

Netherlands Institute for Human Rights
Written Submission

For the 119th session of the Human Rights Committee for
adoption of the list of issues prior to reporting for the
Kingdom of The Netherlands

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Introduction

By presenting this report, the Netherlands Institute for Human Rights (hereinafter: “the Institute”) provides the Human Rights Committee with information on the Netherlands for its adoption of the list of issues prior to reporting.

The Institute constitutes the National Human Rights Institution of the Netherlands and has been accredited with A Status since May 2014. The Institute protects, monitors, explains and promotes human rights in the Netherlands through research, advice, and awareness raising. Its mandate also covers urging the government to ratify, implement and observe human rights treaties. One instrument used by the Institute to carry out this mandate is reporting to human rights treaty bodies, including the Human Rights Committee.

The Institute in this contribution will not address all topics covered by the International Covenant on Civil and Political Rights (hereinafter: “the Covenant” or “ICCPR”). This does not necessarily imply that the Institute believes those topics not addressed are sufficiently observed or that the Committee need not consider them.

A general remark about the protection of human rights in the Netherlands is that it should have a more prominent role in all areas of government policy. Human rights should not only be the touchstone for policy in the areas of justice, security and interior affairs, but also in areas such as social support, welfare and the environment.

The Netherlands adopted a National Action Plan on Human Rights in 2013 (NAP).¹ The NAP provides an overview of policies the Government already has in place but the number of new plans and actions is limited. It is unclear who is responsible for the implementation of the NAP and the government does not monitor its implementation. The current government considers the follow up of the NAP to be the responsibility of the next government. The Institute considers that more ambition is to be expected to create an infrastructure to improve the implementation of human rights obligations across all ministries. A more comprehensive and all-encompassing action plan could encourage the various government departments to fully integrate human rights in their work and to do justice to the principle of the indivisibility and interdependence of all human rights.

¹ Ministry of the Interior and Kingdom Relations, [National Action Plan on Human Rights](#).

Article 2: Effective implementation, right to an effective remedy and access to justice

Human rights affected by the policy transition in social support and social services

As a result of several huge decentralisation and transition operations concerning the organisation of social support and social services, since 2015 municipalities are responsible to support individuals in participating in society and to provide access to care and services to facilitate this. This allows for individualised approaches, which is a positive development. The decentralisation and transition was accompanied by severe budget cuts for this type of support and services. The municipalities are supposed to provide adequate amounts of care and support in a much more efficient - therefore cheaper - way than the national government previously did. As a result of this, individuals are expected to do as much as possible themselves and to request their social network to provide informal care.

Various reports indicate that the access to, and availability of, care for various groups are negatively affected. These groups include elderly, chronically ill and people with disabilities, women, and children. It appears that many have limited support from their social network.² Local authorities are often not sufficiently equipped to provide the necessary support. They often lack the infrastructure, expertise and budget. They are not always able to identify vulnerable groups who do not seek support themselves.

The issues that have arisen as a result of the transition in social services affect effective implementation, the right to an effective remedy and access to justice:

- Right to information and availability of an effective remedy: local authorities decide about support based on a request by the individual concerned. Information about how to request support is often unclear. The right of access to an independent professional to request support is largely unknown. Though mandatory, such an independent professional is not present everywhere. Decisions on the request for support are not always well-motivated. A refusal to grant support is not always clearly communicated; as a result it is difficult to appeal such decisions.
- Access to health care: reports indicate that people avoid seeking support due to unclear and high financial contributions to obtain care and services.³ This disproportionately affects elderly and people with disabilities. Information on obtaining a waiver for such contribution is not always provided. Local authorities are not transparent about the amount of own contribution.⁴

The Dutch Data Protection Authority expressed its concern about municipalities being insufficiently aware which personal data they may process and the provisions of the law on personal data protection. Moreover, municipalities inform citizens insufficiently about the

² In 2014 the Netherlands Institute for Social Research (SCP) conducted research on support in care. In that research 1 in 10 Dutch people indicated they would have nobody in their social network to provide support for more than 3 months. SCP, *Zorg en ondersteuning in Nederland: kerncijfers 2014 (Care and support in the Netherlands: core numbers 2014)*, 2014, p.19-21. In later research evaluating the transition published in 2016, SCP concluded that for elderly people (65+) with health problems this figure is 1 in 5. Boelhouwer, van den Berg, den Draak and Pommer, *Overall Rapportage sociaal domein 2015: rondom transitie* (Overall report social domain 2015: around transition), SCP, May 2016, chapter 3. They do not always have access to a social network, but they are also reluctant to ask their social network for support. At the same time it is not always possible for the social network to support due to lack of available time and/or expertise.

³ Leder(in) and Binnenlands Bestuur, *Meldactie Eigen Bijdrage (Report on survey on own contribution)*, February 2016; SSKIPR, *Ouderen mijden zorg om kosten (Elderly avoid care because of expenses)*, August 2015.

⁴ National Ombudsman, *Een onverwacht hoge rekening (An unexpected high bill)*, March 2016, p. 34 .

processing of their personal data.⁵ This may interfere with their right to protection of privacy (article 17 ICCPR).

The shift in responsibilities to provide social care towards local authorities does not lift the central government's end-responsibility to guarantee human rights. It should increase its efforts in monitoring the effects on human rights of the transition in the domain of social policies, with special focus on vulnerable groups. It should raise awareness and ensure the development of expertise about relevant human rights standards within local authorities.

Suggestion for questions:

What steps will the government take to ensure that professionals, in particular civil servants, at all levels of Government, develop more knowledge and expertise on civil and political rights so as to enhance their realisation?

How will the government ensure that local authorities collect data and information that provide insight in the extent to which human rights are respected and where challenges exist?

How will the government ensure that local authorities assume a more pro-active role in identifying and supporting vulnerable groups and provide easily accessible information?

How will the government ensure that the protection of privacy of citizens is protected when processing personal data?

Access to justice in Caribbean Netherlands

As of 10 October 2010 the country the Netherlands Antilles was dissolved. Curacao and St Maarten became two independent countries within the Kingdom of The Netherlands. The Caribbean islands of Bonaire, St Eustatius and Saba became public entities and are integrally part of the country the Netherlands. The Institute's mandate includes these three islands, also called Caribbean Netherlands. On 12 October 2015 an evaluation committee published a report⁶ on the results of the new administrative structure of Caribbean Netherlands. The levels of health care and education have improved significantly but poverty, domestic violence and other problems remain.⁷

The promotion and protection of human rights in the islands requires attention. Many people do not know their rights and where to go with their claims or complaints about the government or employers. When they do file a complaint, they often do not receive a response. In the European part of the Netherlands an easily accessible legal office (*Juridisch Loket*) provides free legal advice and referral. There is not such an office in the Caribbean Netherlands and that interferes with access to justice.

⁵ Data Protection Authority, [Processing personal data in the social domain: The role of consent. Research report based on inquiries of 41 municipalities](#) [Verwerking van persoonsgegevens in het sociaal domein: De rol van toestemming. Onderzoeksrapport op basis van inlichtingen van 41 gemeenten], April 2016.

⁶ Committee for the evaluation of the constitutional structure of the Caribbean Netherlands, [Joined together for five years, Bonaire St Eustatius Saba and the European Netherlands, conclusions](#), October 2015.

⁷ The Institute submitted recommendations on the findings of the evaluation committee to the government, including an English summary: Netherlands Institute for Human Rights, [Naar een mensenrechtelijk aanvaardbaar voorzieningenniveau voor Caribisch Nederland, Reactie op het rapport 'Vijf jaar verbonden. Bonaire, Sint Eustatius, Saba en Europees Nederland'](#), April 2016.

