reported incidents of outdoor violence as well as in the reported difficulties of finding a vocational training internship.<sup>9</sup>

*The NGOs and CSOs urge the Committee to ask the government why it does not pay attention to gender stereotyping combined with discrimination on other grounds and why it ignores intersectional discrimination.*

## **STEREOTYPES AND HARMFUL PRACTICES**

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### **12 GENDER STEREOTYPING IN ADVERTISING NOT ADDRESSED**

In its replies (CEDAW/C/NLD/Q/6/Add.1, para 55) the government states that its obligation to respect press freedom limits its role in combating the stereotyping of women in the media. In reality, it has more possibilities than it suggests. According to the Media Act (*Mediawet*) both public and commercial broadcasting companies are supervised by the Advertising Code Foundation (*Stichting Reclame Code*) and are obliged to comply with the Advertising Code. This states that advertisements must be in accordance with the law, convey the truth and conform to norms of decency and good taste. According to the code’s Explanatory Note, this prohibits any form of discrimination based on gender, race, ethnic descent, nationality, religion, disability, age or sexual orientation. Nevertheless, the Advertising Code Foundation does not consider male/female stereotyping as a form of discrimination and concludes that it is permitted in advertising. But according to articles 2f and 5a of the Convention gender role stereotyping should be considered discrimination. Moreover, where racism is concerned, the government does acknowledge that stereotyping is a vehicle for discrimination (Discrimination Action Programs).

*The NGOs and CSOs suggest that the Committee calls on the government to take steps to have the Advertising Code Foundation adapt its interpretation of the Code to conform with Articles 2f and 5a of the Convention, by designating stereotyping as a form of discrimination.*

### **13 ABSENCE OF COHERENT POLICIES ON HARMFUL PRACTICES**

The Netherlands’ policy on harmful practices is fragmented and oriented predominantly towards migrant and refugee women, which ignores the fact that harmful practices are a broader phenomenon that may be present elsewhere, for instance in orthodox Jewish or Christian communities. This reinforces the stereotype that harmful practices exclusively affect black, migrant and refugee women. Moreover, research shows that when women are exposed to one type of harmful practice, they tend to be at risk for others or for gender-related violence, including honour-related violence, forced marriage, domestic violence or incest.<sup>10</sup> Professionals, such as health care workers and teachers, are not sufficiently trained to recognise these risks and be alert to the existence of other types of harmful practice. This hampers adequate identification and assistance. The NGOs and CSOs also note a general lack of expertise on harmful practices in refugee (emergency) centres.

*The NGOs and CSOs suggest that the Committee urges the government to develop a coherent and inclusive policy on the entire spectrum of harmful practices based on a human rights perspective, in which the various manifestations of violence and their underlying cause are linked, and addressed via prevention, assistance and healthcare.*

### **14 NEGATIVE CONSEQUENCES OF DECENTRALISATION IN ADDRESSING HARMFUL PRACTICES**

Government policies of recent years have structurally undermined organisations of black, migrant and refugee women and their key role in addressing harmful practices in their communities. These policies include: cuts at all levels, delegation of service from the central government to the municipalities and the cancellation of measures for support to specific target groups. As a result expertise and earlier gains have been lost and these organisations’ participation in the ‘integrated’ or ‘chain’ approach to harmful practices has fallen significantly. This includes their

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<sup>9</sup> E. Klooster, S. Koçak & M. Day (2016); *Mbo en de stagemarkt, wat is de rol van discriminatie?* (Role of discrimination in the market for trainees), Kennisplatform Integratie & Samenleving; F.Z. Lachhab & M.H. Vorthoren (2016), *Onderzoeksrapport Islamofobie in zicht* (Research report on Islamophobia), Rotterdam SPIOR.

<sup>10</sup> Towards the elimination of female genital mutilation. Final Communication from the Commission to the European Parliament and the Council, European Commission, Brussels, 25.11.2013 COM(2013) 833.

role as intermediaries between their communities and professionals. This also reduces their role in the development of expertise among service providers and other professionals, as well as their ability to influence local and national policies.

*The NGOs and CSOs suggest that the Committee asks the government what measures it will take to maintain and protect the expertise on harmful practices held by organisations of black, migrant and refugee women and ensure their participation in the local 'chain' approach.*

## **15 INSUFFICIENT ASSISTANCE TO AND PROTECTION OF ABANDONED WOMEN AND GIRLS**

Women and girls who are abandoned in their parents' country of origin face major obstacles in returning to the Netherlands. Dutch embassies have been given a central role in facilitating their return, but there are huge variations in attitude and performance. NGOs also report problems regarding embassies' inaccessibility: they are often located at a distance or are completely absent. The EU/Schengen 'sharing' of embassies has not (yet?) proven to have added value in this respect. Other problems reported are insufficient help with arranging tickets and/or the lack of protection while waiting for travel documents. For minor girls who flee (the threat of) a forced marriage, the problems are even worse since, in most cases, embassies will not act without the permission of the parents or a guardian. Many abandoned women are married women with a dependent residence permit, and some embassies only help abandoned women and girls who are fleeing forced marriage. Often embassies do not provide assistance to women married to men with Dutch passports if they themselves do not have the Dutch nationality. If women or girls do manage to return to the Netherlands, they face huge difficulties in finding proper shelter and assistance. Shelters and/or Safe at Home (the municipal portal to women's shelters) make assessments of the risks of recurrent violence, which often leads to denial of shelter due to the limited capacity. The NGOs are of the opinion that *all* categories of abandoned women and girls who previously lived in the Netherlands are entitled to assistance. They also feel that the government could play a more active role in providing assistance and protection, particularly via: cooperation with women's organisations in the countries of origin; provision of safe accommodation while waiting for consular assistance related to travel documents; arrangement of tickets; and the provision of shelter on return to the Netherlands. They are also of the opinion that, where minors are involved, the rights of the girl-child should weigh more heavily than the rights of the parents and they should be offered protection with or without parental permission.

*The NGOs and CSOs suggest that the Committee asks the government for facts and figures regarding abandoned women and girls who request assistance from Dutch embassies. The Committee could also enquire what measures the government is undertaking to address the problems listed above.*

## **16 MARITAL CAPTIVITY**

The government does not respond to the Committee's question on marital captivity, i.e. situations in which a woman cannot dissolve a (religious) marriage without the consent of the husband (CEDAW/C/NLD/Q/6 para 5). Although women can request the court to threaten to impose a fine on uncooperative (ex) husbands in order to force them to agree to a religious divorce, lawyers and judges, as well as the women concerned, appear to be insufficiently aware of this possibility. Moreover this can be unequal solving the problem, for example if the woman cannot execute the order due to the man's lack of income or if the (ex) husband lives in his country of origin. In the latter case, the woman has to go to the country concerned to try to get a divorce incurring costs and risks such as prosecution for bigamy or adultery. The NGOs and CSOs are of the opinion that the government should increase its efforts to combat marital captivity, for example by starting a dialogue with the countries of origin concerned. This can involve: including the issue of recognition of Dutch divorces in development aid and/or bilateral treaties; and providing legal and other support through its embassies so the women themselves do not have to travel to the country of the (ex) husband's origin.

*The NGOs and CSOs suggest that the Committee asks the government if it is willing to take the above measures, as well as to make judges, lawyers and the women concerned more aware of the possibility of pressing for a divorce via the threat of a fine.*

## **17 LACK OF FIGURES ON FEMALE GENITAL MUTILATION (FGM)**

There is still no clear picture about the prevalence of FGM among the various populations in the Netherlands. According to the government's 7<sup>th</sup> progress report on domestic violence and child abuse (2016) the government has requested Pharos, Dutch Centre of Expertise on Health Disparities, to discuss with Safe at Home and child support institutions the possibilities for improvement of data collection. However, the data are not complete because many women do not approach these organisations, perhaps out of fear that the child welfare authority might take their children away.

*The NGOs and CSOs suggest that the Committee asks the government to broaden its efforts to systematically collect data on FGM and involve women's organisations from relevant communities in these efforts.*

## **18 FGM AS GROUND FOR ASYLUM**

According to the government report (para 174), women at risk of genital mutilation can apply for international protection, but, in the experience of NGOs, women are only granted 'B-status', which is dependent on whether or not there exists a local 'alternative place of settlement'. Following a recent change on the Immigration Circular, for instance, victims from Sierra Leone no longer qualify for residence permits since they are supposed to be able to flee to a 'FGM safe area' in Sierra Leone.

Another obstacle is the extremely high burden of proof. An illustration is provided by the recent complaint lodged before the Committee against Torture (CAT) against the Netherlands by a woman from Guinea who had applied for asylum for fear of being re-mutilated after reconstruction surgery.<sup>11</sup> Despite the fact that about 95% of the girls and women in Guinea have undergone FGM and that the state does not provide effective protection, her application and appeal was rejected because, according to the Council of State, she had not proven that "she did not belong to the group of 5% of Guinean women who succeed in escaping FGM". CAT, however, declared her complaint well-founded. Applications for asylum from Guinean mothers who fear that their daughters will be subjected to FGM are also rejected because, according to the government, girls do not run 'a real risk' of FGM if their mother is opposed. The Council of State approved this argument several times.<sup>12</sup> This reasoning makes any application by opposing mothers hopeless. It also shows an incomprehensible lack of awareness of the enormous social pressure under which opposing mothers can succumb, and doesn't take into account the consequences of refusal, such as social exclusion and possible negative consequences such as physical or verbal violence. The designation of the mother as 'protective actor', regardless of personal circumstances and background, also contravenes the EU Qualification Directive.<sup>13</sup>

*The NGOs and CSOs suggest that the Committee calls on the government to classify FGM-related claims as grounds for membership of a particular social group for the asylum and to bring its policy into accordance with General Recommendation 32, the UNHCR Guidelines on gender-related persecution and the EU Qualification Directive.*

## **VIOLENCE AGAINST WOMEN**

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### **19 LACK OF SYSTEMATIC DATA COLLECTION**

Despite repeated requests from the Committee and NGOs and CSOs, there is still a lack of systematic data collection on violence against women disaggregated across all forms of violence and groups: white, migrant, black, refugee and undocumented women. This leads to policy choices that lack underpinning and hampers the development of effective policies.

*The NGOs and CSOs suggest that the Committee asks the government to intensify its efforts to systematically collect data on the different forms of violence and groups affected.*

### **20 GENDER SPECIFIC POLICIES AND IMPACT ASSESSMENTS**

Despite its obligation under the Convention and the Istanbul Convention to develop gender sensitive policies, the government still formulates its policies on domestic violence as if this were a gender-neutral phenomenon unrelated to traditional gender roles and the unequal power relationships that exist between women and men. There is a lack of gender-specific knowledge, national guidance and political support. The gender scan (CEDAW/C/NLD/Q/6/Add.1 para 100) has only been applied to partner violence but not to other types of gender-based violence. Often policy makers, implementers, the police and service providers have no awareness of gender-related factors.<sup>14</sup> The NGOs and CSOs also note a lack of attention to black, migrant and refugee women in the policies on domestic violence, while, conversely, there is a lack of attention to white women in the policies on harmful practices. This reinforces existing stereotypes and prejudices.

*The NGOs and CSOs suggest that the Committee asks the government what steps it intends to take to develop gender-sensitive policies on all forms of violence against women and to systematically monitor the gender-specific effects of policies on different groups of women, as prescribed by the Istanbul Convention.*

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<sup>11</sup> *F.B. vs The Netherlands*, CAT, 20 November 2015, CAT/C/56/D/613/2014.

<sup>12</sup> E.g. ABRvS 12 June 2015, 201410280/1/V2 and 201409630/1/V2.

<sup>13</sup> Martin Vegter (2016), "Gebrekkige bescherming van Guineese meisjes als moeder tegen besnijdenis is. Moeders wil is geen wet" ("Inadequate protection of Guinean girls if the mother opposes FGM"), *A&MR* 2016 Nr. 3, p. 115-122.

<sup>14</sup> See Annex II (Gender scan The Netherlands) of the 6th Periodic Report (CEDAW/C/NLD/6), p. 154-159.

## **21 LOSS OF EXPERTISE WITHIN THE POLICE SERVICE**

Since the reorganisation of the police into one national police force, a lot of expertise on domestic violence, trafficking in women and other forms of gender-based violence has been lost. Meanwhile, complaints by victims of violence, especially domestic violence, regarding their treatment by police have increased. The police has become less accessible; women are discouraged from lodging reports, or the police refuses outright to take down their statements. This is especially worrying since an estimated 60,000 – 100,000 reports of domestic violence are lodged every year.<sup>15</sup>

According to very recent information a start has been made to increase expertise and establish a national model for cooperation between police, public prosecution officials and Safe at Home, which is to be implemented in all regions. Via monitoring an assessment can be made as to it would be desirable to intensify efforts.

*The NGOs and CSOs suggest that the Committee asks the government whether it intends to monitor the number and type of incidents that are reported to the police, as well as the number of prosecutions and verdicts handed down by court in each region and make the results available on an annual basis.*

## **22 VIOLENCE AGAINST MUSLIM WOMEN**

Islamophobic incidents have increased in number at an alarming rate over recent years. Research shows that women who wear headscarves are particularly targeted (72% of the incidents reported) and that they are victims of more violent incidents than men: they are verbally abused on the streets and on public transport, their headscarves are torn off and they are spit at or beaten.<sup>16</sup> In 10% of the incidents reported the victims' children were present. Bystanders interfered only in one out of every five incidents. The NGOs and CSOs are of the opinion that this aggressive form of islamophobia is a form of gender-related violence as well as intersectional discrimination on grounds of gender, religion and ethnicity.

*The NGOs and CSOs suggest that the Committee asks the government whether it recognises public violence against Muslim women as a form of intersectional discrimination and what measures it is undertaking to address this violence.*

## **23 LIMITED KNOWLEDGE OF NEW FORMS OF SEXUAL VIOLENCE**

Since the growth of the Internet and social media, new forms of sexual violence, stalking and bullying have developed: grooming, sexting, happy slapping, publication of nude pictures of girls or women by ex-partners, etc. Professionals, including the police, often have limited knowledge of these new phenomena and what action can be taken to deal with them.

*The NGOs and CSOs suggest that the Committee asks the government what steps it intends to take to improve knowledge by the police and other relevant professionals on these new forms of violence.*

## **24 SEXUAL VIOLENCE IN YOUTH INSTITUTIONS**

Recent parliamentary investigations have showed an alarming prevalence of sexual abuse within specialised youth institutions.<sup>17</sup> Although this has led to a national action plan, the implementation of several aspects of the action plan has been delayed by budget cuts and reorganisations resulting from the delegation of child welfare services to municipal authorities.

