



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination 104th session

Summary record of the 2828th meeting*

Held via videoconference on Monday, 16 August 2021, at 4 p.m. Central European Summer Time

Chair: Ms. Li

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Combined twenty-second to twenty-fourth periodic reports of the Netherlands

* No summary record was issued for the 2827th meeting.

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The meeting was called to order at 4.10 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined twenty-second to twenty-fourth periodic reports of the Netherlands
([CERD/C/NLD/22-24](#) and [CERD/C/NLD/22-24/Add.1](#); [CERD/C/NLD/Q/22-24](#))

1. *At the invitation of the Chair, the delegation of the Netherlands joined the meeting.*
2. **Mr. Herstel** (Netherlands), introducing his country's report ([CERD/C/NLD/22-24](#)), said that the Netherlands had a highly diverse society, many aspects of which functioned well, and that differences between groups were narrowing. Discrimination and exclusion were nonetheless a hard reality and source of injustice for many in the country.
3. The coronavirus disease (COVID-19) pandemic had put a spotlight on various forms of social inequality and the need for resilience and cohesion within society. The Black Lives Matter demonstrations in 2020 and calls for change from both lawmakers and the public at large had brought the country to a tipping point. Tackling racism and discrimination had become a policy priority. Although the country's legal framework for combating racism and discrimination and the dedication with which it pursued social equality were praiseworthy, as the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had noted in a recent report on her visit to the Netherlands, its laws, policies and dedication were not always enough. Too many of the people of the Netherlands still felt as if they were not full and equal participants in Dutch society.
4. As the Government was aware that it had to do more to combat discrimination and racism, plans had been made to appoint a national coordinator to tackle racism and discrimination. Although the Government's aim was to combat all prohibited forms of discrimination, it kept particularly close watch on intersecting forms of discrimination. It also focused attention on specific manifestations of racism, ethnic discrimination, xenophobia and related intolerance on grounds of a person's origin, skin colour and religion, anti-Muslim discrimination, antisemitism and discrimination against Roma, Sinti and Travellers.
5. Activities organized as part of the International Decade for People of African Descent had sharpened the focus of the Government on anti-black racism and, as a result, efforts were under way to combat the stereotypes and prejudices that people of African descent had to overcome. A report on the history of slavery in the Netherlands, which had been commissioned by the Government, had contributed to broader awareness of that history and its impact on contemporary society. In addition, a broad-based process aimed at strengthening anti-racism and anti-discrimination efforts had been set in motion.
6. The people of the Netherlands were generally of the view that theirs was a tolerant and inclusive society. They must not, however, as the Special Rapporteur had suggested, let their view of themselves blind them to the reality of the racism and discrimination in their midst.
7. The efforts made by the Government focused not only on the European part of the Netherlands but also on the Caribbean islands of Bonaire, Sint Eustatius and Saba. Representatives of the three islands had been involved in discussions on the Dutch history of slavery and its legacy, which were set to resume in September 2021.
8. **Ms. Trimon-Croes** (Aruba, Netherlands) said that Aruba was a small country that was part of the Kingdom of the Netherlands. Its diverse population was the result of waves of migration from all over the world. About a third of the population was made up of immigrants or people whose forebears had immigrated not long before.
9. The people of Aruba were protected from discrimination by both the Constitution of Aruba and the Criminal Code. Papiamentu, the vernacular of the island's people, helped Aruba preserve its identity and continue its nation-building efforts in what was a multicultural society. It was being phased in as the primary language of instruction in primary education. Dutch, English and Spanish – the other languages widely spoken on the island – also played a crucial role in instruction.

10. The COVID-19 pandemic had posed many challenges for the island. The Government of Aruba had started a vaccination campaign for everyone living on the island, regardless of his or her migration status.

11. **Ms. De Jong-Mercelina** (Curaçao, Netherlands) said that Curaçao was an autonomous country that was part of the Kingdom of the Netherlands. Its small population was composed largely of people of African Curaçaoan descent and of other ethnic groups that had migrated to the island, mainly from the region.

12. Discrimination, including racial discrimination, was prohibited by both the Constitution and the Criminal Code. Anyone who believed that he or she was a victim of discrimination could lodge a complaint with the Public Prosecution Service or the Ombudsman.