Suggestion for a question:

How will the government promote awareness of human rights among individuals and institutions and establish easily accessible offices for advice and referral on all three islands?

Article 3: Equal treatment of women and men

Participation of women in public office and the private sector

In its 2009 Concluding observations, the Human Rights Committee in paragraph 6 expresses its concern about the low participation of women in political decision-making positions at all levels and senior positions in the private sector.

The percentage of women in the Parliament and the Cabinet is between 35-40%⁸. The government ran a programme from 2008 through 2010 to promote political representation of women on the local and provincial level. This had little effect. The percentage of female mayors increased from 18% in 2008 to 19% in 2010. The number had risen to 22% in 2014.⁹ Only one of the larger municipalities of more than 150,000 inhabitants has a female mayor. It is striking that the number of women holding a *governing* position on the local and provincial levels is significantly lower than the number of elected female municipal and provincial council members. But also in these elected municipal councils, the percentage of female members is low - only 28% - and has hardly increased.¹⁰

Establishing a target figure of women taking up 30% of the seats of the Boards of Directors and Boards of Supervisory Directors of large legal entities has hardly had any concrete effect. The 2012-2015 Company Monitor shows that the percentage of women having a seat in Boards of Directors went up from 7.4% in 2012 to 9.6% in 2014. Over the same period, the percentage in the Boards of Supervisory Directors went up from 9.8% to 11.2%. This growth is attributable to a small number of enterprises only. In 2014, 76% of all Boards of Directors and 63% of all Boards of Supervisory Directors had no female members. The Female Board Index 2016 also shows that the target figure of 30% of women in the executive and supervisory board of 83 Dutch listed companies has not been met. Only two companies comply with the target figure and the number of female board members decreased from 7.8% to 7.1%.¹¹ No sanctions are imposed to an entity not meeting the target figure. There is little interest in effecting a culture shift. The 2012-2015 Company Monitor shows that existing stereotypical views on care duties, ambition and competence of women result in women being passed over as suitable candidates.¹² The government seems insufficiently active to implement measures to encourage companies to actively work on promoting women to top positions.

Suggestion for questions:

⁸ Atria, [Factsheet Vrouwen in de politiek 2015](#) [Factsheet Women in politics 2015], June 2015.

⁹ Ministry of the Interior and Kingdom Relations, [Staat van het Bestuur](#) [Trends in governance], 2014.

¹⁰ Atria, [Vrouwenstemmen in de raad. Ambities, belemmeringen en successen van vrouwen in de lokale politiek](#) [Women's voices in the council. Ambitions, obstacles and achievements of women in local politics], 2016.

¹¹ Mijntje Lückerath-Rovers, [The Dutch Female Board Index](#), Tilburg: TIAS School for business and society, 2016.

¹² Commissie Monitoring Talent naar de Top, [Topvrouwen in de wachtkamer, Bedrijvenmonitor 2012-2015](#) [Top women in the waiting room. Company monitor 2012-2015], 2015.

What specific measures will the government implement to improve the political participation of women at these administrative levels?

What specific measures will the government implement so businesses will judge women on their skills and the effect of stereotypes will be counteracted?

Equal access to the labour market and child care

In paragraph 5 of the last Concluding observations the Committee asked about the participation of women in the labour market. Labour participation of women with child caring responsibilities is limited and many fathers could play a larger role in caring than they currently do. Various factors contribute to this situation. Fixed working hours and fixed workplaces impede the efficient combining of work and care duties. The Act on the modernisation of regulations on leave and working hours which entered into force on 1 January 2015 removed some of the obstacles.¹³ This act facilitates, in theory, combining work and care duties. A further positive step is that recently, the government adopted a legislative proposal to expand basic (paid) paternity leave to five days.¹⁴

Various studies show that practice refuses to conform to theory, as company culture, too, proves to be an obstacle to a balanced combination of work and care duties.¹⁵ It is important that employees, both women and men, are invited to use these facilities, and that this is not interpreted as a lack of career ambition. The current culture in many companies prevents a balanced combination of work and care duties and contributes to a continuation of the stereotypical division of duties between men and women which has the woman be responsible for the lion's share of care duties.¹⁶ Statistics Netherlands figures show that only some 25% of fathers entitled to parental leave actually take it.¹⁷

Another factor is that combining care and work by both partners is served by a consistent government policy fostering the availability and accessibility of affordable childcare of high quality. This childcare must be beneficial for the development of children to ensure that in particular mothers are confident that their work will not hamper their children's development. Over the years, the Dutch government has pursued a 'jo-jo-policy' instead, with frequent changes in policies and regulations. In addition, recent reports show that not all child care facilities are of high quality. The Government has submitted legislative proposals to improve quality of child care facilities. It is expected that the new legislation will enter into force on 1 January 2018.¹⁸

Pregnancy and motherhood

Women are discriminated in accessing the labour market and in the workplace due to pregnancy and motherhood. A recent study by the Institute indicates that 43% of the

¹³ [Wet modernisering regelingen voor verlof en arbeidstijden](#), Staatsblad 2014, nr. 565.

¹⁴ This proposal is currently before the Council of State for advice and still has to be approved by Parliament. [Langer kraamverlof voor partners](#), [Longer leave for partners after childbirth], Press release dated 9 September 2016.

¹⁵ Janneke Plantenga and Chantal Remery, [Literatuurstudie 'Mannen, zorg en werk'](#) [Literature study 'Men, care and work'], study commissioned by the Ministry of Social Affairs, Utrecht: Utrecht School of Economics, 2014.

¹⁶ Taskforce DeeltijdPlus, [De discussie voorbij](#), eindrapport [Beyond the discussion, final report], 2010.

¹⁷ CBS, [Ruim drie kwart vaders neemt geen ouderschapsverlof op](#) [More than 75% of fathers does not take parental leave], 19 June 2015.

¹⁸ [Wet innovatie en kwaliteit kinderopvang](#), TK 34597, nr. 2, submitted to parliament on 1 November 2016.

participating women had an experience that indicates pregnancy discrimination.¹⁹ Despite interventions by the State party, the situation is almost exactly the same as four years ago.²⁰ Almost half of the women with a temporary contract indicate they do not get an extension, probably because of their pregnancy²¹. Being pregnant or mother of young children makes it much more difficult to access the labour market.²² Women on a permanent contract, who become pregnant or are mother of young children, face criticism, and barriers in promotions and salary.²³ The Institute's research shows that women often do not recognise this form of discrimination, find it understandable or even acceptable. Their willingness to complain about this has halved in four years' time.

Suggestion for questions:

What measures will the government implement to see to it that employers contribute to a culture at the workplace which encourages both men and women to combine their work with their care duties?

What measures will the government take to ensure that childcare services of high quality are easily available, effectively monitored and that participation of children in these facilities is actively encouraged?

What measures will the government take to effectively combat discrimination of pregnant women and mothers with young children?

Unequal pay

The number of economically independent women has hardly increased since 2008. Factors contributing to the lower economic independence figure of women include wage disparity and the number of women in part-time work.²⁴

Women still get paid less than men for the same work. This is partly the result of the application of remuneration criteria not directly related to the employee's performance on the work floor, such as: previous salary, most recently earned pay and wage negotiations. Research conducted by the Institute concluded that when employers use these factors in determining salary this negatively affects women twice as much as men²⁵. Unequal pay, like other discriminatory practices against women, is caused by stereotype images of women and men. These images influence expectancies with regard to suitability, ambitions, competencies and roles in care of women and men.

