

Dutch CEDAW Network

Unfinished Business - Women's Rights in The Netherlands

Shadow report by Dutch NGOs

PREFACE

This shadow report has been compiled by a team of rapporteurs on behalf of the Dutch CEDAW Network. The independent network consists of a core group of Dutch NGOs and several individual CEDAW specialists in the Netherlands. In addition to this core group many other NGOs are connected to the Network, all lending their expertise.

The Dutch Ministry of Education, Culture and Science funded the process of shadow reporting. Since no funding was provided for research on the implementation of CEDAW in the Caribbean parts of the Kingdom this report only covers the European part of the Kingdom, referred to as the Netherlands.

This parallel report has been compiled for the dialogue with the Kingdom of The Netherlands during CEDAW's 65th Session 24 October – 18 November 2016, considering the 6th Periodic Report (CEDAW/C/NLD/6). The previous shadow report (January 2016) for the 65th CEDAW presession is attached as an Annex. This parallel report follows the structure of the List of Issues (CEDAW/C/NLD/Q/6) and consequently The Replies of the Netherlands thereto (CEDAW/C/NLD/Q/6/Add.1, dated 5 July 2016).

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TABLE OF CONTENTS

Legal and policy framework	1
1 Compliance with the Convention is as invisible as the Convention itself	1
2 Lack of effective remedies for violations of rights guaranteed by the Convention	1
3 Disparities in implementation and interpretation of the Convention	1
4 Reduced access to effective remedies	2
National machinery and gender mainstreaming.....	2
5 Funding policies disadvantage small women organisations.....	2
6 Invisibility of gender impact assessments and gender mainstreaming.....	2
7 Genderspecific effects of the government’s response to the economic crisis	2
8 Local governments’ tender procedures disadvantage women	3
9 Lack of concrete benchmarks and measurement of results	3
Temporary special measures.....	3
10 Women in top-level positions: hardly progress but no sanctions.....	3
11 Lack of an intersectional approach in Discrimination Action Programs.....	3
Stereotypes and Harmful Practices.....	4
12 Gender Stereotyping in advertising not addressed.....	4
13 Lack of coherent policies on harmful practices.....	4
14 Negative consequences decentralisation in addressing harmful practices	4
15 Insufficient assistance and protection of abandoned women and girls.....	5
16 Marital captivity.....	5
17 Lack of figures on Female Genital Mutilation	5
18 FGM as ground for asylum	6
Violence against women	6
19 Lack of systematic data collection.....	6
20 Gender specific policies and impact assesments	6
21 Loss of expertise with the police	7
22 Violence against Muslim women	7
23 Limited knowledge of new forms of sexual violence	7
24 Sexual violence in youth institutions.....	7
Domestic violence	7
25 Restrictions in access to legal aid for victims of domestic violence	7
26 No shelter for undocumented victims of domestic violence	8
27 Insufficiencies in assistance and shelter.....	8
28 Negative impact of dependent residence permit on prevention of violence	8
29 gender-based violence as ground for asylum	9
Trafficking and exploitation of prostitution	9
30 De-linking identification from criminal proceedings	9
31 Separating anti-trafficking units and immigration police.....	10
32 Focus on human smuggling rather than human trafficking	10
33 Lack of training and a victim-centred approach of the Labour Inspection	10
34 Participation of NGOs in the anti-trafficking task force	10
35 Lack of access to specialised shelters for Dutch and EU victims.....	11
36 Decentralisation and access to shelter.....	11
37 Access to specialised assistance for victim-asylum seekers.....	11
38 Bill on regulating prostitution and combating abuses in the sex industry.....	11

Participation in political and public life	12
39 Women in decision making positions in academia & number of female professors.....	12
40 Women politicians at the local level	12
41 Women’s participation in high level positions in public services.....	12
Education.....	13
42 Stereotyping in subject choice in education	13
43 Girls and science/technology: stagnation in tertiary education & labour market	13
44 Discrimination against pregnant students in college and higher education	13
45 Pregnancy and parental leave damage careers of phd and postgraduate students.....	13
Employment	14
46 Freedom of sex workers to choose their own way of organising their work.....	14
47 Drop in the use of child care services due to cuts in government expenditure.....	14
48 Gender discrimination insufficiently addressed – no Equal Pay Day yet.	14
49 Still no full social rights for domestic workers.....	15
50 More risks of (hidden) unemployment, temporary contracts and underemployment	15
Migration and labour.....	16
51 Indirect discrimination of female labour migrants.....	16
Health	16
52 Restriction of women’s freedom of choice in obstetric care	16
53 Restrictions on reproductive care by GPs & abortion rights.....	16
54 100% drug control at airport: ultrasound as alternative to body scan	17
55 Poorer health condition of women from ethnic minorities	17
56 Four times more maternity complications amongst female asylum seekers	17
57 Gender impact of ‘reforms’ in health and home care denied.....	18
Disadvantaged groups of women.....	18
58 Lack of data on the position of black, migrant and refugee women.....	18
59 LBT women	18
Equal access to other areas of economic and social life	19
60 Improvement of the social and labour position of sex workers.....	19
Women in rural areas.....	19
61 Labour market participation of women in rural areas	19
Marriage and family relations	19
62 Discrepancy between self determination and migration policy	19
63 Implementation of the prohibition of religious marriages without a civil marriage.....	20
64 Joint custody as a rule in the case of domestic violence.....	20

LEGAL AND POLICY FRAMEWORK

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

In its report the government refers to procedures to check compliance with international law (CEDAW/C/NLD/6 para 161-164). The NGOs point out that this apparently is a strict internal and confidential procedure, enabling neither Parliament nor NGOs to assess this check. The database of the Parliamentary documents from 1995 onwards shows that hardly any references to the Convention are made in legislative proposals and in the written and oral dialogue with Parliament, let alone to its specific provisions. Most references to the Convention relate to either the reporting cycle to the Committee or to the case concerning *De Blok et al* (see para 2). In the digital database of the national government the NGOs found 258 hits, for a large part country reports of the Ministry of Foreign Affairs including ratification information and general references to the Convention in its human rights and international assistance policy papers.¹ Despite the Committee's urgent recommendation to take further steps to raise awareness about the Convention, its Optional Protocol and the General Recommendations, in reality hardly any effort has been made (see also Annex para 4 & 5). The NGOs further note with concern that the government uses a very limited interpretation of Article 2e of the Convention (as described in CEDAW/C/NLD/Q/6/Add.1 para 3).

The NGOs suggest the Committee to ask the government to make its compliance checks transparent and thus available for the public, to ask why the government maintains a low profile of the Convention, the Optional Protocol and the General Recommendations and to question its limited interpretation of Article 2e.

2 LACK OF EFFECTIVE REMEDIES FOR VIOLATIONS OF RIGHTS GUARANTEED BY THE CONVENTION

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

In regard to its explanation (CEDAW/C/NLD/Q/6/Add.1 para 22&23), the NGOs note that the government's opinion about the limited scope of Article 11(2) is comparatively new. Before 2004, it included legislative arrangements with respect to maternity benefits for self-employed women in its periodical reports to CEDAW without wording like "out of its own volition". In Parliamentary debates it several times used a broad interpretation of the scope of Article 11², and it did not insist on a limited scope in the previous case about maternity benefits under the Optional Protocol.³

Up till now the government refuses to enter into the follow-up dialogue with the Committee because "the contentious proceedings before the Committee had been terminated by the adoption of the Committee's views" and lately under the pretext that legal procedures of complainants are pending.⁴ The NGOs object to this attitude: precisely because of the government's disregard of the Committee, complainants did not see any other solution than to start new proceedings. In the meantime one out of the six complainants did receive the maternity benefits. Two lost their case at the District Court Amsterdam (18 July 2016) and are preparing an appeal and a fourth complainant is awaiting the verdict of the District Court Central Netherlands.