13. A national platform had been set up to organize activities within the framework of the International Decade for People of African Descent. The Government of Curaçao had acknowledged that celebrations involving Sinterklaas and the character known as Zwarte Piet (Black Pete) caused pain to people of African descent and had stopped subsidizing such celebrations. It had also begun raising awareness of their racist nature.

14. The Government of Curaçao, with the assistance of the Government of the Netherlands, had put in place a number of programmes to help alleviate the economic and social distress the island's most vulnerable population groups had been put through as a result of the pandemic. An influx of migrants from Venezuela in recent years had also had a considerable socioeconomic impact.

15. **Mr. Gumbs** (Sint Maarten, Netherlands) said that Sint Maarten occupied somewhat less than half of the island, which it shared with Saint Martin, an overseas collectivity (*collectivité d'outre-mer*) of France. The country's population of some 65,000 was made up of people of well more than a hundred different nationalities.

16. Discrimination on any grounds, as in Aruba and Curaçao, was prohibited. Everyone, according to the Constitution of Sint Maarten, was entitled to equal treatment in equivalent circumstances.

17. The Government of Sint Maarten made efforts to foster an inclusive society where all persons could reach their full potential. The different racial, ethnic and national groups were encouraged to take part in national parades and other events to highlight the multifaceted identity of Sint Maarten. They were also free to celebrate their own cultures, religions and beliefs. Activities organized to mark the International Decade for People of African Descent had included the submission to the United Nations Educational, Scientific and Cultural Organization of documentation concerning the route to freedom of enslaved Africans and the provision of support for art and poetry celebrating the links between African and Caribbean cultures.

18. Despite its constitutional ties to the Netherlands, Sint Maarten faced the same challenges – hurricanes, for example, or the ongoing pandemic – as many small island developing States. Policy positions had had to change to ensure that, in view of those and other challenges, the needs of the country's most vulnerable people were met.

19. **Mr. Albuquerque e Silva** (Country Rapporteur), welcoming a number of positive developments in the State party, said that he wished to know whether information from or about the office set up to receive complaints about discrimination online (MiND) had been made available in any language other than Dutch. He also wished to know whether a bill on citizenship education, which, according to the State party's report, was to be put before the House of Representatives in 2019, had been made law.

20. He asked whether the State party had incorporated into its domestic legal framework a definition of racial discrimination fully compatible with the definition contained in article 1 of the Convention. He also asked whether acts of segregation, the announced intention to discriminate and inciting others to discriminate were considered discrimination and prohibited by law.

21. He would welcome a comment from the delegation on the claim, made in an alternative report submitted to the Committee, that the constitutional framework of the

Kingdom created a lopsided distribution of power between the Caribbean Netherlands and the European Netherlands that contributed to continued racialized discourse and practices. He wondered why there were no anti-discrimination offices outside the State party's European territory and why the Netherlands Institute for Human Rights was not yet competent to investigate complaints of racial discrimination in Bonaire, Sint Eustatius or Saba.

22. As the official collection of information on a person's ethnicity was prohibited by law, he wondered how the State party acted on the Committee's recommendations to collect disaggregated data with a view to informing policy development and implementation. In view of reports in the national media that ethnic minorities in the State party accounted for a disproportionately large share of those who fell ill with COVID-19, he asked whether the State party agreed that there was an urgent need to collect data on, for example, infection rates by ethnic group and how the State party expected to fully understand the consequences of the pandemic – how it affected minorities in particular – without appropriately disaggregated data.

23. For decades, football in Europe had struggled with racism, with players of African descent bearing the brunt. Therefore, he would be grateful for updated information on the measures taken by the Netherlands to address racism in football and sport in general. Had the State party launched any educational initiatives to combat discrimination and create a tolerant environment for young athletes? Did the State party impose sanctions and penalties on those responsible for racist behaviour, including sports federations, officials, players, supporters and social media companies?

24. Noting that the Government planned to continue the teaching of lessons on slavery, the slave trade and colonialism, he asked to what extent compulsory schooling addressed antisemitism and whether the State party planned to give greater prominence to that subject in the curriculum.

25. In a 2019 report, the European Commission against Racism and Intolerance had expressed concern about the large amounts of online hate crime in the Netherlands. He therefore wondered whether the State party's policies to combat hate speech were in danger of failing and what steps had been taken to provide alleged victims with information on how to report hate crimes. Moreover, he wished to know where the proposed bill to amend the Criminal Code to increase the sentences imposed for hate speech stood and whether it followed the approach laid down in the Committee's general recommendation No. 35 (2013) on combating racist hate speech.