¹⁹ Netherlands Institute for Human Rights, *Is het nu beter bevallen: vervolgonderzoek naar discriminatie op het werk van zwangere vrouwen en moeders met jonge kinderen* (Follow-up research on discrimination of pregnant women and mothers with young children), September 2016.

²⁰ In 2012 the Institute's predecessor launched its first report on discrimination of pregnant women and (young) mothers. Equal Treatment Commission, *Study on discrimination because of pregnancy and motherhood at work*, March 2012.

²¹ 44% of women surveyed indicate they suspect their contract was not extended because of pregnancy. Netherlands Institute for Human Rights (see note 16).

²² 11% of women are explicitly rejected because of pregnancy or upcoming motherhood, while 1 in 5 women suspect they were rejected for a job because of this (see note 16).

²³ In general, 1 in 4 women face problems with job conditions because of their pregnancy or becoming a mother. 22% of women experience an unpleasant working environment for being pregnant (see note 16).

²⁴ Statistics Netherlands, *Vrouwen al op jonge leeftijd minder economisch zelfstandig* [Women less economically independent already at a younger age], 2014.

²⁵ Netherlands Institute for Human Rights, *Verdient een man meer? Gelijke beloning van mannen en vrouwen bij hogeschole* (Does a man earn more? Equal remuneration of men and women in Universities of Applied Sciences), January 2016; Equal Treatment Commission, *Survey on Equal Pay for Men and Women in General Hospitals in the Netherlands*, 21 April 2011.

Suggestion for questions:

What measures will the government take to combat unequal pay between men and women?

Violence against women

Prevalence of violence against women and police response

Despite the government's efforts, the prevalence of violence against women in the Netherlands is high. A 2014 survey by the European Union Agency for Fundamental Rights (FRA) showed that 45% of women over 15 in the Netherlands have at one point been the victim of physical and/or sexual violence.²⁶ Statistics Netherlands reported in July 2016 that 2015 saw the lowest number of murders and manslaughter in twenty years (a total of 120 persons). However, the number of women who have been the victim of murder or manslaughter increased in 2015 to 43: 12 more than in 2014. Well over half the number of women murdered between 2011-2015 were killed by their partners or ex-partners.²⁷ It must be noted that various victims had turned to the police to report threats. One such case, where a woman was murdered by her ex-partner, has been thoroughly examined by a commission that was established by the police force concerned. The report of this investigation showed, among others, that the police did not respond firmly enough to the victim's reports and paid insufficient attention to the interests and needs of the victim. Instead, the police focused on preparing a file for the public prosecutor to be used in a criminal trial. Recommendations concerned procedural aspects of handling reports and to ensure that the victim's perspective receives due attention. It was noted that the imbalance in attention for the victims' needs and the efforts made to prepare for prosecution required attention at the national level.²⁸ Research of TNO and the police in 2015 also indicated that when domestic violence is reported, police officers mainly focus on detection and to a lesser extent on the safety of victims and what is necessary to stop the violence.²⁹ Professional training of police officers is necessary for them to be able to intervene in case of immediate danger and to properly assess the level of the threat reported by women.

Suggestion for a question:

What does the government intend to do to ensure that the police is able to perform a proper assessment of the risks for *each* report of violence against women?

Supporting and protecting victims of domestic violence

As from 1 January 2015, the responsibility for preventing domestic violence and providing support and protection, rehabilitation and care to victims has been vested in the municipalities. It appears that specialist care provided to victims often is lacking. Nor is the quality and capacity of the support and protection services offered properly supervised on the national level. A study published in 2015 reported that a waiting period is applied to

²⁶ Fundamental Rights Agency, [Violence against women: an EU wide survey](#). Vienna: FRA, 2014.

²⁷ CBS, [Laagste aantal moorden in 20 jaar](#) [Lowest number of murders in 20 years], 29 July 2016.

²⁸ Commissie Eenhoorn, [Conclusies en aanbevelingen onderzoeksrapport Twee Steden](#), [Conclusions and recommendations research report Two Cities] 17 mei 2016.

²⁹ TNO and the police, [Huiselijk geweld gemeld en dan...?](#) [Domestic violence reported and next...?], 2015.

reports of domestic violence classified as being less urgent.³⁰ A recent manifest confirms that budget cuts have had serious consequences for the access to women's shelter for victims of domestic violence. Women not admitted to the shelter are offered ambulatory care, which means that some of them have no alternative but to remain with their abusive partner.³¹ These problems were recognised and steps have been taken. Extra means have been made available and an expert was appointed to improve quality of the 'Safe shelter' (*Veilig Thuis*) services.³² Cases in which victims face the highest risk are accorded priority, but in other cases victims remain on waiting lists.

Suggestion for a question:

What does the government intend to do to ensure that all victims of violence against women have access to high-quality protection and support services and specialist aid at the local level without delay?

Article 7: Prohibition of torture and other cruel, inhuman or degrading treatment or punishment

Independence and mandate National Preventive Mechanism

The Netherlands designated an National Preventive Mechanism (NPM) in December 2011, consisting of the Inspectorate for Security and Justice (coordinator), Healthcare Inspectorate, Inspectorate for Youth Care and the Council for the Administration of Criminal Justice and Protection of Juveniles. The National ombudsman and different supervisory committees were designated as observers to the NPM. In 2014 the National ombudsman announced its withdrawal from this position, as he felt that the Dutch NPM lacked vision, the inspectorates were not independent enough and that discussion about its structure blocked any real cooperation between the participants.³³ According to the Institute an expanded cooperation between the partners in the NPM indeed would be required to avoid gaps in the NPM mandate.

In 2015, the Subcommittee on the Prevention of Torture (SPT) visited the Netherlands. Its report for the NPM has not yet been published, as the NPM has not yet been able to formulate a response. The report for the government and the government response was published in September 2016. The general tenor of the response was that the Dutch government feels that the Dutch NPM meets all the OPCAT criteria, despite the SPT's criticism, and that no changes are required.

Suggestion for a question:

How does the government intend to facilitate the NPM in terms of (financial) resources and a broadening of mandates to ensure that all places where people are deprived of their liberty fall within the scope of an independent NPM, both within

³⁰ VNG, [Wachlijsten en Veilig Thuis](#) [Waiting lists and Safe shelter], VNG: 2015.

³¹ [Manifest Kring van veiligheid, Huiselijk geweld te lijf](#), [Manifest Circle of safety. Tackling domestic violence], April 2016, p. 15.

³² News release: [Jan-Dirk Spokkereef aan de slag voor Veilig Thuis en aanpak kindermishandeling](#), [Jan-Dirk Spokkereef set to work for Safe Shelter and to combat violence against children] 8 February 2016 and [text of an interview](#) 9 July 2016.

³³ [Letter](#) of the National ombudsman to the Inspectorate for Security and Justice, 24 July 2014.

the European part and in the Caribbean Netherlands, and that all OPCAT tasks are indeed fulfilled?

Life sentences

In the Netherlands, a person can be convicted to a life sentence in case of a conviction of murder. There is no early parole for these life detainees. There is only one way to be released early, which is by a ministerial pardon. However, this is not a *de facto* option, as in the last 25 years the only person to be released early was on his death bed. In contrast: before 1986, all detainees serving life sentences would be pardoned eventually. Detainees serving a life sentence therefore have no real chance of early release, which constitutes a violation of the prohibition of inhuman treatment.

After several judgments by the European Court of Human Rights on life sentences, the Dutch government announced in June 2016 that it would change its policy for persons serving a life sentence. After 25 years of detention, an Advisory Commission will look into the possibility of rehabilitation. If the Commission gives a positive advice, the detainee may start with rehabilitation activities. He may then apply for a ministerial pardon according to the current procedure. If the Advisory Commission's advice is negative, the minister may not pardon the detainee.

