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Promoción y protección de todos los derechos humanos, civiles, políticos, económicos, sociales y culturales, incluido el derecho al desarrollo

Visita a los Países Bajos

Informe del Relator Especial sobre la libertad de religión o de creencias* **

Resumen

El Relator Especial sobre la libertad de religión o de creencias, Ahmed Shaheed, realizó una visita a los Países Bajos del 27 de marzo al 5 de abril de 2019. El Relator Especial considera que los Países Bajos disponen del marco jurídico y normativo necesario para promover y proteger el disfrute por todas las personas del derecho a la libertad de pensamiento, de conciencia y de religión o de creencias. Sin embargo, el oportunismo político de las respuestas a la diversificación de la sociedad, sumado a la equiparación de secularismo con neutralidad, plantea dificultades al marco sustantivo ya establecido para garantizar a todos la libertad de religión o de creencias y pone de manifiesto las preocupaciones expresadas por comunidades religiosas, entre ellas las comunidades judía y musulmana, en relación con la intolerancia en aumento de que son objeto. En su informe, el Relator Especial observa que parece que el Gobierno tiene presentes en bastante medida muchas de las preocupaciones que él plantea y que las somete a reflexión. Han sido amplias y dignas de encomio las inversiones del Gobierno en programas de seguimiento, presentación de informes y respuesta frente a la evolución que mina el disfrute en condiciones de igualdad del derecho a la libertad de pensamiento, de conciencia y de religión o de creencias. Las iniciativas dirigidas a hacer frente a estas preocupaciones todavía no han generado en la sociedad el cambio integral y sistemático al que se aspira, pero debe seguirse prestando apoyo a las gestiones dirigidas a fortalecer la capacidad de los agentes de primera línea, entre ellos la policía, los trabajadores sociales, los defensores de los derechos humanos, los médicos y los docentes, a fin de fomentar entornos en los que se puedan promover y respetar los principios de derechos humanos.

* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo, se distribuye únicamente en el idioma en que se presentó.

** Este informe se presenta con retraso para poder incluir en él la información más reciente.



Annex

Report of the Special Rapporteur on freedom of religion or belief on his visit to the Netherlands

I. Introduction

1. The present report contains information gathered by the Special Rapporteur on freedom of religion or belief, Ahmed Shaheed, during his visit to the Netherlands from 28 March to 5 April 2019, at the invitation of the Government. It also contains several recommendations for further strengthening the country's efforts to promote and protect the right to freedom of thought, conscience, and religion or belief.

2. The Special Rapporteur is grateful for the full cooperation extended to him by the Government for this first country visit to the Netherlands by a special procedure mandate holder on freedom of religion or belief. He is thankful for his meetings with officials in the Ministries of General Affairs; the Interior and Kingdom Relations; Education, Culture and Science; Foreign Affairs; Justice and Security; and Social Affairs and Employment. He appreciates the informative and candid discussions held during these meetings regarding challenges and responses to discrimination against various persons and communities in the country. It was evident during the meetings that a range of Ministries are pursuing industrious and collaborative responses to discrimination and to advancing equality in the country.

3. The Special Rapporteur extends particular thanks to the relevant Ministry of Foreign Affairs staff for the ongoing assistance that facilitated his engagement with numerous stakeholders from different ministries and civil society actors in Amsterdam, The Hague, Rotterdam and Utrecht. This includes the highly valued opportunity to call on the Minister of Foreign Affairs, Stef Blok, and the Minister of the Interior and Kingdom Relations, Kajsa Ollongren, to discuss issues of concern to the Special Rapporteur and the Government. He further extends special thanks to all the interlocutors from civil society organizations, faith-based communities and scholars, including the Netherlands Institute for Human Rights, who shared their assessments and experiences. Lastly, the Special Rapporteur acknowledges the constructive spirit in which the Government received and engaged with his preliminary findings.

4. During his visit, the Special Rapporteur was able to examine the approaches the Government is taking to ensuring the equal enjoyment of freedom of religion or belief by all persons within the context of the unique circumstances and challenges it faces in this endeavour. This includes social, political and economic developments that continue to reshape the identities and attitudes of an ever-evolving polity. The Special Rapporteur asserts that: (a) the legal and policy framework of the Netherlands; (b) government investments in measures for monitoring and responding to hate crimes; (c) initiatives taken by various public bodies to engage with communities affected by hate crimes; and (d) the myriad practical steps being taken by the authorities in partnership with civil society actors to build inclusive spaces for different communities to peaceably manifest their religion or belief in private or public have left the Government well placed to advance its commitment to combat intolerance and discrimination involving religion or belief, as enshrined in article 1 of the country's Constitution. The Special Rapporteur notes that investments in concerted efforts to combat hostility, discrimination and violence involving religion or belief should continue in order to address the challenges facing newer religious or belief communities in the enjoyment of freedom of religion or belief and to instil confidence in the democratic institutions and processes meant to safeguard the human rights of all persons in the Netherlands.

II. Government cooperation with the United Nations system

5. The Netherlands is a party to most international and regional human rights treaties, including the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights).¹ In July 2019, following its review of the fifth periodic report of the Netherlands, the Human Rights Committee made several recommendations aimed at addressing its concerns that the country's partial ban on face-covering clothing might restrict rights beyond the level of necessity and proportionality and about the persistent hate speech being used against ethnic and religious minorities (CCPR/C/NLD/CO/5). In their concluding observations, adopted between 2015 and 2017, the Committee on the Elimination of Racial Discrimination (CERD/C/NLD/CO/19-21), the Committee on the Elimination of Discrimination against Women (CEDAW/C/NLD/CO/6) and the Committee on Economic, Social and Cultural Rights (E/C.12/NLD/CO/6) raised concern about xenophobic speech and discriminatory stereotypes in politics and the media, especially towards Jews, Muslims and, more broadly, women; migration and integration policy and services; employment discrimination, especially against women; reporting of discrimination; civil society engagement; police profiling; and the insufficiency of educational and other concrete measures for tackling the root causes of discrimination, including in the National Human Rights Action Plan.

6. Further to this, recent cases reported to the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights raise serious concern about the treatment of asylum seekers, including children (CCPR/C/125/D/2489/2014), and acts of incitement to hatred towards Moroccan Muslims that were promoted by political actors and government officials (CCPR/C/117/D/2124/2011).

7. The Netherlands extended a standing invitation to the Human Rights Council special procedure mandate holders in 1998 and seven mandate holders have visited the country since then. In October 2019, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance found evidence that Dutch national identity was implicitly or even explicitly restricted or qualified on ethnic and religious bases, and that Islam was repeatedly represented as inherently opposed to Dutch national identity and even to liberal democracy. She noted that there was a very real danger that insisting that the Dutch vision of equality and inclusiveness was already a fact when it was not could stand in the way of doing the very difficult work that was required to transform commitments into reality.² In July 2014, the Working Group of Experts on People of African Descent expressed particular concern about incidents of racist and xenophobic speech emanating from a few extremist political parties and recommended that greater attention be paid to cases of incitement to hatred, discrimination and violence in the media (A/HRC/30/56/Add.1, paras. 96 and 99). The Special Rapporteur on freedom of religion or belief has not transmitted a communication to the Netherlands since 1995.

8. Issues related to discrimination against religious and ethnic minorities in employment, health care, housing and at asylum centres were raised in 2017 at the review of the Netherlands during the third cycle of the universal periodic review.³ The Government received 16 recommendations related to freedom of religion or belief and accepted 13 of them.

9. The Special Rapporteur welcomes the efforts made by the Government to promote international standards on freedom of religion or belief at home and abroad and commends it on having convened the conference of the Istanbul Process for Combating Intolerance,

¹ The Netherlands does not accept individual petitions under the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child or the Convention on the Rights of Persons with Disabilities.

² End of mission statement of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, at the conclusion of her mission to the Netherlands (The Hague, 7 October 2019).

³ See the database of recommendations made during the universal periodic review.

Discrimination and Incitement to Hatred and/or Violence on the Basis of Religion or Belief, held on 18 and 19 November 2019 in The Hague. He also welcomes the appointment in June 2019 of a special envoy on religion and belief.

III. The Netherlands: country context

10. The Kingdom of the Netherlands consists of four autonomous constituent countries: the Netherlands, located in Western Europe, and three islands – Aruba, Curaçao and Sint Maarten – located in the Caribbean. The islands of Bonaire, Sint Eustatius and Saba are a part of the Kingdom and are also located in the Caribbean. The present report focuses exclusively on the country of the Netherlands. The Netherlands is a mature liberal democracy premised upon a bicameral system of parliament and is resolute in its commitment to the promotion and protection of human rights, including freedom of religion or belief, which was first recognized and respected in the Union of Utrecht of 1579 and again in the subsequent Constitution of 1983.