*The NGOs and CSOs suggest that the Committee asks the government how it will ensure that the implementation of the action plan will not suffer further delay and that municipalities will deploy sufficient expertise and budgets to take the measures necessary.*

# **DOMESTIC VIOLENCE**

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## **25 RESTRICTIONS IN ACCESS TO LEGAL AID FOR VICTIMS OF DOMESTIC VIOLENCE**

Victims of domestic violence who want to get a divorce must follow several legal procedures. However, due to cuts in state-funded legal aid, the personal contribution necessary to employ a lawyer for family cases has more than tripled and must be paid for each procedure undertaken. The lowest personal contribution in family cases is almost twice as high as that in employment cases. Moreover, whereas at this moment only the income of the woman is taken into account for granting state-funded legal aid, there are proposals to take the income of both partners into consideration, as well as to increase registry fees that must be paid. If the government proceeds with these plans,

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<sup>15</sup> Speech Eva Kwakman, national prosecutor youth and family, expert meeting domestic and sexual violence, 23 June 2016.

<sup>16</sup> SPIOR (2016), *Islamofobie in zicht* (Research report on Islamophobia).

<sup>17</sup> Parliamentary Commission Samson (2012) and Rouvoet (2015).

victims of domestic violence who do not have an income or who have only a very low income, will no longer have independent access to legal aid. In practice, this will mean that they cannot go to court to demand a divorce and/or take other steps necessary. If they cannot pay the registry fee, the case will be declared inadmissible. If the abusive partner appeals and the woman cannot pay a lawyer, she will automatically lose the procedure.

*The NGOs and CSOs suggest that the Committee asks the government how its plans to reduce access to legal aid for victims of domestic violence relate to its obligations under the Convention and whether it is willing to withdraw its plans and ensure that victims of domestic violence continue to get access to legal aid, without regard to the income of the abusive partner. The NGOs and CSOs also suggest that the government be asked if it is willing to set the personal contribution for family cases at the same level as that for employment cases.*

## **26 NO SHELTER FOR UNDOCUMENTED VICTIMS OF DOMESTIC VIOLENCE**

Undocumented women who are victim of domestic violence have grave problems in gaining access to shelter and assistance. Under the Social Support Act, which regulates the administration of women's shelters, women without residence permits are excluded. Both the Istanbul Convention and the European Victim Directive oblige the Dutch government to provide shelter and assistance to members of vulnerable groups, including victims of domestic and honour-related violence, human trafficking and abandonment, regardless of their residence status. However, this obligation was not included in the transposition bill of the EU Victim Directive, that has been submitted to Parliament. The government maintains that undocumented women have access to shelter, but fails to mention that such access is only temporary and tied to the condition that the women collaborate in their expulsion from the country.<sup>18</sup> Moreover, those types of shelters maintain no specific expertise on domestic violence.

*The NGOs and CSOs suggest that the Committee urges the Dutch government to fully transpose the EU Victim Directive and ensure that undocumented women who are victims of domestic violence have access to shelter and assistance.*

## **27 INSUFFICIENCIES IN ASSISTANCE AND SHELTER**

The government's response to the Committee's request for information on shelter and assistance to victims of domestic violence and child abuse presents a picture that is too rosy, in the NGOs' opinion (CEDAW/C/NLD/Q/6/Add.1 para 95). There are still shortages in capacity and staff due to insufficient financial means, created, for instance, through shortfalls in funding and there is a lack of follow-up housing so the shelters become clogged. At some shelters there are problems with maintenance of the buildings and consequently with hygiene. In addition, the contribution that women have to pay differs across municipalities. In some cases women have to go into debt to pay for shelter. In the opinion of the NGOs and CSOs municipalities should grant shelters the option waiving the personal contribution in cases where this will lead to undue hardship, as is already possible with respect to youth care.

*The NGOs and CSOs suggest that the Committee asks the government to look into the state of maintenance and hygiene at the shelters, as well as into the availability of follow-up housing. It should also ask the government if it is willing to take steps to harmonise the level of personal contribution levied on users in different municipalities and ensure that these contributions pose no obstacle for victims of violence to have access to shelter.*

## **28 NEGATIVE IMPACT OF DEPENDENT RESIDENCE PERMIT ON PREVENTION OF VIOLENCE**

Prevention and early identification are key elements of the policy to counter domestic violence. Such measures are at odds with the government's recent prolongation of the duration of the dependent residence permit (2012) held by many migrant women and the increase in the burden of proof placed on them when they apply for independent residence permits on grounds of domestic violence (see also Annex para 33 and 34). Although women who encounter domestic violence may apply for an independent permit, the experience of NGOs and CSOs is that, insecurity regarding the outcome and the heavy burden of proof cause women to try and endure the violent situation as long as possible, risking escalation of the violence. This situation has become exacerbated by the extension of the period women must hold a dependent residence permit before applying for an independent one, from three to five years.

*The NGOs and CSOs suggest that the Committee asks the government to provide facts and figures on the number of applications it has received for independent residence permits on grounds of domestic violence; the number that were granted; the number rejected; and the grounds on which they were rejected.*

## **29 GENDER-BASED VIOLENCE AS GROUND FOR ASYLUM**

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<sup>18</sup> Parliamentary Papers, EK 34236-D, 12 July 2016, on the Implementation of the EU Victim Directive.

In its previous Concluding Observations (CEDAW/C/NLD/CO/5 para 41) the Committee urged the government to adapt its asylum procedures to the needs of female victims of violence. But according to the NGOs and CSOs the government has not implemented the Committee's recommendation. They have identified several barriers in the asylum procedure that make it difficult to request asylum on grounds of domestic and gender-related violence.<sup>19</sup> There are no legal or procedural guarantees that ensure (alleged) victims of violence are able to relate their experiences at their own pace and receive psychological support during this process. Despite earlier promises by the government to the parliament, identification and investigation of experiences of gender-specific violence are awarded no priority, either during the rest- and preparation period before the asylum procedure begins or during the procedure itself.<sup>20</sup> As a result, women are often directed to the extended asylum procedure at a late stage, or not at all. Asylum requests are rejected when women relate their experiences with violence only at a later stage or cannot prove their identities or nationalities.<sup>21</sup> Often lack of expertise and/or prejudices on the part of immigration officers and/or interpreters create situations that inhibit women in talking about their experiences.<sup>22</sup> This is especially the case with LBT women. Another factor is the lack of privacy in asylum-seekers centres (in particular in emergency shelters). Training programmes for immigration officers are short and/or limited in content. Despite earlier requests by the Committee, information on the number of women who have received asylum status based on gender-related violence is still unavailable. The NGOs and CSOs are extremely concerned about the large number of women whose asylum claims are rejected and who end up on the streets, despite the Committee's urgent recommendation to provide asylum seekers with suitable accommodation, including during the appeal phase.

*The NGOs and CSOs suggest that the Committee should once again urge the government to undertake measures to guarantee gender-sensitive asylum procedures in conformity with UNHCR Guidelines, General Recommendation 31 and 32 and the recent Resolution of the European Parliament on the situation of women refugees and asylum seekers.<sup>23</sup> The NGOs and CSOs also suggest that the Committee asks the government about the number of women who have been granted asylum on the ground of gender-related violence.*

## **TRAFFICKING AND EXPLOITATION OF PROSTITUTION**

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### **30 DE-LINKING IDENTIFICATION FROM CRIMINAL PROCEEDINGS**

Whereas a shift can be noticed in international law, from an offender-oriented approach towards a more victim-centred approach, the primary focus of Dutch anti-trafficking policies is still on the contribution of victims to criminal procedures. The (military) police and the Social Affairs and Employment Inspectorate (Labour Inspectorate) still have the exclusive mandate to identify (potential) victims. Before the reflection period or a residence permit is granted, the story of the (possible) victim is assessed based on existing indicators for starting a criminal investigation rather than from the perspective of the needs of the victim or victimhood as such.<sup>24</sup> This creates the risk of false 'negatives', since the absence of law enforcement indicators does not necessarily reflect a lack of victimhood. The NGOs and CSOs are of the opinion that the needs of the victim, or victimhood as such, should be leading in the identification process. For minors, de-linking identification from prosecution is even more urgent as their age may make cooperation in the criminal law procedure too demanding. Such an approach would also be in line with the Istanbul Convention. Although currently, as recommended by the Committee in its 2010 Concluding Observations (CEDAW/C/NLD/CO/5 para 28) and repeated in its 2012 and 2014 Follow-up letters (AA/Follow-up/Netherlands/53 resp. 58), a multi-disciplinary identification team is in the process of being established, it is being done at a painstakingly slow pace.

*The NGOs and CSOs suggest that the Committee urges the government to de-link identification and criminal proceedings. They also suggest that the government be urged to speed up the establishment of multi-disciplinary identification teams and to mandate these teams to offer the reflection period. The government should also be urged to take the assessment made by these teams into consideration in decisions on granting*

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<sup>19</sup> IRCT (2016), *Falling Through the Cracks, Asylum Procedures and Reception conditions for Torture victims in the European Union*.

<sup>20</sup> *Parliamentary Papers* EK 31 994, Amendment of the Immigration Act 2000.

<sup>21</sup> Women against Expulsion (2016), *Appeal to the Parliament regarding Asylum Procedures*; COC (2013), *Pink Solution*.

<sup>22</sup> Dutch Safety Board (2014), *Research Report Security of Aliens*; COC (2013), *Pink Solutions*; Advisory Committee on Migration Affairs (2014), *Traces of the past*.

<sup>23</sup> European Parliament resolution on the situation of women refugees and asylum seekers in the EU (2015/2325(INI)) (10 February 2016).

<sup>24</sup> Connie Rijken et al. (2013), *Mensenhandel: het slachtofferperspectief. Een verkennende studie naar behoeften en belangen van slachtoffers van mensenhandel in Nederland* (Trafficking in human beings: the victim perspective). Intervict, p. 147.

*(temporary) residence if the victim is not able or willing to cooperate with the authorities or if it appears that there are insufficient indicators to start criminal investigations. Such teams could also assess whether it is safe for the victim to report and/or to testify.*

### **31 SEPARATING ANTI-TRAFFICKING UNITS AND IMMIGRATION POLICE**

Since the reorganisation of the police, anti-trafficking police units have been incorporated into the immigration police. This has strengthened the focus on immigration law rather than on protection and assistance of victims. This development is reinforced by a general attitude of distrust, especially against west-African victims: it is assumed that they will abuse the B8-procedure to get a residence permit. There is no evidence to confirm this assumption, but it has led to a series of measures to combat the supposed abuse of the B8-procedure that have weakened the position of victims of trafficking.<sup>25</sup> A similar problem exists in relation to (potential) victims in immigration detention. Moreover, incorporating trafficking into the immigration police does not fit with the reality since, according to the figures of the National Rapporteur on Trafficking in Human Beings, the majority of victims are Dutch or EU citizens.<sup>26</sup>

*The NGOs and CSOs suggest that the Committee asks the government to consider re-separating the anti-trafficking units from the immigration police.*

### **32 FOCUS ON HUMAN SMUGGLING RATHER THAN HUMAN TRAFFICKING**

Under the influence of the recent flows of refugees, the focus and investigative capacity of the police has largely been redirected at human smuggling at the cost of combating trafficking and the identification of trafficking victims. Victims are literally being noticed less and the number of reports by the police is decreasing. The NGOs and CSOs are also concerned about the (lack of) identification of trafficking victims amongst refugees, including unaccompanied minors.

*The NGOs and CSOs suggest that the Committee asks the government how it will ensure that the focus on human smuggling does not operate to the detriment of combating trafficking and what measures it has taken to adequately identify trafficking victims amongst refugees.*

### **33 LACK OF TRAINING AND A VICTIM-CENTRED APPROACH AT THE LABOUR INSPECTORATE**

The NGOs and CSOs observe that, often, the cooperation with the Labour Inspectorate (in cases of trafficking for purposes other than prostitution, e.g. for domestic work), is still problematic. The Labour Inspectorate is primarily focused on tracking illegal workers. It does not have a victim-centred approach: appointments for an intake with a (potential victim) can take six to eight weeks, which reduces their access to assistance and protection. Moreover, the victim is sometimes informed in the cause of the intake interview that the case will not be further investigated.

*The NGOs and CSOs suggest that the Committee asks the government what steps it intends to take to ensure a more pro-active and victim-centred approach by the Labour Inspectorate and improve the cooperation between NGOs and CSOs and the Inspectorate.*

### **34 PARTICIPATION OF NGOs IN THE ANTI-TRAFFICKING TASK FORCE**

In its 2010 Concluding Observations (CEDAW/C/NLD/CO/5 para 29) and its 2012 and 2014 Follow-up letters (AA/Follow-up/Netherlands/53 resp. 58) the Committee called upon the Netherlands to ensure that relevant NGOs are fully integrated into the membership of the anti-trafficking task force. While it is appreciated that the National Coordination Centre on Trafficking (CoMensha) is included in the task force, the NGOs and CSOs are of the opinion that NGO representation is still unbalanced and that, consequently, the victim's perspective is underrepresented in comparison to the interests of the other participating parties.

*The NGOs and CSOs suggest that the Committee calls on the government to expand NGO membership in the anti-trafficking task force.*

### **35 LACK OF ACCESS TO SPECIALISED SHELTERS FOR DUTCH AND EU VICTIMS**

Currently, with the exception of emergency cases, specialised shelters (COSMs) (CEDAW/C/NLD/6 para 111) are not accessible to Dutch and EU trafficking victims although they can also be in need of such shelters and care.<sup>27</sup> Moreover, since the special arrangements for trafficking victims are primarily geared to third-country nationals, EU

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<sup>25</sup> *Parliamentary Papers* II 2011/12 28638 nr. 57. Measures such as: abolition of the victim's right to stay when initiating a legal procedure against the decision not to prosecute the alleged trafficker; prosecution of victims because of 'false statements', pilot 'applications without prospect'.

<sup>26</sup> National Rapporteur Trafficking in Human Beings and Sexual Violence against Children (2015), *Mensenhandel in en uit beeld, Update cijfers 2010-2014* (Human Trafficking in and out sight, Update figures 2010-2014).

<sup>27</sup> Connie Rijken et al. (2013), p. 148-150.



and Dutch victims have little or no access to specialised assistance and other provisions.

*The NGOs and CSOs suggest that the Committee calls on the government to make access to the specialised shelters available to all victims, including Dutch and EU victims, and generally improve access to assistance and protection for EU victims.*

### **36 DECENTRALISATION AND ACCESS TO SHELTER**

Since the decentralisation of (the financing of) care services, shelters and municipalities prefer placement in shelters within the municipality where they were lastly registered. For reasons of security, placement in another region is often preferable, but this is only possible in cases the victim can convincingly prove the risks involved. Moreover, not all cities have shelters, nor the specific expertise to deal with victims of trafficking.

*The NGOs and CSOs suggest that the Committee urges the government to remove the financial constraints of the existing decentralised structure, in accordance with the recommendations of the Lenferink Commission.<sup>28</sup>*

### **37 ACCESS TO SPECIALISED ASSISTANCE FOR VICTIM-ASYLUM SEEKERS**

Since 2015 victims of trafficking who are identified during the asylum procedure can halt the asylum procedure if they want to make use of the B8-procedure instead. The protection and assistance available to victims is highly dependent on which procedure they choose, but this is very problematic for them since they have to tell parts of their story several times to different people and would not know what part they are supposed to tell in which procedure, or what procedure fits best with what they have experienced. This does not help either the victim, nor the process of prosecuting traffickers.<sup>29</sup> The 'choice' between the two procedures is even more problematic for minors. A specialised procedure for minor victims of trafficking that takes their best interest into account, as prescribed by article 3 ICRC, is lacking.