The Institute considers that such a decision should be taken by an independent judge. Furthermore, the suggested policy constitutes in fact an extra hurdle, as it does not allow for a pardon in the first 25 years of detention and the current procedure is upheld, supplemented by the threshold of a positive advice by the Commission.

Suggestion for a question:

The Institute suggests the Committee to ask the government about its intended policy change on the execution of life sentences, and how the suggested policy change will allow for a *de facto* option for early release?

Article 10: Adequate treatment in detention

Isolation of patients

Despite various measures, isolation of patients in residential care still occurs and sometimes for long periods. Since 2002, psychiatric units have attempted to limit both the frequency and duration of isolation. In 2004, the sector's representative body GGZ Nederland (Dutch Association of Mental Health and Addiction Care) announced the intention of achieving a ten per cent reduction in the use of such measures. Between 2006 and 2012, the Ministry of Health, Welfare and Sport provided additional funding to support the pursuit of this aim.

The Health Care Inspectorate devotes particular attention to ensuring that patients in residential care are not subject to any unnecessary restriction of freedom. Since 2008 it has been closely monitoring progress of efforts to reduce the use of isolation. In late 2011, the Inspectorate reported that the field had thus far failed to achieve the desired reduction in the use of isolation, and that little or no further progress was being made. Since then the Health Care Inspectorate has intensified the monitoring of care facilities. In 2015 it concluded that isolation in care facilities is diminishing, but that the pace at which

improvements are made differs greatly between care facilities. Research of the Inspectorate also shows that, despite the efforts made, there are still facilities where patients are isolated for a long period of time.

Suggestion for a question:

Which measures will the Government take to accelerate the reduction in the use of isolation in all care facilities?

People living in residential care institutions

More attention is needed for the human rights of elderly persons in, usually voluntary, residential care. This was one of the conclusions of an investigation by the Institute into the situation of human rights of elderly persons in residential care. The investigation focused on autonomy and dignity, in relation to the right to humane treatment. The Institute found many examples of good practices of respect for human rights. It also found various areas where action is necessary make sure that human rights are guaranteed in full and breaches are prevented. More attention is needed for the respect of elderly persons' autonomy, especially in relation to their well-being and the way in which they live and spend their time in the residential care facility. This requires that staff members are capable, both in terms of competences and in terms of time, of taking the needs and dignity of the elderly as a starting point in their work. This should not only be so in looking after their personal hygiene, but in all aspects of their work. The same applies to persons with severe intellectual disabilities living in care facilities.

The question of monitoring human rights of persons in residential care requires special attention, since these persons, are dependent on others, do not easily complain and often are not capable of standing up for their rights. They should have easy access to a support person or counsel. Raising awareness among health professionals of the relevance of the human rights framework is crucial.

Suggestion for a question:

What short-term and long-term measures does the Government take to promote and protect the human rights of persons living in residential care, in particular the right to private life and autonomy?

Article 8: Trafficking in human beings and exploitation

Trafficking in human beings

Combating human trafficking and protecting its victims have been given high priority and many positive measures have been implemented. Yet, the number of minors amongst possible victims of exploitation has grown and privacy laws seem to hinder proper reporting. It is also worrisome that the number of registered potential victims has dropped

from 1.561 in 2014 to 1.321 in 2015³⁴ because there is no reason to assume there are less victims.³⁵

The report of the National Rapporteur on Trafficking in Human Beings shows that the percentage of potential victims of sexual exploitation with Dutch nationality has increased from 35% in 2014 to 46% in 2015. The number of minors amongst the whole group of potentially exploited persons has risen from approximately 16% (2011-2014) to 25% in 2015. The number of registered potential minor victims with a foreign nationality in 2015 has more or less remained the same as in 2014. This raises the question whether this may be due to underreporting, since the number of requests for a residence permit for unaccompanied minors has grown with 300% compared to 2014. The National police reported 14% less possible victims in 2015 than in 2014, whereas the KMar (the Royal Military Police) reported 46% less possible victims than in 2014. The National Rapporteur recommends that resources and priorities at both organisations reflect an ability to effectively fight trafficking.

In 2015 Syrian, Afghan and Eritrean potential victims were registered. These nationalities are known to represent a large amount of migrating and refugee groups. The police and KMar currently only have limited resources to combat human trafficking. Governmental institutions that deal with smuggling need to be (made) aware of signals of trafficking, report possible victims and offer them appropriate assistance and protection. Attention is required to prevent smuggled persons falling prey to traffickers.

The National Rapporteur is concerned that possibly less minors are reported and registered amongst potential victims of trafficking. Due to privacy laws, social workers require parents or caretakers to sign a consent form for the minor's registration. The law does not provide for the possibility of registration without prior consent. This contributes to the underreporting of this group of potential victims.

Suggestion for questions:

How does the government ensure proper identification of all potential victims of human trafficking, including possible victims of trafficking among the migration and refugee groups entering the Netherlands?

How does the government ensure that there are no barriers for proper reporting and registration of all possible victims of trafficking?

Labour exploitation of migrant workers

An investigation by the Institute in 2013, 'Polish migrants from a human rights perspective'³⁶ and a research carried out by two expert organisations in 2016, 'Profiting

³⁴ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children in the Netherlands, [Monitor Mensenhandel. Cijfers mogelijke slachtoffers 2011-2015](#) [Monitor Human Trafficking. Data and possible victims 2011-2015], August 2016.

³⁵ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children in the Netherlands, [Monitor Mensenhandel. Cijfers mogelijke slachtoffers 2011-2015](#) [Monitor Human Trafficking. Data and possible victims 2011-2015], August 2016.

³⁶ Netherlands Institute for Human Rights, Polish migrants in a human rights perspective [[Poolse migranten in mensenrechtenperspectief](#)], 2013.

from dependency',³⁷ show that labour exploitation continues to exist. Exploitation includes being underpaid and housed in substandard accommodation. Some migrants, mostly female, are sexually intimidated or asked for sexual favours in exchange for work or better working conditions. Migrant workers also often work too many hours, work in unsafe conditions and are required to pay a huge sum for the rent of their housing. When workers complain they risk being dismissed. Labour exploitation particularly concerns Polish and other Eastern European migrant workers working in a number of sectors of the Dutch economy, such as agriculture, transport and construction. It is also clear that recruitment agencies play an important role in the exploitation. Recruitment agencies make questionable deductions from the salaries of migrant workers for accommodation, electricity, transport, medical insurance, extra services and various unaccountable costs. The Institute is concerned about the working conditions of migrant workers in the Netherlands. It stresses that more action is needed from Government to prevent exploitation of migrant workers and to address exploitation that is taking place. For example by introducing a licensing system for recruitment agencies, by decoupling work and housing and by improving labour inspections.

Suggestion for a question:

What measures does the Government take to intensify its efforts to prevent, address and prosecute exploitation of migrant workers?

National Action Plan on Business and Human Rights

In addition to the National Action Plan on Human Rights, the Government presented a National Action Plan on Business and Human Rights.³⁸ This is an important step in addressing the responsibilities of business in respecting human rights. However, this Plan focuses mainly on the responsibilities of Dutch businesses operating in other countries. There is a pressing need to address also the responsibilities of businesses operating in the Netherlands. A number of the issues addressed in this report concern the responsibilities of corporations for human rights, such as the question of discrimination on the labour market and the exploitation of migrant workers. The National Action Plan on business and human rights does not provide for follow-up, neither does it provide for a monitoring mechanism for the Action Plan as a whole.

Suggestion for questions:

What steps does the Government take to raise the awareness of businesses for human rights in the Netherlands?

How does the government intend to follow-up on its 2014 National Action Plan on Business and Human Rights?