11. The population of the Netherlands is around 17.2 million persons, giving it the second highest population density in the European Union. The country hosts a plurality of religions: Roman Catholicism (23 per cent), Protestantism, including the Dutch Reformed Churches (15 per cent), Islam (5 per cent) and others, including Hinduism, Judaism, Buddhism and Baha'i (6 per cent). Around 51 per cent of the population identifies as having no religion, making the Netherlands one of the most secular societies in the Group of Western European and other States.⁴ Two thirds of the estimated 1 million Muslims in the country are of Turkish or Moroccan origin and many of the 350,000 Hindus originate from Suriname.⁵ Jewish and Sikh communities estimate their numbers at 29,900⁶ and 15,000 (about 0.17 per cent and 0.08 per cent of the population) respectively. A significant number of immigrants, who constitute almost one quarter (23.1 per cent) of the Dutch population, have joined Dutch society since the 1950s and immigration is almost entirely responsible for the growth of the population by 99,577 persons between January 2017 and 2018.

12. The Government of the Netherlands administers its responsibilities within the framework of a parliamentary representative democracy, a constitutional monarchy and a decentralized unitary State. King Willem-Alexander is the official head of State of the Kingdom of the Netherlands, which has enjoyed an independent monarchy since 1815. The judicial, legislative and executive branches are independent. Dutch citizens directly elect the 150 members of the lower house of the parliament (Tweede Kamer); the 75 members of the upper house, or Senate (Eerste Kamer der Staten-Generaal) are elected by members of the provincial councils. There are 12 Dutch provinces with their own representative and executive government bodies. There are currently 355 municipalities (*gemeenten*) responsible for matters including public services and discrimination issues that directly affect their residents.

13. The judicial system is comprised of 11 district courts, along with four courts of appeal, one Supreme Court, one Administrative Court for Trade and Industry, one Council of State and one Central Appeals Court for Public Service and Social Security Matters.⁷ Judicial recruitment, selection, training and recommendation for appointment of members of the judiciary are undertaken jointly by the judiciary and the Council for the Judiciary (Raad voor de Rechtspraak). Appointments are made by Royal Decree following confirmation by the Minister of Security and Justice that the nominees meet the statutory requirements and other formal requirements. In the case of appointments to the Supreme Court, the list of nominees is forwarded to the Minister after examination by the lower house of the parliament. The Council for the Judiciary oversees the operations of Dutch

⁴ Statistics Netherlands (CBS), "Over half of the Dutch population are not religious", 23 October 2018.

⁵ Willem Huijnk, *De religieuze beleving van moslims in Nederland* (Den Haag, Sociaal en Cultureel Planbureau, 2018).

⁶ See www.worldjewishcongress.org/en/about/communities/nl.

⁷ See www.netherlandsandyou.nl/latest-news/news/2017/09/21/factsheet-on-the-judiciary-in-the-netherlands.

courts, acts as judiciary spokesperson and provides important communication channels between the Government and the courts.⁸

14. The Prime Minister, Mark Rutte since 2010, chairs the Council of Ministers. He is the leader of the People's Party for Freedom and Democracy and is currently serving his third term. The executive consists of the Head of State (the monarch) and the Cabinet, formed of between 12 and 16 Ministers and State secretaries. Myriad political parties are elected to the parliament. Since no party has ever had an absolute majority, the Government always consists of a coalition of parties, necessitating a coalition agreement. The 2017 coalition Government was formed after a record seven months of negotiation and consists of the People's Party for Freedom and Democracy, the Christian Democrats, the Christian Union and Democrats 66.

15. Religion has historically played a role in Dutch politics, with political parties, including the Christian Democrats, often identifying themselves with religious or belief communities. The rise of far-right parties, such as the Party for Freedom led by Geert Wilders and List Pim Fortuyn, which have advanced narratives that incite discrimination and violence against religious and ethnic minorities in the country, have also influenced the Dutch political climate over the past 15 years. Coalition-building has necessitated accommodation of some of these views in mainstream political thinking and policy positions, which now pose challenges to the Government's responsibilities to combat discrimination and promote equality. This includes some anti-terrorism and immigration measures.

16. The State, however, has considered itself neutral in matters of religion since 1796, when the Dutch Reformed Church was formally separated from the State. The pillarization (*verzuiling*) system was later promoted from the 1800s to the 1960s in response to challenges posed by an increasingly diversifying society. This system segregated Dutch society into four dominant interest groups – Catholics, Protestants, Socialists and Liberals – across religious and ideologically based lines, each having their own social institutions and organizations, including schools, hospitals, media and political parties.⁹ However, the principle of State neutrality, which has since characterized State-religion relations in the Netherlands, is sometimes conflated with secularity and reflects the increasing secularization of the groups that constitute Dutch society.

17. Juxtaposed against this backdrop, however, is the increasing visibility of newer religious communities settling across the country. The expansion of these communities, whose manifestation of beliefs tend to be more public than those of more established communities, alongside international and national events that have perpetuated harmful stereotypes and conspiracies about them, are reportedly generating unease among wider Dutch society. Increasing tensions have provoked calls in recent years for lawmakers to reassess protections for freedom of religion or belief, and for policymakers to prioritize the integration of immigrants over the protection of their distinct identities.¹⁰

18. Consequently, integration issues have dominated public discussions in the Netherlands in recent decades. Dutch society has been increasingly diversifying since the 1970s with 390 asylum applications in 1975 compared to 20,510 in 2018. Most migrants originate from Turkey, Morocco and Indonesia and asylum seekers from the Islamic Republic of Iran, Nigeria and the Syrian Arab Republic, all holding diverse beliefs,¹¹ but

⁸ See https://www.upr-info.org/database/index.php?limit=0&f_SUR=All&f_SMR=123&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly.

⁹ Arend Lijphart, *The Politics of Accommodation: Pluralism and Democracy in the Netherlands* (Berkeley, University of California Press, 1968); Sophie van Bijsterveld, "Netherlands", in *Religion and the Secular State: National Reports*, Javier Martínez-Torrón, W. Cole Durham, Jr. and Donlu D. Thayer (eds.) (Madrid, Universidad Complutense, 2015).

¹⁰ Floris Mansvelt Beck, *How we do things here: moral communities, integration and toleration in the Netherlands: competing interpretations of liberalism in parliamentary practice, 2000–2013* (2015).

¹¹ Ibid. and CBS, "Fewer asylum seekers, more following relatives in Q2", 25 July 2019.

recent surges in arrivals (58,880) from the Syrian Arab Republic seeking refuge from conflict since 2015 have generated unease,¹² which is exploited by political actors.¹³

IV. National laws, policies, institutions and practices

19. Dutch law and policy endeavours to avoid establishing a hierarchy of rights, perpetuating the principle that human rights are mutually reinforcing, interrelated and interdependent. Article 1 of the 1983 Constitution establishes the principle of equal treatment and prohibits discrimination on the grounds of religion or belief. Article 6 states that everyone has the right to manifest freely his or her religion or belief, either individually or in community with others, without prejudice to his or her responsibility under the law. Article 23 stipulates that public authorities pay equal regard to the religion or belief of all persons regarding education, provides for private schools for religious communities and safeguards against compelling children to receive religious or belief instruction against their parents' wishes. The Constitution does not, however, impose a positive duty on public bodies to prevent discrimination. Compensation is rarely granted to plaintiffs and sanctions are often insufficiently dissuasive.

20. According to article 6 of the 1983 Constitution, restrictions on religious practices are permitted for a number of reasons, including to safeguard against public disorder or health hazards. The country's anti-blasphemy law was repealed in February 2014, and the General Equal Treatment Act of 1994 prohibits direct and indirect discrimination, including on the basis of religious identity.¹⁴ The law, quite appropriately, does not prohibit cooperation between the State and religious communities, and the country's legal framework guarantees State neutrality and equal treatment for all persons, regardless of their religion or belief.