The NGOs suggest the Committee, leaving the juridical aspects to the follow-up dialogue and the Dutch legal procedures, to ask the government how it can justify that only one out of the six complainants did receive the recommended compensation.

3 DISPARITIES IN IMPLEMENTATION AND INTERPRETATION OF THE CONVENTION [reserve lijst]

The NGOs regret the lack of will to address the disparities in the implementation of the Convention in the four countries of the Kingdom and three special Caribbean Dutch municipalities. They are also worried about the disparities in the interpretation of the Convention: how can it happen that two governments consider the improvement of academic performance of boys a priority in the implementation of the Women's Treaty? (CEDAW/C/NLD/Q/6/Add.1 para 13 & 156)

¹ www.officielebekendmakingen.nl and rijksoverheid.nl.

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

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

⁴ Quote from a letter of the Agent of the Government of the Netherlands to CEDAW dated 11 December 2015.

4 REDUCED ACCESS TO EFFECTIVE REMEDIES

In 2015 the Supreme Court considerably limited the possibilities of CSOs for public interest litigation, for example in the case of discrimination or other alleged illegal acts by state bodies.⁵ As a consequence of the judgement it is not possible anymore for CSOs to bring a civil case against local or national state bodies in the interest of a group of citizens, if those citizens can also individually object before the administrative judge. This, in particular, has a negative impact on marginalised and disadvantaged groups, who may not dare to individually litigate for fear of social or other repercussions. This problem arises, for example, in the case of discrimination against sex workers or other stigmatised groups who do not want their identity to be publicly exposed. Precisely because individual citizens often fear for 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 principled issues that affect an entire group.

The NGOs suggest the Committee to ask 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

5 FUNDING POLICIES DISADVANTAGE SMALL WOMEN ORGANISATIONS

Dutch funding policies increasingly favour big, often not gender-specific organisations at the cost of small and young women's organisations, especially organisations of black, migrant and refugee women. Most of the funding schemes of the Ministry of Foreign Affairs that are relevant for women's rights organisations and gender equality initiatives use threshold criteria that effectively exclude these organisations and make them dependent on the often non-existent willingness of big(ger) organisations to form a partnership (see also Annex para 6 & 7). This refers to criteria such as the requirement of a substantial turn over and a proven track record over the past three or more years, a considerable amount of income from other sources, and the use of elaborate formats requiring detailed planning. It is hardly possible for innovative initiatives to apply for small(er) amounts of money. Similar thresholds do appear under the new Funding Scheme on gender and LGTB equality implying that 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 at least one alliance has a black and migrant representation in the leadership. This undermines an inclusive and just emancipation structure.

The NGOs suggest the Committee to ask the government how diversity is defined and assessed, how it will ensure an inclusive emancipation structure and whether it is willing to take measures to prevent small and black, migrant and refugee women's organisations from being excluded from its funding schemes and/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 for the Parliament and NGOs. The government has never used the instrument of gender budgeting. The NGOs are surprised to read the announcement of an exploratory study on gender mainstreaming (CEDAW/C/NLD/Q/6/Add.1 para 35): the letter only mentioned gender mainstreaming in the historical background of the Beijing Conference. Neither are the NGOs aware that GM has been stepped up (para 36). In their view the situation is best described as 'gender away streaming': as soon as gender is being integrated into mainstream policy it is lost out of sight, segregated data are hardly kept anymore and nothing is known about the results. In this way GM does not contribute to substantive equality at all.

The NGOs suggest the Committee to enquire about the governments' definition of gender mainstreaming and to ask what results are achieved by its stepping up 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, like the real estate and building sector, have been hit hard. Whereas via tax-measures the government tried to mitigate these effects, its austerity measures in response to the economic crisis negatively affected in particular the labour market position of women. Examples are the budget cuts in the child care allowances (see para 47)

⁵ State/Privacy First, Judgement 22 May 2015, ECLI:NL:HR:2015:1296. See also: ECLI:NL:HR:2016:1049.

and the decentralisation of social care (see para 8, 57 and Annex para 1 and 31) which resulted in thousands of redundancies, affecting in particular older women in the less urbanised parts of the country and black and migrant women in the urbanised parts. The result is that in 2015 for the first time since 1992 more unemployment benefits have been paid to women than to men!⁶

The NGOs suggest the Committee to invite the government to reconsider its rejection to use instruments such as gender impact assessments (ex ante + ex post) and gender budgeting.

8 LOCAL GOVERNMENTS' TENDER PROCEDURES DISADVANTAGE WOMEN

The government fails to explain why the Committee's recommendation to introduce a consistent scheme for promoting equality in public contracts (CEDAW/C/NLD/CO/5 para 19) was not taken into consideration.⁷ The NGOs note that at local level the outcome of tenders for home care, youth care, cleaning, transport of school children and disabled and old people, etc. is disastrous for the predominantly female workers in these sectors. Due to the competition companies often submit contracts at rock-bottom prices which can only be met by worsening the labour conditions of the workers: less pay, fewer hours, increased work pressure, more on-call contracts, homecare workers who lose their contracts and have to accept re-employment with less social rights under the Home Help Services Scheme, etc. Consequently, several home care and specialized taxi-branch companies went bankrupt, leading to unemployment of the workers. In case the workers succeed in finding another job in the sector they often have to accept temporary contracts and lower salary scales.

The NGOs suggest the Committee to ask the government why it did not follow up 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 that local government's tender procedures disadvantage women. Recalling the Committee's view that the Convention is binding on all governmental branches and structures at all levels (CEDAW/C/NLD/CO/5 para 8 & 9), the Committee could also enquire how the government ensures the enforcement of the Convention by local governments.

9 LACK OF CONCRETE BENCHMARKS AND MEASUREMENT OF RESULTS

In its report the government describes a range of initiatives to promote equality and address discrimination and violence. The NGOs, however, miss clear targets and benchmarks. Moreover, reports on the actual results of these initiatives are generally missing. Examples are projects such as *Kracht on Tour*, *On your Own (Eigen kracht)* and the *Table of One (Table for One)* (CEDAW/C/NLD/6 para 22 and CEDAW/C/NLD/6/Add. 1 para 172-173).

The NGOs suggest the Committee to ask the government for concrete targets and benchmarks and to report on the actual results of the initiatives described.

TEMPORARY SPECIAL MEASURES

10 WOMEN IN TOP-LEVEL POSITIONS: HARDLY PROGRESS BUT NO SANCTIONS [Reserve]

The NGOs are not surprised about the lack of figures in response to the question of the Committee on the results of the temporary legislation to promote women in top-level positions (CEDAW/C/NLD/Q/6/Add.1 para 45). Nor are they impressed by the use of euphemisms such as 'boost', 'progress' or 'intensify' (see also Annex para 26).

The NGOs suggest the Committee to ask the government what figures hide behind the words 'boost', 'progress' and 'intensify' and how non-white women fit in these figures.

11 LACK OF AN INTERSECTIONAL APPROACH IN DISCRIMINATION ACTION PROGRAMS

The NGOs welcome the 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 do not qualify as temporary special measures. Action against discrimination should have a permanent character, in which temporary measures can have a place. The NGOs note that both

⁶ CBS News, September 2015.

⁷ The government mentions (the possibility) of terminating contracts in case of a conviction of discrimination (CEDAW/C/NLD/Q/6/Add.1 para 28). This possibility has recently been introduced in the context of debates on racism and LGBT-discrimination. The NGOs, however, feel it has no added value, as there has been no single conviction relating to gender discrimination since it was included in the Criminal Code. NGOs prefer the positive approach of the Committee: promoting equality in public contracts.

programs include special actions to combat gender discrimination as well as other forms of discrimination, but that the intersection of gender and other forms of discrimination is hardly explored, let alone addressed, despite the Committee's specific recommendation thereto (CEDAW/C/NLD/CO/5 para 25). In respect to the other forms of discrimination the language is gender-neutral (with the exception of lesbian women) – 'people', 'non-Western migrants', 'students', 'youth' –, as are the policies and measures. The same gender-neutral approach is applied to the general action points. Neither do the programs pay specific attention to the need to eliminate gender and racial stereotypes. In regard to the intersection of discrimination on gender and religion recent research shows that (young) women wearing a scarf are overrepresented in the reported incidents of outdoor violence as well as in the reported difficulties of finding a vocational training internship.⁸

The NGOs urge the Committee to question the government why it does not pay attention to gender stereotypes in relation to discrimination on other grounds and why it ignores intersectional discrimination.