³⁷ Fairwork and SOMO, [Profiting from dependency, Working conditions of Polish migrant workers in the Netherlands and the role of recruitment agencies](#), 2016.

³⁸ Ministry of Foreign Affairs, [National Action Plan on Business and Human Rights](#), April 2014.

Article 9: Detention

Pre-trial detention

In 2012³⁹ and 2013⁴⁰ publications in Dutch legal journals of academics and judges gave rise for concern about the way pre-trial detention is ordered in Dutch courts. Both articles gave an account of the decision making process by judges and show that the legal safeguards embedded in Dutch legislation are, in practice, not very high thresholds to impose pre-trial detention. For years this has led to a relatively high numbers of persons in pre-trial detention in relation to the rest of the prison population.⁴¹

These publications have sparked debate in politics and the judicial sector about pre-trial detention. Parliament has adopted a motion⁴² to encourage judges to improve their reasoning when not allowing for alternatives for pre-trial detention, such as electronic detention, exclusion order or compulsory treatment.

The Institute has carried out research into the way courts reason their pre-trial detention orders. This research shows that court have greatly varying working methods.⁴³ While some courts make an effort to explain why someone has to await their trial in detention, other courts mention no reasons at all or simply refer to the legislative text about grounds for detention. When prolonging pre-trial detention after the initial two weeks of detention in remand, most courts do not provide reasons at all but simply refer back to the decision made by the investigating judge. Courts themselves also realised that this practice is undesirable and have included in their 'Professional standards criminal law' of 2016 that a decision on pre-trial detention should be reasoned.⁴⁴ This has recently led to efforts by the judiciary to improve the reasoning of pre-trial detention decisions, by discussing good practices amongst each other. The Institute regards this as a positive initiative.

The Institute would like to emphasise that while improvement of reasoning is a vital first step towards improving the use of pre-trial detention in the Netherlands, it may not be seen as the only solution. In fact, more attention for alternatives to pre-trial detention as well as a detailed and individually based assessment in view of the grounds on which pre-trial detention is allowed, in line with human rights jurisprudence, are equally important.

Suggestion for a question:

The Institute suggests the Committee to ask the Dutch government which steps it intends to take in terms of providing resources and/or other means to enable the judiciary to improve the way in which pre-trial detention is used in the Netherlands, to be in conformity with the right to liberty.

³⁹ Stevens, 'Voorlopige hechtenis in tijden van risicomanagement. Lijdende of leidende beginselen' [Pre-trial detention in times of risk management. Suffering or leading principles], *Delikt en Delinkwent* 2012/36.

⁴⁰ Janssen, Van den Emster en Trotman, 'Strafrechters over de praktijk van de voorlopige hechtenis' [Criminal judges about the practice of pre-trial detention], *Strafblad* 2013(6), 5.

⁴¹ http://www.prisonstudies.org/highest-to-lowest/pre-trial-detainees?field_region_taxonomy_tid=14&=Apply

⁴² Kamerstukken II 2015-2016, 29 279, 346 of 14 September 2016.

⁴³ Publication of this research is foreseen in February 2016.

⁴⁴ <https://www.rechtspraak.nl/SiteCollectionDocuments/20160220-professionele-standaarden.pdf>

Detention in the context of immigration

A draft Bill on return and alien detention (*Conceptwetsvoorstel terugkeer en vreemdelingenbewaring*) creates two regimes for detention. Both regimes differ in the degree of restrictions aliens and asylum seekers are submitted to. The less restrictive regime (*verblijfsregime*) should be the standard. The more restrictive regime (*beheersregime*) can be used in case the behaviour of a migrant poses a risk for order and security in the institution. However, the draft Bill notes that all aliens who are placed in regular detention, will be placed in the more restrictive regime upon arrival for a maximum period of two weeks. During this time, the decision will be made in which regime the alien should be placed for the longer term. This is contrary to the notion that aliens should not be deprived of their liberty to a larger extent than is necessary as guaranteed by article 9 of the Covenant.

Suggestion for a question:

The Institute recommends the Committee to ask the government about the draft Bill, in particular about the restrictive regime and plans to make this regime the starting point for any time in regular detention.

Automatic detention for asylum seekers upon entry

The principle of using detention as a measure of last resort is not used in case of detention at the border. Research of the Institute shows that all asylum seekers who cannot present the right documentation are automatically refused entry at the border.⁴⁵ No individual assessment is made as to whether detention is proportionate and/or necessary, nor are individual circumstances of vulnerability, e.g. mental or physical illnesses, age or pregnancy, formally taken into account. For those migrants who seek asylum at the border, detention is an automatic consequence. Their application is processed in a detention centre at Schiphol airport (*Justitieel Complex Schiphol*). Research of the Institute shows that for adults no exceptions are made and no individual assessment precedes the decision to detain them.

Suggestion for a question:

The Institute recommends the Committee to ask the government about the lack of individual assessments preceding a decision to detain asylum seekers arriving at the border and their automatic placement in border detention.

Article 12: Freedom to choose residence

In paragraph 18 of the Concluding observations the Committee recommends the Netherlands to ensure that the Urban Areas (Special Measures) Act (*wet bijzondere maatregelen grootstedelijke problematiek*) does not discriminate against low-income families and respects the right to choose one's residence. The Institute's predecessor, the Equal Treatment Commission, concluded in an advice in 2005 that the law constituted unjustified indirect discrimination on the ground of race, nationality, gender and possibly

⁴⁵ Netherlands Institute for Human Rights, *Crossing the border. Border detention of Asylum seekers in the light of human rights standards*, May 2014. English summary can be found at <http://www.mensenrechten.nl/publicaties/detail/34614>.

age and disability.⁴⁶ The case *Garib v. the Netherlands*⁴⁷ about the implementation of this law has been referred to the Grand Chamber of the European Court of Human Rights.

In 2016 an extension of the Urban Areas (Special Measures) Act entered into force.⁴⁸ The amended law enables municipalities to screen persons seeking social housing on possible anti-social or criminal behaviour by inspecting police records or by requiring a Certificate of Conduct. According to the Institute, refusing a housing permit based on police records constitutes a restriction on the right to choose one's residence (article 12 ICCPR) and the right to protection of privacy (article 17 ICCPR). In order for such a restriction to be justifiable, it should be foreseeable by law. This means that the law should provide a sufficiently clear and well-defined legal basis for the restriction. It is uncertain whether police records about an individual or anti-social behaviour provide such a sufficiently clear legal basis. Police records are vague and can contain reports of cases that did not lead to criminal proceedings. Furthermore, police reports about anti-social behaviour can be subjective and it cannot be proven that all reported conduct actually took place. Moreover, the amended law only affects cheap rental housing and will therefore especially affect persons with low-income.⁴⁹

Suggestion for a question:

- How will the government make sure that the amended Urban Areas (Special Measures) Act respects the right to choose one's residence and the right to protection of one's privacy?
- How will the government ensure that the Act does not discriminate against low-income persons?

Article 14: Right to a fair trial

Legal assistance in criminal proceedings

After the right to consult a lawyer before police interrogation was introduced in 2009, the right to have a lawyer present during police interrogation was recently allowed by the Supreme Court on the basis of EU legislation. Rules have been made by the public prosecutor and government, prescribing what a lawyer may and may not do when he is present during interrogation. Lawyers felt too restricted by these rules, as they are not allowed to intervene or ask questions during the interrogation and the reasons for removing a lawyer from the interrogation room are broadly worded. For this reason, they submitted these rules to court, asking for a ruling on their legitimacy. The Supreme Court explained that no (fundamental) right prescribes that a lawyer should be able to ask questions during an interrogation.⁵⁰ Furthermore, while the Supreme Court acknowledges that in concrete circumstances the removal of a lawyer may be a violation of the right to legal assistance, it did not find the general rules to be a violation as such. This decision

⁴⁶ Equal Treatment Commission (predecessor of the Netherlands Institute for Human Rights), [Advice on the housing policy of the municipality of Rotterdam](#), 3 January 2005.