*The NGOs and CSOs suggest that the Committee calls on the government to integrate the asylum and B8 procedure and include a specific procedure for minor victims focussed on their best interest, as recommended by the National Rapporteur on Trafficking.*

### **38 BILL ON REGULATING PROSTITUTION AND COMBATING ABUSES IN THE SEX INDUSTRY**

The NGOs and CSOs are pleased that following theirs and the Committee's serious concerns (CEDAW/C/NLD/CO/5 para 30) mandatory registration of sex workers has been removed from the bill on regulating prostitution (CEDAW/C/NLD/Q/6/Add.1 para 127; CEDAW/C/NLD/6 para 119). However, despite this rejection due to the implied violation of Dutch and EU privacy protection law, and despite the fact that during the Parliamentary debate on the bill the minister of Justice explicitly confirmed that compulsory registration is against the law, municipalities still continue to introduce mandatory registration. In addition, the NGOs and CSOs are very concerned about the raising of the legal age for sex workers from 18 to 21 in the bill (CEDAW/C/NLD/6 para 120). This will prevent young adults from working in the legal and protected sector and will drive them underground, where they are more vulnerable and will not ask for help when confronted with violence or abuse.

*The NGOs and CSOs suggest that the Committee asks the government what measures it intends to undertake to prevent municipalities from illegally introducing compulsory registration of sex workers, how it will monitor the situation of young adult sex workers after the adoption of the bill, and how it will prevent them from becoming more vulnerable to exploitation and other forms of abuse.*

## **PARTICIPATION IN POLITICAL AND PUBLIC LIFE**

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### **39 WOMEN IN DECISION-MAKING POSITIONS IN ACADEMIA & NUMBER OF FEMALE PROFESSORS**

In December 2015 the Dutch universities set targets for reducing the disparities in the proportion of males to females in academia (see also Annex para 21).<sup>30</sup> The NGOs and CSOs welcome the initiative and urge that diversity in background be added to the targets: there are hardly any female professors with a black or migrant background. The NGOs and CSOs point out, however, that targets are not new. They have been adopted since the 2000 Lisbon Agreement and appear not to be very effective: the annual increase remains at 0.8%. Moreover, the Glass Ceiling Index (GCI) figure is persistent: since 2007 the GCI for the step from associate professor to full professor has

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<sup>28</sup> Commission Lenferink (2015). *Gemeenten en de opvang van en zorg voor slachtoffers van mensenhandel (Municipalities and the care for victims of human trafficking)*, Association of Dutch Municipalities and the Federation of Shelters.

<sup>29</sup> National Rapporteur on Trafficking (2015), *Naar een kindgericht beschermingssysteem voor alleenstaande minderjarige vreemdelingen (Towards a child oriented protection system for unaccompanied minors)*.

<sup>30</sup> *Monitor Women Professors 2015*. Executive Summary, <http://www.lnvh.nl/files/downloads/352.pdf>.

remained unchanged at 1.5.<sup>31</sup> The NGOs and CSOs note also that the intersection of discrimination (sex/ethnicity/age etc.) also occurs at the universities. Female candidates may hold all the requisite qualifications, for instance, but don't get appointed professor because they are too old. In the view of the NGOs and CSOs the measures mentioned in the replies to the List of Issues (CEDAW/C/NLD/Q/6/add.1 para 141/142) are not sufficiently result-oriented.

*The NGOs and CSOs suggest that the Committee calls on the Minister of Education to make public, binding commitments on this issue, in the same way that commitments are made on all other aspects of science between the minister and the universities.*

#### **40 FEMALE POLITICIANS AT THE LOCAL LEVEL**

The NGOs and CSOs regret that since 2007 'political participation' is no longer an objective of the government's emancipation policy and agree with the Committee that the government should take steps to improve the situation of female councillors at the local level (CEDAW/C/NLD/CO/5 para 32).

Representation of women in local politics is low, averaging out at 25%, and barely increasing over the years. Only in the four major cities is the percentage higher: 38% in 2014. On the average, there are also more female representatives in provincial councils: 34.7% in 2015. Hardly any official intersectional statistics are maintained with regard to black, migrant and refugee women: 'women' and 'ethnic minorities' are counted separately. According to the most recent figures representation of 'ethnic minority women' in local politics was less than 1% in 2010.<sup>32</sup> Recent research reveals that female councillors are confronted with structural obstacles.<sup>33</sup> Municipal councils often assemble, for instance, between six and eight in the evening, a period that is 'rush-hour' in family life. Male chauvinist behaviour is sometimes obstructive. Since the national government has delegated several functions to the municipal authorities, the workload for councillors has significantly increased. Women experience more problems than men in combining their political work with a job and care for children or sick relatives. Moreover, local councillor's wages have remained the same and do not cover the cost of living. So councillors – in particular single mothers – need to have jobs alongside their work as councillor.

*The NGOs and CSOs suggest that the Committee asks the government to investigate the structural obstacles to women's political participation in municipal councils and to consult with local administrators as to how to overcome these obstacles.*

#### **41 WOMEN'S PARTICIPATION IN SENIOR POSITIONS IN PUBLIC SERVICES**

The government's target for 2017 of having 30% women functioning at top levels of the public services has been achieved. Female participation in senior positions has risen from 26% in 2012 to 31% in 2015. Some ministries are still below this target however: Economic Affairs (17%), Defence (9%), Foreign Affairs (25%) and the Department of Government (24%).<sup>34</sup> The NGOs and CSOs note that the figures presented are colour-blind, i.e. they do not include information on the ethnic background of the women concerned.

*The NGOs and CSOs suggest that the Committee asks the government what measures it will take to realise its 2017 goal of having women 30% of senior positions at the ministries that are lagging behind, and how non-white women fit into the figures.*

## **EDUCATION**

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#### **42 STEREOTYPING IN SUBJECT CHOICE IN EDUCATION**

In para 140 (CEDAW/C/NLD/6), without referencing its source, the government report asserts that subject choice is not only gender stereotyped but strongly based on ethnic background "and thus on prejudices about certain sectors". The NGOs and CSOs note that, according to two recent studies, gender does play a significant role in subject choice but ethnic background hardly does: socio-economic background has a far greater influence.<sup>35</sup> Partly because of this, girls and women from ethnic minorities seem to choose technical fields a bit more.

#### **43 GIRLS AND SCIENCE/TECHNOLOGY: STAGNATION IN TERTIARY EDUCATION & LABOUR MARKET**

The targeted information activities carried out by organisations like the VHTO, Dutch National Expert Organisation

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<sup>31</sup> The GCI is larger than 1 when personnel is underrepresented in the higher rank as compared to the one below.

<sup>32</sup> *Prodemos*, 2010, 2014, 2015

<sup>33</sup> Corine van Egten et al. *Vrouwenstemmen in de raad* (Women's voices in local councils), *Atria*, 2016.

<sup>34</sup> *Jaarrapportage Bedrijfsvoering Rijk 2015* (Annual Report of the State's Conduct of internal Management 2015).

<sup>35</sup> *Emancipatiemonitor* (Equal Rights Monitor), 2014 p. 50. D. Yazilintas et al; The postmodern perfectionist, the pragmatic hedonist and the materialist maximalist: understanding high school students profile choices towards or away from mathematics, science and technology (MST) fields in the Netherlands' in *Gender and Education* 2016.

on Girls/Women and Science/Technology have been bearing fruit. Although boys more often choose natural science & technology at secondary school, while girls choose natural sciences & health or a double focus, the number of girls choosing technical studies or natural sciences is rising (see also the government report (CEDAW/C/NLD/6 para 140)). The increase at the lower technical level, however, is far less: just 6% of the girls choose technical studies (against 46% of the boys). Remarkably, though, the encouraging trend at secondary level does not persist into tertiary education. In higher professional education, out of every 10 girls, only 0.9 choose technical studies. At universities, 2.3 out of 10 women choose scientific fields.<sup>36</sup> The government target - that 4 out of every 10 young people should choose scientific/technical studies - is still out of reach. The Netherlands is nearly at the bottom of the EU tables.

The loss of female scientific talent is clearest in the employment market. Some 70% of the women with scientific training work in non-technical fields. This is twice as many as men. In this context, the NGOs and CSOs find it disturbing that structural funding for VHTO is not assured. Contrary to what the government suggests (CEDAW/C/NLD/Q/6/Add.1 para 154), as of July 2016, VHTO's information activities in primary and secondary education are not covered in the budget of the Ministry of Education, Culture and Science.

*The NGOs and CSOs suggest that the Committee asks the government how it is going to achieve a substantial increase in the number of girls and women involved in science and technology at all levels. Another question could be about the continuation and retention of VHTO.*

#### **44 DISCRIMINATION AGAINST PREGNANT STUDENTS IN COLLEGE AND HIGHER EDUCATION**

In the view of the NGOs and CSOs the absence of essential provisions for combining education and child-care amounts to gender discrimination since it creates a substantial risk of female students delaying their studies or dropping out due to pregnancy and childbirth. The Minister of Education (and Gender Equality!) sees no role here for the legislature or for her department. Educational institutions are themselves responsible for upholding the laws on equal treatment and taking measures in the interest of pregnant students and studying mothers. Students must themselves submit a complaint if they believe there is discrimination.<sup>37</sup>

*The NGOs and CSOs suggest that the Committee asks the government how it is addressing Article 2(e) of the Convention with regard to pregnant students and mothers who are students. By virtue of this article, the government is, obliged to ensure that educational institutions do not discriminate.*

#### **45 PREGNANCY AND PARENTAL LEAVE DAMAGE CAREERS OF PH.D. AND POSTGRADUATE STUDENTS**

The 'Work and Security' Act (WWZ, which came into force on 1 July 2015, aims at providing more security to employees with temporary contracts, which categories includes a high proportion of women. In academia, the WWZ disadvantages female researchers with a temporary work contract who become pregnant, as well as male and female temporary researchers who take parental leave.<sup>38</sup> Universities either do not want to compensate maternity or parental leave with additional research time, for fear they will have to give these temporary researchers a permanent position, or they do not hire female candidates at all. The NGOs and CSOs feel this is not in line with the Convention and the repeatedly expressed concern of the Committee about the poor position of women in academia and its desire to increase the participation of men in the care for children.

*The NGOs and CSOs suggest that the Committee asks the government whether it is holding discussions with employers in academia about putting an end to the disadvantaging of Ph.D. students and postdoctoral researchers on the basis of pregnancy and parenthood, or is it initiating legal changes to achieve this?*

## **EMPLOYMENT**

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#### **46 FREEDOM OF SEX WORKERS TO CHOOSE THEIR OWN WAY OF ORGANISING THEIR WORK**

Since the lifting of the ban on brothels in 2000 the number of licensed businesses has fallen radically. This applies to window prostitution in particular: in 1999 there were 2,096 registered windows; by 2016 this has declined to 1,272. This has been partially responsible for a substantial increase in rent for licensed working places. At the same time, most cities prohibit sex workers, either formally or *de facto*, from working independently or in small collectives without the involvement of a brothel operator. The lack of licensed working places and prohibitions on working independently force sex workers into the unlicensed 'illegal' circuit, where they are more vulnerable to abuse. The NGOs and CSOs agree with the harmonisation of the licensing system (CEDAW/C/NLD/6 para 121), but are of the opinion that sex workers should also have the choice to work independently or in small self-run collectives.

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<sup>36</sup> VSNU (universities); Monitor techniekpact (Technology Pact).

<sup>37</sup> [Letter January 18, 2016](#)

<sup>38</sup> De [Jonge Akademie](#) (2016), Enquete Wet Werk en Zekerheid (Inquiry into Work and Security Act).

*The NGOs and CSOs that suggest the Committee asks the government how it is ensuring that sex workers, like other workers, have the choice of either working for a third party, on their own or in small self-run collectives.*

#### **47 DROP IN THE USE OF CHILD-CARE SERVICES DUE TO CUTS IN GOVERNMENT EXPENDITURE**

Contrary to what the government suggests, the cuts in child-care funding have been a more decisive factor in the fall of the use of child-care facilities than the economic crisis (CEDAW/C/NLD/Q/6/Add.1 para 185), and has caused massive layoffs of female workers in the sector.<sup>39</sup> Recent research shows, moreover, that in comparative terms the decline in use has been considerably higher in the lower income groups.<sup>40</sup> The raise in funding, as announced by the government, is welcome but doesn't amount to even one third of what has been cut.

Originally it was intended that the government, parents and employers would each pay one third of the costs of child-care. Due to the cuts, however, the government's contribution has fallen considerably.<sup>41</sup> In addition, the employers' contribution has gradually declined to less than a third, which means the share paid by parents has been growing. This probably encourages the 'choice' of women to work part-time.

*The NGOs and CSOs suggest that the Committee asks the government to investigate the effects of its flip-flop child-care funding policies on the (part-time) employment of women and urges the government to raise its contribution to the costs of childcare to at least one third.*

#### **48 GENDER DISCRIMINATION INSUFFICIENTLY ADDRESSED – NO EQUAL PAY DAY YET**

The NGOs and CSOs welcome the government's action programs on discrimination, which indicate that it is increasing its efforts in this area. But some actions are long overdue. These include actions to address the issue of maternity discrimination. Given the continuing frequency of this type of discrimination the NGOs and CSOs cannot understand why it was left out of the campaign mentioned by the government (CEDAW/C/NLD/Q/6/Add.1 para 189).

More improvements are feasible. In 1993 the social partners in the Labour Foundation agreed upon the Checklist Equal Pay, which lists 'suspect criteria' for the starting salary in a new job, such as reference to the previously earned salary and the counting of work-experience without assessing how this relates to the new job. Research by the National Human Rights Institute shows that these two suspect criteria are still frequently used. Calculated over a woman's full working life the negative effects amount to considerable sums of money. The NGOs and CSOs therefore regret that the government has refused to implement the recommendation of the Social and Economic Council to (re)introduce an annual Equal Pay Day, which mirrored the Committee's recommendation in its previous Concluding Observations.

*The NGOs and CSOs suggest that the Committee enquires whether the government is prepared to reintroduce the annual Equal Pay Day, which is broadly supported by employers and unions, in order to increase opportunities to raise awareness about all kind of gender pay differences and pay gaps, including the intersection with ethnicity.*

#### **49 STILL NO FULL SOCIAL RIGHTS FOR DOMESTIC WORKERS**

Despite the fact that both CEDAW and CESCR have called on the government to ensure full social rights for domestic workers (CEDAW/C/NLD/CO/5 para 39; E/C.12/NLD/CO/4-5 para 17), the exceptional position of part-time domestic workers - since 2007 called Services at Home Scheme (SHS) - is still in place. The advisory committee (mentioned in the governments' report) strongly recommended banning the use of the SHS in publicly financed homecare services. The opposite happened: the number of homecare workers under the SHS almost doubled due to decentralisation accompanied by budget cuts. Thousands of domestic workers with full social rights lost their jobs. A substantial number could only resume working under the SHS, with fewer social rights.