21. There are no requirements for the registration of faith-based or ideological organizations and they do not need to declare their philosophical or religious nature. Such bodies may register with the Chamber of Commerce under article 2.2 of the Civil Code as religious denominations (*kerkgenootschappen*) to be exempt from property, income and other taxes. If they are deemed to be non-profit and non-violent institutions for the general good, further exemptions are possible. Taxes are mandated for non-religious activities in religious buildings. Due to historical State-religion relations, faith-based organizations are treated the same as secular organizations and may be financially supported for non-religious activities. Not all religious organizations, including some mosques, consider themselves *kerkgenootschappen* (a term that includes the word "kerk", which means "Church") and instead register as associations or foundations under article 2.3 of the Civil Code, necessitating online registration and income declaration. Legislation is being drafted on funding transparency and on prohibiting "undesirable" funding from "unfree countries", causing concern about the impact on the funding and operations of religious or belief organizations. Cooperative relationships between religious or belief communities and the State for the purposes of delivering necessary community services are commonplace, including initiatives that promote education or intercommunal harmony. The terms of these relationships tend to avoid encroaching on the independence of participating parties.

22. Under articles 137 c–g of the Criminal Code, incitement to hatred, discrimination and violence against persons based on religion, race, sexual orientation or gender identity are criminalized. Such acts are punishable by up to two years' imprisonment and/or financial penalties. Defamation and threats are punishable under articles 261, 262 and 285 of the Criminal Code and prosecutors ask for sentence enhancements in incitement cases where racism is a motivating factor, carrying a maximum penalty of one year's imprisonment. Prosecution for hate speech is, however, rare given the strong commitment to defending freedom of expression, especially when that expression is conveyed in a political context. A bill to increase the maximum penalty for incitement to violence, hatred

¹² CBS, "Asylum requests; by citizenship, from 1975", 31 July 2019.

¹³ Adam Taylor, "Dutch PM tells immigrants: 'Act normal or go away'", *Washington Post*, 23 January 2017.

¹⁴ Rikki Holtmaat, updated by Titia Loenen, *Country report, non-discrimination: the Netherlands 2018*, (Luxembourg, Publications Office of the European Union, 2018).

and discrimination was adopted in November 2019 and came into force on 1 January 2020.¹⁵ Criminalization of genocide denial has been pending before the Senate since 2011.

23. The National Action Plan on Human Rights of 2014¹⁶ outlines the country's national human rights and non-discrimination policy and infrastructure. The Action Plan has been criticized owing to the limited consultations with civil society during its development, as well as for its insufficient concrete actions and its poor implementation. Various stakeholders have been engaged in developing the new Action Plan, focusing on accessibility of public services, which was released on 12 December 2019. Other relevant policy documents include the Council of Europe guidelines on human rights in culturally diverse societies,¹⁷ issued in 2016, which were developed with input from the Netherlands. They provide guidance on implementing protections for freedom of thought, conscience and religion or belief while ensuring that no hierarchy between rights is established. A 2004 policy document on fundamental rights in a pluralistic society¹⁸ is also used as a framework to balance fundamental rights, including in cases of discriminatory statements based on religion or belief.

24. Provisions for the enjoyment of freedom of religion or belief are framed within the context of non-discrimination and are promoted by the National Anti-Discrimination Action Programme, adopted in 2016. The Programme seeks to enhance law enforcement, encourage reporting, investigation and prosecution of incidents, and advance anti-discrimination education. It also aims to reduce harmful practices among government officials, including by increasing police diversity and promoting training for police officers on avoiding ethnic or racial profiling, which is reportedly commonplace. The revised Programme was published in January 2016, bringing together existing programmes, including those focused on combating anti-Muslim discrimination and antisemitism and those that seek to strengthen strategies for improving societal cohesion. The parliament receives annual progress updates that include statistics from the anti-discrimination bureaux, the police and Meldpunt Internet Discriminatie (MiND), an entity responsible for assessing reports of online discrimination. A cooperation agreement was also established in 2017 to streamline the terms and definitions used when registering incidents and to develop appropriate responses between the Public Prosecution Office, the police and the anti-discrimination bureaux.

25. The Act of 2009 on local anti-discrimination bureaux legally obliged all local authorities to establish bureaux where incidents of discrimination could be reported. The Government's annual updates to the parliament on specific measures for enhancing and implementing the National Anti-Discrimination Action Programme is helpful, especially where critical reviews of services and programmes are provided. Thirty-eight anti-discrimination bureaux operate at the local and regional levels to register discrimination incidents, bring them to the attention of municipal authorities and offer assistance to victims. The network of bureaux, which extends across all Dutch municipalities, makes it possible for individuals in the Netherlands to report discrimination and receive professional support. Coverage gaps do remain in some municipalities. Although resources and independence from local authorities differ, anti-discrimination bureaux provide a crucial locally accessible service, especially where communication with the police and the Public Prosecution Office is undergoing enhancement. Anti-discrimination bureaux, which are mandated to mediate in discrimination incidents, also appear to produce more favourable outcomes for some victims than filing a police complaint. Despite a 2017 agreement on ensuring greater cooperation between anti-discrimination bureaux and the police in responding to incidents, more cooperation between the police and anti-discrimination bureaux is necessary to ensure that victims understand the available range of responses to

¹⁵ See <https://zoek.officielebekendmakingen.nl/stb-2019-421.html>.

¹⁶ See <http://www.government.nl/documents/policy-notes/2014/03/19/national-action-plan-on-human-rights>. The national non-discrimination policy and infrastructure are outlined and promoted in the separate National Anti-Discrimination Action Programme.

¹⁷ See <https://rm.coe.int/guidelines-hr-in-culturally-diverse-societies/168073dced>.

¹⁸ Netherlands, Constitutional Affairs and Legislation Department, *Report of the International Conference on Fundamental Rights in a Pluralistic Society* (The Hague: Ministry of the Interior and Kingdom Relations, 2004).

incidents. Anti-discrimination bureaux and police outreach (e.g. through periodic focus groups) to hard-to-reach religious or belief communities needs improvement to ensure all discrimination is covered. Training for officials that references the guide to anti-discrimination policy for municipalities is being planned.¹⁹

26. The national Government and the municipalities have launched campaigns to increase awareness about anti-discrimination bureaux, but underreporting remains a major challenge, with only about 12.5 per cent of discrimination experiences reported to authorities, or even to family and friends.²⁰ Insufficient knowledge about how to report incidents, lack of trust that reporting an incident to the authorities will make a difference and the desire to keep a low profile were often noted as reasons for underreporting. Moreover, interest groups may have their own monitoring systems,²¹ and victims may feel more comfortable reporting incidents to these organizations, but their methods for reporting may be inconsistent with those of the police or the anti-discrimination bureaux. Around 80 per cent more antisemitic incidents are reported to the police than to the anti-discrimination bureaux. Incidents involving intersecting ethnicity and religious identities involving Muslims, Hindus and Sikhs are mostly recorded under the category of race or ethnicity. However, the anti-discrimination bureaux and the police can record anti-Muslim hatred and antisemitism separately. Their statistics on discrimination based on or involving religion or belief can thus be divided into anti-Muslim and antisemitism incidents.

27. None of the focal points in the Government is responsible for ensuring the enforcement of national protections for freedom of religion or belief. Instead, the responsibility for advancing the principles of equality, tolerance, respect and inclusivity for all, in line with the democratic ideals and human rights principles to which the State is committed, rests with the various government levels, departments and ministries. Religious and non-religious belief groups have a point of contact with the Government through the Ministry of Justice and Security whose role, dating back to 1806, involves attending to issues and communicating concerns to the Government.

28. The Dutch police record all incidents considered to be crimes involving incitement to hatred. This information, however, including the motivation for discrimination, such as religious identity, is only determined weeks after an investigation is initiated, by which time cases may have already reached the Public Prosecutor without special recognition of underlying aggravating factors that can potentially affect a victim's case. Interlocutors reported being told to return when a specialist officer would be present when attempting to report hate crimes.

29. The quasi-judicial Netherlands Institute for Human Rights is the country's officially designated independent body established in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) to critically assess the status of human rights, including freedom of religion or belief, and to provide government recommendations to better address emerging issues or cases. It represents an important institutional commitment to advance human rights. The Institute, which is funded by the Government, has 12 expert members who are appointed for six-year terms and is tasked with generating non-binding, but nevertheless authoritative case law. It also issues reports and recommendations, including on labour market discrimination, in a consultative fashion.

30. The Government has also invested in the development of numerous mechanisms and programmes aimed at equipping government officials with the requisite tools for enforcing laws and implementing policies that safeguard the right to freedom of religion or belief for all persons and for supporting the efforts of civil society to augment the Government's efforts. This includes training courses for government officials to ensure that new legislation is in line with human rights provisions stipulated by other national legislation

¹⁹ See www.movisie.nl/sites/movisie.nl/files/publication-attachment/Handreiking-antidiscriminatie-gemeenten%20%5BMOV-13953983-1.2%5D.pdf.