⁴⁷ *Garib v. the Netherlands*, no. [43494/09](#), 23 February 2016, referral to the Grand Chamber on 12 September 2016.

⁴⁸ [Amended Urban Areas \(Special Measures\) Act](#), published 14 September 2016.

⁴⁹ Netherlands Institute for Human Rights, [Letter to the parliament about the proposed amendment of the Urban Areas \(Special Measures\) Act](#), 15 March 2016.

⁵⁰ ECLI:NL:HR:2016:2068 of 13 September 2016.

thus allowed for the general rules to be upheld, but expressed concern about its application in practice.

Aside from the abovementioned general discussion on legal assistance in criminal matters, a more applied discussion took place concerning so-called 'ZSM procedures'. In short, the procedure means that frequently occurring crimes are routed quickly towards either a ruling by the public prosecutor within a limited number of hours or days, or towards a trial before an independent court. A growing number of cases is being dealt with through this procedure, of which a substantial amount was then decided upon by the public prosecutor rather than a judge. Approximately two thirds of all frequently occurring crimes - around 200,000 cases per year - are routed through the ZSM procedure.⁵¹ One of the main concerns about this procedure is the lack of legal assistance. In theory the suspects in the ZSM procedure have the same right to a lawyer as other suspects, but in practice they frequently used to waive this right due to time pressure. They would, for example, be told that if they wanted to speak to their lawyer, they had to wait for a few hours rather than just being able to go home after a quick interrogation. Over the last few years, not only lawyers but also the Public Prosecutors Office acknowledged that legal assistance was neglected in this procedure for too long. A pilot was organised in 2014-2015 to investigate different methods of allowing for legal assistance. Disappointingly, when the pilot ended, the government refused to provide sufficient funding for a follow-up. The situation thus generally returned to how it was before the pilot: without a lawyer. Only recently the government agreed to change the procedure so that all suspects can only waive their right to a lawyer before a lawyer and lawyers will be present at central locations for video consultation.⁵² This last aspect requires secure and confidential video lines at all these locations, which takes time. Until then, it is unclear how the right to legal assistance of these suspects is guaranteed in practice, and not just in theory.

The Institute proposes that the Committee asks the Dutch government

- if it would consider giving lawyers more leeway during police interrogation, to allow for effective legal assistance.
- when the suggested working method on legal assistance for suspects will be implemented;
- how the right to legal assistance is guaranteed until then.

Legal assistance in accelerated procedure for asylum seekers

The Government proposed to change the regulation on the asylum procedure.⁵³ Within the accelerated procedure there are five different tracks (*5 sporenbeleid*). For asylum seekers that have an evident asylum claim (track 3) there can be an accelerated procedure. Within this accelerated procedure the asylum seeker would not have access to free legal aid in order to limit the waiting period. The Institute is concerned about this measure because access to legal aid is paramount for adequate legal protection. The absence of legal aid may withhold the protection asylum seekers are entitled to.

Suggestion for a question:

⁵¹ <https://www.om.nl/vaste-onderdelen/zoeken/@94575/jaarbericht-2015/>.

⁵² Kamerstukken II 2015-2016, 31 753, 119 of 22 August 2016.

⁵³ https://www.internetconsultatie.nl/bvr_brt_vb

The Institute recommends to ask the government how it safeguards sufficient legal protection for asylum seekers in the accelerated procedure.

Article 17 and counter-terrorism measures

In the context of the government's efforts to counter terrorism an Integral Action Programme to fight the foreign terrorist fighters (FTF) phenomenon and other forms of violent extremism was introduced in 2014.⁵⁴ As a result of this, several policy measures have been taken and Bills have been drafted and presented to Parliament, containing measures that affect the right to privacy, the right to an effective remedy, the right to fair trial and several other rights.

Temporary Administrative (Counter-terrorism) Measures Bill⁵⁵

The Temporary Administrative Measures Bill restricts rights such as the freedom of movement, private and family life, i.a. by imposing on persons an obligation to regularly report to the local police, or a ban on being in the vicinity of the certain areas, objects or persons. These type of measures may be accompanied by electronic tagging. Also, the Bill allows for the imposition of an international travel ban, thus - in case one has family members abroad - impacting on the right to family life. The wording of some provisions in the Bill is rather imprecise: measures may be applied to persons who 'on the basis of their behavior can be connected to terrorist activities or the support thereof'. This wording is open to expansive interpretation and hardly seems to comply with the foreseeability requirement. The imposition of an administrative measure means that the person concerned can only object to it once the measure had been implemented, as there is no obligation to prior judicial examination of the measure. As the consequences of administrative measures for individual freedoms are in some cases comparable to the application criminal law measures, this already indicates a lesser level of judicial protection. In addition, the Bill raises issues about the possibilities of persons to challenge measures taken against them. The imposition of measures in most cases will be based on secret intelligence information, which will not be disclosed to the individual concerned. Although individuals have recourse to the administrative courts against such measures, the effectiveness of this type of remedy is questionable since individuals will not have full access to the 'secret evidence' against them.

Suggested questions:

- How will the State Party, in the light of the vague terms used in the Bill, prevent arbitrary or disproportionate application of administrative counter terrorism measures?
- How will the State Party safeguard fair trial and effective remedy standards in court procedures, given the fact that not all information on which the application of measures is based will be disclosed to the individual concerned?

⁵⁴ [Actieprogramma Integrale aanpak jihadisme](#), 29 augustus 2014, *Kamerstukken II 2013/2014*, 2975, nr.253

⁵⁵ Het [wetsvoorstel Tijdelijke wet bestuursrechtelijke maatregelen terrorismebestrijding](#), *Kamerstukken II 2015/2016*, 34359, nrs 1-5.

Revocation of nationality under the amended Nationality Act⁵⁶

The amended Nationality Act introduces the possibility of revoking Dutch nationality from persons who travel to territory that is governed by a terrorist organization that threatens the national security of the Netherlands or who otherwise - based on their behavior - are supposed to have joined such an organization. The decision to revoke Dutch nationality is taken by the Minister of Security and Justice and can only be applied to individuals with dual citizenship, thus preventing that persons become stateless.

This Bill de facto creates two types of Dutch nationality - one that is irrevocable and one that can be taken away - which sends a discriminating signal to those groups in society that hold dual citizenship. The vast majority of persons that have dual citizenship in the Netherlands are persons of Moroccan and Turkish decent. They often do not have the opportunity to revoke their non-Dutch citizenship. Therefore these groups within Dutch society are likely to be primarily affected by this measure and are indirectly labeled as 'second rate' Dutch nationals. This signal, although indirect, may have repercussions for the social cohesion in Dutch society.

In this Bill, again, provisions that govern the revocation of nationality are formulated in vague terms allowing for broad interpretations which go beyond the situation in which an individual is considered to be participating in either the commission or preparation of violent acts that threaten national security or the training for such acts. Additionally, the Bill holds insufficient guarantees to secure a fair trial and an effective remedy for individuals confronted with a decision to revoke their Dutch nationality, i.a. because they most likely will not have access to the secret intelligence information on which the decision of the Minister is based and might not even know about this decision at all.