The government limited its ambitions to preventing 'improper employment practices' (CEDAW/C/NLD/Q/6/Add.1 para 194) without, however, taking into account the courts' verdict that the use of the SHS in homecare is an improper employment practice. Despite the fact that both the Court of Appeal and the Central Appeals Court ruled in 2013 that, rather than the client, the Homecare Institution must be considered to be the employer, meaning that homecare workers were entitled to full workers' rights the government's tax office refrained from claiming tax and social contributions for domestic workers from the homecare institutions.<sup>42</sup> The government's tax office also failed

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<sup>39</sup> The Emancipatiemonitor (Equal Rights Monitor) 2014, p. 95, confirms a shift towards informal child-care by relatives (probably mainly grandmothers). See also CEDAW/C/NLD/6 para 48.

<sup>40</sup> Anne Roeters and F. Bucx (2016), *Het gebruik van kinderopvang door ouders met lage inkomens* (the use of child care by low income parents), The Hague: SCP.

<sup>41</sup> *Gelijk goed van start. Visie op het toekomstige stelsel van voorzieningen voor jonge kinderen* (A good start. Perspective on future services for young children), Advice 16/01 Social and Economic Council January 2016 p. 50.

<sup>42</sup> Bijleveld, L., "Domestic work in the Netherlands: a job like no other" in *European equality law review 2015/1*, p.37-52.

to take action on the numerous private-sector institutions that falsely pretend to act only as intermediaries between domestic workers and employers. Instead, the government embarked on a short publicity campaign to inform private employers and domestic workers on their rights and obligations. There is, however, not the slightest indication that this campaign has led to any improvement in the status of domestic workers.

*The NGOs and CSOs that suggest the Committee asks the government why it is disregarding the Committee's and CESCR's recommendations as well as recent court judgements, to accord domestic workers full social rights and then to ratify ILO Convention No. 189 on Decent Work for Domestic Workers.*

## **50 MORE RISKS OF (HIDDEN) UNEMPLOYMENT, TEMPORARY CONTRACTS AND UNDEREMPLOYMENT**

The labour market has shown a slight recovery since 2014, but not, according to recent research, for all graduates: young people of black or migrant descent have particular difficulties finding work, even if they are born and/or educated in the Netherlands.<sup>43</sup> Male graduates with this background are slightly more successful in finding jobs than females. This applies both to graduates with lower-level education (MBO) and those with higher professional education (HBO). The study revealed, moreover, that the chance of hidden unemployment, temporary jobs and underemployment for these graduates is considerably higher, especially in the health and social sector, which are traditionally female sectors. The hidden unemployment of young female MBO graduates is also confirmed by other sources: only 20% succeed in finding fulltime jobs (compared with 50% of the young male MBO graduates).<sup>44</sup> In the opinion of the NGOs and CSOs, the answer to the Committee's question about measures to ensure women's access to full-time and part-time employment makes clear that the government employs no policies to achieve substantive equality in employment (CEDAW/C/NLD/Q/6/Add.1 para 172-173). The project *Kracht on Tour* just co-finances activities that municipalities ought to undertake for job-seeking people, whether they are receiving unemployment benefits or not. The same applies to the *Eigen kracht* project. Municipalities have a legal obligation in this respect (see also CEDAW/C/NLD/Q/6/Add.1 para 225), but often fail to deliver and are not held accountable by the Ministry of Social Affairs and Employment. In that sense both projects *Kracht on Tour* and *Eigen kracht* can be seen as examples of the failure of gender mainstreaming. The only way to motivate municipalities to undertake labour market activities for women seems to be to supply them with additional gender equality money! In the meantime the NGOs and CSOs see have no evidence whatever of a reversal of the growing insecurity of women workers: there are increasing numbers of temporary and on-call contracts; more hidden unemployment, such as involuntary part-time work; and other forms of underemployment of women, such as discrepancies between education and job level.<sup>45</sup> The NGOs and CSOs note that these issues are no longer included in the Equal Rights Monitor.

*The NGOs and CSOs suggest that the Committee insists on measures to ensure women's access to fulltime, part-time AND permanent employment. The Committee could ask the government to provide, in its next report, an overview of trends in the use of temporary and other flexible contracts, hidden unemployment and other forms of underemployment, in data disaggregated for gender and ethnicity.*

## **MIGRATION AND LABOUR**

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### **51 INDIRECT DISCRIMINATION AGAINST FEMALE LABOUR MIGRANTS**

Dutch labour migration policies are exclusively focused on attracting highly-educated so-called 'knowledge migrants' from outside the EU by making conditions for them as favourable as possible.<sup>46</sup> This is in sharp contrast to its policies on the so-called low-educated female-designated sectors such as the care sector, domestic labour and sex work. Despite a demand for these types of labour, no, or only temporary, working permits are granted for work in these sectors. To meet their families' economic needs back home, women often work without legal work/residence documents or overstay their visa, which makes them even more vulnerable to abuse and exploitation. A special group are live-in domestic employees of diplomats, whose residence permits are fully dependent on their employer and who cannot change employer without risking deportation. Exploitation is frequently reported. According to the NGOs and CSOs the lack of legal migration channels for work in female designated sectors of the labour market constitutes a form of indirect discrimination.

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<sup>43</sup> Research Centre for Education and the Labour Market (ROA) (2016), *Schoolverlaters tussen onderwijs en arbeidsmarkt 2014* (Recent graduates between education and the labour market 2014) (2016), Maastricht University, p. 117.

<sup>44</sup> Emancipatiemonitor (Equal Rights Monitor) 2014, p. 53.

<sup>45</sup> See e.g. press release of FNV Trade Union, 7 March 2016: *Vrouwen hebben meer last van flexwerk dan mannen* (Women have more difficulties with flexible contracts than men).

<sup>46</sup> L.J.J. Wijkhuijs and R.P.W. Jennissen (2010), *Arbeidsmigratie naar Nederland. De invloed van gender en gezin* (Labour Migration to the Netherlands. The influence of gender and family) WODC.

*The NGOs and CSOs suggest that the Committee asks the government to carry out a gender impact assessment on its labour migration policies. They also suggest urging the government to permit live-in domestic workers in diplomatic households to change employer without being threatened with expulsion.*

## HEALTH

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### **52 RESTRICTION ON WOMEN'S FREEDOM OF CHOICE IN OBSTETRIC CARE**

NGOs and CSOs are concerned that the proposed changes in the system of reimbursement for obstetric care will lead to limits on the freedom of choice of pregnant women who are interested in home birthing.<sup>47</sup> Moreover, they will give rise to regional variations in treatment since health care insurers can then decide which midwife, doctor or gynaecologist is to be reimbursed, and which not. Freedom of choice in health care is a basic right that must be guaranteed not only in theory but also in practice. Institutions' financial policies must never interfere with women's rights to decide where, how and from whom they receive obstetric care.

*The NGOs and CSOs suggest that the Committee enquires how the government plans to safeguard pregnant women's autonomy and freedom of choice regarding obstetric care.*

### **53 RESTRICTIONS ON ABORTION RIGHTS AND REPRODUCTIVE CARE ADMINISTERED BY GPs**

The provision of medication for menstrual regulation (or curettage) when menstruation is delayed by 16 days does not fall under the scope of the abortion law. In principle, this allows GPs all over the country to offer cheap, easily-available assistance to women whose menstruation is late, by prescribing mifepriston and misoprostol pills. However, because the Health Inspector is threatening to prosecute doctors and pharmacists who provide mifepriston and misoprostol, GPs refrain from prescribing it. Consequently, women in need have to go to an abortion clinic, which is often far away if they live in rural areas. This is problematic since there is a limited time frame involved (up to 16 days after the missed menstruation). A group of NGOs and CSOs, GPs, sexologists and midwives have therefore initiated legal action against the State in order to make medical abortion available to women whose menstruation is delayed.<sup>48</sup> At the end of June the Minister of Health reacted by announcing plans to place the delayed menstruation treatment under the abortion law and attach a flexible reflection period to this procedure.<sup>49</sup> This means that GPs will need to request a licence for pharmaceutical treatment of late menstruation and will be obliged to maintain and submit extensive records as prescribed by the abortion law. If they don't, they will be criminally liable. The proposed changes tighten the abortion legislation and will obstruct easy access to pharmaceutical treatment for late menstruation. GPs who have a heavy workload and little contact with patients who have late menstruation, which is generally the case for GPs in rural areas, will not apply for the special permit because of the extra administrative burden. So most women with delayed menstruation will still have to travel to an abortion clinic.

In the opinion of the NGOs and CSOs, the government's proposals will hamper GPs in helping women with delayed menstruation. The proposals are unnecessary given the current abortion law and in contradiction with international human rights treaties such as the Convention (Art. 12(1), 14(2) en GR 24 para 14).

*The NGOs and CSOs suggest that the Committee asks the government how its view on the pharmaceutical treatment for late menstruation and its proposed changes to the abortion law relate to Article 12(1) and 14(2) of the Convention and GR 24. The Committee might also ask the government to wait for the results of the pending court case on the availability of the abortion pill for late menstruation treatment.*

### **54 100% DRUG CONTROL AT AIRPORT: ULTRASOUND AS ALTERNATIVE TO BODY SCAN**

In its 2010 Concluding Observations (CEDAW/C/NLD/CO/5 para 47), the Committee urged the government to use appropriate methods of examination for pregnant women suspected of drug trafficking at the national airport in order to avoid their detention. The Government responded in its sixth report by stating that it is "unaware of any alternatives to the body scan or the three clean bowel movements rule that are appropriate for pregnant women and can demonstrate that a suspect is 'clean'" (CEDAW/C/NLD/6 para 149).

*The NGOs and CSOs suggest that the Committee asks why the government is not aware that an ultrasound is an appropriate method of examination for pregnant women suspected of drug trafficking so as to avoid their detention at the national airport.*

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<sup>47</sup> Letter from the [Clara Wichmann Institute to the Minister of Health, Welfare and Sport, 31 May 2016](#), [Position Paper regarding the policy on Integrated obstetrical care, Birth Movement Foundation, 17 June 2016](#).

<sup>48</sup> Summons [Women on Waves](#) Foundation et al, on the Dutch State, in particular the Ministry of Health, Welfare and Sport and the Health Inspector, 2 June 2016.

<sup>49</sup> The Abortion Law mandates a compulsory 'reflection period' of at least five days for women.

## **55 POORER HEALTH CONDITION OF WOMEN FROM ETHNIC MINORITIES**

The government proposes to respond only in its 7<sup>th</sup> report (in 2020!) to the urgent request the Committee made in 2010 to provide insight into the results of the research into the health condition of ethnic minority women (CEDAW/C/NLD/CO/5 para 47, CEDAW/C/NLD/6 para 147). The NGOs and CSOs are concerned about this, especially since recent information shows that non-western migrant women believe themselves to be less healthy.<sup>50</sup> Just 49% of the women from this group between the ages of 45 and 65 regard their own health as (very) good. This figure is more than 20 percentagepoint lower than for western migrant women as well as for Dutch women and men (70, 71 and 75%). First generation migrant women, in particular, believe their health as not very good. This recent information confirms other academic research on this issue. The delay in reporting has even greater significance since an intersectional approach is lacking in the research programme 'Women are different', to which the government refers (CDEAW/C/NLD/Q/6/Add.1 para 202-203). The NGOs and CSOs also regret that the government does not supply requested information on access to health services by disadvantaged groups, particularly migrant women.

*The NGOs and CSOs suggest that the Committee asks the government, whether it can promote an intersectional approach in the research programme 'Women are different', given the poorer health condition of women from ethnic minorities. Since urgency is required, the Committee could also consider requesting a follow-up report within two years.*

## **56 FOUR TIMES MORE MATERNITY COMPLICATIONS AMONGST FEMALE ASYLUM SEEKERS**

Experts and medical practitioners agree that female asylum seekers experience maternity complications up to four times more often than Dutch women.<sup>51</sup> The NGOs and CSOs agree with the government that this can partly be explained by factors that have nothing to do with the quality of obstetric care itself. However, they point out that the general policies and procedures asylum seekers encounter contribute to maternity problems. The fact that asylum seekers frequently have to move from one part of the country to another hampers continuity of obstetric care. So do certain health insurance requirements, costs and the (non) availability of pregnancy tests (and contraception) at asylum centres. Another factor affecting the quality and the continuity of obstetric care is the cancellation of the subsidy for health care interpretation services (see Annex para 46).

*The NGOs and CSOs suggest that the Committee focuses its dialogue with the government on maternity-related morbidity (instead of mortality) and enquire whether a gender (and maternity) impact assessment on general asylum policies and procedures is feasible so as to reduce the risk of maternity complications.*

## **57 GENDER IMPACT OF 'REFORMS' IN HEALTH AND HOMECARE DENIED**

The NGOs and CSOs are disappointed at the lack of response by the government to the Committee's questions on the impact of the recent changes in homecare, elderly care and health care (CEDAW/C/NLD/Q/6/Add.1 para 219/220, 223/225). Once more they point to para 1 and 31 of the preliminary shadow report (see Annex). By using 'earlier' data about male/female participation in informal care, without taking into account gender differences and without acknowledging the gendered impact of the 'reforms' (austerity measures), the government has presented too rosy a picture. Men provide informal care mainly to partners, whereas women provide informal care to partners, parents, in-laws and children. In respect of informal care outside the family, men generally help with administration and finances while women help in the household and homecare, in cooperation with paid homecare. The latter has been significantly reduced due to cuts by municipalities, augmenting the pressures on, and burdens of, female informal carers. The NGOs and CSOs wonder how one expert meeting will achieve gender-sensitive local policies in all of the 387 municipalities. In addition, they would like to know whether the new study the government has commissioned from the Netherlands Institute for Social Research take into account the differences in informal care between different ethnic communities.

*The NGOs and CSOs suggest that the Committee pursues the issue of redressing the gendered impact of 'reforms' in health, elderly and homecare.*

## **58 UNNECESSARY AND IRREVERSIBLE TREATMENT OF INTERSEX CHILDREN**

Intersex children in the Netherlands are still routinely subjected to medically unnecessary and irreversible surgery and other normalizing treatments without their free and fully-informed consent. This is stated by health

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<sup>50</sup> CBS News 22 June 2016. It is not clear from the news report if the differences are of the same size for all groups of non-Western migrant women. CBS has informed the authors that the provision of more details is possible.

<sup>51</sup> Factsheet Asylum seekers and Health October 2015. Pharos Knowledge Centre Health differences.

professionals in medical journals and information distributed to general practitioners and parents of newborns.<sup>52</sup> The UN Special Rapporteur on Health and the UN Special Rapporteur on Torture both recommend that states end these practices.<sup>53</sup> The UN Special Rapporteur on Health has stated that partial clitoridectomy as part of the treatment of intersex persons is a form of female genital mutilation.<sup>54</sup> Given this context, the NGOs wonder whether this ‘normalizing’ treatment of intersex persons in the Netherlands is in conformity with art. 1, 5 and 12 of the Convention and General Recommendations 14, 19 and 31.