²⁰ Iris Andriessen, Henk Fernee and Karin Wittebrood, *Ervaren discriminatie in Nederland* (Den Haag, Sociaal en Cultureel Planbureau, 2014).

²¹ These include Collectief Tegen Islamofobie en Discriminatie, centrum informatie en documentatie Israel and the Turkish Diyanet (Directorate of Religious Affairs).

and international law;²² the development of guidelines for implementing national anti-discrimination policy at municipal levels;²³ and programmes that engage new arrivals,²⁴ including young people,²⁵ as they adjust to circumstances that will ultimately shape their experiences and identities.²⁶

31. Online tools and training courses have been developed for students and teachers to tackle discrimination facing students.²⁷ Myriad programmes and events have been launched, aimed at fostering dialogue and trust between the State and religious or belief communities at the national and local levels;²⁸ fostering safe places for the manifestation of religious beliefs; and raising awareness about discrimination.²⁹ In addition, initiatives for combating discrimination involving religion or belief through the fostering of empathy and literacy about the different religions that inform the values and experiences of all Dutch people are being promoted³⁰ among religious actors and local officials working in multireligious contexts. The Building Bridges programme, which endeavours to establish local networks of religious community members to work on solving tensions between religious and belief communities in the country, has led to local interfaith cooperation in Enschede and Leeuwarden on tackling common issues facing religious and belief communities in the country. In 2019, the Government decided to extend this programme to other municipalities.

32. A strong civil society has also advanced numerous grass-roots initiatives for fostering trust and inclusivity among and between religious and belief communities in the country. Initiatives like the Security Pact Against Discrimination,³¹ aimed at fostering solidarity among communities in the aftermath of incidents aimed at inciting hostility, discrimination and violence, have been integral to combating the fear, frustration and humiliation endured by these groups.

V. Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

33. The provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, proclaimed by the General Assembly in 1981, are being implemented in the Netherlands by way of the above-mentioned laws, policies, programmes and practices being advanced by the Government and civil society. Like many mature democracies, however, the Netherlands is working to achieve a learning curve generated by new challenges posed by periodic demographic shifts and the

²² See www.kcwj.nl/.

²³ See <https://kennisopenbaarbestuur.nl/media/255636/handreiking-antidiscriminatiebeleid-gemeenten.pdf> and www.kis.nl/.

²⁴ See <http://dander.nl/welkom-in-mijn-wijk/>.

²⁵ See www.kis.nl/jongeren-weerbaar-eeen-overzichtspagina and www.mindmix.nl/index.php?content=openyourmind.

²⁶ See <https://controlealtdelete.nl/tools>.

²⁷ See www.zeteenstreepdoordiscriminatie.nl/wie-doen-mee/campagne-onderwijs#_blank.

²⁸ In 2017, the Consultative Council of Turks in the Netherlands led work to decrease prejudice and stereotyping and strengthen Turkish and Jewish community relations. The Levensbeschouwing Religion Platform provides a crucial space for deepening respect and understanding between members of the public from different religious and philosophical life stances. See <https://platform-groningen.nl/>.

²⁹ The 2015–2018 Cross-Out Discrimination campaign encouraged local anti-discrimination engagement and generated websites for reporting discrimination (discriminatie.nl) and for providing steps to tackle discrimination (zeteenstreepdoordiscriminatie.nl).

³⁰ The Government, for example, consulted soccer associations, local authorities, police officials and the Public Prosecutor's Office, in conjunction with the Anne Frank Foundation, in its development of strategies for countering antisemitic chanting, salutes and other behaviour directed against religious groups during soccer matches, and supports programmes that promote religious literacy.

³¹ See for example, Janene Peters (NL Times), "Extra security at Amsterdam mosque after Quebec shooting", 3 February 2017.

accompanying political, social and economic pressures engendered by these changes. Central to a preponderance of the challenges facing the Government's capacity to effectively promote and protect the full enjoyment by everyone of the right to freedom of thought, conscience, and religion or belief is the manifestation of discriminatory attitudes towards persons on the basis of religion or belief. Interlocutors who met with the Special Rapporteur frequently highlighted increasing intolerance towards the public manifestation of religion or belief by adherents of various religious communities in recent years, which makes it more difficult for the country to uphold its obligations under the Declaration.

(a) Pressures on the public manifestation of religion or belief

34. Fifty-one per cent of the Dutch population identify as having no religion, which is an increase on the estimated figure of 39 per cent in 2008.³² An increasingly small number of traditional Dutch churches have thriving congregations, while "new" religious norms within diversifying communities are increasing. The Netherlands Institute for Social Research (Sociaal en Cultureel Planbureau) found that Dutch Muslims' religious practice had increased between 2006 and 2015, with those praying five times a day increasing from 72 per cent to 85 per cent, and from 69 per cent to 75 per cent for Turkish and Moroccan Muslim communities respectively.³³ The number of women with Moroccan roots wearing a headscarf has increased by 14 per cent; 89 per cent of those women currently wear a headscarf. Moreover, faith was found to constitute the most important social identity factor for Dutch Muslims.³⁴ This shift has generated increasing debate on the role of religion in relation to health care, education and asylum, for example, and calls for religious restrictions to ensure security and protect core "Dutch values", including freedom of expression.

35. Discussions are under way in the country about whether to adopt a stricter form of secularity and about limiting the manifestation of "outdated" religious beliefs and practices. Municipal buildings are designated as neutral spaces, with some municipalities taking an exclusive rather than inclusive approach to the meaning of neutral. Some religious interlocutors reported to the Special Rapporteur that their activities were prohibited in some municipal buildings because belief in God was invoked in their events. Weekly services in Rotterdam community centres have been discontinued,³⁵ and funding for Islam classes for low-income children in Amsterdam has been cut.³⁶ Others report an unwillingness to advertise or fund key aspects of interfaith events, even when they are supported by the municipality. Religious leaders have been denied solidarity visits to asylum centres run by the Central Agency for the Reception of Asylum Seekers, and students, including members of a Christian association, reported to the Special Rapporteur that they had experienced difficulties in being granted space for religious activity such as prayer. In 2019, the Government updated its guidelines on religion in the public sphere, which are a useful tool for municipalities, providing them with legal and practical guidance in their contacts with religious organizations. The updated guidelines were due to be made public on 7 February 2020 during a seminar attended by representatives of religious communities, civil servants and legal practitioners.

36. In 2011, a provision was included in the Dutch Police Code of Conduct banning the wearing of religious symbols with the uniform to ensure a neutral, more authoritative appearance when interacting with the public. There is increasing debate about the need for other government officials to maintain a neutral appearance. In November 2017, the Netherlands Institute for Human Rights determined that the Dutch police's decision to

³² CBS, "Over half of the Dutch population are not religious".

³³ Willem Huijnk, *De religieuze beleving van moslims in Nederland* (Sociaal en Cultureel Planbureau, Den Haag, 2018).

³⁴ Willem Huijnk and others, *Werelden van verschil* (Sociaal en Cultureel Planbureau, Den Haag, 2015).

³⁵ See www.trouw.nl/religie-filosofie/rotterdam-verbiedt-kerk-in-buurthuis~b16b7f3c/.

³⁶ See www.volkskrant.nl/nieuws-achtergrond/gemeente-amsterdam-stopt-met-vergoeden-islamles~b82953c0/.

prevent female officers from wearing headscarves amounted to indirect discrimination on religious grounds.³⁷

37. Concern about the normalization of discourse that advances a “superior” Dutch national identity and stigmatizes certain communities was frequently raised with the Special Rapporteur. While not specifically defined, “Dutch values”, sometimes linked to a Judaeo-Christian heritage, are increasingly being referenced in public policy debates and are often used to implicitly define behavioural norms. In this context, Islam and “Dutchness” or the “Western European way of life” are commonly characterized as being incompatible.³⁸ Calls from political parties, for example, for Muslims to recognize and assimilate into the dominant Dutch or European culture are not uncommon.³⁹ Discourse that fails to recognize and respect existing and emerging religious diversity in Dutch society risks further polarizing communities and reduces confidence in the capacity and resolve of the country’s institutions to combat and address discrimination and to respect and protect the right to freedom of religion or belief.