Suggested questions:

- How will the State Party safeguard fair trial and effective remedy standards in court procedures, given the fact that not all information on which the decision to revoke Dutch nationality is based will be disclosed to the individual concerned?
- Can the State Party clarify how this Bill can be implemented in a non-discriminatory way, considering that the principle of non-discrimination also applies to distinction between nationals, such as those who have acquired nationality by birth and those who have acquired it at a later stage?
- Can the State Party indicate how this Bill can be implemented in a way that would have no adverse repercussions on the social cohesion and on the position of groups of citizens of foreign decent?

The Intelligence Services Bill⁵⁷

This Bill expands the powers of the intelligence services to engage in online surveillance and large scale interception of telecommunications data on all Dutch cable networks. This type of data interception affects the right to private life and data protection of large groups of citizens at once, including those who are in no way connected to any criminal activities or other threats to national security. The necessity and proportionality of this

⁵⁶ [Wijziging van de Rijkswet op het Nederlanderschap in het belang van de nationale veiligheid](#), *Kamerstukken II 2015/2016*, 34556 (R2064), nrs. 1-5

⁵⁷ [Wetsvoorstel wet op inlichtingen en veiligheidsdiensten](#), *Kamerstukken II 2016/2017*, 34 588, nr. 4.

type of interferences with private life is questionable. The need for this expansion of interception powers seems to be influenced by the fact that many intelligence services of other states have similar powers and the Dutch services need to be able to participate in the transnational network of information exchange between those services.

Given the expansive nature of the created powers, strong oversight is crucial. The Bill introduces the set up of a Review Board for the Use of Powers (*Toetsingscommissie Inzet Bevoegdheden*, TIB), consisting of former judges who will have the authority to review the legality of ministerial decisions authorizing the application of certain special investigative powers by the intelligence services. Although the Bill does contain some standards regarding the independence of TIB members, the fact remains that they will be appointed for a limited period of six years. This makes their independence guaranteed to a lesser extent than ordinary judges, who are appointed for life.

Curiously, not all investigative powers that have a serious impact on private life require prior authorization by the Minister. Therefore, not all applications of investigative powers are subject to this TIB legality review. For example, intelligence services do not need ministerial authorization to order telecom companies to hand over certain metadata. The Institute is worried that the scope of review by the TIB will be rather limited, merely focusing on the written motivation of the ministerial decision to authorize a certain data interception operation.

Furthermore, the TIB's review focuses on the initiation of surveillance activities. Privacy and other human rights issues, however, are likely to occur also at later stages. For instance during the analysis and selection of the data that have been intercepted. Here, the Review Committee for the Intelligence and Security Services (*Commissie van toezicht op de inlichtingen- en veiligheidsdiensten*, CTIVD) has a role to play. With regret, the Institute notes that only the CTIVD's findings on individual complaints will be binding. Outside the complaints procedure the findings of the CTIVD on the legality of the application of powers by the services remain non-binding, and may be overruled by the Minister. In the Institutes view, a solid system of oversight would require a more elaborate role and more binding powers for the CTIVD. Recently, the CTIVD indicated itself that it considers the system of oversight created by the Bill not well-balanced and called for further amendments creating a more 'systemic' oversight on digitalized processes that take place after data have been intercepted by the intelligence services.⁵⁸

Suggested questions:

- How will the State Party secure that the TIB will be able to operate fully independent and will be able to gain adequate expertise to conduct a thorough review of ministerial decisions (avoiding 'rubber stamping practices')?
- Can the State Party indicate how the legality review by and powers of the CTIVD can be expanded in such a way that indeed the complete and to a high degree digitalized system of data selection and analysis, after the initial interception of bulk data, can effectively be scrutinized as part of a solid system of oversight to counterbalance the extended surveillance powers of the intelligence services?

⁵⁸ [Zienswijze van de CTIVD op het wetsvoorstel Wiv 20..](#), november 2016.

Article 19: Access to information

Accessible websites

Citizens are more and more dependent on internet in order to gain access to information of the government and other authorities. However, the majority of Dutch internet sites are not accessible for persons with visual disabilities. Research shows this is the case for government websites as well as for websites of private companies. Dutch law prescribes that government websites should be accessible for everyone. According to research in 2015 only 7% of the websites of municipalities were accessible for persons with disabilities. Therefore the majority of the websites could not be used by persons with a visual or hearing impairment, persons who cannot read difficult texts and those who cannot use a mouse because of a physical impairment.⁵⁹ Another research shows that many other websites are also difficult to use for persons with disabilities. According to this research inaccessible websites put more than one fifth of the Dutch population at a disadvantage.⁶⁰ Access to information is not only a right under the CCPR, but also under CRPD, which the Netherlands has ratified in June 2016.

Suggestion for a question:

The Institute recommends the Committee to ask the Dutch government how it plans to make websites accessible for persons with disabilities.

Article 21: Right of peaceful assembly

In the Netherlands the right of peaceful assembly is laid down in the Constitution and the Law on Public Manifestations, and is further elaborated by local authorities in their respective regulations, with far-reaching powers for local mayors to issue restrictions. The number of demonstrations in the Netherlands has risen in recent years from 350 in 2002 to around 1,500 per year at present. The forms and means of demonstration have also changed. With these development questions have arisen as to the application of the rules, both from the side of the mayors and from the public. The most recent examples regard the handling of demonstrations against the figure of Black Pete during the Dutch children's festivities of *Sinterklaas*. The media reported on outright general prohibitions of demonstrations, interference by municipal authorities with the content of slogans and banners during manifestations, mass arrests, abuse of emergency orders and some incidents of excessive police violence. Human rights NGOs as well as legal experts have aired their concern that local mayors are misusing their powers to unlawfully curtail the right of peaceful assembly - in contravention of international human rights law.

Some of the challenges are caused by the Law and regulations themselves, others by their implementation. The Ministry of the Interior seems well aware of these challenges as it commissioned an evaluation of the Law on Public Manifestations, which addressed ten main issues with findings and recommendations in 2015.⁶¹

⁵⁹ <https://www.accessibility.nl/nieuws/2015/05/zorgwekkend-aantal-gemeentenwebsites-ontoegankelijk>

⁶⁰ <https://www.accessibility.nl/nieuws/2016/11/veel-websites-nog-steeeds-slecht-toegankelijk>

⁶¹ B. Roorda, J.G. Brouwer and A.E. Schilder, [Evaluatie Wet openbare manifestaties](#) [Evaluation of the Law on Public Manifestations], 2015.

Suggestion for questions:

- What measures will the government take to address these concerns, in particular the gaps between international law and standards regarding the right of peaceful assembly and national law?

Article 24: Protection of children

Well over 118 thousand children a year are neglected or abused. Approximately 50 children a year die as a consequence of child abuse.⁶² Various reports have addressed the question of access to support services for children who are victim of domestic violence. Since 2015, municipalities are responsible for youth care. The Ombudsman for Children found that many municipalities are uncertain whether they know and reach the children that need support.⁶³ Various problems have also been reported by the Inspectorate for Youth Care and the Healthcare Inspectorate.⁶⁴ There are problems in cooperation between the various authorities, accessibility, lack of expertise in the neighbourhood outreach teams, safety and financing of services. Furthermore, the Ombudsman for Children reported an alarming increase in the waiting period for access to services. For that reason, the Inspectorate intensified monitoring of some of the 'Safe shelter' services. General practitioners indicated that 44% of their clients are on a waiting list for mental health care for youth (*jeugd-GGZ*).

Suggestion for questions:

What measures does the Government take to guarantee immediate access to specialised youth care services for children who are victims of domestic violence?