STEREOTYPES AND HARMFUL PRACTICES

12 GENDER STEREOTYPING IN ADVERTISING NOT ADDRESSED

In its replies (CEDAW/C/NLD/Q /6/Add.1, para 55) the government states that it only has a limited role in combating the stereotyping women in the media 'given the freedom of press'. The government, however, has more possibilities than it suggests: according to the Media Act (*Mediawet*) public and commercial broadcasting companies are supervised by the Advertising Code Foundation (*Stichting Reclame Code*) and have to comply with the Advertising Code, which i.a. states that advertisements must be in accordance with the law, the truth and decency, and be in good taste. This implies, according to the Explanatory Note, that any form of discrimination based on gender, race, ethnic descent, nationality, religion, disability, age or sexual orientation is prohibited. Nevertheless, the Advertising Code Foundation does not consider male/female stereotyping as a form of discrimination and concludes that it is permitted in advertising. According to articles 2f and 5a of the Convention, however, gender role stereotyping should be considered as discrimination. Moreover, in the case of racism the government does acknowledge that stereotyping is a vehicle to discrimination (Discrimination Action Programs).

The NGOs suggest the Committee to call upon the government to undertake action to have the Advertising Code Foundation adapt its interpretation of the Advertising Code in accordance with Articles 2f and 5a of the Convention, by considering stereotyping as a form of discrimination.

13 LACK OF COHERENT POLICIES ON HARMFUL PRACTICES

The Netherlands policy on harmful practices is fragmented and predominantly aimed at migrant and refugee women, ignoring the fact that harmful practices are a broader phenomenon and may also occur, among others, in orthodox Jewish and Christian communities. This reinforces the stereotype that harmful practices are exclusively an issue of black, migrant and refugee women. Moreover, research shows that when women are exposed to one form of harmful practices, chances are that they are also at risk of other types of harmful practices or gender-related violence, such as honour-related violence, forced marriage, domestic violence or incest.⁹ Professionals, such as health care workers and teachers, are not sufficiently trained to recognise these risks and the existence of other forms of harmful practices, which hampers adequate identification and assistance. The NGOs also note a general lack of expertise on harmful practices in refugee (emergency) centres.

The NGOs suggest the Committee to urge the government to develop a coherent and inclusive policy based on a human rights perspective on the entire spectrum of harmful practices, in which the various manifestations of violence and their underlying cause are considered in connection with each other, both in prevention, assistance and healthcare.

14 NEGATIVE CONSEQUENCES DECENTRALISATION IN ADDRESSING HARMFUL PRACTICES

Cuts at all levels, decentralisation to the municipalities and the abolishment of policies aimed at specific target groups, have structurally undermined in particular organisations of black, migrant and refugee women and their key role in addressing harmful practices in their communities. As a result expertise and earlier achieved

⁸ Klooster, E., 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; Lachhab, F.Z. & M.H. Vorthoren (2016), *Onderzoeksrapport Islamofobie in zicht* (Research report Islamophobia), Rotterdam SPIOR.

⁹ Final Communication from the Commission to the European Parliament and the Council towards the elimination of female genital mutilation, European Commission, Brussels, 25.11.2013 COM(2013) 833.

results have gone lost and their participation in the so-called integrated or 'chain' approach to harmful practices has significantly decreased, including their role as intermediaries between their communities and professionals. This also negatively impacts their role in the promotion of expertise among service providers and other professionals, as well as their possibilities for influencing local and national policies.

The NGOs suggest the Committee to ask the government which measures it will take to safeguard the expertise on harmful practices of organisations of black, migrant and refugee women and their participation in the local chain approach.

15 INSUFFICIENT ASSISTANCE AND PROTECTION OF ABANDONED WOMEN AND GIRLS

Women and girls who are abandoned in the country of origin (of their parents) face major obstacles to return to the Netherlands. Dutch embassies are given a central role in facilitating return, but there are huge differences in attitude and performance. NGO's also report problems in regard to the accessibility of embassies: they are often located far away or absent at all. The EU/Schengen 'sharing' of embassies has not (yet?) proven to have added value in this respect. Other reported problems concern insufficient help with the arrangement of a ticket 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 embassies in most cases will not act without the permission of the parents or a guardian. Furthermore, a considerable number of abandoned women concerns married women, especially women with a dependent residence permit, whereas some embassies only help abandoned women and girls who flee for a forced marriage. Embassies often also do not provide assistance to women who are married to a man with a Dutch passport, but do not have the Dutch nationality themselves. In cases that women or girls manage to return to the Netherlands, they have no access to proper shelter and assistance, because shelters and/or Safe at Home (the municipal front portal to women shelters) do not consider abandonment as a form of violence. The NGO's 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 government could play a more active role in providing assistance and protection, in particular through cooperation with women's organisation in the countries of origin, the provision of safe accommodation while waiting for consular assistance relating to travel documents, arrangement of a ticket and the provision of shelter upon to return to The Netherlands. They also are of the opinion that in the case of minors the rights of the girl-child should weigh more heavily than the rights of the parents and that they should be offered protection, independent of permission of the parents.

The NGOs suggest the Committee to ask the government for facts and figures about abandoned women and girls who ask for assistance of Dutch embassies. The Committee could also enquire which measures the government takes to address the problems listed above.

16 MARITAL CAPTIVITY

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

The NGOs suggest the Committee to ask the government if it is willing to take the above mentioned measures, as well to make the possibility of pressuring for a divorce through the threat of a penalty payment more widely known among judges, lawyers and the women concerned.

17 LACK OF FIGURES ON FEMALE GENITAL MUTILATION

There is still no clear picture about the prevalence of FGM among the various populations in the Netherlands. According to the 7th Progress report on domestic violence and child abuse (2016) the government asked 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 organizations or keep silent, e.g. for fear of youth care taking their children away.

The NGOs suggest the Committee to ask the government to broaden its efforts to systematically collect data on FGM and in these efforts involve women organizations of communities concerned in FGM.

18 FGM AS GROUND FOR ASYLUM

Although, as stated in the government report (para 174) women at risk of genital mutilation can apply for international protection, according to the experience of NGOs women are only granted a so-called B-status, which is dependent of the presence of a local 'alternative place of settlement'. Following a recent change of the Immigration Circular, victims from Sierra Leone, for example, do not qualify anymore for a residence permit because 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. Illustrative is the recent complaint against The Netherlands with the Committee against Torture (CAT) of a woman from Guinea who had applied for asylum for fear of being re-mutilated after a reconstruction surgery.¹⁰ 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 was rejected because, according to the Dutch 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 declared her complaint founded. Furthermore, applications from Guinean mothers who fear that their daughter will be subjected to FGM are rejected because according to the Council of State and the government girls do not run 'a real risk' of FGM if their mother is opposed.¹¹ This reasoning makes any application of opposing mothers on forehand without prospect because the mother applies for asylum precisely because she opposes FGM. It also shows an incomprehensible lack of awareness of the enormous social pressure under which also opposing mothers can succumb, nor takes it into the account the consequences of a refusal, such as social exclusion and possible other negative consequences like physical or verbal violence. Qualification of the mother as 'protective actor', no matter personal circumstances and background, also contravenes the EU Qualification Directive.¹²

The NGOs suggest the Committee to call upon the government to classify FGM-related claims under the ground of membership of a particular social group for purposes of granting asylum and to bring its policy in accordance with General Recommendation 32, the UNHCR Guidelines on gender-related persecution and the EU Qualification Directive.

