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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-seventh session

SUMMARY RECORD (PARTIAL)* OF THE 35th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 8 November 2006, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Third periodic report of the Netherlands (continued) (E/1994/104/Add.30; E/C.12/NLD/Q/3 and Add.1; HRI/CORE/1/Add.66)

1. The CHAIRPERSON invited the delegation of the Netherlands to continue its replies to the questions raised at the previous meeting.

2. Mr. de KLERK (Netherlands) said that 90 million euros were spent each year in implementing the measures of the action plan presented to parliament in 2004 relating to safety in schools and support for students who constituted a risk. Some of those measures were: to enhance the expertise of teachers and support staff with regard to violence in the school environment and strengthen the social skills of students; to coach students in primary and secondary education and increase the cooperation between schools and other youth institutions; to provide education facilities for the temporary support of students who did not attend normal schools; and to create a centre for school and safety, providing advice to schools, parents and students, in particular on the phenomenon of bullying, in cooperation with the Dutch school inspection service. Recent figures showed that 95 per cent of both students and teachers felt safe in and around their school environment.

3. He confirmed that the Dutch language was mandatory in Dutch schools. Some classes could be conducted in other languages, but only in pursuance of the aim to learn Dutch.

4. Mr. KUIJER (Netherlands) said the age of 18 was not an absolute turning point under Dutch legislation. Young people below that age already had a form of autonomy in areas as important as health, for instance, and the law's aim was to allow them to gradually become more independent. Consensual sexual relationships - which were seen as belonging to the most intimate part of the private life of individuals - between the ages of 16 and 18 could therefore be entered into without the imposition of criminal sanctions.

5. A minor - or an adult - found in possession of pornographic material would not be criminally liable, except in the case of child pornography.

6. Prostitution had never been illegal in the Netherlands. Brothels, however, had been illegal until the ban had been lifted in October 2000. The decriminalizing nature of the legislation enabled the Government to exercise more control over the sex industry - safety and hygiene - and counter more effectively abuses such as forced prostitution and the employment of minors or of persons without a valid residence permit. Through frequent controls of brothels, the police could detect signs of human trafficking more easily, which facilitated action against sexual violence and abuse, while improving the working conditions of prostitutes and minimizing health risks. Studies to assess the effects of the legalization of brothels were under way, but were not yet completed.

7. The Netherlands Government failed to see the link between the legalization of prostitution and trafficking in persons. The lifting of the ban on brothels made prostitution a legitimate occupation and gave prostitutes the same rights as other professionals. Prostitutes were thus protected by labour laws against exploitation, violence and coercion. Dutch policy was also based on the conviction that strengthening the position of women was the best way to combat sexual violence. Finally, abuses were easier to detect when prostitutes operated legally rather than in a clandestine fashion.

8. His Government nevertheless took the issue of trafficking very seriously. In 2000, it had commissioned an independent public rapporteur to publish an annual report on human trafficking, and also created a special telephone line for the public to anonymously report suspicious activities. Article 250 (a) of the Dutch Criminal Code, which prohibited trafficking in persons and exploitation of prostitutes, was strictly enforced, being one of the six highest priorities for police and prosecuting authorities.

9. To combat the dissemination of racist ideas on the Internet, the Netherlands had ratified the Council of Europe's Convention on Cybercrime and its Optional Protocol, and expected them to enter into force by spring 2007.

10. The Netherlands Government would not be surprised if the phenomenon of domestic violence against children were widespread, since in a recent report, Mr. Paulo Pinheiro, Independent expert for the study on violence against children, had stated that between 80 and 98 per cent of children worldwide suffered from physical punishment in their homes.

11. A bill to eradicate corporal punishment was currently pending in the Dutch Senate, and should enter into law by spring 2007. Research was being conducted on that subject by Leiden University and the Free University Amsterdam, at the request of the Ministry of Health, Welfare and Sports, and partly financed by the Ministry of Justice; the results of the study were expected to be announced in the course of 2007.