26. In her report on her recent visit to the Netherlands, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had expressed concern that the police and the Royal Netherlands Marechaussee practised racial profiling during traffic control stops, identity checks, preventive searches and border stops. Although the Special Rapporteur had commended the police for its recent reforms, she had noted that the Government did not monitor or collect data to assess the impact of those reforms. He was therefore interested to know whether, in the delegation's view, the lack of trustworthy data constituted an impediment to the improvement of public policies in the fight against racial profiling. Lastly, he asked whether the State party had created a reporting mechanism for receiving complaints of racial discrimination, racism and racial and ethnic profiling, in keeping with the Committee's general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials.

27. **Ms. Shepherd** (Country Task Force) said that she would be interested to know how the State party ensured that people living in Bonaire, Sint Eustatius, Saba, Aruba, Curaçao and Sint Maarten were adequately represented, were able to participate in decision-making, and enjoyed sufficient autonomy in their relationship with the rest of the Kingdom. She would also be interested to see data, disaggregated by ethnic origin, on the respective prison populations of the Netherlands, Aruba, Curaçao and Sint Maarten.

28. In the sphere of education, she was curious to know what the outcomes of the Government's monitoring of the impact of selective admission policies in higher education, or decentralized selection, had been in view of concerns that minority students were channelled into lower ranked educational and vocational institutions. How did the State party

ensure that multilingual students with a migrant or minority background were not excluded or punished for speaking their first languages in schools and that all parents were free to use their own language when visiting schools? Did the Government intend to make human rights standards on non-discrimination a mandatory component of teacher training?

29. The delegation might also indicate whether the State party was considering the restitution of archaeological artefacts and art obtained during the State's colonial past. Noting that people in Sint Eustatius were currently protesting against the excavation of the human remains of their ancestors, she asked what happened to artefacts that were excavated in the Caribbean parts of the Netherlands. What had been the findings of the survey on mechanisms of exclusion of people of African descent in the Netherlands? Had the findings led to the adoption of any specific policies aimed at dismantling those mechanisms?

30. The Committee would appreciate information on measures taken to remove real and perceived obstacles to the reporting of discrimination in education. It would be useful to know why schools were not obliged to monitor bullying on grounds of racism and what proportion of schools conducted such monitoring. Moreover, she wished to know whether people living in the Caribbean parts of the Netherlands had equitable access to education of the same quality as that provided in the European part of the Netherlands, whether students in the Caribbean Netherlands were taught the colonial history that had given rise to their current political and social status and whether students were able to move easily between schools in the different parts of the Kingdom. She wondered what measures the Government had taken to increase equal opportunities for children in education, regardless of their background and socioeconomic status, and how it monitored the effectiveness of those measures. She asked what had been done to prevent discrimination against students seeking internships and whether teachers had protocols or guidelines that they could follow if students reported such discrimination.

31. Lastly, she would appreciate an account of the follow-up given to complaints of racism and discrimination lodged against police action using the mobile application described in the State party report and what actions had been taken in such cases.

32. **Mr. Payandeh** (Country Task Force), stressing that the Convention applied to the whole of the State party's territory, said that he wished to know why the report contained no information on Curaçao. He would be grateful for information on the number of civil and criminal cases concerning racial discrimination and hate crimes that had been heard by the respective courts of the Netherlands, Aruba, Curaçao and Sint Maarten. He wished to know how many complaints of racial discrimination had been received by the Netherlands Institute for Human Rights, the National Ombudsman, the Legal Aid and Advice Centre and the municipal anti-discrimination services in recent years, and what steps the authorities had taken to address the underreporting of acts of racial discrimination and to support alleged victims.

33. It would be useful to know whether the State party planned to establish a national supervisory body for the municipal anti-discrimination services, whether statistics could be provided on the municipalities' implementation of the Municipal Anti-Discrimination Services Act, and whether the new national anti-discrimination and anti-racism coordinator would have any role to play in that regard. The delegation might also provide updated information on the funding and expertise of the anti-discrimination services and comment on whether they should operate on a municipal or regional level.

34. Recalling that the ban on face coverings on public transport and in or around government, health-care and educational buildings had entered into force in August 2019 and primarily affected Muslim women, he would be interested to hear more about the reasoning behind the ban, its impact on members of specific communities and the fines or other penalties that had been imposed since it had come into effect.