38. Dutch values are increasingly intertwined with a secular narrative that seeks to reject “undesirable” religious practice.⁴⁰ Jewish and Muslim groups reported, for example, growing concerns about attempts in the parliament to ban ritual slaughter. A 2011 bill led by the Party for the Animals, proposing a ban on slaughter without anaesthesia – in practice prohibiting halal and kosher slaughter processes – was overwhelmingly passed by the lower house, but rejected in the Senate.⁴¹ Subsequently, amendments to a 2012 covenant between Jewish and Muslim organizations and the Government was made in July 2017, establishing that ritual slaughter is allowed insofar as it is “necessary to meet and does not exceed the actual needs of the communities in the Netherlands”.⁴² Despite this and a recommendation from the Council of State, the highest administrative court, that banning ritual slaughter would mean a “radical restriction” on freedom of religion or belief,⁴³ the Party for the Animals has tabled a new bill ready for consideration from autumn 2019.⁴⁴ With widespread support in society for a ban and a precedent established in Belgium, religious communities fear that a ban is inevitable. Further to this, Jewish leaders are also concerned that increased calls to regulate Jewish circumcisers, some of whom are not recognized medical caregivers,⁴⁵ and ongoing calls to ban the practice of circumcision will lead to further restrictions. Some members of Jewish communities fear that the adoption of such restrictive measures would force them to leave the Netherlands.

39. Concerns were also reported about several draft laws and policies that appear to target certain religious and belief communities. This includes draft legislation arising from the 2017 coalition agreement which attempts to limit funding from “unfree countries” used to “buy undesirable influence” and “abuse Dutch liberties”. A transparency law may also require all organizations to declare income amounts and their country of origin, which some *kerkgemeenschappen* and other organizations are concerned will deter funders. Discussions are under way on drafting an additional “funding from unfree countries” law in 2019, which might further prohibit Dutch civil society organizations from obtaining funding from specific countries, including those countries that prohibit Dutch funding. A “problematic behaviour bill”, which would seek to limit so-called undesirable acts stemming from religiously or ideologically motivated behaviour deemed contrary to Dutch values and the

³⁷ See www.equalitylaw.eu/downloads/4511-the-netherlands-nihr-regards-an-overall-headscarf-ban-for-police-officers-as-discriminatory-pdf-135-kb.

³⁸ Koen Damhuis, “The biggest problem in the Netherlands: understanding the Party for Freedom’s politicization of Islam”, *The One Percent Problem: Muslims in the West and the Rise of the New Populists* (Brookings Institution report, 24 July 2019).

³⁹ European Commission against Racism and Intolerance, “ECRI report on the Netherlands” (Strasbourg, Council of Europe, 2019).

⁴⁰ Mansvelt Beck, *How we do things here*.

⁴¹ See www.partijvoordedieren.nl/standpunten/onverdoofd-ritueel-slachten.

⁴² Addendum bij het covenant onbedwelmd slachten volgens religieuze riten.

⁴³ See www.nd.nl/nieuws/nederland/raad-van-state-noemt-verbod-op-ritueel-slachten.3377602.lynkx.

⁴⁴ See www.partijvoordedieren.nl/nieuws/wetsvoorstel-verbod-op-onverdoofd-slachten-naar-kamer.

⁴⁵ See <https://nos.nl/nieuwsuur/artikel/2286939-niet-artsen-besnijden-jongens-tegen-de-wet-in.html>.

rule of law, is also under consideration. Definitions in these acts and proposed government responses have not yet been developed.

40. Many organizations worry that these bills are being drafted within the context of increasing discrimination against Muslims and that some aspects of freedom of religion or belief are being undermined. The Special Rapporteur asserts that all measures being pursued by the Government must be fully compliant with international law and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, including provisions for religious groups to maintain charitable and humanitarian institutions, and the obligation not to discriminate in intent or in effect against any persons or groups, in the enjoyment of any of their fundamental human rights, including those enshrined in article 27 of the International Covenant on Civil and Political Rights, except on the basis of objective and reasonable criteria and in conformity with the requirements of proportionality, necessity and legality.

(b) Religious education

41. There are almost 6,800 primary and 1,450 secondary special religious schools financially supported by the Government and 17 types of them, including Hindu, Jewish and Protestant, according to the Ministry of Education and Culture. Approximately 71 per cent of government-funded public schools have a religious, humanist or philosophical basis and the Government guarantees equal support for religious and non-religious schooling, regardless of pupil numbers.

42. The Constitution permits all schools to choose material for implementing the national curriculum and to independently appoint teachers (art. 23 (6)). Consequently, religious education about sexual health and civic education differ widely between schools. Under article 23 of the Constitution, schools have the right to mandate children to conform to the specified religion of a school,⁴⁶ a right that has been criticized in the parliament, where the belief that integration requires the dismantling of special schools has been promoted.⁴⁷ For example, the freedom of the Cornelius Haga Lyceum, a school adhering to Orthodox Islamic teaching, to advance its curriculum has been under intense public scrutiny.

43. Initiatives that foster literacy about religions are not mandated by the Government, but where such programmes have been promoted, some parents have complained.⁴⁸ Education on Protestantism, Catholicism, Islam, Hinduism, Buddhism and humanism is funded by the Government, although few people are aware of these opportunities or deem it important. Humanism is the most requested and widely taught school of thought in the country.

(c) Discrimination based on, or involving, religion or belief

44. In 2018, Dutch anti-discrimination bureaux received 4,320 allegations of discrimination, a 16 per cent drop from 2017, when there was only a 1 per cent decrease from 2016.⁴⁹ Seven per cent of reports in 2018 and 13 per cent in 2017 involved religion. Of those, 66 per cent in 2018 and 31 per cent in 2017 involved Muslims. Only 1 per cent of cases reported in 2017 and 2018 involved antisemitism, which is disaggregated for monitoring purposes. Forty-five per cent of cases reported in 2018 involved race or ethnicity, an increase from 38 per cent in 2017.

45. The Dutch police received 3,299 reports of acts of discrimination in 2018, 5.7 per cent fewer than 2017, constituting a 20 per cent decrease since 2016.⁵⁰ Five per cent of incidents related to religious identity compared to 6 per cent in 2017, and of these, 88 per

⁴⁶ See www.kis.nl/sites/default/files/bestanden/Publicaties/jongeren-religie-onderwijs.pdf.

⁴⁷ Mansvelt Beck, *How we do things here*, p. 158.

⁴⁸ Ajay Nair, "Parents outraged at curriculum as video emerges of children learning to pray at mosque", *Express*, 30 December 2016.

⁴⁹ See www.discriminatie.nl/files/2019-04/landelijke-rapportage-discriminatiecijfers-2018-2-16.4.2019.pdf.

⁵⁰ *Ibid.*

cent and 91 per cent, respectively, were recorded as involving anti-Muslim hatred. Antisemitism incidents comprised 8 per cent of cases in 2018 and 2017. Some 43 per cent of cases involved race or ethnicity in 2018, an increase from 39 per cent in 2017.

46. The Netherlands Institute for Human Rights received 510 requests for a judgment in 2018, an increase from 416 in 2017, and 3,168 questions and reports were processed through its equal treatment office. Meldpunt Internet Discriminatie received 583 complaints in 2018, a large decrease from 1,367 in 2017. Some 216 cases reported in 2018 involved religion-related discrimination, 71 (12 per cent) of which involved religious hate speech, nearly all of which was directed at Muslims.

47. Dutch officials candidly discussed the impact of discrimination on the basis of religion or belief on the social and economic rights of religious or belief minorities and ethnic minorities in the country, noting widespread discrimination in the labour market. A study published in July 2019 found that unemployment was nearly three times higher among religious or belief minorities and ethnic minorities in the country, and drew attention to the fact that employers approached those with non-Western backgrounds 40 per cent less than non-migrant Dutch and 20 per cent less than those deemed to be Western migrants.⁵¹

48. A third of complaints made to anti-discrimination bureaux in 2018 were related to discrimination based on religion in the labour market. Nearly two thirds of these complaints involved discrimination against Muslims. Complaints often involve restrictions on the religious dress of employees or on their ability to observe religious holidays or worship needs, forcing members of various religious communities to choose between either their employment or their religion or beliefs. Muslim women are disproportionately affected by this form of discrimination wherever employers are unwilling to accommodate the wearing of religious attire or symbols.⁵² In 2017, the European Court of Justice determined that while employers can restrict the wearing of religious symbols, such restrictions must meet occupational requirements with legitimate and proportionate objectives, prohibiting differential treatment between workers.⁵³

49. Interlocutors also reported to the Special Rapporteur that students from minority religious communities at all attainment levels face discrimination when seeking compulsory internships, apprenticeships and employment opportunities. An investigation of 78 temporary work agencies demonstrated that almost half engaged in discriminatory practices.⁵⁴ Another study conducted from 2014 to 2016 estimated that between 25 and 33 per cent of Dutch-Moroccan and Dutch-Turkish students experienced discrimination, compared to 2 per cent of Dutch natives, and found that schools reportedly failed to provide sufficient support in those circumstances.⁵⁵ In response to these challenges, in November 2018 the Government launched a programme aiming at further integration in the labour market (Verdere Integratie op de Arbeidsmarkt),⁵⁶ along with campaigns targeting employers, government-led reviews of employer practices,⁵⁷ and programmes aimed at strengthening the capacity of migrant women to gain and maintain employment. These programmes offer toolkits for intensive applicant guidance and recruitment and selection to address labour market discrimination.