*The NGOs and CSOs suggest that the Committee asks the government its views with respect to the human rights of intersex people and what steps it will take to effectively ensure that no child is subjected to unnecessary surgery or treatment without its free and fully-informed consent.*

## DISADVANTAGED GROUPS OF WOMEN

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### 59 ABSENCE OF DATA ON THE POSITION OF BLACK, MIGRANT AND REFUGEE WOMEN

The NGOs and CSOs note that the government systematically avoids providing a proper answer to the Committee’s questions with respect to (certain categories of) black, migrant and refugee women (CEDAW/C/NLD/Q/6/Add. 1 para 1, 48, 56, 61, 65, 151, 155, 176, 221), thus rendering these women invisible. Based on the results of their own enquiries at the Central Statistical Bureau (CBS), the NGOs and CSOs are convinced that more disaggregated data are available than the government pretends, including on ethnic background, gender, age and disability. According to a 2014 publication by the Netherlands Institute for Social Research the economic crisis has hit the labour market position of black, migrant and refugee women and men much harder than that of women and men with Dutch (grand) parents. Whereas, for example, registered unemployment among Dutch women and men was 5%, unemployment figures for the different ethnic minority groups (female and male) tended to be three to four times higher.<sup>55</sup> Similar differences occur with regard to the proportion of permanent vs. temporary jobs held by different groups. Against that background, the NGOs and CSOs cannot understand why the government does not see the need for specific policies aimed at the participation of migrant women in the labour market (para 177).

*The NGOs and CSOs suggest that the Committee asks the government to commission an update of the Social Atlas of women from ethnic minorities (2006) by the Netherlands Institute for Social Research.*

### 60 LBT WOMEN

According to the 2014 Transgender Act young people need to be at least 16 years of age to qualify for legal gender recognition. This raises many problems for transgender youth who have already transitioned socially in expressing their gender identity, especially when they have to identify themselves at school, sports clubs, public transport, etc. It is offensive for transgender youth to have the wrong gender marker in their IDs and in the civil registry. It is also harmful because it puts them at risk of harassment in their everyday life.

*The NGOs and CSOs suggest that the Committee asks the government to consider abolition of the age requirement when it evaluates the law in 2017.*

## EQUAL ACCESS TO OTHER AREAS OF ECONOMIC AND SOCIAL LIFE

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### 61 IMPROVEMENT OF THE SOCIAL AND LABOUR POSITION OF SEX WORKERS

In its 2010 Concluding Observations (CEDAW/C/NLD/CO/5 para 31) the Committee called on the government to provide more comprehensive and concrete information in its subsequent report on the measures taken to improve the working conditions of prostitutes and enhance their autonomy, privacy and safety. The NGOs and CSOs

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<sup>52</sup> K.P. Wolffenbuttel; “Disorders of sex development: méér dan alleen een andere naam” (Disorders of sex development: more than another name). *Tijdschrift voor Urologie* (2015) 5(1):8-12; K.P. Wolffenbuttel et al; “Genitale chirurgie bij jongens met disorders of sex development” (Genital surgery on boys with disorders of sex development). *Tijdschrift voor kindergeneeskunde* (2008)76(3):121-129; K.P. Wolffenbuttel & N.S. Crouch; *Timing of feminising surgery in disorders of sex development. Understanding Differences and Disorders of Sex Development (DSD)*. 27: Karger Publishers; 2014. p. 210-221. H.L. Claahsen-van der Grinten, M.M.L. Stikkelbroeck, T. Vulsmas; Informatie voor de huisarts over Adrenogenitaal syndroom (AGS) (Information for the GP about adrogenital syndrome). Soest VSOP, Utrecht NHG 2011. Behandelteam meisjes met adrenogenitaal syndroom (AGS): Patiënteninformatie (Medical team girls with adrenogenital syndrome, Information for patients). Nijmegen, Nederland: UMC St Radboud; 2011. T.P.V.M. de Jong & C. Salvatore; Achterhaalde misstanden (Outdated evils). *Volkscrant* (daily newspaper) 6 juni 2015.

<sup>53</sup> A/70/213 para 112 m, A/HRC/22/53 para 88.

<sup>54</sup> A/HRC/32/33 para 56.

<sup>55</sup> Willem Huijnk, Mérove Gijsberts & Jaco Dagevos (2014), Jaarrapport Integratie 2013 (Integration Annual Report 2013), SCP, p.12.



commend the government for its recent funding of PROUD, the Dutch union for sex workers. However, despite the decriminalisation of the sector, sex workers still face problems in accessing financial services, such as bank accounts, mortgages and loans, (collective) insurances, affordable housing and public services. This is partly due to the strong emphasis on trafficking which has reinforced the image of a criminogenic sector and increased the stigma on prostitution, thus adding to the discrimination and social exclusion of sex workers.

*The NGOs and CSOs suggest that the Committee asks the government which concrete measures it intends to take to improve the position of sex workers and to ensure their equal access to financial services, insurances and housing. They also ask the Committee to call upon the government to take measures to address the stigmatisation of and discrimination against sex workers.*

## **WOMEN IN RURAL AREAS**

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### **62 LABOUR MARKET PARTICIPATION OF WOMEN IN RURAL AREAS**

The labour market participation of women in rural areas is lower than that of those in urban areas, registered unemployment higher and latent unemployment and underemployment much higher. The NGOs and CSOs are therefore dissatisfied with the governments' reference to the gender-neutral Population Decline Action Plan 2015-2019 (CEDAW/C/NLD/Q/6/Add.1 para 213). Future labour market developments in rural areas will affect women more than men. In particular jobs in education, local government and retail will shrink considerably and other employment will be difficult to find. In addition, employment bureaus are concentrated in the larger cities, requiring longer travel time for unemployed women on shrinking public transport. Employment bureaus are also shifting to internet services, but internet access in rural areas is sometimes problematic or very expensive.

*The NGOs and CSOs suggest that the Committee asks the government whether it is willing to include gender perspectives in policy documents focused on rural areas, perhaps partly based on expertise provided by relevant NGOs and CSOs.*

## **MARRIAGE AND FAMILY RELATIONS**

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### **63 DISCREPANCY BETWEEN SELF DETERMINATION AND MIGRATION POLICY**

The Committee asked the government for information on the gender impact of the changes in its immigration policy, in particular on the impact of the 'integration requirement' on poorly educated, illiterate and semi-literate women (CEDAW/C/NLD/Q/6 para 21). Although the government responds that this is not yet clear, the NGOs and CSOs note that according to recent reports to the Parliament 40% of the migrants who came to the Netherlands in 2013 had not yet passed the 'integration exam'.<sup>56</sup> Meanwhile, research shows that failure to meet the integration requirement is an important ground for rejecting applications for continued residence and that more applications by women are rejected than those by men.<sup>57</sup> In addition, since 2013 the responsibility to prepare for the integration exam lies fully with migrants themselves; municipalities are no longer allowed to offer integration courses. If migrants do not pass the exam within three years they are fined and risk withdrawal of their residence permit.

The absence of an independent residence permit directly affects the ability of women to stand up for their rights, as well as to defend themselves against gender-related violence, regardless of income and level of education.<sup>58</sup> Whereas the government refers to the Self Determination Action Plan and its emphasis on the importance of independence and participation of women (CEDAW/C/NLD/Q/6/Add1 para 62), its immigration policy has precisely the opposite effect. An example of this is the extension of the duration of the dependent residence permit in 2012 from three to five years. The NGOs and CSOs consider this to be at odds with the obligations of the State under the Convention and General Recommendation 31.

*The NGOs and CSOs suggest that the Committee asks the government what measures it wants to take to bring its immigration policies in concurrence with its Self Determination Action Plan and how it wants to address the gender-discriminatory effects of its immigration policies. The NGOs and CSOs also suggest that the Committee calls on the government to consider returning the duration of the dependent residence permit from five to three years.*

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<sup>56</sup> *Parliamentary Papers*, TK 32824-129, Integration policy, 20 April 2016.

<sup>57</sup> Elles Besselsen and Betty de Hart (2014), *Verblijfsrechtelijke consequenties van de Wet Inburgering. Een onderzoek naar de ervaringen van migranten in Amsterdam* (Consequences of the Integration Act on residence rights. Experiences of migrants) University of Amsterdam.

<sup>58</sup> FRA, report on forced marriages; Landelijk Knooppunt Huwelijksdwang, *Handelingsvrijheid beperkt door partnerafhankelijke verblijfsvergunning* (Freedom to act restricted by partner-dependent residence permit), February 2016.

#### **64 IMPLEMENTATION OF THE PROHIBITION OF RELIGIOUS MARRIAGES WITHOUT A CIVIL MARRIAGE**

In the Netherlands it is against the law to perform a religious marriage without a (preceding) civil marriage; religious officials who do so can be punished. However, many women are not aware of this and the police do not take complaints seriously.

*The NGOs and CSOs suggest that the Committee asks the government if it is willing to run information campaigns in the communities where illegal marriages takes place and take steps to strengthen the enforcement of the prohibition.*

#### **65 JOINT CUSTODY AS A RULE EVEN WITH CASES INVOLVING DOMESTIC VIOLENCE**

The main rule is that parents should have joint custody of the children, even in cases where domestic violence is involved. Although it is possible in theory to get sole custody of the children, in practice this rarely happens. According to case law, domestic violence is not a reason not to grant joint custody. The result is often long-lasting suffering for the woman. The NGOs and CSOs are of the opinion that if the woman is the main carer of the children, the principal rule should be that the woman gets sole custody and that the abusive partner can only get joint custody after he has proven that he has adapted his behaviour over a number of years and takes proper care of the interests of the children. According to the Istanbul Convention, arrangements for custody and parental access should take into account the history of domestic violence: they should not operate at the cost of the safety and rights of the mother and/or the children, and a risk assessment should be carried out in all cases (see also Annex, para 10).

*The NGOs and CSOs suggest that the Committee asks the government how it intends to implement the provisions on custody and parental access laid down by the Istanbul Convention, and if it is willing to initiate a change in the law to establish as a principal rule that, where domestic violence is involved the mother gets sole custody of the children, at least till the man proves he has changed his conduct.*

**Unfinished Business - Women's Rights in the Netherlands  
Shadow Report for the List of Issues & Questions by the Dutch NGOs**

**An examination of the Sixth Periodic Report of the Netherlands for the CEDAW 65  
pre-sessional working group 7-11 March 2016**

**Dutch CEDAW Network/ Netwerk VN-Vrouwenverdrag  
January 2016**

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## GENERAL CONCERNS

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### IMPACT OF RECENT 'REFORMS' IN THE SOCIAL SECTOR ON THE STATUS OF WOMEN

1. A significant development are 'reforms' and austerity measures in social support and care. Several tasks in these areas have been transferred from the national government to local governments (decentralization). This means municipalities are now responsible for youth care, welfare, home care for the sick and elderly, and domestic violence. This decentralisation is coupled with cuts in the available budget and a strong reliance on informal care and volunteers. In its 6th Periodic Report the government assumes that decentralisation will lead to customized services and it also foresees no negative impact on the status of women (CEDAW/C/NLD/6, para. 11). The NGOs do not share this optimism and are concerned that the reforms may disproportionately affect women.

*The NGOs suggest the Committee to ask the government what follow-up has been given to the CEDAW recommendation to conduct gender assessments of its social sector legislation and of its earlier cuts in the health-care budget (CEDAW/C/NLD/CO/5, para. 18-19), and whether and how the gender impact will be measured when monitoring the effects of the decentralisation.*

### LACK OF ATTENTION FOR SPECIFIC GROUPS OF WOMEN

2. As mentioned in its 6th Periodic Report, the government is moving away from target-group policies to general policies (CEDAW/C/NLD/6, para. 11). The NGOs are not entirely against this development in itself, but they stress the necessity of due regard for differences in status among women. When general policies replace target-group policies entirely, there will be less attention for specific groups of women and little consideration for intersectional discrimination against, for example, migrant and ethnic minority women.

*The NGOs suggest the Committee to ask the government how it has given effect to the CEDAW recommendation to collect data and statistics, disaggregated by gender, ethnicity and age to be able to identify the needs of specific groups of women (CEDAW/C/NLD/CO/5, paras. 44-45) and how it has implemented CEDAW General Recommendation No. 28.*

### WOMEN'S ORGANISATIONS HAVE GREAT DIFFICULTY TO SECURE FUNDING

3. There is very little funding available for women's organisations in the Netherlands. Especially small, local and national organisations and minority organisations experience increasing difficulties in securing funding. As a consequence many projects and programmes are terminated over the last years.

*The NGOs suggest the Committee to ask the government for more information on the reason why funding for women's rights organisations is barely available at the national and local level.*

### DISREGARD OF CEDAW RECOMMENDATIONS BY THE GOVERNMENT

4. The NGOs reiterate their concern about the government's reticence concerning the statutory status of the Convention in the domestic legal order. This is reflected in the absence of implementing recommendations of the Committee and in the lack of attention to the General Recommendations of CEDAW. General Recommendations 1 to 28 have been translated into Dutch and can be found on the government's website, yet the latest five General Recommendations have neither been translated nor actively distributed to NGOs, judiciary and members of the government. Moreover, the government refuses to act upon the recommendations on an individual complaint under the CEDAW Optional Protocol concerning maternity benefits for female entrepreneurs.<sup>59</sup>

5. There is also a lack of government response to several CEDAW concluding observations. One example is the still existing gender-based discrimination in the Law on Names. This issue was addressed in two previous CEDAW concluding observations (CEDAW/C/NLD/CO/5, paras. 10-11) but the recommendations on this matter are again put aside in the 6th Periodic Report (CEDAW/C/NLD/6, para. 180). The NGOs object to the government's argument that the violation of the rights of married mothers is justified by the non-violation of the rights of unmarried mothers who can freely decide about the surname of the child.

*The NGOs suggest the Committee to ask the government how it implements the General Recommendations and what steps are taken to implement previous concluding observations.*

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<sup>59</sup> CEDAW/C/57/D/36/2012 and follow-up letters of Elisabeth de Blok et al. The follow-up dialogue is ongoing.

## **GENDER MAINSTREAMING REQUIRED IN INTERNATIONAL POLICIES**

6. The NGOs recall the Committee's appreciation of the government's deliberate inclusion of financing women's rights organizations in its international assistance programme (which the government indeed has continued until recently) and of mainstreaming gender equality and empowerment of women in all its development activities. The NGOs also recall the Committee's encouragement to systematize assessment of the gender impact of legislation and policies among the various ministries (CEDAW/C/NLD/CO/5 paras. 4 and 19).

Relevant in this respect is a recent official evaluation on the attention for women's rights and gender equality in international policies, pursued by the Netherlands in the period 2007-2014.<sup>60</sup> The evaluation contains a positive appraisal of the Netherlands' efforts through its diplomatic channels to promote international norms about equality between women and men as well as continuance of these norms, and of the financial support provided to organisations that promote and uphold the rights of women in many countries.

7. However, the Netherlands did not consistently fulfil its ambitions in the area of gender mainstreaming in the design and implementation of *all* policies, programmes and projects, other than those dealing with women's rights and sexual and reproductive health and rights. Especially in the areas of economic development (e.g. policies on private sector development and social corporate responsibility) as well as in the area of peace and security, much improvement could be achieved with regard to gender mainstreaming in both the design and implementation of policies and programmes.