Article 25: Political participation, without distinction, for persons with disabilities

The Netherlands ratified the CRPD in 2016. Like Article 25 ICCPR, which contains the right for every citizen to vote, without any distinctions, Article 29 CRPD entails the same right for persons with disabilities including the allowance of assistance in voting. The Netherlands submitted a declaration concerning Article 29 CRPD narrowing the interpretation of 'assistance' to assistance outside the voting booth, with the exception of assistance required due to a physical disability, in which case assistance may also be permitted inside the voting booth.⁶⁵

The government declared its hesitance to allow assistance inside the voting booth for persons with an intellectual disability, for fear of the voter being influenced or intimidated by the assistant. However, persons with an intellectual disability who are unable to vote

⁶²Alink, L., IJzendoorn, R. van, Bakermans-Kranenburg, M., Pannebakker, F., Volgels T. & Euser, S., *Kindermishandeling 2010. De Tweede Nationale Prevalentiestudie Mishandeling van kinderen en jeugdigen* [Child abuse 2010. Second prevalence study abuse of children and youth], Universiteit Leiden/TNO, 2011.

⁶³Kinderombudsman, deelrapporten 1, 2 en 3, *De zorg waar ze recht op hebben. Onderzoek naar de toegang tot en de kwaliteit van jeugdhulp na decentralisatie* [The care they are entitled to. Research into access to and quality of youth services after decentralisation], 2015 and Kinderombudsman, *Mijn belang voorop? Ontwikkelingen in de jeugdhulp in 2016* [My interest first? Developments in youth care in 2016], 8 November 2016.

⁶⁴Inspectie Jeugdzorg en Inspectie voor de Gezondheidszorg, *De kwaliteit van Veilig Thuis Stap 1, Landelijk Beeld*, [The quality of Safety at home, step 1, national picture], 2016.

⁶⁵https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=en

alone in the voting booth have - as all Dutch citizens - the alternative option of voting by proxy. In that case, they can allow someone else to vote for them. The government did not at any point make clear why it is less likely that influencing will occur when someone else is voting for you, than when someone else is assisting you to allow you to vote yourself.

In addition, the Dutch Election Law (*Kieswet*) will be amended because of ratification of the CRPD. Instead of 25% of all voting stations, 100% of them will have to be accessible for persons with a physical disability in the future.⁶⁶ Whilst it will be an important improvement that all voting stations ought to be accessible, it is nonetheless disappointing that this change is only aimed at persons with a physical disability. The government should do more to make elections accessible for all persons with disabilities.

The Institute proposes that the Committee asks the Dutch government

- what it intends to do to make elections accessible for all persons with a disability, including those with an intellectual disability, in line with Article 25 ICCPR;
- to explain why intimidation or influencing is less likely to occur when voting by proxy than when being assisted in the voting booth.

Article 26: Discrimination

Labour market discrimination

Labour market discrimination is a serious and structural problem in the Netherlands. The extent, seriousness and persistent nature of labour market discrimination are evident from research, surveys, complaints received by Anti-Discrimination Services and opinions of the Institute. In the State party's action plan against labour market discrimination, as well as in the measures implemented, there is too little attention for root causes, structural measures and a misbalance between preventive and repressive measures. Discrimination is, amongst others, caused by stereotypes. Understanding the effects of such stereotypes is one way to address root causes of discrimination.

Discrimination on the labour market (and in general) is downplayed by those not affected, and those who are directly affected often have resigned to accept it. There seems to be acceptance of discrimination as a fact of life. This makes it increasingly more difficult, yet more important and urgent, to address this problem structurally.

Ethnicity and religion

Unemployment among workers with a non-Western background is almost three times higher than native Dutch people.⁶⁷ A number of reports have highlighted the problem of discrimination against non-Western migrants in accessing the labour market.⁶⁸ The Institute

⁶⁶ Deze wetswijziging is overigens nog niet in werking getreden. Op moment van schrijven is nog niet zeker wanneer het wel in werking treedt, al is wel duidelijk dat dat niet voor de verkiezingen van maart 2017 het geval zal zijn.

⁶⁷ 2015 unemployment figures from Statistics Netherlands published in June 2016. There was an unemployment rate of 6,9%. Among native Dutch people this was 5,6%, whilst for people with a non-Western background this was 15,2%.

⁶⁸ For example: Research Centre for Education and Labour Market (ROA), *Schoolverlaters tussen onderwijs en arbeidsmarkt* (Transition of graduates into the labor market), July 2016; Andriessen, van der Ent, Dekker and van der Linden, *Op afkomst afgewezen: onderzoek naar discriminatie op de Haagse arbeidsmarkt* (Rejected because of descent: research about discrimination on the labour market in The Hague), the Netherlands Institute for Social Research, June 2015; Social and Economic Council of the Netherlands, *Discrimination does*

also receives many complaints.⁶⁹ This discrimination contributes to (further) marginalisation and poverty, which also affects children.⁷⁰

Negative stereotypes and prejudices play an important role in recruitment and selection of candidates on the labour market, and therefore contribute to discrimination in access to the labour market. Further measures to address the negative effects of stereotypes in recruitment and selection are necessary.⁷¹

Suggestion for a question:

The Institute recommends the Committee to ask the government about structural measures to combat the negative effects of stereotypes in recruitment and selection.

Persons with disabilities

Fewer persons with disabilities have a job compared to persons without disabilities (45% compared to 66% in 2012). Research and opinions of the Institute show that people with disabilities still encounter discrimination when applying for a job.⁷² In 2015, the government introduced new legislation, aimed at including persons with disabilities to participate in regular jobs. Job support schemes were introduced. Targets were set for private as well as public employers to recruit a certain number of workers with disabilities. If these targets or quota are not met, individual employers risk a fine. The new job support schemes have been criticized because they are limited to certain disabilities and do not cover all people with disabilities. This is not in full compliance with the CRPD. Moreover, only certain disabilities count in terms of quota employers are required to meet. Data show that public employers currently fail to meet the targets.

Suggestion for a question:

The Institute recommends the Committee to ask the government about measures to promote the integration of all persons with disabilities in the labour market.

not work!, April 2014; Andriessen, Nievers en Dagevos, *Op achterstand: discriminatie van niet-Westerse migranten op de arbeidsmarkt* (Lagging behind: discrimination of non-Western migrants on the labour market), the Netherlands Institute for Social Research, November 2012.

⁶⁹ In total the Institute received 422 requests for an opinion in 2015 (this is more than a simple question or complaint). 218 (52%) of these requests were regarding discrimination with regard to work. 155 of these requests led to a procedure and an opinion. Of those 155 cases 92 were about labour. Out of those 92 cases, 33 were on access to the labour market (recruitment and selection). Out of those 33 cases, 17 cases dealt with discrimination on the basis of race (6) or religion (11). See: Netherlands Institute for Human Rights, *2015 Monitor discriminatiezaken* (2015 Monitor discrimination cases), 2016.

⁷⁰ The number of non-Western households living under low-income levels for a longer period of time (more than 4 years) is almost 6 times higher than native Dutch households. Statistics Netherlands, *Armoede en sociale uitsluiting 2015* (Poverty and social exclusion 2015), 2015.

⁷¹ See for example: Social and Economic Council of the Netherlands, *Discrimination does not work!*, April 2014; Netherlands Institute for Human Rights, *De juiste persoon op de juiste plaats: de rol van stereotypering bij de toegang tot de arbeidsmarkt* (The right person at the right place: the role of stereotyping in access to the labour market), July 2013. This research will be followed up in 2016 by further research in new recruitment techniques.

⁷² Netherlands Institute for Human Rights, *Inzicht in Inclusie: werk, wonen en onderwijs - participatie van mensen met een beperking* (Insights in inclusiveness: work, living and education - participation of people with disabilities), July 2016.