35. Furthermore, noting that the State party collected information on persons with Surinamese and Antillean backgrounds and that it had expressed scepticism about self-identification of ethnicity, he wondered how the State determined a person's background. The delegation might also explain how the State party defined the term "migrant background" and what it meant – in terms of policy and law – for people falling in that category.

36. Regarding hate speech and hate crimes, he would appreciate clarification of whether discriminatory motives constituted an aggravating circumstance under Dutch criminal law. He also wished to know how the State party ensured that discriminatory motives or intent were registered by the police and taken into consideration by the Public Prosecution Service.

37. Furthermore, the Committee was interested to know whether MiND was obliged to report all content it deemed criminal to the Public Prosecution Service, or whether such content would only be reported if it was not removed from the Internet. Did the Public Prosecution Service enjoy discretion as to whether it instituted proceedings on the basis of reports from MiND? The delegation might also explain why MiND had apparently failed to detect a large number of websites and blogs with antisemitic content. Information might be provided on the number of complaints received by MiND, instances in which it had succeeded or failed in having discriminatory content removed, and any complaints referred to the Public Prosecution Service. In the light of the statement that the Government did not interfere with the content of the media or encourage methods of self-monitoring by the media, he wondered whether public broadcasting was exempt from all forms of Government control, including in respect of racist hate speech.

38. The Committee would welcome further information on the measures the State party had taken and intended to take to prevent racial profiling by the police. In particular, it would be interested to know what personal data were collected by the MEOS mobile application for proactive police checks, how long that data was retained and whether it was integrated into other police databases. To what extent had the MEOS application been part of the system risk indicator (SyRI) scheme that was used to identify potential cases of fraud? Did the State party plan to introduce other automated profiling systems and if so, how would it ensure that they complied with human rights law? Would the bill on data processing partnerships serve as the basis for the further use of algorithmic profiling?

39. **Mr. Kut** (Follow-up Coordinator) said that, in September 2016, the State party had duly submitted an interim report ([CERD/C/NLD/CO/19-21/Add.1](#)) on its follow-up to the recommendations contained in paragraphs 12, 24 and 28 of the Committee's previous concluding observations ([CERD/C/NLD/CO/19-21](#)). Regarding paragraph 12, on racist hate speech, the Committee had decided that the information contained in the interim report was partially satisfactory and, in a letter of December 2019, had requested further information on the tangible results of the measures adopted by the State party. In respect of paragraph 24, concerning discrimination in employment, the Committee had again found the interim report to be partially satisfactory and had requested further information. On the issue of cooperation with civil society, addressed in paragraph 28, the Committee had expressed regret at the lack of information on whether minority groups' representatives were included in dialogues on integration-related matters. Although the periodic report provided additional information on each of the issues addressed in the interim report, the Committee would be glad to receive up-to-date information concerning developments since the submission of the periodic report.

The meeting was suspended at 5.10 p.m. and resumed at 5.35 p.m.

40. **Mr. Herstel** (Netherlands) said that some of the statistics requested by the Committee were not immediately available to the delegation and would be submitted in writing.

41. **Ms. Schipper-Spanninga** (Netherlands) said that the General Equal Treatment Act dealt with racial discrimination in employment and in the provision of goods and services. The term "race" under the Constitution and criminal law was to be interpreted in accordance with essence of the definition given in article 1 of the Convention. The term was not defined in the legislation on equality but rather in an explanatory memorandum to that legislation.

42. The Netherlands Institute for Human Rights could work on human rights issues in the Caribbean Netherlands but was not competent to issue opinions on cases of alleged discrimination in that part of the country. The Government was planning to hold online meetings with its local partners in the upcoming months on the issue of discrimination and the possibility of making equal treatment legislation and the Netherlands Institute for Human Rights Act applicable in the Caribbean Netherlands.

43. In 2020, the National Ombudsman had received 64 complaints of racial discrimination by government institutions, while the Children's Ombudsman had received 2 such

complaints. The municipal anti-discrimination services had received a total of 2,842 complaints of racial discrimination. Those services provided support to complainants, helped to resolve cases through mediation and reported cases to the police or the Netherlands Institute for Human Rights where necessary. Most cases of racial discrimination were dealt with by the Institute rather than the courts. So far in 2021, the Institute had issued opinions on 60 cases and had found a violation of equal treatment legislation in 40 per cent of those cases. When dealing with cases of discrimination, the Public Prosecution Service acted in accordance with a specific instruction on the subject and in such a way as to send a clear signal that discrimination was not tolerated in the Netherlands.