VIOLENCE AGAINST WOMEN

19 LACK OF SYSTEMATIC DATA COLLECTION

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

The NGOs suggest the Committee to ask the government to intensify its efforts to systematically collect data across the different forms of violence and groups affected.

20 GENDER SPECIFIC POLICIES AND IMPACT ASSESSMENTS

Despite its obligation under CEDAW and the Istanbul Convention to develop gender sensitive policies, the government still formulates its policies on domestic violence as if it were a gender neutral phenomenon which is unrelated to traditional gender roles and the unequal power relationships between women and men. There is a lack of gender-specific knowledge, national guidance and political support. A gender scan, as referred to by the Committee (CEDAW/C/NLD/Q/6 para 100), has only been applied to partner violence but not to other types of gender-based violence. Often awareness of gender-related factors is missing with policy makers and implementers, as well as police and service providers.¹³ The NGOs also note a lack of attention in the policies on domestic violence for black, migrant and refugee women, whereas in the policies on harmful practices there is a lack of attention for white women. This reinforces existing stereotypes and prejudices.

¹⁰ *F.B. vs The Netherlands*, CAT, 20 November 2015, CAT/C/56/D/613/2014.

¹¹ E.g. ABRvS 12 June 2015, 201410280/1/V2 and 201409630/1/V2.

¹² 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.

¹³ See Annex II (Gender scan The Netherlands) of the 6th Report, p. 154-159.

The NGOs suggest the Committee to ask the government which steps it intends to take to develop gender sensitive policies on all forms of violence against women and to systematically monitor the gender specific impacts of policies across the various groups of women, as prescribed by the Istanbul Convention.

21 LOSS OF EXPERTISE WITH THE POLICE [reservelijst]

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 gone lost. At the same time complaints from victims of violence, especially domestic violence, about their treatment by the police have increased. The police have become less accessible; women are regularly discouraged from reporting or the police outright refuse to take down their statement. This is especially worrying given the fact that there are an estimated 60.000-100.000 reports on domestic violence per year.¹⁴

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

The NGOs suggest the Committee to ask the government whether it intends to monitor the number and type of incidents reported to the police as well as the number of persecutions and verdicts by court per region and to make the results available on a yearly basis.

22 VIOLENCE AGAINST MUSLIM WOMEN

Over the last years the number of islamophobic incidents has increased at an alarming rate. Research shows that in particular women who wear a headscarf are targeted (72% of the reported incidents) and that they are confronted with more violent incidents than men.¹⁵ Women are verbally abused on the streets and in public transport, their headscarf is torn of, they are spit at or beaten. In 10% of the incidents their children were present. Only in one out of five times bystanders interfered. The NGOs 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 suggest the Committee to ask the government whether it recognises public violence against Muslim women as a form of intersectional discrimination and what measures it takes to address this violence.

23 LIMITED KNOWLEDGE OF NEW FORMS OF SEXUAL VIOLENCE

Since the growth of the internet, new forms of sexual violence, stalking and bullying have developed through social media and the internet, e.g. grooming, sexting, happy slapping, the publication of nude pictures of girls or women by ex-partners, etc. Professionals, including the police, often have merely limited knowledge of these new forms and how to act.

The NGOs suggest the Committee to ask the government which steps it intends to take to improve knowledge about these new forms of violence with the police and other relevant professionals.

24 SEXUAL VIOLENCE IN YOUTH INSTITUTIONS

Recent parliamentary investigations have showed an alarming prevalence of sexual abuse within institutions of youth care.¹⁶ Although this has led to a national action plan, the implementation of several aspects of the action plan has been slowed down, i.e. through budget cuts and reorganisations due to the decentralisation of youth care to the municipalities.

The NGOs suggest the Committee to ask the government how it will ensure that the implementation of the action plan will not suffer further delay and that municipalities dispose over sufficient expertise and budget to take the necessary measures.

DOMESTIC VIOLENCE

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

If victims of domestic violence want to divorce they are confronted with several legal procedures. However, due to cuts in state funded legal aid, the own contribution for a lawyer in family cases has more than tripled

¹⁴ Speech Eva Kwakman, national prosecutor youth and family, expert meeting domestic and sexual violence, June 23 2016.

¹⁵ SPIOR (2016), *Islamofobie in zicht* (Research report Islamophobia).

¹⁶ Parliamentary Commission Samson (2012) and Rouvoet (2015).

(per procedure). To compare: the lowest own contribution in family cases is almost twice as high as the lowest own contribution in labour cases. Furthermore, 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 the Registry fees. If the government proceeds with these plans, victims of domestic violence without or 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 other necessary measures. If they cannot pay the Registry fee, the case will be declared inadmissible. If the abusing partner appeals and the woman cannot pay a lawyer, she will automatically lose the procedure.

The NGOs suggest the Committee to ask 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 retract its plans and ensure that victims of domestic violence maintain access to legal aid, independent of the income of the abusive partner. The NGOs also suggest to ask the government if it is willing to set the own contribution for family cases at the same level as that for labour 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 covers 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 vulnerable groups regardless of their residence status, including victims of domestic and honour-related violence, human trafficking and abandonment. However, in the transposition bill of the EU Victim Directive, which has been submitted to Parliament, this obligation is not included. According to the government undocumented women do have access to shelter, but it fails to mention that access is only temporary and tied to the condition that women collaborate with their expulsion from the country.¹⁷ Moreover, those type of shelters have no specific expertise on domestic violence.

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

27 INSUFFICIENCIES IN ASSISTANCE AND SHELTER

The Committee requested information on shelter and assistance to victims of domestic violence and child abuse (CEDAW/C/NLD/Q/6 para 8). In the view of the NGOs the government's answer presents a picture that is too rosy (CEDAW/C/NLD/Q/6/Add.1 para 95). There is still a shortage in capacity and staff due to limited financial means, e.g. through a shortfall of funding, and there is a lack of follow-up housing so the shelters get clogged. In some shelters there are problems with the maintenance of the buildings and consequently with the hygiene. Moreover, the contribution that women have to pay differs across municipalities. In some cases women have to make debts to pay for the shelter. In the opinion of the NGOs municipalities should give shelters the possibility to waive the personal contribution when this leads to undue hardship, as is already possible in the youth care.

The NGOs suggest the Committee to ask the government to inquire the hygienic and maintenance condition of shelters and the availability of follow-up housing. And also to ask the government if it is willing to take measures to harmonise the contribution irrespective of the municipality and to ensure that their contribution is no obstacle for victims of violence to have access to a shelter.

28 NEGATIVE IMPACT OF DEPENDENT RESIDENCE PERMIT ON PREVENTION OF VIOLENCE

A key element in the policy against domestic violence is prevention and early identification. This is at odds with the extension of the duration of the dependent residence permit and the increased burden of proof in order to qualify for an independent residence permit in the case of domestic violence (see also Annex para 33 and 34). Although it is possible to apply for an independent residence permit in the case of domestic violence, the experience of NGOs is that, due to the insecurity of the outcome and the burden of proof, women try to endure the violent situation as long as possible, with all risks of escalation of the violence entailed. This situation has exacerbated with the extension of the period of the dependent residence permit from 3 to 5 years.

The NGOs suggest the Committee to ask the government to provide facts and figures on the number of

¹⁷ Parliamentary Papers, EK 34236-D, 12 July 2016, on the Implementation for the EU Victim Directive.

applications for an independent residence permit on the basis of domestic violence, how many were granted and how many were rejected for what reasons.