12. To address the issue of child abuse and of child exploitation through the Internet, the Minister of Justice had ordered an investigation into new forms of behaviour having sexual implications for minors, including their vulnerability when engaged in the new phenomenon of chat rooms.

13. The Dutch Government took a very serious view of some reports of young asylum-seekers who had disappeared after having been involved in forms of illegal prostitution either in the Netherlands or abroad. It was carefully investigating solutions to prevent such incidents without raising other human rights objections. For example, an extension of detention for such minors could be a solution; however, that might be seen as infringing upon civil and political rights.

14. The 2000 National Action Plan to combat sexual abuse of children had ended without being renewed, as the Government considered its concrete proposals now had to be implemented. At the end of 2002, the Minister of Justice had sent the House of Representatives a final report stating that the plan had given considerable impetus to efforts to combat sexual

abuse. Objectives for the future were to make both the prosecution and the reporting of abuses more effective, to reduce recidivism and to improve victim assistance and awareness-raising of professionals in the field.

15. The guidelines of the Public Prosecutor's Office on the subject of domestic violence were intended to ensure that every incident that came to the attention of the authorities was officially reported so as to permit a more comprehensive understanding of the scale of the problem. The first evaluation of those guidelines revealed that systematic reporting did indeed help and that some minor improvements, mainly of a procedural nature, could still be made. In 2007, an amended set of guidelines would be issued to all members of the Public Prosecutor's Office.

16. Ms. NICOLAI (Netherlands), referring to the problem of young homeless people, said that, under the Strategy Plan for Social Relief, a holistic approach had been adopted in 2006 to the problems experienced by young people, with the aim of improving their living conditions, including housing arrangements, care, income, and also daily activities and ensuring they did not become a burden on society as a result of crime or anti-social behaviour. The plan also applied to ex-convicts who, contrary to popular belief, were not left to their own devices on release from prison. It was the responsibility of the municipalities to provide them with immediate temporary housing.

17. As to the causes of domestic violence, research showed that there were a number of factors contributing to the phenomenon, including low self-esteem, excessive alcohol and drug use, relational problems, bad communication and lack of personal attention in the family context. In addition, it had been found that those who had suffered abuse themselves as children were more likely to repeat that pattern of behaviour as adults.

18. The police had implemented a special registration procedure for incidents of domestic violence, which indicated that over 57,000 domestic crime reports were entered into the police database each year. However, it was a known fact that only some 12 per cent of all cases of domestic violence were actually reported to the police. The registration figures showed that nearly 40 per cent of the incidents reported went on to become the subject of an official complaint to the police. The perpetrators of more than half of the incidents in respect of which victims had lodged an official complaint had been apprehended.

19. Ms. KOELMAN (Netherlands) said that both the Equal Opportunities Act and the Equal Treatment Act, which had been in force since 1980 and 1994, respectively, had recently been amended to implement European Union directives. The amendments included the introduction of a specific ban on sexual harassment in the workplace, a prohibition against the giving of instructions to discriminate, and a provision shifting the burden of proof. In addition to relevant legislation, the Government also mainstreamed gender issues in all policy areas, and a commission was currently evaluating the implementation of gender mainstreaming in the various ministries. The Ministry of Social Affairs had developed emancipation effect reports to detect possible negative side-effects of general policies on women, and had also subsidized various projects aimed at improving the situation of women, on themes such as rights and security, participation in society, and decision-making and government. Funding had also been allocated

to projects aimed at improving the position of women members of ethnic minorities. The Emancipation Policy Plan outlined the Government's goals and activities in that area for the period 2006-2010.

20. Mr. MOREE (Netherlands) said that the Government had prepared the National Strategy Report on Social Protection and Inclusion, which formed part of the European Union anti-poverty strategy, in close cooperation with all stakeholders, including NGOs. Spurred on by the consequences of the country's recent recession on the poorest sector of society, the Government urged all stakeholders to employ their best efforts to combat poverty. It was satisfied that policy instruments appeared to be working, as more people were moving from poverty to employment, but much remained to be done. Emphasis continued to be placed on education and literacy projects, minority integration programmes, arrangements to combat the problem of excessive debt among the poorest members of society, and efforts to improve utilization of benefits and assistance schemes.