The government is very much engaged and involved in the implementation of the National Action Plan UNSCR 1325 in a unique collaboration process with NGOs (including diaspora women's rights NGOs), but it has failed to mainstream gender equality into the overall conflict, peacekeeping and Counter Terrorism Measures (CTM). CTM increasingly have an impact on the implementation of the Gender, Peace and Security Agenda, as recognized by the recently launched global study on UNSCR 1325, the high-level review and UNSCR 2242 (adopted in October 2015).<sup>61</sup>

With respect to financing the first track of the Dutch government strategy: support to women's rights organizations and gender equality initiatives, NGOs are very worried about the outcome of the FLOW II 2016-2020 tender decisions. Unlike in MDG3 Fund and FLOW I, applications from Southern led alliances and women's rights organizations led applicants have been bypassed in favor of Northern based INGOs.

*The NGOs suggest The Committee to call upon the government to provide a full update on the state of affairs with respect to gender mainstreaming in all its international policies and programmes in the light of the recent official evaluation reports, and in particular of those regarding private sector development, social corporate responsibility, conflict and CTM.*

*Also the NGOs suggest to ask for an explanation of the outcome of FLOW II, reflecting a shift in funding modalities from direct funding of Southern based civil society and women's rights organizations towards Northern based INGO's.*

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<sup>60</sup> Ministry of Foreign Affairs, *Gender sense & sensitivity, Policy evaluation on women's rights and gender equality (2007-2014)*, July 2015

<sup>61</sup> UN Women, *Preventing Conflict, Transforming Justice, Securing the Peace – A Global Study on the implementation of UNSC Resolution 1235*, 2015, p. 384.

## A. ISSUES BY CEDAW ARTICLES

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### VIOLENCE AGAINST WOMEN (ART. 1 & 2 CEDAW)

#### **Domestic violence, the Istanbul Convention and police responsibilities**

8. The NGOs commend the response of the government to CEDAW's concerns about the gender-neutral approach to domestic violence (CEDAW/C/NLD/CO/5 para. 26). The Gender Scan carried out in 2013 and its follow-up (2014-2015) is a positive response to CEDAW's recommendation. However, the NGOs believe more work is needed to ensure a lasting effect. They have noted with interest that a next follow-up of the Gender Scan is planned for 2016, involving the municipalities and the advice and reporting points for domestic violence. Also the recent ratification by the Netherlands of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) is a positive development.

9. The NGOs, however, remain concerned about the number of incidences of domestic violence that led up to the death of women. In these cases the police failed to act proactively to prevent these homicides. One measure to scale up prevention is to institute a broad and systematic risk assessment in response to each report of domestic violence as mandated by the Istanbul Convention (art. 51). In order to recognize and respond effectively to death risks, police officers need to be better trained to employ this risk assessment. The NGOs are also worried about the merger of police regional forces into one national police force, as it causes loss of expertise on violence against women.

*The NGOs suggest the Committee to ask the government which specific steps it will take to implement the Istanbul Convention, how it will guarantee sufficient expertise on VAW in the national police force, and in particular by what measures it will better equip the police to prevent homicide in cases of domestic violence.*

#### **No information about Shared Parenting and Responsible Divorce and Separation Act**

10. In its follow-up to the latest concluding observations the Committee recommended "not to use the joint plan for parenthood as a legal precondition for starting divorce proceedings and in no case to impose it on women victims of domestic violence." In both the Committee's follow-up letters additional information was requested.<sup>62</sup> The 6th Periodic Report, however, does not provide the requested information on "a) the outcome of the Shared Parenting and Responsible Divorce and Separation Act of 2008, scheduled to be undertaken in 2012, b) on the number of women victims of domestic violence who benefitted from the get-out clause of the Act, and c) on the conditions requested, in the case law, for its application."

*The NGOs suggest the Committee to reiterate its request.*

### STEREOTYPING (ART. 5 CEDAW)

#### **More analysis and measures needed to combat traditional gender stereotypes**

11. Stereotypes on gender, ethnicity, age, sexual orientation and disability are still persisting throughout society, and impede gender equality. Whereas women are often portrayed as either sexy or as mothers and loving wives, men are pictured as tough and rarely as fathers. The NGOs find it necessary to create awareness among children in primary schools on stereotyped views on men and women, and to provide them with the tools to challenge these stereotypical ideas as part of the education curriculum.<sup>63</sup> Though the matter is mentioned in the 6th Periodic Report, it lacks analysis on the impact of gender and racial stereotypes and it remains unclear what specific measures have been adopted to eliminate traditional views, despite previous recommendations of the Committee (CEDAW/C/NLD/CO/5, para 25). Following the periodic report, para. 17, the NGOs regret that developments with regard to the establishment of a Gender and Media Alliance are slow and in need of a follow-up.

*The NGOs suggest the Committee to ask the government for information on concrete steps taken to implement article 5 of the Convention, and to inquire about the status of the Gender and Media Alliance and the resources it will provide to support the alliance.*

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<sup>62</sup> CEDAW AA/Follow-up/Netherlands/53 (2012), AA/Follow-up/Netherlands/58 (2014)

<sup>63</sup> Council of Europe, *Media and the image of women: Report of the 1st Conference of the Council of Europe Network of National Focal Points on Gender Equality*, 4 and 5 July 2013.



## **Engaging men in the emancipation of women**

12. Although the Committee expressed concern in its previous Concluding Observations (CEDAW/C/NLD/CO/5, para 24) that little reference was being made to the role of men in the emancipation of women, this issue is not addressed in the 6th Periodic Report. The minister of Emancipation has called for more attention on engaging men in the emancipation of women in her Emancipation letter 2013-2016 and in her midterm review of her Emancipation Policy.<sup>64</sup> However, the NGOs feel that causes and symptoms of gender inequality are not sufficiently taken into account. This is reflected in cultural norms on manhood that undermine gender equality or the fact that boys and men are not included in gender equality programs. Research has shown that boys and men can gain a lot from emancipation processes themselves, such as learning about normative masculinities and overstepping (violent) behaviour. NGOs emphasize that men could and should play a significant role in the safety of women, especially in the prevention of (domestic) violence against women and girls.

*The NGOs suggest the Committee to ask the government to provide information on the role of men in women's emancipation, how it addresses this issue in its policy on the prevention of (domestic) violence against women, and how it plans to finance its measures.*

## **TRAFFICKING IN WOMEN AND PROSTITUTION (ART. 6 CEDAW)**

### **More attention for the early stages of identification of (potential) trafficking victims**

13. The 6th Periodic Report mentions the establishment of a National Referral Mechanism for victims of human trafficking (NRM/NVM) (CEDAW/C/NLD/6, para 104). Though in itself useful the NGOs think this NRM/NVM could benefit from a multidisciplinary approach, a better collaboration with NGOs and more attention to the early stages in the process of identification of (potential) victims. The NGOs regret that the government does not provide most of the additional information, among others about involving NGOs in the anti-trafficking Taskforce, which the Committee requested in its follow-up letter dated 10 September 2014.<sup>65</sup>

*The NGOs suggest the Committee to ask the government to provide information on the implementation of the NRM/NVM, the application of a multidisciplinary approach and its relevance for the early stages in the process of identification of (potential) victims, and when the government will provide the additional information requested in the follow-up letter.*

### **How many victims of trafficking do benefit from residency arrangements (B8/3)?**

14. The 6th Periodic Report describes the policies with regard to the entitlement of victims of trafficking to temporary and permanent residence permits, including those victims who are not able or willing to cooperate with the authorities (CEDAW/C/NLD/6, para 114-117). However, figures about the number of victims of trafficking that indeed receive such permits are not provided. Moreover, the Report does not mention that the government abolished the entitlement to stay in the country during an appeal of a victim against the decision not to prosecute.

*Since the NGOs have the impression that in reality it is still very difficult to obtain a long term residence permit, in particular for victims who are not able or willing to cooperate with the authorities, they suggest the Committee to ask for figures from 2008 up till now, disaggregated to temporary and permanent permits, with specific attention to the abolishment mentioned above.*

### **Limited focus of action against human trafficking**

15. The NGOs regret that the government only provides information in its 6<sup>th</sup> Periodic Report on measures against human trafficking in relation to the sex industry (CEDAW/C/NLD/6, paras. 104-118). Human trafficking and exploitation does occur in other economic sectors which are in particular important for women, such as domestic work and horticulture. Moreover: harmful practices such as forced marriages, child marriages and exploitation of daughters in law are included in the definition of trafficking.

*The NGOs suggest the Committee to ask the government to provide more information on its policies and activities against trafficking in women in sectors other than the sex industry.*

<sup>64</sup> Parliamentary papers II 2014/15, 30420, nr. 211.

<sup>65</sup> AA/follow-up/Netherlands/58 p. 4.

### **Results of European collaboration in the fight against human trafficking?**

16. In its 6<sup>th</sup> Periodic Report the government refers to the EMPACT-project as one of its measures against human trafficking (a priority of the EU) without reporting its results (CEDAW/C/NLD/6, para. 106). For instance, how many convictions have been achieved as result of the 50 investigations that are mentioned? How many victims were involved?

*The NGOs suggest the Committee to ask the government to report on the concrete results of the EMPACT-project and other collaboration projects in EU context.*

### **Mandatory registration of sex workers?**

17. Although the Senate rejected the Bill on mandatory registration of sex workers, among others because of its possible violation of Dutch and EU data protection and privacy legislation, several municipalities introduced or are in the process of introducing mandatory registration, without the required legal basis and without adequate measures to protect the privacy of sex workers. So in contrast of what the government states in its 6<sup>th</sup> Periodic Report, the Committee's urgent request concerning threats to privacy is still current (CEDAW/C/NLD/CO/5 para 30-31, CEDAW/C/NLD//6 para 119). Some cities directly impose an obligation on sex workers to register, in other cities mandatory registration is indirectly imposed via a requirement on brothel operators to collect personal data of sex workers employed in their establishment, and to keep these data available to the police and appointed city officials. NGOs argue that mandatory registration does not help to combat trafficking and other abuses. In addition, it violates the precarious right to privacy of sex workers, stigmatises them, creates more obstacles to work legally and safely, and leads to a further flight into the illegal and unprotected sex sector. Moreover, it might endanger migrant sex workers from countries where prostitution is a criminal offence.

*Given the Committee's previously expressed concern the NGOs suggest the Committee to ask the Government which measures it has envisaged to prevent and/or stop the illegal registration of sex workers by municipalities.*

### **Prostitution Bill will compel sex workers to work for a third party**

18. The NGOs object to the description of the (revised) Bill on the regulation of prostitution in the 6<sup>th</sup> Periodic Report (CEDAW/C/NLD//6 para 120-121). The Bill will make it almost impossible for sex workers to work independently without interference of a licensed brothel keeper. *De facto* it forces sex workers to work for and under the control of (licensed) brothel/window operators, while jeopardising sex workers who prefer to work as independent entrepreneurs, who wish to protect their privacy, and are not willing to cede half or more of their income to a brothel operator. Whereas, before the lifting of the ban on brothels in 2000, the law officially prohibited working for a third party, the law is now likely to make it impossible for sex workers *not* to work for a third party.

19. Both before and after 2000 sex workers themselves were not punishable but according to the revised Bill, all unlicensed sex workers work illegal. The Bill does not distinguish between brothels and self-employed sex workers, and subjects the latter (e.g. home-based sex workers and self-employed escorts) to the same rules and sanctions as brothels. For example, it requires 'professionally working' self-employed sex workers to apply for a license, which implies the publication of their name and address in the local newspaper or the municipal website, with far reaching consequences for their privacy and safety. Criteria to qualify as 'professionally working' include 'working to earn an income' and 'advertising'. However, even if they would be willing to apply for a license, the chance that they will get one is minimal as most cities apply a quota system. Moreover, the Bill authorises to raid the homes of sex workers on the suspicion that they work professionally without a licence. This forces them to either give up their independency and work for a sex business operator or maintain their independency with the risk of being prosecuted and punished. In addition, the law increases the allowed age for sex workers from 18 to 21. The NGOs fear that this will not stop young sex workers to work, but instead will make them more vulnerable and will prevent them from seeking help when needed.

*The NGOs suggest the Committee to ask the government to explain in the context of the aim of empowering prostitutes how it ensures that sex workers can work independently, without the interference of a sex business operator.*

## EDUCATION (ART. 10 CEDAW)

### Lack of measures for young mothers and pregnant women in secondary and higher education

20. Young mothers and pregnant women face difficulties in access to education and the possibility to complete formal education, due to the absence of necessary preconditions to combine childcare and education. The dropout rate of this group is 51% from secondary vocational education (MBO) and 74% from higher professional education (HBO and University).<sup>66</sup> In 2015 the government launched a web tool to provide information on allowances and financial support for studying parents. This tool alone does not solve the problem. Women students have no legal right to paid maternity leave, which lead to study delay, and often results in higher student loans. In addition there are no legal regulations requiring educational institutions to make special provisions for these women students. Thus young mothers and pregnant students are dependent on the goodwill of their educational institution for support such as flexible timetables and exceptions to compulsory attendance. Professional athletes and persons with a handicap actually do have entitlements to such support, thus this government's policy affects women in particular.

*The NGOs suggest the Committee asks the government how it addresses the difficulties young mothers and pregnant women face in secondary vocational and higher education.*

### Still a low percentage of women professors

21. The 6th Periodic Report states that the national average of women professors is 14.8% (currently 16,9%), but does not provide any information on concrete measures to increase this percentage (CEDAW/C/NLD/6, para.145). The Committee already addressed this issue in the Concluding Observations in 2010 (CEDAW/C/NLD/CO/5, paras. 34-35). Although there has been a slight increase in the number of women professors since then, the numbers are still well below the EU average. Women professors underline that women experience both direct and indirect discrimination, including unequal pay, throughout their academic career<sup>67</sup>.

*The NGOs suggest the Committee to ask the government for information on specific measures taken to increase the percentage of women professors and to address direct and indirect discrimination of women working in academia.*

## EMPLOYMENT AND ECONOMIC EMPOWERMENT (ART. 11, 13 CEDAW)

### Still no full social rights and no social security for domestic workers

22. The 6<sup>th</sup> Periodic Report mentions in para 38 the report of the advisory committee investigating the scope for improving the status of domestic workers. One of the main recommendations of that committee was to end the misuse of the Home Help Services Scheme in the public sector, in the home care. The advisory committee recommended no improvements for domestic workers in the private sector. In the meantime the government has issued a response to the report, indicating not to be willing to give domestic workers full social rights.