29 GENDER-BASED VIOLENCE AS GROUND FOR ASYLUM

In its previous Concluding Observations (CEDAW/C/NLD/CO/5 para 41) the Committee urged the government to adapt the asylum procedures to the needs of women victims of violence. According to the NGOs the government did not implement the Committee's recommendation. They note several barriers in the asylum procedure that make it difficult to request asylum on grounds of domestic and gender-related violence.¹⁸ There are no legal nor procedural guarantees that (possible) victims of violence are enabled to tell their experiences at their own pace and that they are entitled to psychological support in this process. Despite earlier promises of the government to the parliament, identification and investigation of experiences of gender-specific violence have no priority, not in the rest- and preparation period nor during the actual asylum procedure.¹⁹ As a result, women are often at a late stage directed to the extended asylum procedure, or not at all. Asylum requests are rejected when the woman tells about her experiences with violence only at a later stage or cannot prove her identity or nationality.²⁰ Often lack of expertise and/or prejudices on the part of immigration officers and/or interpreters are a reason why women are reluctant to tell about their experiences.²¹ 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 are extremely concerned about the large number of women whose asylum claims are rejected and who end up on the streets, in spite of the Committee's urgent recommendation to provide asylum seekers with suitable accommodation, including during the appeal phase.

The NGOs suggest the Committee urge again the government to take measures to guarantee gender-sensitive asylum procedures in conformity with the UNHCR Guidelines, General Recommendation 31 and 32 and the recent Resolution of the European Parliament on the situation of women refugees and asylum seekers.²² The NGOs also suggest the Committee to ask the Government about the number of women who have been granted asylum on the basis of gender-related violence.

TRAFFICKING AND EXPLOITATION OF PROSTITUTION

30 DE-LINKING IDENTIFICATION FROM CRIMINAL PROCEEDINGS

Whereas in international law a shift can be noticed 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 the criminal proceedings. The (military) police and the Social Affairs and Employment Inspectorate (Labour Inspection) still have the exclusive mandate to identify (possible) victims. Before the reflection period or a residence permit is granted, the story of the (possible) victim is assessed from the perspective of indicators to start a criminal investigation, rather than from the perspective of the needs of the victim or victimhood as such.²³ This entails the risk of false 'negatives', as the lack of law enforcement indicators does not necessarily reflect a lack of victimhood. The NGOs 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 cooperation in the criminal law procedure may be too demanding in light of their age. Such 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, this process is going painstakingly slow.

¹⁸ IRCT (2016), *Falling Through the Cracks, Asylum Procedures and Reception conditions for Torture victims in the European Union*.

¹⁹ *Parliamentary Papers* EK 31 994, Amendment of the Immigration Act 2000.

²⁰ Women against Expulsion (2016), *Appeal to the Parliament regarding Asylum Procedures*; COC (2013), *Pink Solution*.

²¹ Dutch Safety Board (2014), *Research Report Security of Aliens*; COC (2013), *Pink Solutions*; Advisory Committee on Migration Affairs (2014), *Traces of the past*.

²² Resolution European Parliament on the situation of women refugees and asylum seekers in the EU (2015/2325(INI)) (10 February 2016).

²³ 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.

The NGOs suggest the Committee to urge the government to de-link identification and criminal proceedings. They also suggest to urge the government to speed up the establishment of multi-disciplinary identification teams, to mandate these teams to offer the reflection period and to take the assessment of these teams in consideration in decisions on granting (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, the anti-trafficking police units have been integrated in the immigration police. This has strengthened the focus on immigration law rather than on protection and assistance of the victims. This development is reinforced by a general attitude of distrust against especially West-African victims, of whom it is assumed that they would abuse the B8-procedure to get a staying permit. There is no evidence to confirm this assumption. Nevertheless this has led to a series of measures to combat the supposed abuse of the B8-procedure which has weakened the position of victims of trafficking.²⁴ A similar problem exists in relation to (possible) victims in immigration detention. Moreover, incorporating trafficking in the immigration police does not relate to the reality as the majority of victims are Dutch or EU citizens according to the figures of the National Rapporteur on Trafficking in Human Beings.²⁵

The NGOs suggest the Committee to ask 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 refugee flows, the focus and investigative capacity of the police is largely redirected at human smuggling at the cost of combating trafficking and the identification of trafficking victims. Victims are literally less noticed and the number of reports by the police is decreasing. The NGOs are also concerned about the (lack of) identification of trafficking victims among refugees, including unaccompanied minors.

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

33 LACK OF TRAINING AND A VICTIM-CENTRED APPROACH OF THE LABOUR INSPECTION

The NGOs observe that the cooperation with the Labour Inspection (in cases of trafficking for purposes other than prostitution, e.g. for domestic work, is still often problematic. The Labour Inspection is primarily focused on tracking illegal workers, it does not have a victim-centred approach and appointments for an intake with a (possible victim) can take 6-8 weeks, which negatively affects their access to assistance and protection. Moreover, in several cases the victim is already informed during the intake interview that the case will not be further investigated.

The NGOs suggest the Committee to ask the Government what steps it intends to take to ensure a more proactive and victim-centred approach of the Labour Inspection and to improve the cooperation between NGOs and the Labour Inspection.

34 PARTICIPATION OF NGOS IN THE ANTI-TRAFFICKING TASK FORCE

Both 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 applauded that the National Coordination Centre on Trafficking (CoMensha) is included in the task force, the NGOs are of the opinion that the representation of NGOs is still unbalanced and that consequently the victim perspective is underrepresented in comparison to the interests of the other participating parties.

The NGOs suggest the Committee to call upon the government to expand NGO membership of the anti-trafficking task force.

²⁴ Letter Minister for Migration and Asylum to the Parliament, 11 November 2011, on measures to combat abuse of the residence permit arrangements for victims of trafficking (i.e. abolition of the right to stay when the victim initiates a legal procedure against the decision not to prosecute, prosecution of false statements, pilot 'applications without prospect').

²⁵ 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).

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

Currently the specialised shelters (COSMs) (CEDAW/C/NLD/6 para 111) are not accessible for Dutch and EU victims with the exception of emergency cases. However, also EU and Dutch victims can be in need of specialised shelters and care.²⁶ Moreover, since the special arrangements for trafficking victims are primarily geared to third-country nationals, EU victims do not or hardly have access to specialised assistance and other provisions.

The NGOs suggest the Committee to call upon the government to make access to the specialised shelters available to all victims, including Dutch and EU victims, and in general improve access to assistance and protection for EU victims.

36 DECENTRALISATION AND ACCESS TO SHELTER

Since the decentralisation of the provision of care, the placement of victims in shelters is only financed in the municipality where they were lastly registered. However, for reasons of security placement in another region is often preferable. Moreover, not all cities have shelters, nor the specific expertise to deal with victims of trafficking.

The NGOs suggest the Committee to urge the government to solve the financial constraints within the existing decentralised structure, in accordance with the recommendations of the Commission Lenferink.²⁷

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 when they want to make use of the B8-procedure. The protection and assistance of victims, however, is highly dependent on the procedure they choose: the B8 or the asylum procedure. For victims this is highly problematic because they do not know which part of their story they are supposed to tell in which procedure, which procedure fits best what they have experienced and because they have to tell parts of their story several times to different people. This does not benefit the victim, nor the prosecution of traffickers.²⁸ The 'choice' between the two procedures is even more problematic for minors. A specialised procedure for minor victims of trafficking, taking into account their best interest as prescribed by article 3 ICRC, is lacking.

The NGOs suggest the Committee to call upon the government to integrate the asylum and B8 procedure, including a specific procedure for minor victims which puts their interest in the centre, as recommended by the National Rapporteur on Trafficking.

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

The NGOs are pleased that following the serious concerns of the NGOs and the Committee (CEDAW/C/NLD/CO/5 para 30) the mandatory registration of sex workers has been removed from the bill (CEDAW/C/NLD/Q/6/Add.1 para 127; CEDAW/C/NLD/6 para 119). However, despite the rejection of compulsory registration of sex workers by the Senate, i.e. because of the envisaged violation of Dutch and EU privacy protection law, and despite the fact that the minister of Justice during the Parliamentary debate on the bill explicitly confirmed that compulsory registration is against the law, municipalities still continue to illegally introduce mandatory registration. In addition, the NGOs 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 exclude young adult sex workers 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 facing violence or abuse.