21. On the question of early school-leavers, although the numbers had decreased, from 64,000 in 2004 to 57,000 in 2005, they were still unacceptably high. The main reasons for early school-leaving included poor choice of vocational education by the young people themselves, which gave rise to disinterest and study problems; problems in the psychosocial, socio-societal and socio-emotional spheres; and the limited cognitive ability of some students. The Government's response to the problem included early prevention of language and learning deficits; facilitating the shift from primary to secondary education; implementing stricter rules on attendance; and encouraging a combination of classroom learning and practical experience.

22. In 2001 there had been some 68,000 employers - amounting to approximately 1 per cent of the total - who had not complied with the minimum wage regulations, while in 2004 the figure had been 37,000, or 0.6 per cent. Non-compliant employers were most often to be found in the restaurant and retail sectors. Their numbers were estimated on the basis of random checks by the Labour Inspectorate. It had been found that, in many cases, administrative errors accounted for wages being recorded as less than the minimum. For example, since the minimum wage was based on a week's work, and in some sectors the working week was 36 hours and in others 40, problems arose if the wages of part-time workers were incorrectly calculated on the basis of a full 40-hour week, when in fact the company worked a 36-hour week. As of 1 January 2007 fines for non-compliant employers would increase.

23. Mr. de KLERK (Netherlands) pointed out that, while denominational schools were funded by the Government, there was an Islamic university in Rotterdam which was not officially recognized by the Government and did not receive government funding. The university's policy was apparently not to accept external funding.

24. Mr. SADI expressed surprise that the State party did not recognize the obvious link between prostitution and trafficking. He drew attention to the report of the Special Rapporteur on the sale of children, child prostitution and child pornography on her mission to Belgium and the Netherlands (E/CN.4/2000/73/Add.1), which linked the two phenomena.

25. Ms. BRAS GOMES, referring to the priorities pursuant to the National Strategy Report on Social Protection and Inclusion, requested clarification as to which persons were not availing

themselves of benefits and assistance schemes and why. She would welcome further information on the Strategy Plan for Social Relief and its implementation in the municipalities in the Netherlands' next periodic report. Disaggregated information on the percentage of men who availed themselves of parental and other leave entitlements in the private sector and participated in the "life-course savings scheme" should also be included.

26. Mr. RIEDEL, following up on Ms. Bras Gomes' comments, said that Committee members would be extremely interested to receive any feedback on the Strategy Plan for Social Relief as soon as it became available, without necessarily waiting for the next periodic report. The personal approach applied in the plan would no doubt be of great relevance to other countries facing similar problems.

27. Ms. BARAHONA RIERA said she wished to make clear that her earlier question on pornography had referred to child pornography - what penalties might be incurred by persons committing offences involving child pornography?

28. Ms. GHOSE said there seemed to have been a misunderstanding with regard to her reference to the report of the Special Rapporteur on the sale of children, child prostitution and child pornography on her mission to Belgium and the Netherlands (E/CN.4/2000/73/Add.1). In fact, the section on the sale of children referred to a specific case of the disappearance of two children, saying that an alarming number of children went missing every year. If that was incorrect or an exaggeration, some clarification would be appreciated. In addition, in many cases it had not been possible to identify the children whose picture ended up on pornographic websites, and she would like to know what the Government was doing to tackle the problem of missing children.

29. Mr. KUIJER (Netherlands), replying to Mr. Sadi's point concerning the link between prostitution and trafficking, said his Government's position was not that there was no linkage; rather, it failed to see the link between trafficking and the Dutch legalization of prostitution. His Government fully shared the Committee's concern regarding trafficking and did not underestimate the scale of the social problem it represented, but it believed abuses could be fought more easily if the sex industry operated in the open and not as a clandestine subculture.

30. He confirmed that possession of child pornography was indeed a criminal offence, carrying a maximum penalty of six years' imprisonment.