44. Residents of the Caribbean Netherlands had the right to vote in general elections held by the Netherlands. Aruba, Curaçao and Sint Maarten were autonomous countries and, as such, organized their own general elections. All three were represented in the Council of Ministers of the Kingdom and were thus involved in matters relating to the Kingdom as a whole. The Government of the Netherlands actively sought to ensure that residents of the Caribbean Netherlands, especially young persons, were involved in policymaking, for example through town hall meetings.

45. The Government had significantly increased the budget allocated to the municipal anti-discrimination services and had entered into talks with the relevant stakeholders with a view to improving the way in which those services were financed. Oversight of the services was the responsibility of the provincial authorities and was not performed by a separate supervisory body. Discussions on the possibility of reforming the oversight system were under way. Since the services were independent from the Government, in line with the Municipal Anti-Discrimination Services Act, they would not be supervised by the national coordinator on discrimination and racism.

46. Discrimination on the basis of religion, physical appearance or choice of clothing was not tolerated. The law partially banning face-covering clothing was intended to ensure that people gathering in public places could be easily identified in the interests of public safety. The effectiveness and impact of the law would be evaluated in 2022. So far, no penalties had been imposed under the law; it was worth noting, however, that the law had not been applicable during the period when face masks had been mandatory on account of the COVID-19 pandemic.

47. **Mr. Winkel-Boer** (Netherlands) said that the budget of the Ministry of Justice and Security had been increased by €1 million per year for the period 2019–2021 and that the additional funds were being used to tackle antisemitism. On 1 April 2021, a national coordinator on antisemitism had been appointed to monitor the projects carried out using those funds. The definition of discrimination contained in article 90 quater of the Criminal Code was based on article 1 (1) of the Convention. Public incitement to racial hatred, violence or discrimination was punishable under article 137 (d) of the Criminal Code.

48. The Public Prosecution Service guidelines on discrimination stated that, for certain offences, such as assault and arson, prosecutors could request that the penalty should be as much as doubled if the offence had been motivated by discrimination. In January 2021, a bill that would establish discrimination as an aggravating circumstance for all offences had been submitted to the parliament. Under that bill, it would be possible to increase the term of imprisonment for an offence by one third if the offence had been motivated by discrimination.

49. While holding the presidency of the Council of the European Union in 2016, the Netherlands had organized a meeting on countering online hate speech, which had led to the development of a European Union code of conduct on the subject. Acts of hate speech could be reported to the relevant Internet intermediary, MiND or the national police. MiND did not actively search the Internet for hate speech; instead, it reacted to reports of hate speech by requesting the relevant Internet intermediary to take down the content in question. Steps were being taken to increase the effectiveness of its approach. Lastly, various measures had been taken to combat racial profiling by police officers, including the provision of training on the prevention of bias using virtual reality technology.

50. **Ms. Trimon-Croes** (Aruba, Netherlands), recalling the information contained in paragraphs 4, 8 and 9 of the submission from Aruba ([CERD/C/NLD/22-24/Add.1](#)), said that discriminatory acts were prohibited under the Criminal Code of Aruba. The acts covered by

the Code included encouraging others to discriminate against a specific group of persons and publishing material of a discriminatory nature. Colonial history was taught as part of the history and social studies curriculum, which incorporated the Caribbean perspective. The data collected by the Government of Aruba were disaggregated by place of birth rather than ethnic origin.

51. **Ms. de Jong-Mercelina** (Curaçao, Netherlands), reporting on the situation in Curaçao, said that, as of June 2021, there were 77 foreign nationals in prison, all of whom were men who had committed a criminal offence. Schools operated in three languages and parents could use the language of their choice. Steps were taken to ensure that students were able to transition smoothly from schools in Curaçao to schools in the Netherlands. Complaints of racial discrimination could be lodged with the Public Prosecution Service or the Ombudsman. Only one such complaint had been filed with the Public Prosecution Service in the previous five years. Victims of discrimination were supported by an organization for victim assistance that was subsidized by the Government of Curaçao. Hate speech was punishable under the Criminal Code. Curaçao had not submitted information to the Committee in writing because of understaffing and other constraints; nevertheless, it remained committed to fulfilling its obligations under the Convention and would contribute to the next periodic report.

The meeting rose at 6.10 p.m.