The NGOs suggest the Committee to ask the government which measures it intends to take 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 for exploitation and other forms of abuse.

²⁶ Connie Rijken et al. (2013), p. 148-150.

²⁷ 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.

²⁸ National Rapporteur on Trafficking (2015), *Naar een kindgericht beschermingssysteem voor alleenstaande minderjarige vreemdelingen (Towards a child oriented protection system for unaccompanied minors)*.

PARTICIPATION IN POLITICAL AND PUBLIC LIFE

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).²⁹ The NGOs 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 point out, however, that targets in itself are not new. They have been adopted since the 2000 Lisbon Agreement and appear not to be very effective: the annual growth remains at 0.8%. Moreover, the Glass Ceiling Index (GCI) is persistent: since 2007 the GCI for the step from associate professor to full professor has remained unchanged at 1.5.³⁰ The NGOs furthermore note 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 as professor because they are too old. In the view of the NGOs 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 suggest the Committee to call upon the Minister to make public, binding commitments on this issue, in the same way as commitments are made on all other aspects of science between the minister and the universities.

40 WOMEN POLITICIANS AT THE LOCAL LEVEL

The NGOs 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 women councillors at the local level (CEDAW/C/NLD/CO/5 para 32).

The representation of women in local politics is low and hardly increasing over the years; averaging out at 25%. Only in the four major cities the representation of women is higher: 38% in 2014. There are also more women representatives in the councils of the provinces: 34,7% in 2015. In regard to black, migrant and refugee women there are hardly any official intersectional statistics: 'women' and 'ethnic minorities' are counted separately. According to the most recent available figures the representation by 'ethnic minority women' in local politics was less than 1% in 2010.³¹

From recent research it appears that women councillors are confronted with structural obstacles.³² For instance, municipal councils often assemble between 6 and 8 pm, a time span that is 'rush-hour' in family life. Besides, women councillors' contributions are occasionally obstructed by male chauvinist behaviour. Since the national government has decentralised several tasks to the municipalities, the workload of councillors has significantly increased. Women experience more problems than men in combining their political work with a job and care for children or sick family members. Moreover, local councillor's wages have remained the same and do not cover the cost of living. So councillors – in particular single mothers – need jobs beside their work as councillor.

The NGOs suggest the Committee to ask the government to investigate structural obstacles for women's political participation in municipal councils and to consult with local administrators how to overcome these obstacles.

41 WOMEN'S PARTICIPATION IN HIGH LEVEL POSITIONS IN PUBLIC SERVICES

The government's target for 2017 of 30% of women on top has been achieved: women's participation in high level positions in governmental public services has risen from 26% (2012) to 31% (2015). Some Ministries, however, are still below this target: Economic Affairs (17%), Defence (9%), Foreign Affairs (25%) and the Department of Government (24%).³³ The NGOs note that the figures that are presented are colour-blind

The NGOs suggest the Committee to ask the government what measures it will take to realise at least 30% women on high level positions by 2017 at the Ministries that are lagging behind, and how non-white women fit in the figures.

²⁹ *Monitor Women Professors 2015*. Executive Summary, <http://www.lnvh.nl/files/downloads/352.pdf>.

³⁰ The GCI is larger than 1 when personnel is underrepresented in the higher rank as compared to the one below.

³¹ *Prodemos*, 2010, 2014, 2015

³² Egten, Corine van, et al. *Vrouwenstemmen in de raad* (Women's voices in local councils), *Atria*, 2016.

³³ *Jaarrapportage Bedrijfsvoering Rijk 2015* (Annual Report of the State's Conduct of internal Management 2015).

EDUCATION

42 STEREOTYPING IN SUBJECT CHOICE IN EDUCATION

In para 140 (CEDAW/C/NLD/6), the government report asserts without referencing its source that subject choice is not only gender stereotyped but strongly based on ethnic background “and thus on prejudices about certain sectors”. The NGOs note that, according to two recent studies, gender does play a significant role in subject choice but ethnic background as such hardly does: socio-economic background has a far greater influence.³⁴ 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, f.i., the National Expert Organization on Girls/ Women and Science/Technology (VHTO) have been bearing fruit. As reported by the government (CEDAW/C/NLD/6 para 140), the number of girls in secondary school who choose technical studies or natural sciences is rising, although boys more often choose natural science & technology while girls more often choose natural sciences & health or a double focus. The increase at the lower technical level, however, is much less: just 6% of the girls chose technical studies (against 46% of the boys). Remarkably, though, this 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.³⁵ The target of the government, holding 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 list.

The loss of female scientific talent is most clear in the employment market. Some 70% of the women with scientific training work in non-technical fields. This is twice as many as men with a scientific training. In this context, the NGOs 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 suggest the Committee to ask 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 the absence of essential provisions for combining education and childcare 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 her department. Educational institutions themselves are 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.³⁶

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

45 PREGNANCY AND PARENTAL LEAVE DAMAGE CAREERS OF PHD AND POSTGRADUATE STUDENTS

The ‘Work and Security’ Act (WWZ, which entered into force July 1, 2015 aims at providing more security to employees with temporary contracts, which 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.³⁷ Universities either do not want to compensate maternity or parental leave with additional research time fearing they have to give these temporary researchers a permanent position, or they do not hire female candidates at all. The NGOs feel this is not in line

³⁴ Emancipatiemonitor (Equal Rights Monitor), 2014 p. 50. Yazilitas, D. 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.

³⁵ VSNU (universities); Monitor techniekpact (Technology Pact).

³⁶ [Letter January 18, 2016](#)

³⁷ De [Jonge Akademie](#) (2016), Enquete Wet Werk en Zekerheid (Inquiry effects Work and Security Act).

with the Convention and the repeatedly expressed concern of the Committee about the poor position of women in academia and its wish to increase the participation of men in care activities.

The NGOs suggest the Committee to ask the government whether it is discussing with employers in academia to get rid of the disadvantaging of PhD students and postdoctoral researchers due to pregnancy and parenthood, or is it initiating changes thereto in the law?

EMPLOYMENT

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 radically decreased. This applies in particular to window prostitution: in 1999 there were 2096 registered windows; by 2016 this has declined to 1272. This, among other things, has led to a considerable increase in rent for licensed working places. At the same time, most cities prohibit sex workers formally or *de facto* to work independently or in small collectives, without interference of a brothel operator. Lack of licensed working places and prohibitions on working independently force sex workers into the unlicensed 'illegal' circuit, where they are more vulnerable for abusive practices. The NGOs 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.

The NGOs suggest the Committee to ask the government how it ensures that sex workers, like other workers, have a choice to either work for a third party, independently 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 childcare funding have been a more decisive factor in the drop of the use of child care facilities than the economic crisis (CEDAW/C/NLD/Q/6/Add.1 para 185), causing massive layoffs of female workers in the sector.³⁸ Recent research, moreover, shows that in comparison the decline in use has been considerably higher in the lower income groups.³⁹ The announced raise of government funding, as mentioned by the government, is welcomed but amounts to not yet one third of its previous cuts.

Originally it was intended that the government, parents and employers at macro level each should pay one third of the costs of childcare. Due to the cuts, however, the government's contribution is considerably less.⁴⁰ In addition, the employers' contribution gradually declined to less than a third as well, resulting in a growing share paid by the parents at large. This probably fosters the 'choice' of women to work part-time.

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

48 GENDER DISCRIMINATION INSUFFICIENTLY ADDRESSED – NO EQUAL PAY DAY YET.

The NGOs welcome the action programs on discrimination, indicating that the government steps up its efforts. Some actions are long overdue, such as addressing the issue of maternity discrimination. Given the frequency, still, of this type of discrimination the NGOs cannot understand it was left out in 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 start salary in a new job, such as reference to the previous earned salary and the counting of work-experience without assessing how this relates to the new job. Research of the National Human Rights Institute shows that these two suspect criteria are still frequently used. Calculated over a full working life the negative effects for women amount to considerable sums of money. Therefore, the NGOs regret that the government refused to implement the recommendation of the Social and Economic Council to (re)introduce the yearly Equal Pay Day, which matched the Committee's recommendation in its previous Concluding Observations.