31. He was aware of incidents in which children went missing and were then found dead, and in certain of those cases there were links with child pornography. He did not have exact figures, but reports of the Public Prosecutor's Office showed that such cases were extremely rare. Each case was investigated and moreover received a great deal of attention from the media. He would therefore be very surprised if there was currently a large number of cases pending with the Public Prosecutor's Office.

32. Mr. de KLERK (Netherlands) said the report mentioned by Mr. Sadi and Ms. Ghose dated from 1998 and could not therefore refer to legalized brothels. Moreover, according to recent research conducted by NGOs, the number of commercial sex houses was on the decline.

While he would not wish to ascribe that trend to the new legislation alone - it was a complex phenomenon - it certainly could not be concluded that legalization had led to an increase in such activities.

33. Mr. MOREE (Netherlands) said there were a number of reasons why individuals failed to avail themselves of social benefits: people who had worked for a long time and then became unemployed, for example, tended to be unaware of their entitlements and unfamiliar with the application procedures; others might be reluctant to apply for reasons of pride. The Government tried to ensure that people were properly informed, in part by linking departmental databases so that the relevant offices would be aware when an individual became entitled to benefit. Support was also provided in respect of application procedures.

34. The CHAIRPERSON, noting that the Committee had completed its consideration of the report of the Netherlands, invited the head of the delegation to make a concluding statement.

35. Mr. de KLERK (Netherlands) said five fundamental points had emerged from the exchange of views.

36. Firstly, with regard to the nature and the direct applicability of the rights in the Covenant, his delegation had stressed that individuals were entitled to go to court if they felt their rights had been violated. The list of such court cases would be made available in the interests of moving the discussion forward.

37. Secondly, the Covenant rights applied to all lawful residents of the Netherlands, nationals and non-nationals alike. It might sound harsh to say that those who were not lawful residents were entitled only to what might be termed a "humanitarian minimum package" - urgent medical care, schooling for children and legal assistance, but no social security, housing rights or right to work - but the State had to provide clear rules on who could live in the country, with all the benefits that entailed, and who could not: there was no middle ground.

38. There had been numerous questions relating to the family, marriage, sexual relations and sexual exploitation. His delegation appreciated the Committee members' openness in expressing their views and accepted that there was a range of opinion on such matters. The policy choices made in the Netherlands had often been the result of lengthy social debate. They might not yet be widely shared, but they had undoubtedly been underpinned by human rights considerations. That was the case for same-sex marriage, which applied the prohibition on discrimination on grounds of sexual orientation; and also to the Netherlands' policy on prostitution - prostitution was not regarded as a human rights violation *per se*, but it was a sector where individuals' rights were often violated and it was easier to regulate and monitor abuses now that it was open.

39. On domestic violence, he reiterated that, despite the absence of specific legislation, such violence was nevertheless a criminal act. No one had been pleased at the 1997 finding that 40 per cent of respondents had been confronted with domestic violence at some point in their life, but it was important to bear in mind what the figures represented: the definition of domestic violence was broad, covering physical, sexual or psychological violence, all forms of partner-related violence, child abuse - sexual or otherwise - and abuse or neglect of the elderly.

His Government did not believe the figures for the Netherlands were unusually high. Research would continue, particularly into indications of a disturbing level of domestic violence among ethnic minorities, and the Netherlands would continue to work actively to bring what until recently had been a taboo subject into the open. He hoped the Committee would support the Netherlands in its efforts.

40. The last fundamental issue discussed had been the notion of new forms of exploitation and dependence arising out of new developments in electronic media. Such problems were of course global in nature, but his Government was taking specific measures to tackle the issue in the Netherlands.

41. The CHAIRPERSON thanked the delegation for a fruitful and constructive dialogue. She hoped the Committee's concluding observations would not be seen as criticisms but rather as suggestions that might help the State party to improve its implementation of the Covenant.

42. The members of the Netherlands delegation withdrew.

The discussion covered in the summary record ended at 11.35 a.m.