*The NGOs suggest the Committee to ask the government a full update on this issue in which an explanation is provided why the government disregards the recommendations of CEDAW as well as the CESCR with regard to supplying domestic workers, including home care workers, with the same full social rights that all other workers enjoy.*

### Gender-bias in policies on labour migration

23. The 6<sup>th</sup> Periodic Report does not provide any information on the situation of documented or undocumented women labour migrants. Research shows significant differences in labour migration patterns between women and men: women often migrate for lower skilled labour, they earn less and have fewer rights than men. Moreover, in some sectors where predominantly women work, it is either formally or *de facto* impossible to obtain a work permit and consequently access to labour law protection and social security. This applies in particular to domestic work, work in the private home care, sex work and sex work related entertainment. As a result, migrant women working in these sectors are especially vulnerable to exploitation, violence and abuse. In theory the Dutch national labour law is also applicable to undocumented (women) workers, but in practice they have no possibility to claim their rights. Moreover, they are not informed about their rights. The NGOs are of the opinion that women should

<sup>66</sup> Parliamentary Papers II 2014/15, 24724, nr. 135, [consultation about problems of young mothers attending education],

<sup>67</sup> Monitor Vrouwelijke Hoogleraren 2015 [Monitor Women Professors 2015], LNVH, p. 17, 43.

be able to obtain work permits for work as domestic worker, as worker in the private home care, sex work and sex work related entertainment. This would be in line with Art. 2 and 11 CEDAW and General Recommendation 26.

*The NGOs suggest the Committee to ask the government how it informs women labour migrants in these sectors about their labour rights, whether documented or not, and how it has implemented General Recommendation 26.*

### **Lack of gender-analysis of austerity measures due to the economic crisis**

24. Despite the Committee's recommendation in para 19 of its Concluding Observations to encourage the State Party "to systemize assessment of the gender impact of legislation and policies and gender budget analysis among the various ministries (...)", there seems to be an overall gender-blindness within governmental policies (CEDAW/C/NLD/CO/5, para. 19). The government states in its 6<sup>th</sup> Periodic Report that more men than women suffered from the economic crisis, due to the loss of their economic independence between 2008 and 2012. However, NGOs point out that austerity measures of the government in response to the economic crisis appear to have affected more women than men (CEDAW/C/NLD/6, para. 18). This is evident in the healthcare sector, a field dominated by women, where severe budget cuts have caused many women to lose their jobs, their financial security, and their economic independence. This does not follow CEDAW's recommendation 45 of its Concluding Observations.

25. In addition the NGOs feel that the government's conclusion concerning the economic crisis is far too optimistic since 47% of women aged 20 to 65 are not economically independent. Moreover, on the average women earn 18% less per hour than men.<sup>68</sup> The government also mentions that the participation of single mothers in the labour market dropped in 2012. However, the Emancipation Monitor 2014 shows a more significant, and therefore more alarming, decrease of labour participation amongst this group of women.<sup>69</sup> This is due to the fact that a high percentage of these mothers have a non-western background, and people of non-western descent are hit harder by the economic crisis than others. The NGOs are worried about the long-term effects of the economic crisis and the gender inequality caused by gender blind governmental policies.

*The NGOs suggest the Committee to ask the government to provide more information on the long-term effects of the economic crisis on women and its assessments ex-ante and ex-post.*

### **Target of 30% women executives and advisory commission boards not accomplished**

26. According to the Female Board Index 2015, in which 84 leading Dutch companies participated, only 7,8% of the executive directors are women and 21,3% of the non-executive (supervising) directors.<sup>70</sup> NGOs find this a worrisome outcome and point out that "overcoming underrepresentation of women in certain fields" is in line with article 4, para 1, of the Convention and of the Committee's General Recommendation No. 25. Although the government has implemented a temporary special measure that requires official listed companies to strive for a minimum of 30% of women in their highest level bodies as of 2016, it is clear that this target will not be achieved.

*The NGOs suggest the Committee to ask the government to provide more information about its policies to increase the number of women executives, and among them the representation of executive women migrants.*

### **Second generation migrant women drop out of labour market**

27. In its 6<sup>th</sup> Periodic Report the government has not paid sufficient attention to the participation of second-generation women of Turkish and Moroccan descent, despite CEDAW's recommendation 43 to "encourage the adoption of proactive measures to further increase their (migrant women) participation in the labour market" (CEDAW/C/NLD/6, para. 43). The Annual Report Integration 2014 (CBS) shows that well-educated young second-generation women leave the work force after given birth to their first child.<sup>71</sup> Those young migrant women rarely return to the labour market, especially after having more children, and become highly dependent on their spouses. The NGOs are worried that this might jeopardize their chance to become economically independent in the future.

*The NGOs suggest the Committee to ask the government for information on educated second-generation women of Turkish and Moroccan descent dropping out of the labour market. Furthermore, to inquire about the government's plans to increase the participation of these migrant women in the work force, and how it will prevent them from dropping out.*

<sup>68</sup> CBS Statline, figures 2012

<sup>69</sup> SCP/CBS, *Emancipatiemonitor 2014*, [Emancipation Monitor 2014], December 2014.

<sup>70</sup> Prof. dr. Mijntje Luckerath-Rovers, *The Dutch Female Board Index 2015*, October 2015.

<sup>71</sup> CBS, *Jaarrapport Integratie 2014*, [Annual report Integration 2014], November 2014, p. 110.

### **Difficulties in obtaining paid paternity and parental leave**

28. Paid paternity and parental leave can contribute to eliminate stereotypical images and attitudes regarding the role of women and men in the family and facilitate conciliation of family and work life. NGOs note that, in comparison with other countries in the EU, there are limited entitlements to paid paternity leave for partners of new mothers in the Netherlands. Moreover, according to a recent study one-fifth of all new fathers even cannot or will not claim these limited entitlements.<sup>72</sup> In its 6<sup>th</sup> Report the government does not mention the abolishment of the special tax discount in case of parental leave, which was created as a basis for paid parental leave (CEDAW/C/NLD/6 para 50 and 51). This is a step backwards and not in line with recommendation 37 of the Concluding Observations (CEDAW/C/NLD/CO/5, para. 37).

*The NGOs suggest the Committee to ask the government for an update of disaggregated facts and figures with respect to men and women taking paid and unpaid parental and paternity leave, what policies it deploys to encourage parents to take paternity and parental leave and to explain why it abolished the special tax discount in case of parental leave.*

### **Lack of policy to reduce poverty among women and single mothers**

29. The 6th Periodic Report states that the number of women with a long-term low income rose from 157.000 in 2010 to 182.000 in 2012 (CEDAW/C/NLD/6, para. 69). However, there is no mentioning of any gender specific policy to reduce poverty among women, let alone of poverty prevention programmes following CEDAW's recommendation 45 in its Concluding Observations. The NGOs are very concerned about the overrepresentation of women aged 20 to 39 with a long-term low income. Research shows that in 2014 25% of all single mothers with underage child(ren) were living in poverty.<sup>73</sup> Beside structural policy to reduce poverty among single mothers and their children, measures should also be addressed to economic independency of women, including single mothers with young children.

*The NGOs suggest the Committee to ask the government about its policies to reduce poverty among women, specifically women and single mothers with a long-term low income*

## **HEALTH (ART. 12 CEDAW)**

### **Future funding for the Gender and Health Alliance**

30. As mentioned in the 6<sup>th</sup> Periodic Report the Gender and Health Alliance calls for the recognition of the differences between men and women in healthcare. The NGOs are pleased to see that since the start in 2012 the Alliance has initiated relevant collaborations and made valuable recommendations. The Alliance was funded by the Ministry of Education, Culture and Science till the end of 2015. The Ministry of Health, Welfare and Sport recently indicated that it is prepared to make resources available for the Alliance. At the time of finishing this shadow report (January 2016) it is not yet clear what resources will be allocated.

*The NGOs suggest the Committee to ask the government for the latest state of affairs concerning the resources and future plans for the Gender and Health Alliance, including how intersectionality will be addressed.*

### **Increased burden on informal carers**

31. The 'reforms' and austerity measures that attend the 2015 decentralisation, include more emphasis is laid on informal care by family members and volunteers for the elderly, persons with a handicap and vulnerable children. As a consequence many professional workers in homecare and elderly care, most of them women, are losing their jobs. Also, as noted in the 6th Periodic Report, the majority of informal carers are women as well. Nevertheless, the government concludes that its new policy will support informal carers and thus will largely benefit women (CEDAW/C/NLD/6, paras. 150-152). The NGOs are concerned about the government's enthusiasm for a care system which leans on a majority of unpaid women. It is not inconceivable that such a system has a negative effect on the economic independence of women who (partially) withdraw from the labour market to provide informal care. In addition women can become overburdened, due to the combination of work and care, and also the quality of care may suffer. Options to address these issues were discussed during an expert meeting with local stakeholders on 11

<sup>72</sup> CBS, *Ruim vier of de vijf prille vaders nemen verlof*, [Over four out of five young fathers take leave], 4 September 2015.

<sup>73</sup> SCP and CBS, *Armoedesignalement 2014*, [Poverty Indication Report 2014], December 2014, p. 65.

June 2015.<sup>74</sup> To the NGOs it is a hopeful sign that the government has assured to provide a follow-up to the outcomes of the meeting.

*The NGOs suggest the Committee to ask the government which concrete steps it will take to create a more equal division of informal care tasks between women and men and whether the government will monitor the gender impact of the increased emphasis on informal care.*

### **Medication for menstrual regulation not available from pharmacies**

32. The NGOs regret that medication for menstrual regulation (also known as the abortion pill Mifegyne with Misoprostol) is still not available from pharmacies to be prescribed by general practitioners. Menstrual regulation is an early and safe termination of pregnancy for women who have missed their period for a maximum of 16 days. Since 1 May 2015 medication for menstrual regulation can be ordered by pharmacies, but the Minister of Health states that the abortion act needs to be amended before the medication can be prescribed. The Health Inspectorate has also threatened it will intervene if general practitioners prescribe the medication.<sup>75</sup> As a consequence both pharmacists and general practitioners do not supply and prescribe the medication for fear of being punishable by the current law, according to which abortion may only be carried out in licensed hospitals and abortion clinics. The Ministry of Health and the Health Inspectorate conclude that the Abortion Act covers menstrual regulation. The NGOs consider this interpretation to be incorrect and find that an amendment is therefore not necessary. For, in earlier rulings the Supreme Court confirmed that menstrual regulation is not covered by the abortion act and the Council of State (highest administrative Court) determined that menstrual regulation does not have to take place in an abortion clinic.<sup>76</sup> Consequently, general practitioners should be allowed to prescribe medication for menstrual regulation.

*The NGOs suggest that the Committee asks the government how it plans to ensure that medication for menstrual regulation becomes available from pharmacies to be prescribed by general practitioners.*

## **EQUAL RIGHTS OF OBTAINING, CHANGING OR RETAINING A NATIONALITY (ART. 9) & EQUAL RIGHTS IN RESPECT OF MARRIAGE AND FAMILY RELATIONSHIPS (ART. 16)**

### **Extension of the period of the dependant residence permit makes women more vulnerable**

33. The government has increased the duration of the dependant residence permit of migrant women from three to five years. This change disproportionately affects women, since 75% of women and 25% of men apply for a residence permit based on family formation or reunification.<sup>77</sup> The extension of the period of dependency negatively impacts the emancipation and integration process of migrant and refugee women (who arrive after their partner was granted residency), restricts their autonomy and increases the risk of domestic violence and abuse of power. In addition, also Dutch women with a migrant partner whose residence permit is dependent on them are affected, as they cannot separate from their partner for five years (instead of three) without exposing him or her to deportation. Yet, the government does not make any reference in its report to this change of law and its impact on in particular migrant women.

*The NGOs suggest the Committee to ask the government to provide information about the reasons for extending the duration of the dependent residence permit from three to five years, as well as about the gender impact thereof, respectively whether it has commissioned any research into the social and psychological effects on both migrant and Dutch women.*

### **Obtaining continued (independent) residency in the case of domestic violence more difficult**

34. As an exception, migrant women can apply for a continued (independent) residence permit within the five year period of dependent stay in the case of domestic violence. However, NGOs notice that during the last two years it actually has become more difficult for victims of domestic violence to obtain an independent residence permit. In the past, it was sufficient to demonstrate the domestic violence by means of a statement of a doctor, a social

<sup>74</sup> Eindrapport Expertmeeting 'Gendersensitief Beleid bij Gemeenten' [Final Report Expert Meeting 'Gender-sensitive Policy of Municipalities'], Atria, Mezzo, Movisie, Nederlandse Vrouwenraad, October 2015.

<sup>75</sup> Abortuspil verkrijgbaar in openbare apotheek – Wetswijziging nodig voordat huisartsen mogen voorschrijven [Abortion pill available in public pharmacies – Amendment necessary before GP may prescribe], Pharmaceutisch Weekblad, 2 April 2015.

<sup>76</sup> Kwant, L. de, Abortuswet is niet nodig [Abortion Act is not necessary], Medisch Contact, 2015(13); Gomperts, R. & Kleiverda, G, Zestien dagen zijn zestien dagen [Sixteen days are sixteen days], Medisch Contact, 2001(42).

<sup>77</sup> SCP, Huwelijksmigratie in Nederland, [Marriage migration to The Netherlands], September 2014

worker or a women's shelter. Currently the Immigration and Naturalisation Service (IND) demands an official statement from the police or the Public Prosecution Services, next to a declaration of the shelter, a doctor or a hospital. They also require the victim to seek refuge in a shelter and in some cases a conviction of the perpetrator is required. The NGOs point out that this approach is not in line with the general policy on domestic violence and the obligations of the Netherlands under CEDAW.

*The NGOs suggest the Committee to ask the government to explain the reasons for this change in policy and to provide facts and figures on the number of residence permits granted to migrant women on the basis of domestic violence for the last 5 years.*

### **Too little attention to child brides other than Syrian refugees**

35. After the discovery of at least 22 child brides amongst Syrian refugees this summer, the Senate adopted the Countering Forced Marriage Act (Wet tegengaan huwelijksdwang) in October 2015. This law makes it possible to formally dissolve marriages of girls under eighteen and permission for marriage between cousins will be more difficult to obtain. In the view of the NGOs this legislation is a step forward, but not enough to combat child marriages and marital captivity (remaining, against their will in a religious marriage). Furthermore the NGOs urgently want to point out that hardly any attention is being paid to child marriages in other communities, such as Roma and Sinti and diaspora communities. The NGOs think it is a serious human rights violation of girls born and bred in the Netherlands to be forced to and kept in a formal or an informal marriage either in this country or in the 'country of origin'.

*The NGOs suggest the Committee to ask the government to provide an overview of the legislation and of prevention and enforcement policies with respect to formal and informal child marriages in all communities in the Netherlands.*

### **Lack of sufficient legislation for forced transnational marriages**

36. NGOs are concerned about girls, under aged or 18+, who are taken by their parents under false pretences to another country in order to be married off against their will. The parents return to the Netherlands keeping their daughter's passport, abandoning their newly married daughter and leaving her with her family-in-law. Often the girls are not allowed to attend school, raped repeatedly by their husbands and imprisoned in a marriage they cannot escape from (marital captivity). In the rare cases the girls/women do escape they experience difficulties to acquire a new Dutch passport or (in case of another nationality) a new residence permit and even whenever they succeed in obtaining an annulment of the marriage contract in the Netherlands, the marriage contract in that other country is not dissolved.