³⁸ 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.

³⁹ Roeters, Anne en F. Bucx (2016), *Het gebruik van kinderopvang door ouders met lage inkomens* (the use of child care by low income parents), The Hague: SCP.

⁴⁰ *Gelijk goed van start. Visie op het toekomstige stelsel van voorzieningen voor jonge kinderen* (A good start. Vision about the future service for young children), Advice 16/01 Social and Economic Council January 2016 p. 50.

The NGOs suggest the Committee to enquire whether the government is prepared to reintroduce the yearly Equal Pay Day, which is broadly supported by employers and unions, to extend 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 called upon 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 the publicly financed home care. In reality the opposite happened: the number of home care 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 considerable number could only resume working under the SHS, with less social rights.

The government limited its ambitions to prevent 'improper employment practices' (CEDAW/C/NLD/Q/6/Add.1 para 194) without, however, implementing the courts' verdict that the use of the SHS in home care 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 Home Care Institution must be considered as employer, meaning that home care workers are entitled to full workers' rights the government's tax office refrained from claiming tax and social contributions for these domestic workers from the home care institutions.⁴¹ Neither did the government's tax office take action with respect to the numerous institutions in the private sector that falsely pretend to act only as intermediary between domestic worker and employer. Instead, the government embarked on a short publicity campaign to inform private employers and domestic workers about their rights and obligations. There is, however, not the slightest indication that this campaign led to improvement of the status of domestic workers.

The NGOs suggest the Committee to ask the government why it disregards the Committee's and CESCR's recommendations as well as the 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 for all graduates according to recent research: young people of black or migrant descent have particular difficulties finding work, even if they are born and/or educated in the Netherlands.⁴² Male graduates with this background are slightly more successful in finding a job than female graduates. This applies to both graduates with lower level education (MBO) and higher professional education (HBO). The study moreover revealed that the chance of hidden unemployment, temporary jobs and underemployment for these graduates is considerably higher, especially in the health and social sector, traditionally female sectors. The hidden unemployment of young female MBO graduates is also confirmed by other sources: only 20% succeeds in finding a fulltime job (against 50% of the young male MBO graduates).⁴³

In the opinion of the NGOs, the answer to the Committee's question about measures to ensure women's access to fulltime and part-time employment makes clear that the government deploys no policies to achieve substantive equality in employment (CEDAW/C/NLD/Q/6/Add.1 para 172-173). The project *Kracht on Tour* in reality just co-finances activities that municipalities ought to undertake any way for job-seeking people with or without a benefit. The same applies to the *Eigen kracht* project. Municipalities have a legal obligation to do so (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 related activities for women seems to supply them with additional gender equality money! In the meantime the NGOs have no indication whatsoever of a reverse trend in the growing insecurity of women workers: more 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

⁴¹ Bijleveld, L., "Domestic work in the Netherlands: a job like no other" in *European equality law review 2015/1* p.37-52

⁴² 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.

⁴³ Emancipatiemonitor (Equal Rights Monitor) 2014, p. 53.

level.⁴⁴ The NGOs note that these issues are not included in the Equal Rights Monitor anymore.

The NGOs suggest the Committee to insist 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 data desegregated for gender and ethnicity about the use of temporary and other flexible contracts, hidden unemployment and other forms of underemployment.

MIGRATION AND LABOUR

51 INDIRECT DISCRIMINATION OF FEMALE LABOUR MIGRANTS

Dutch labour migration policies are exclusively focused on attracting highly educated so-called 'knowledge' labour migrants from outside the EU by making conditions as favourable as possible.⁴⁵ This is in sharp contrast with its labour policies in relation to the so-called 'low educated' female-designated sectors, like 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 stay over their visa, which makes them even more vulnerable to abuse and exploitation. A special group are live-in domestic workers of diplomats, whose staying permits are fully dependent on their employer and who cannot change employer without risking deportation. Exploitation is reported frequently. According to the NGOs the lack of legal migration channels for work in the female designated sectors of the labour market constitutes a form of indirect discrimination.

The NGOs suggest the Committee to ask the government to carry out a gender impact assessment of its labour migration policies. They also suggest to urge the government to allow live-in domestic workers in diplomatic households to change employer without being threatened with expulsion.

HEALTH

52 RESTRICTION OF WOMEN'S FREEDOM OF CHOICE IN OBSTETRIC CARE

NGOs are concerned that the intended changes in the system of reimbursement of obstetric care will lead to restrictions in the freedom of choice of pregnant women for home birthing.⁴⁶ 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 policy must never interfere with women's right to decide where, how and from whom they accept obstetric care.

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

53 RESTRICTIONS ON REPRODUCTIVE CARE BY GPs & ABORTION RIGHTS

The provision of medication for menstrual regulation (or curettage) when the menstruation is delayed by 12-16 days does not fall under the scope of the abortion law. In principle, this allows GPs to offer cheap, easily available assistance across the country to women in need whose menstruation is late, by prescribing Sunmedabon (mifepriston and misoprostol abortion pills, available since April 2015). However, because the Health Inspector is threatening to prosecute GPs and pharmacists who provide Sunmedabon, GPs refrain from prescribing it. As a consequence, women in need have to go to an abortion clinic, which for women in rural areas is often far away. This is problematic since the available time is limited (12-16 days). In response, a group of NGOs, GPs, sexologists and midwives initiated legal action against the State in order to make Sunmedabon available for women whose menstruation is delayed.⁴⁷ The Minister of Health reacted end of June by announcing plans to bring the late menstruation treatment under the abortion law and introduce a flexible

⁴⁴ See e.g. press release Trade Union FNV 7 March 2016: Vrouwen hebben meer last van flexwerk dan mannen (Women do experience more hindrances from flexible contracts than men).

⁴⁵ Wijkhuijs, L.J.J. en 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.

⁴⁶ Letter from the [Clara Wichmann Institute to the Minister of Health, Welfare and Sport, May 31, 2016, Position Paper regarding the policy on Integrated obstetrical care, Birth Movement Foundation, June 17, 2016.](#)

⁴⁷ Summons [Women on Waves](#) Foundation et al, on the Dutch State, in particular the Ministry of Health, Welfare and Sport and the Health Inspector, June 2, 2016.

reflection period for this procedure.⁴⁸ 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 legally liable. The proposed changes tighten the abortion legislation and will obstruct easy access to pharmaceutical treatment of late menstruation. GPs that have relatively little to do with women who have late menstruation and who have a heavy workload, which is general the case for many GPs in rural areas, will not apply for a special permit because of the extra administrative burden. So most women with a delayed menstruation will still have to travel to an abortion clinic. In the opinion of the NGOs, the government's proposals will hamper GPs to help women with a late menstruation. The proposals are superfluous 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 suggest the Committee to ask the government how its opinion on the pharmaceutical late menstruation treatment as well as the 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 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 in order to avoid their detention at the national airport. The Government responded in its sixth report 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 suggest the Committee to ask 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.

55 POORER HEALTH CONDITION OF WOMEN FROM ETHNIC MINORITIES

The government proposes to only respond in its 7th report (in 2020!) to the urgent request of the Committee 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 are concerned about this, especially since recent information shows that non-western migrant women believe themselves to be less healthy.⁴⁹ Just 49% of the women from this group between the age of 45 and 65 regard their own health as (very) good. This figure is over 20% lower than for western migrant women as well as Dutch women and men (70, 71 and 75%). Especially the first generation regards its health not very well. 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 (CEDAW/C/NLD/Q/6/Add.1 para 202-203). The NGOs also regret that the government does not supply the requested information on access to health services by disadvantaged groups, particularly migrant women.