⁵¹ See www.uva.nl/content/nieuws/persberichten/2019/07/gediscrimineerde-sollicitant-kan-weinig-doen-om-baankans-te-vergroten.html?origin=C7qo0vSuQiCeMfPYaosIew&1563350113670&1567512877217&1581059739276; https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fADR%2fNLD%2f33470&Lang=en; CBS, “Well-being not distributed equally”, 16 May 2018.

⁵² See www.kis.nl/sites/default/files/bestanden/Publicaties/jongeren-religie-onderwijs.pdf.

⁵³ See <https://blog-iacl-aicd.org/test-3/2018/5/26/analysis-european-court-of-justice-allows-bans-on-religious-dress-in-the-workplace>.

⁵⁴ European Commission against Racism and Intolerance, “ECRI report on the Netherlands”.

⁵⁵ Đermana Šeta, “Forgotten women: the impact of Islamophobia on Muslim women” (Brussels, European Network Against Racism, 2016).

⁵⁶ See www.rijksoverheid.nl/documenten/kamerstukken/2019/02/12/kamerbrief-over-voortgang-kabinetsaanpak-van-discriminatie.

⁵⁷ See www.rijksoverheid.nl/documenten/kamerstukken/2018/11/22/kamerbrief-implementatieplan-arbeidsmarktdiscriminatie-2018-2021.

50. Reports about discrimination experienced by asylum seekers seeking residency in the country were also conveyed to the Special Rapporteur. Balancing the competing interests, needs and sensitivities of diverse religious or belief groups and ethnic groups that are being hosted in communal spaces has been difficult, leading managers of these centres to place limits on freedom of religion or belief.

51. The Central Agency for the Reception of Asylum Seekers does not, for example, allow religious practices to be carried out in communal areas in order to avoid inflaming tensions among different groups in an already sensitive environment. Restrictions have been placed on the private rooms of residents, and group worship is not permitted. Individuals are directed to external locations to engage in religious services, but access to these places has been difficult for many. Insufficient religious literacy among staff and a lack of practical training to address tensions that arise between residents of different backgrounds, including those who are not religious or are in a minority in terms of their sexual orientation or gender identity, were also reported.

(d) Antisemitism

52. Tackling antisemitism for the more than 29,800⁵⁸ Dutch Jews was declared a national priority with US\$ 3.35 million earmarked in May 2019 for combating the phenomenon.⁵⁹ In November 2018, the Netherlands endorsed the International Holocaust Remembrance Alliance working definition of antisemitism. Around 20 per cent of Dutch Jews are members of Jewish organizations and an estimated 30 per cent of synagogues in the Netherlands are used for religious purposes. Two primary and two secondary schools serve the community.

53. Antisemitic attitudes in the Netherlands emanate from the political far-left, far-right and from Islamic extremist groups.⁶⁰ Members of the DENK political party have reportedly promoted harmful stereotypes about Jewish persons, including the notion that Jews control Dutch politics.⁶¹ The number and intensity of antisemitic incidents have correlated with escalations in Israeli military operations. The primary antisemitism monitor in the Netherlands, the Center for Information and Documentation Israel, has documented a timeline of incidents it deems antisemitic during recent Boycott, Divestment, Sanctions and pro-Palestinian protests in Dam Square, Amsterdam. Soccer fans, some of whom sing antisemitic chants at teams such as Amsterdam's Ajax who refer to themselves as "the Jews", vandalized buildings and a statue with swastikas and antisemitic texts before a match in February 2019.⁶²

54. The police and three government ministries are responsible for Jewish community relations, antisemitism policy and monitoring. The Center for Information and Documentation Israel noted a 19 per cent increase in antisemitic incidents in 2018, its highest recorded number since 2014.⁶³ The police recorded a steady decrease from 428 incidents in 2015 to 275 in 2018,⁶⁴ and reports to anti-discrimination bureaux were significantly lower. Online antisemitism is experienced by a wider audience than offline incidents. Twenty-five per cent of Meldpunt Internet Discriminatie's 583 online discrimination cases involved antisemitism.⁶⁵ The Center for Information and

⁵⁸ See https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-young-jewish-europeans_en.pdf.

⁵⁹ Cnaan Liphshiz, "The Netherlands makes fighting antisemitism a national priority", Jerusalem Post, 1 June 2019.

⁶⁰ Annemarike Stremmelaar and Leo Lucassen, *Antisemitism and Immigration in Western Europe Today: Is there a connection?* (Berlin and London, Foundation EVZ and Pears Institute for the study of Antisemitism, 2018).

⁶¹ United States Department of State, "2018 report on international religious freedom: the Netherlands"; www.cidi.nl/wp-content/uploads/2019/03/MonitorAntisemitischeIncidenten2018.pdf.

⁶² Associated Press, "Vandals paint swastikas on buildings in Amsterdam", 22 February 2019.

⁶³ Centrum informatie en documentatie Israel, "Netherlands: monitor anti-Semitic incidents 2018, summary report", March 2019.

⁶⁴ United States Department of State, "2018 report on international religious freedom: the Netherlands".

⁶⁵ See www.discriminatie.nl/files/2019-04/landelijke-rapportage-discriminatiecijfers-2018-2-16.4.2019.pdf; statistics submitted by Meldpunt Internet Discriminatie to the Special Rapporteur.

Documentation Israel registered 95 cases of online antisemitism, including on social media, forums and websites.⁶⁶

55. The European Union Agency for Fundamental Rights found that the Netherlands had one of the highest reporting rates (about 25 per cent of incidents reported in the European Union), but only of the most serious type of antisemitic incidents. While 77 per cent of those surveyed by the Agency knew where to report discrimination,⁶⁷ underreporting is understood to be significant. Despite some reparation efforts after the Second World War, many individuals the Special Rapporteur interviewed remain sceptical about the willingness in Dutch institutions to tackle antisemitism, often highlighting police failures to recognize antisemitic slurs along with failures of some monitors to accurately identify antisemitic incidents.

56. Antisemitic incidents have often occurred in the immediate vicinity of where victims live, involving slurs from neighbours (about 75 per cent of cases), insults and swastikas or antisemitic graffiti and threats drawn on walls, mailboxes, memorial sites or personal property.⁶⁸ The Centre for Information and Documentation Israel recorded 7 physical assaults in 2016 and 2017, including on two Orthodox Israeli tourists, and 49 acts of vandalism in 2017 and 2018, including graffiti stating “ Hamas, all Jews to the gas” in North Holland.⁶⁹ In January 2017, Amsterdam District Court convicted four men for carrying neo-Nazi banners and wearing antisemitic nose stickers in a protest.

57. Jewish community members face hostility in public spaces, including educational institutions where some students struggle to observe Jewish holidays while meeting course requirements. Ritual slaughter and *negiah* (not shaking hands with the opposite sex) are viewed sceptically and publicly debated. Those wearing religious symbols and garments including the *kippah* have been targets of discrimination or direct confrontation, resulting in increasing numbers who prefer to hide their Jewish identity, including when seeking employment. The increasing security need, frequently necessitating communities to protect themselves, and resulting sense of insecurity especially around Jewish gatherings and schools, compounded by the authorities’ initial reluctance to provide security, was frequently raised in interviews with the Special Rapporteur. Some 71 per cent of the 1,209 individuals surveyed by the European Union Agency for Fundamental Rights considered public hostility to Jews a “very” or “fairly” big problem; 35 per cent had experienced harassment and 26 per cent offensive or threatening comments, driving some to consider emigration.⁷⁰

58. With the National Anti-Discrimination Action Programme as a basis, the Government undertakes a broad range of measures to tackle antisemitism, including in the context of law enforcement, education and project-based efforts.⁷¹ Various non-governmental organization and government-led initiatives that advance dialogue and relationship-building exist, including “Get to know your neighbours”⁷² (inviting students into synagogues, led by the Liberal Jewish Congregation of Amsterdam); “Mo & Moos” (Mohammad and Moshe, bringing together young Muslim and Jewish professionals, led by the non-governmental organizations Salaam-Shalom and Platform for Islamic Organizations in Rijnmond); the government-supported “Saïd and Lody” (a Moroccan youth worker and a rabbi promoting student connection); and the government-supported “Building Bridges”, where volunteer teams from different backgrounds, including Judaism,

⁶⁶ See www.discriminatie.nl/files/2019-04/landelijke-rapportage-discriminatiecijfers-2018-2-16.4.2019.pdf.