*The NGOs suggest the Committee to ask the government to provide information on its policies and practices in preventing and combating forced transnational marriages and marital captivity, including on the role the embassies play in offering shelter and assistance to return back home.*

## B. SPECIFIC GROUPS

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### LESBIAN, BISEXUAL AND TRANSGENDER (LBT) WOMEN (ART. 1, 2, 5, 12 CEDAW)

#### Lack of expertise among professionals on LBT issues

37. The NGOs are concerned that there is a general lack of expertise among relevant professionals on LBT issues. This is particularly the case for professionals in the youth sector, healthcare and welfare sector, for members of staff in asylum procedures and asylum seeker's centres (AZC's), and for educational professionals. Education about sexual diversity, gender diversity and sex characteristics diversity is no compulsory subject in the training programmes of these professionals. As a consequence these professionals often miss knowledge and skills to adequately support LBT clients and to address discrimination, exclusion or abuse of LBT women. Without this necessary education social workers may not recognise the vulnerable status of LBT women, youth workers may not notice that LBT girls are struggling with their identity and peer pressure, and personnel in AZC's may not be responsive to violence against LBT women.

38. It is commendable to the NGOs that LGBT education is now compulsory in schools, but teachers still lack the tools to respond effectively to negativity towards LBT students.<sup>78</sup> The 6th Periodic Report mentions that mental health care is not generally sensitive to transgender women (CEDAW/C/NLD/6, para,184). However, the report does not mention if steps are taken to address this problem and there is no recognition of the fact that this is an issue that applies to professionals in several sectors.

*The NGOs suggest the Committee to ask the government how addresses the LBT knowledge gap among relevant professionals and its effects on LBT women. The Committee could ask the government whether it has considered making LBT awareness a compulsory subject in professional education and a required competence.*

#### Alteration of sex characteristics for transgenders still excluded from health insurance

39. Currently the adaption of several sex characteristics such as breast construction and facial adjustments are excluded from basic health insurance, which means that transgender women cannot have the cost of these procedures reimbursed. In the previous CEDAW Concluding Observations the Committee already called for the reimbursement of breast implants for transgender women (CEDAW/C/NLD/CO/5, paras. 46-47). In response to this recommendation the 6th Periodic Report concludes that reimbursement of breast implants for transgender women would constitute unequal treatment since other women also have no right to reimbursement of breast implants (CEDAW/C/NLD/6, para. 186). However, this line of reasoning does not take into account the specific condition of transgender women. For their social acceptance it is essential that their sex characteristics correspond with their gender identity. In a study of the Social Cultural Research Institute (SCP) on the situation of transgender people in the Netherlands it was concluded that this specific condition of transgenders justifies an exception in the health insurance for this group.<sup>79</sup> The NGOs find a possible policy change, recently announced by the Minister of Health, far too limited, since it only concerns breast construction and will not come into effect before 2017.

*The NGOs suggest the Committee to ask the government to respond to the notion that medically necessary alterations of sex characteristics for transgender persons do not constitute unequal treatment, and whether those could be included in the basic health insurance.*

### WOMEN WITH DISABILITIES (ART. 3, 10, 11, 12 CEDAW)

#### No measures to address intersectional discrimination of women with disabilities

40. The NGOs are pleased to note that the government plans to ratify the UN Convention on the Rights of Persons with Disabilities (CRPD). The 6th Periodic Report, however, contains very little information on women with disabilities in the Netherlands. The government only concludes that fewer disabled women than disabled men participate in the labour market (CEDAW/C/NLD/6, para. 30). No reference is made to possible intersectional discrimination experienced by these women on the labour market or in other areas. There are no recent studies or programmes that specifically address issues of women with disabilities. The CRPD contains provisions on women with disabilities (art. 6, art. 16(5), art. 28(2)(b) CRPD), covering multiple discrimination, violence, and social

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<sup>78</sup> Rossenberg, S. van, *LHBTI-kinderen in Nederland [LGBTI children in the Netherlands]*, COC Nederland, 2013.

<sup>79</sup> Keuzenkamp, S., *Worden wie je bent – Het leven van transgenders in Nederland [Becoming who you are – The life of transgenders in the Netherlands]*, Sociaal Cultureel Planbureau, 2012, p. 94.



protection. While the proposed Act of approval of the CRPD makes reference to these provisions and even draws a comparison with CEDAW, the plan of action for the implementation of the CRPD is very general and contains no specific plans to address the situation of women with disabilities.<sup>80</sup>

*The NGOs suggest the Committee asks the government to provide information on any planned measures to study and address intersectional discrimination of women with disabilities. The Committee could ask whether the government plans to concretise its action plan for the implementation of the CRPD to also include measures for women with disabilities.*

## UNDOCUMENTED MIGRANT WOMEN (ART. 3, 12 CEDAW)

### No information on undocumented migrant women

41. The NGOs are concerned about the dire situation of undocumented migrant women and the attitude of the government towards this group. The 6th Periodic Report includes no information on undocumented migrant women.

### Absence of safe shelter

42. The regular homeless shelters and women's shelters meant for victims of domestic violence are not legally accessible to undocumented migrant women. As a consequence they end up on the street or in informal shelters. For women migrants this is especially detrimental because they are more vulnerable to exploitation or abuse on the streets and because informal shelters tend to be unsuitable for women. The quality of shelters for undocumented migrants varies between locations. Several shelters lack proper sanitation and privacy, and women inmates are usually in the minority. Some shelters accessible to undocumented migrant women only provide accommodation during the night. Many of these women suffer from post-traumatic stress disorder and are in need of safety and stability, that these kind of shelters do not provide.<sup>81</sup> In addition, undocumented migrant women who suffer domestic violence cannot safely report to the police for fear of being apprehended based on their lack of residence status.

*The NGOs suggest the Committee to ask the government to provide information about safe shelters for undocumented migrant women including those who suffer domestic violence.*

### Problems with access to healthcare

43. Undocumented migrant women experience difficulties with access to healthcare despite their legal entitlement to necessary medical care. This issue was also addressed in the previous CEDAW Concluding Observations (CEDAW/C/NLD/CO/5, paras. 46-47). The situation has not changed significantly since then, but the 6<sup>th</sup> Periodic Report makes no mention of the current issues. Both these women and healthcare professionals still lack knowledge on the right to health of this group and the existing regulations.<sup>82</sup> As a consequence undocumented migrant women get access to the healthcare system (too) late, continuity of care is seldom, and sometimes they are denied any care at all. In practice undocumented migrant women are often dependant on NGOs that act as intermediaries between undocumented migrants and the healthcare system.

*The NGOs suggest the Committee asks the government for information on how it has given effect to the previous CEDAW recommendation concerning access to healthcare for undocumented migrant women.*

## EU MIGRANT WOMEN (ART. 3, 11, 12, 13 CEDAW)

### No sustainable response to problems experienced by EU migrant women

44. There is a growing number of labour migrants from Southern and Eastern EU countries. A little more than half of these migrants are women.<sup>83</sup> NGOs indicate that there exists a gap in policy and measures to address issues that

<sup>80</sup> Parliamentary Papers II 2013/14, 33 992 nr. 3; Parliamentary Papers II 2014/15 33990 nr. 9.

<sup>81</sup> *Vrouwen op de Vlucht – Verhalen van ongedocumenteerde vrouwen in Nederland [Stories of undocumented women in the Netherlands]*, Doctors of the World, 2015.

<sup>82</sup> Schoevers, M. A. et. al, *Health care utilisation and problems in accessing health care of women undocumented immigrants in the Netherlands*, International Journal of Public Health, 2010; Doctors of the World, *Access to healthcare for the most vulnerable in a Europe in social crisis – Focus on pregnant women and children*, May 2014.

<sup>83</sup> Wijkhuijs & Jennissen, *Arbeidsmigratie naar Nederland, de invloed van gender en gezin [Labour migration to the Netherlands, the influence of gender and family]*, WODC, 2010, p. 66.

this group of women migrants are dealing with.<sup>84</sup> The problems they encounter include unemployment or underemployment, unstable jobs, dependency on their employer for both income and housing, and lack of language proficiency. A few municipalities have started to take measures in these areas, but so far a gender perspective has not been taken into account.<sup>85</sup> A study on the experiences and needs of EU-migrants themselves indicates that EU-migrants especially need information on practical issues such as registration, housing, job hunting and social security.<sup>86</sup>

*The NGOs suggest the Committee to ask the government to provide more information on this group of women migrants experiences and how it will take into account the results of the research.*

## **ETHNIC MINORITY WOMEN (ART. 3, 7, 12 CEDAW)**

### **Little information on actual measures**

45. While the 6<sup>th</sup> Periodic Report contains data on labour force participation and education of ethnic minority women and also refers to an expected study on ethnic minority women and health care, the Report contains little information on actual measures taken.

*The NGOs suggest the Committee to ask the government to provide information on what measures it will take to improve the status of ethnic minority women*

### **Subsidy for healthcare interpretation services cancelled**

46. In 2012 government subsidy was cancelled for the interpretation service over the phone for health care professionals needing to communicate with patients who do not speak (sufficient) Dutch. Before 2012 health care institutions could make use of a free interpretation service over the phone in 130 languages. This service was subsidised by the Ministry of Health. Ever since the subsidy was cancelled as an austerity measure health care institutions are responsible for financing or organizing interpreters themselves. As the official interpretation service is expensive, healthcare professionals tend to make use of informal interpreters such as multi-lingual colleagues or family members of patients.<sup>87</sup> This can have negative effects on the patient's privacy, for instance in cases of sexual and domestic violence, and on her access to appropriate health care. An NGO has since developed a quality standard for the use of interpreters in healthcare, but this standard is not well known or used among health professionals.<sup>88</sup> Since the majority of patients with little or no command of the Dutch language are first generation migrant women, the consequences of this measure are predominantly felt by them.

*The NGOs suggest the Committee to ask the government whether the effects of cancelling the subsidy for interpretation services have been or will be evaluated and how it plans to better take into account the negative consequences of this austerity measure for ethnic minority women.*

## **OLDER WOMEN (ART. 3, 13 CEDAW)**

### **Abolishment of the statutory state pension (AOW) spouse allowance**

47. The spouse allowance in the statutory state pension (AOW) has been abolished for anyone receiving this pension from 2015 onwards. The 6th Periodic Report makes no mention of this measure. Previously the AOW included an extra allowance for a younger spouse without income or a low income. This younger spouse is usually a woman, meaning this measure predominantly affects women. In 1995 the government decided that this allowance would be abolished in 2015, with the argument that all women would be economically independent by then. The

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<sup>84</sup> De Gruijter & Razenberg, *Enquête gemeenten & EU-migranten [Survey municipalities & EU-migrants]*, Kennisplatform Integratie & Samenleving, 2015.

<sup>85</sup> Booi, Lindeman & Slot, *Monitor EU-migranten 2013 [Monitor EU-migrants 2013]*, Amsterdam, 2014; Bertram & Aartsen, *Voortgangsrapportage EU arbeidsmigratie [Progress Report EU labour migration]*, Den Haag, 2014.

<sup>86</sup> Razenberg, Noordhuizen, De Gruijter, *Recente EU-migranten uit Midden-, Oost- en Zuid-Europa aan het woord [Recent EU Migrants from Central, Eastern and Southern Europe]*, Kennisplatform Integratie & Samenleving, 2015.

<sup>87</sup> *Resultaten Quicksan Tolken [Results Quicksan Interpreters]*, Pharos, 2012; Bloemen, E., *Laten Tolken: Een kwestie van goede zorg [Interpretation: a matter of good care]*, PHAXX, 2014(2).

<sup>88</sup> *Kwaliteitsnorm tolkgebruik bij anderstaligen in de zorg [Quality standard for use of interpreters for foreigners in healthcare]*, Pharos, 2014.

current reality is that more than half of the women older than 55 years are dependent on the income of their spouse.<sup>89</sup>

*The NGOs suggest the Committee to ask the government for information on the effects of the abolishment of the AOW spouse allowance for older women, and how it has implemented General Recommendation No. 27 on older women (CEDAW/C/GC/27).*

### **Planned digitization of government services by 2017**

48. The government plans to have all central and local government services digitized by 2017.<sup>90</sup> The 6th Periodic Report does not include information on these plans and their effects. The NGOs are concerned that this development will negatively affect the independence of older women. Studies have shown that people of 65+ (a majority of which are women) often do not possess the skills and computer equipment necessary to make use of digitized government services.<sup>91</sup> As a consequence there is a risk that this group will become dependent on others to gain access to social benefits, to file tax returns, to apply for a new passport or to make a complaint with the municipality, to name a few examples. The Minister of Internal Affairs has promised that alternatives will remain available but the on-going digitization efforts do not offer reassurance that the needs of older citizens are sufficiently taken into account. The NGOs are not convinced that the interests of older women have been adequately heard by the Sounding Board for users of government digitization, which has been established to give input to the government.

*The NGOs suggest the Committee requests information from the government on how it plans to safeguard the independence of older women in access to government services after digitization.*

## **RURAL WOMEN (ART. 14 CEDAW)**

### **Diminishing public services in rural areas negatively affect rural women**

49. The 6th Periodic Report provides no information on austerity measures that have led to diminishing healthcare services and public transport in rural areas. With the decentralisation of social support and long-term care from the national government to the local governments there is a growing risk that specific services will be less available in rural areas. This risk may increase with the new budget distribution model for the Social Support Act (WMO) that will be effective from 2016.<sup>92</sup> The disappearance of healthcare services (including homecare and elderly care) in rural areas not only affects access to care, but also decreases employment opportunities in the healthcare sector where many women work. Due to austerity measures in public transport there are rural areas where busses only ride during peak hours. Women without own transport increasingly become dependent on assistance from neighbours or friends and thus their mobility is negatively affected. In small remote villages 7% of the inhabitants, predominantly older women, do not own a car.<sup>93</sup> Due to the fact that services are increasingly located further away from rural areas, mobility has become more important to gain access to healthcare, find work, follow an education, and to maintain social contacts.

*The NGOs suggest the Committee requests more information from the government on access to services for rural women. The Committee could ask the government whether and how the perspectives of rural women are taken into account when formulating policy that may negatively affect women's access to care services and public transport in rural areas.*

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<sup>89</sup> Brakel, M. van den, *Financieel Kwetsbare Vrouwen [Financially Vulnerable Women]*, CBS, 2012.

<sup>90</sup> *Parliamentary Papers II 2012/13 26 643 nr. 280.*

<sup>91</sup> Gillebaard, H. & Vankman, A., *De digitale (zelf)redzaamheid van de burger: ondersteuning bij de Digitale Overheid 2017 [Digital self-reliance of citizens: support with the Digital Government 2017]*, Dialogic, 2013; Meer, P. van der, *Onderzoeksrapport Digitaal Contact Overheid en Gemeente [Research Report Digital Contact Government and Municipality]*, Unie KBO, 2014.

<sup>92</sup> Andersson Elffers Felix, *Objectief verdeelmodel WMO 2015 [Objective distribution model Social Support Act 2015]*, 2014; *Herverdeling WMO-budget treft platteland [Redistribution of Social Support Act budget affects rural areas]*, Friesch Dagblad, 28 August 2014.

<sup>93</sup> Steenbakkens, A. & Vermeij, L., *De Dorpenmonitor – Ontwikkelingen in de leefsituatie van dorpsbewoners [The Villages Monitor – Developments in the living conditions of villagers]*, Sociaal en Cultureel Planbureau, 2013, pp. 178-202.