The NGOs suggest the Committee to ask the government, given the poorer health condition of women from ethnic minorities, whether it can further an intersectional approach in the research programme Women are different. The Committee could also consider requesting a follow-up report within two years, since urgency is required.

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.⁵⁰ The NGOs agree with the government that this can partly be explained by factors that have nothing to do with the quality of the obstetric care in itself. However, they point out that the general policies and procedures with regard to asylum seekers contribute to the maternity problems. The fact that asylum seekers frequently have to move from one part of the country to another hampers the continuity of obstetric care. So do certain health insurance requirements, costs and the (non) availability of pregnancy tests (and contraception) in asylum centres. Another factor affecting the quality and

⁴⁸ The Abortion Law stipulates a compulsory 'reflection period' of at least 5 days for women.

⁴⁹ 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 informed the authors that the provision of more details is possible.

⁵⁰ Factsheet Asylum seekers and Health October 2015. Pharos Knowledge Centre Health differences.

the continuity of the obstetric care is the cancellation of the subsidy for health care interpretation (see Annex para 46).

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

57 GENDER IMPACT OF ‘REFORMS’ IN HEALTH AND HOME CARE DENIED

The NGOs are disappointed about the lack of response by the government to the Committee’s questions on the impact of the recent changes in home care, elderly care and health care (CEDAW/C/NLD/Q/6/Add.1 para 219/220, 223/225). They once more point to para 1 and 31 of the first 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 presented too rosy a picture. Men mainly provide informal care to partners, whereas women provide informal care to partners, parents, in-laws and children. In respect to informal care outside the family, generally speaking, men help with administration and finances while women help in the household and home care, in cooperation with paid home care. The latter has been considerably diminished due to cuts by the municipalities, augmenting the pressures on and burdens of female informal carers. The NGOs wonder how one expert meeting will achieve gender-sensitive local policies in all (more than 400) municipalities. In addition they would like to know whether the new study the government commissioned the Netherlands Institute for Social Research does take into account the differences in informal care between the different ethnic communities.

The NGOs suggest the Committee to pursue the issue of redressing the gender impact of ‘reforms’ in health, elderly and home care.

DISADVANTAGED GROUPS OF WOMEN

58 LACK OF DATA ON THE POSITION OF BLACK, MIGRANT AND REFUGEE WOMEN

The NGOs note that the government systematically avoids to provide 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 black, migrant and refugee women invisible. Based on their own enquiries, amongst others at the Central Statistical Bureau (CBS), the NGOs are convinced that more segregated data are available than the government pretends, including on ethnic background F/M. According to a 2014 publication of the Netherlands Institute for Social Research the economic crisis 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, the registered unemployment of Dutch women and men was 5%, the unemployment figures of the different ethnic minority groups F/M tended to be 3 to 4 times higher.⁵¹ Similar differences occur with regard to the proportion of permanent vs. temporary jobs. Against that background, the NGOs 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 suggest the Committee to request the government to commission an update from the Social Atlas of women from ethnic minorities (2006) by the Netherlands Institute for Social Research.

59 LBT WOMEN

According to the 2014 Transgender Act young people need to be at least 16 years of age in order to qualify for legal gender recognition. This raises many problems for transgender youth who already transitioned socially to express 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 in their everyday life for being transgender.

The NGOs suggest the Committee to ask the government to consider abolishment of the age-requirement when evaluating the law in 2017.

⁵¹ Huijnk, Willem, Mérove Gijsberts & Jaco Dagevos (2014), Jaarrapport Integratie 2013 (Year Report Integration), SCP, p.12.

EQUAL ACCESS TO OTHER AREAS OF ECONOMIC AND SOCIAL LIFE

60 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 upon the government to provide more comprehensive and concrete information in its next periodic report on the measures taken to improve the working conditions of prostitutes and to enhance their autonomy, privacy and safety. The NGOs commend the government for its recent funding of PROUD, 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, payable housing and public services. This is partly due to the strong emphasis on trafficking which reinforced the image of a criminogenic sector and increased the stigma on prostitution, adding to the discrimination and social exclusion of sex workers.

The NGOs suggest the Committee to ask 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 and discrimination of sex workers.

WOMEN IN RURAL AREAS

61 LABOUR MARKET PARTICIPATION OF WOMEN IN RURAL AREAS

In light of the fact that the labour market participation of women in rural areas is lower, their registered unemployment higher and their latent unemployment and underemployment much higher, the NGOs are not satisfied with the governments' referral to the gender-neutral formulated Population Decline Action Plan 2015-2019 (CEDAW/C/NLD/Q/6/Add.1 para 213). Future labour market developments in rural areas will comparatively affect women more: in particular jobs in education, local government and retail will diminish considerably. Other employment will be difficult to find. At the same time employment bureaus are predominantly concentrated in the larger cities, requiring longer travel time in shrinking public transport. In addition: employment bureaus are shifting to internet services, while internet access in the rural areas is sometimes problematic or very expensive.

The NGOs suggest the Committee to ask the government whether it is willing to include gender perspectives in policy documents targeted at rural areas, amongst others by consulting relevant NGOs.

MARRIAGE AND FAMILY RELATIONS

62 DISCREPANCY BETWEEN SELF DETERMINATION AND MIGRATION POLICY

The Committee asked the government information on the gender impact of the changes in the immigration policy, in particular the impact of the 'integration requirement' on low 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 note that according to reports to the Parliament 40% of the migrants who came to the Netherlands in 2013 did not yet pass the 'integration exam'.⁵² At the same time research shows that failure to meet the integration requirement is an important ground for rejecting applications for continued residence and that more applications of women are rejected than of men.⁵³ In addition, since 2013 the responsibility to pass the integration exam fully lies with migrants themselves; municipalities are not allowed anymore 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 lack 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.⁵⁴

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), the immigration policy has the exact adverse effect. An example is the extension of the duration of the dependent residence permit in 2013

⁵² *Parliamentary Papers*, TK 32824-129, Integration policy, 20 April 2016.

⁵³ Elles Besselsen en 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.

⁵⁴ FRA, report on forced marriages; Landelijk Knooppunt Huwelijksdwang, *Handelingsvrijheid beperkt door partnerafhankelijke verblijfsvergunning* (Freedom to act restricted by partner-dependent residence permit), February 2016.

from 3 to 5 years. The NGOs consider this at odds with the obligations of the state under CEDAW and General Recommendation 31.

The NGOs suggest the Committee to ask the government which measures it wants to take to bring its immigration policies in accordance with its Self Determination Action Plan and how it wants to address the gender-discriminatory effects of its immigration policies. The NGO's also suggest the Committee to call upon the government to consider bringing back the duration of the dependent residence permit from 5 to 3 years.

63 IMPLEMENTATION OF THE PROHIBITION OF RELIGIOUS MARRIAGES WITHOUT A CIVIL MARRIAGE

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

The NGOs suggest the Committee to ask the government if it is willing to carry out information campaigns among the communities where illegal marriages takes place and to take measures to strengthen the enforcement of the prohibition.

64 JOINT CUSTODY AS A RULE IN THE CASE OF DOMESTIC VIOLENCE

The main rule is that parents should have joint custody of the children, also in cases of domestic violence. Although in theory it is possible to get sole custody of the children, in practice this rarely happens. According to case law, domestic violence is not a reason to not grant joint custody. The result is often long lasting suffering of the woman. The NGOs are of the opinion that if the woman is the main caretaker 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 for a number of years that he adapted his behaviour and takes proper care of the interests of the children. As prescribed by the Istanbul Convention, arrangements for custody and parental access should take into account the history of domestic violence, their execution should not go at the cost of the safety and the rights of the mother and/or the children, and in all cases a risk assessment should be carried out (see also Annex, para 10).

The NGOs suggest the Committee to ask the government how it intends to implement the provisions on custody and parental access of the Istanbul Convention, and if it is willing to initiate a law change establishing as a principal rule that in the case of domestic violence the mother gets sole custody of the children, at least till the man has proven to have changed its conduct.