⁶⁷ European Union Agency for Fundamental Rights, *Experiences and perceptions of antisemitism: second survey on discrimination and hate crime against Jews in the EU* (Luxembourg, Publications Office of the European Union, 2018).

⁶⁸ United States Department of State, “2018 report on international religious freedom: the Netherlands”.

⁶⁹ Centrum informatie en documentatie Israel, CIDI Monitor Anti-Semitism 2017 – English Summary – March 2018.

⁷⁰ European Union Agency for Fundamental Rights, *Experiences and perceptions of antisemitism*.

⁷¹ Netherlands, Ministry of the Interior and Kingdom Relations, *National Action Programme for Anti-discrimination: Progress Report to Parliament*. Parliamentary Papers, House of Representatives, 2017–2018, 30 950 No. 156 (The Hague, 26 April 2018).

⁷² United States Department of State, “2018 report on international religious freedom: the Netherlands”.

appeased local tensions. The Anne Frank Foundation's Fan Coach Project, supported by the Government, helped reduce antisemitic sentiment among soccer fans. Maintenance and expansion of Holocaust remembrance centres, including Westerbork, and survivor speaker school visits are government-funded and Holocaust remembrance is marked annually across the country.

(e) **Anti-Muslim sentiment**

59. Anti-Muslim sentiment and harassment remain widespread in the Netherlands,⁷³ despite the policies and programmes the Government has put in place. According to official statistics, places of worship and members of Muslim communities experience an estimated 88–91 per cent of the hate crimes documented by the police (192 in 2017 and 197 in 2018, a decrease from 439 in 2015) and human rights monitors in the country,⁷⁴ including vandalism and harassment. Although research demonstrates that Muslims rarely report incidents of discrimination,⁷⁵ official statistics submitted to the Special Rapporteur show that 66 per cent (202) of these incidents in 2018 and 31 per cent (190) in 2017 were motivated by anti-Muslim attitudes.

60. The Special Rapporteur heard reports of Muslims being portrayed as terrorists in the media and that such portrayals were generating mistrust among these communities. Many claimed to believe, for example, that their communities are constantly under surveillance and prone to frequent harassment. Muslims' beliefs and practices have received disproportionate public attention in recent decades, constituting a central theme for the Party for Freedom, which holds 13.3 per cent of lower house seats and whose leader deems Islam "the biggest problem in the Netherlands".⁷⁶ In the run-up to the 2017 elections, he declared, "if we don't do something right now, the Netherlands will soon be an Islamic country", a statement accompanied by a provocative call for a Prophet Muhammad cartoon contest and calls from fellow Party for Freedom politicians for all mosques to be closed.⁷⁷ Mr. Wilders was found guilty of insult and incitement to discrimination on racial grounds for his comment that he would "take care" of having "fewer Moroccans in the country". He was acquitted of incitement to hatred and the Court imposed no punishment. Both Mr. Wilders and the Public Prosecutor appealed the judgment.⁷⁸ Forum for Democracy, a new party positioning itself as a moderate version of the Party for Freedom, became the largest party in the 2019 provincial elections. The parliamentary group leader for Forum for Democracy in the Senate, Paul Cliteur, has critiqued the architecture of mosques as "intentionally provocative" and highlighted difficulties in guaranteeing safety for citizens critical of Islam in his book *Theoterrorism v. Freedom of Speech*.⁷⁹ Members of the Patriotic Europeans Against the Islamisation of the West political movement have periodically staged protests outside mosques, some of which have involved pork barbecues.

61. The growth of anti-Muslim sentiment in Dutch society was frequently linked by interviewees to the rise in terror incidents taking place across Europe and North America, including the murder in 2004 of film-maker Theo van Gogh by Dutch Moroccan Mohammed Bouyeri, allegedly for his film, *Submission*. Research has indicated that in more than 600,000 Dutch news items in 2016 and 2017, the adjectives most used to describe Muslims were "radical", "extremist" and "terrorist".⁸⁰

⁷³ European Union Agency for Fundamental Rights, *Second European Union Minorities and Discrimination Survey: Muslims – Selected findings* (Luxembourg, Publications Office of the European Union, 2017).

⁷⁴ Meldpunt Internet Discriminatie received 67 reports of anti-Muslim online incidents (94 per cent of religious cases) in 2018 and 185 in 2016 (98 per cent), a significant decrease on the 472 reports received in 2015.

⁷⁵ See www.spior.nl/wp-content/uploads/2016/05/Rapport-Islamofobie-in-Zicht.pdf.

⁷⁶ Damhuis, "The biggest problem in the Netherlands".

⁷⁷ See www.tweedekamer.nl/kamerstukken/plenaire_verslagen/kamer_in_het_kort/debat-over-eeen-door-turkije-gedichteerde-jihadpreek.

⁷⁸ See www.equalitylaw.eu/downloads/3968-the-netherlands-wilders-found-guilty-of-insulting-a-group-and-incitement-to-discrimination-on-grounds-of-race-pdf-138-kb.

⁷⁹ Damhuis, "The biggest problem in the Netherlands".

⁸⁰ European Commission against Racism and Intolerance, "ECRI report on the Netherlands".

62. A 2017 survey found that Dutch Muslims' feelings of attachment to the country were the second lowest and that their trust in the police was the lowest in the 15 European Union countries surveyed.⁸¹ Nearly two thirds of teachers surveyed in another study said that they had witnessed incidents they regarded as discriminatory against Muslims in the classroom and 61 per cent reported that they had witnessed harassment of or hostile comments towards Muslims.⁸²

63. Moreover, Dutch dual nationals reported that their freedom of movement was often limited by fears that travel to regions deemed to be security threats under the Acts on nationality and on temporary administrative counter-terrorism would lead to revocation of their Dutch citizenship. Muslim communities also raised concerns about the selectivity of a Government programme requiring compulsory language training and integration courses for foreign imams, which is not always required for other religious communities.

64. Muslim women in the Netherlands can be particularly vulnerable to discrimination and violence motivated by or involving religion or belief. They are disproportionately affected by phenomena that effectively result in discriminations against their communities, including regulations that limit their ability to wear religious clothing and discriminatory practices that undermine their equal treatment in the labour market. They also disproportionately experience social ostracization in public places and are 70 per cent more likely to be violently attacked. In the first half of 2015, women were the victims in 90 per cent of the 89 complaints made to Meld Islamofobie (Report Islamophobia), nearly all of whom were identifiable because of their Islamic dress.⁸³

65. The Act on the partial ban on face-covering clothing, first introduced in 2005, came into force on 1 August 2019. It bans clothing that covers the face, including niqabs, burkas, balaclavas and helmets, in some public spaces such as schools, hospitals, public transport and government buildings where the Government says that "it is necessary to recognize each other and see each other's faces".⁸⁴ Offenders risk a fine of up to €415. Civil society interlocutors highlighted the law's disproportionality in the face of its goal to reduce security threats that the estimated 150 to 200 women in the Netherlands regularly wearing face veils might pose. Interlocutors deem the law to be symbolic, targeting and attempting to assimilate a specific religious community, influenced by calls from some political parties.⁸⁵ A transport network spokesperson stated that "veils have never been a problem" with "women always willing to show their faces when asked".⁸⁶ Geert Wilders welcomed the ban and called for the next step to be taken to ban the headscarf.⁸⁷ Muslim communities highlight the law's impact in perpetuating discrimination against Muslim women and their ability to perform daily activities including picking up children from school or visiting health-care providers. Some women report that their mobility and their freedom of religion or belief has been drastically limited as they are now forced to choose between their faith and their ability to engage in their daily lives. Public transport providers do not have the power to enforce the ban,⁸⁸ but in July 2019, in an issue of a Dutch national newspaper, *Algemeen Dagblad*, it was claimed that citizens were permitted to carry out civil arrests if

⁸¹ European Union Agency for Fundamental Rights, *Second European Union Minorities and Discrimination Survey*.

⁸² Stremmelaar and Lucassen, *Antisemitism and Immigration in Western Europe Today*.

⁸³ Šeta, "Forgotten women".

⁸⁴ See www.rijksoverheid.nl/onderwerpen/gezichtsbedekkende-kleding-in-de-media-boerkaverbod/vraag-en-antwoord/waarom-is-er-een-gedeeltelijk-verbod-op-gezichtsbedekkende-kleding; www.government.nl/topics/ban-on-face-coverings-referred-to-in-the-media-as-the-%E2%80%98burka-ban%E2%80%99/question-and-answer/what-does-the-partial-ban-on-face-coverings-entail.

⁸⁵ See <https://forumvoordemocratie.nl/standpunten/wet-bnw>.

⁸⁶ DutchNews.nl, "Dutch transport firms won't enforce 'unworkable' burka ban", 26 July 2019.

⁸⁷ Mike Corder (Associated Press), "Partial Dutch ban on face-covering clothing takes effect", 1 August 2019.

⁸⁸ Ibid.

someone refused to remove their face veil, which raises alarm about risks of violence to women.⁸⁹

66. Public reaction to the ban has been divided, with some protesting against it,⁹⁰ some offering to pay fines enforced on face veil wearers,⁹¹ and others establishing a “burqa buddy” system through social media to accompany women wearing face veils in public.⁹² Some mayors, including those of Amsterdam, Rotterdam and Utrecht, have indicated that while it is law, enforcing the ban is not their priority and fines will not be actively imposed.⁹³ Some therefore question whether the law will not be reviewed in future years. The Government must demonstrate how the law complies with the limitations regime provided under international human rights law, with regard to both articles 18 and 19 of the International Covenant on Civil and Political Rights, and also that it does not violate women’s rights to access services such as health care.

67. Other civil society-led initiatives aimed at tackling the above-mentioned issues include programmes that foster safe spaces for worship and that raise awareness about and strive to combat discrimination. However, much more needs to be done to build more resilient, inclusive communities where individuals, particularly members of newer communities, are afforded equal protections for their human rights.

VI. Conclusions

68. The Netherlands possesses the requisite legal and policy framework for promoting and protecting the enjoyment by all persons of the right to freedom of thought, conscience, and religion or belief. The Government’s investments in strategies and programmes for monitoring, reporting and responding to developments that undermine the equal enjoyment of this right have been extensive and laudable. A good example is the National Action Programme for Anti-Discrimination, which is designed to combat all forms of discrimination. Political expediency, however, risks undermining the substantial framework already in place to address these issues. The core challenges facing the Government as it grapples with the ongoing development of a multi-ethnic society are both familiar and new. Unlike the country’s responses to the challenges engendered by society’s diversification in earlier periods, however, the Netherlands is in the process of tackling discrimination by building an inclusive, rather than segregated, society capable of accommodating all persons, regardless of the religions, ideologies or beliefs they may hold.

69. Such an endeavour is bound to be arduous and slow, and consequently, intolerance and discrimination against religious and ethnic minorities will continue to be a feature of that process in years to come in the Netherlands. These circumstances threaten social cohesion and are provoking increasingly myopic responses that threaten to undermine the protections for freedom of religion or belief historically enjoyed by the Dutch people, as well as a range of other human rights on which this right depends for its full enjoyment. Long-established religious communities, including Jewish and Muslim communities, are concerned about proposed legislation and policy that seek to intervene in their affairs, and about narratives that appear to incite hostility and discrimination against them.

70. The Government appears to be quite cognizant and reflective about many of the issues of concern outlined in this report which have, no doubt, contributed to their proactive practices. Initiatives aimed at addressing these concerns have not yet

⁸⁹ See www.ad.nl/binnenland/vier-vragen-beantwoord-over-het-boerka-verbod-br~a8b9ed9a/?referrer=https://www.google.com/&referrer=https://mail.google.com/mail/u/0/.

⁹⁰ See www.at5.nl/artikelen/195932/pvda-raadslid-demonstreert-in-boerka-tijdens-canal-parade.

⁹¹ See www.trouw.nl/binnenland/nida-gaat-boetes-van-nikabdraagsters-betalen~bb5145ea/?utm_campaign=shared_earned&utm_medium=social&utm_source=whatsapp.

⁹² Markha Valenta, “Banning a burqa that doesn’t exist – the cowardice of Dutch politics and the courage of those who resist”, *Open Democracy*, 12 August 2019.

⁹³ Janene Peters (NL Times), “Burka ban takes effect: no face-covering clothing in gov’t buildings, public transport”, 1 August 2019.

generated the desired comprehensive, systematic change within society, but efforts to strengthen the capacity of frontline defenders, including the police, social workers, human rights defenders, lawyers, doctors and teachers, to foster environments where human rights principles can be promoted and respected, should continue to be supported.

VII. Recommendations

71. The Special Rapporteur notes that a human rights-based approach to addressing the challenges facing the Netherlands, including the need to combat intolerance and discrimination based on religion or belief, is necessary in order to avoid the setbacks that security-based or populist responses to tensions between diverse communities often beget. In this regard, the Special Rapporteur recommends that Government officials continue to be inclusive in their efforts to promote “Dutch” values, especially where those efforts give rise to policies or initiatives that may impact human right protections. Attempts to integrate members of newer communities should strive to respect the right of persons to enjoy the right to freedom of religion or belief, and authorities should also be mindful of the fact that discrimination against persons on this basis ostensibly perpetuates coercive environments incapable of fostering social cohesion and respect for human rights principles.

72. Enhanced coordination across government ministries, agencies and institutions is necessary for improving monitoring and for strengthening responses to challenges to freedom of religion or belief. In this regard, the Special Rapporteur recommends that the Government:

(a) Continue to facilitate and encourage interfaith initiatives, sharing best practice with international partners, and enhance police and local authority training, capacity and confidence to communicate with religious or belief communities so that issues are heard and confidence to report discrimination increased;

(b) Strengthen the capacity of and cooperation between the anti-discrimination bureaux and the police, ensuring trained specialists are consistently present to increase ease of reporting of incidents involving discrimination based on religion or belief or incitement to hatred and to ensure that victims understand the range of responses available to them;

(c) Establish a focal point within the Government to tackle discrimination based on religion or belief, including through efforts to identify and prosecute discriminatory practices, as stipulated in international and national legal provisions;

(d) Periodically review the sufficiency of the provisions of the Criminal Code to identify provisions, processes and procedures that may perpetuate discrimination based on religion or belief;

(e) Use the guidance provided by the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence in order to strengthen mechanisms for monitoring and responding to different forms of intolerance and discrimination on religious or belief grounds and to actively respond to intolerant political speech that risks incitement to hostility, discrimination and violence on the basis of religion or belief.

73. The Special Rapporteur further recommends that the Government:

(a) Encourage representation of communities at all levels of government, regardless of religion or belief, and work with civil society and media platforms to promote positive images of and narratives about the members of newer Dutch communities to combat stereotyping and discriminatory attitudes;

(b) Continue to support initiatives that explore the root causes of discrimination and intolerance in the Netherlands, as well as those that promote religious literacy, and raise awareness about these initiatives;

(c) **Support initiatives aimed at combating antisemitism, anti-Muslim hatred and other intolerance through training teachers to teach the importance of religion or belief for Dutch citizens, encouraging student respect through exposure to and dialogue with different religions or beliefs as part of or alongside citizenship education.**

74. **Furthermore, the Government should consider revisiting the partial face-covering clothing ban to identify a more proportionate response to security concerns that does not violate women's rights to freedom of movement and to equally access public services.**

75. **The authorities should encourage open debate about the definition of Dutch values to ensure that these standards are reflective of Dutch society as a whole, and to prevent discriminatory perspectives from informing policies that are integral to fostering social cohesion.**

76. **Officials are encouraged to consider supporting programmes that strengthen the capacity of staff responsible for working with individual asylum seekers to more expertly develop measures for tackling conflicts that may arise between groups while respecting freedom of religion or belief rights.**

77. **The Special Rapporteur notes that civil society and religious communities play a vital role in advancing inclusion, empathy and solidarity across communities and the need to sustain interfaith solidarity and understanding. Religious communities and civil society should encourage members to report discrimination to the authorities wherever it appears. They should work collaboratively to combat occurrences of hostility and discrimination, regardless of the identity of the victims, in order to effectively advance human rights protections for all.**
