

ADVANCE VERSION

Distr.
LIMITED

A/HRC/WG.6/1/L.13
... April 2008

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
First session
Geneva, 7-18 April 2008

**DRAFT REPORT OF THE WORKING GROUP ON THE
UNIVERSAL PERIODIC REVIEW**

The Netherlands

CONTENTS

Paragraphs Page

I. INTRODUCTION

II. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

A. Presentation by the State under review

B. Interactive dialogue and responses by the State under review

III. CONCLUSIONS AND/OR RECOMMENDATIONS

Appendix - Composition of the delegation

I. INTRODUCTION

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its first session from 7 to 18 April 2008. The review of the Netherlands was held at the 13th meeting on 15 April 2008. The delegation of the Netherlands was headed by H.E. Ms. Nebahat Albayrak, State Secretary for Justice, Ministry of Justice. For the composition of the delegation, composed of 18 members, see appendix below. At its 17th meeting held on 18 April 2008, the Working Group adopted the present report on the Netherlands.
2. On 28 February 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of the Netherlands: Peru, Pakistan, Nigeria.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of the Netherlands:
 - (a) A national report submitted / written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/1/NLD/1);
 - (b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/1/NLD/2);
 - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/1/NLD/3).
4. A list of questions prepared in advance by Denmark, Finland, Italy, the United Kingdom of Great Britain and Northern Ireland, France and Sweden was transmitted to the Netherlands through the troika. These questions are available on the extranet of the Universal Periodic Review.

II. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

A. Presentation by the State under review

5. At the 13th meeting on 15 April 2008, the State Secretary for Justice, Ministry of Justice, introduced the national report. She noted that there is currently an active discussion about fundamental human rights in the Netherlands, and that human rights have a strong basis in legislation, policy and enforcement process of the Netherlands. She stressed that the Netherlands does not expect only to receive compliments during the review, but is open to criticism and suggestions. She indicated that as a part of the Kingdom of the Netherlands, the Netherlands Antilles and Aruba also subscribe to many United Nations treaties and underlined that the representatives of the Netherlands Antilles are here as part of the delegation of the Netherlands.
6. Dutch society is characterized by pluralism with a wide range of ideologies, beliefs, lifestyles and value patterns. Freedom makes this pluralism possible. The Constitution of the Netherlands and human rights conventions have anchored these freedoms and are therefore a source of shared basic values. The State Secretary for Justice stressed that the Constitution does not have any order of precedence for the fundamental rights. Case law offers good insight into specific situations in which one fundamental right weighs more heavily than another.

7. Regarding prevention of terrorism, the State Secretary for Justice noted that respect and attention for human rights and the rule of law are starting points. She indicated that the Netherlands combats radicalization that precedes terrorist activities. One of the factors contributing to radicalization is the lack of political freedom and room for political and social participation. The promotion of good governance and the rule of law as well as respect for basic human rights and for cultural and religious diversity can contribute to the prevention of this radicalization. She also highlighted the importance of promoting the rule of law, which is conducive to the de-legitimization of the use of violence by groups of citizens. This includes countering the instigation of violence the Internet, other media, in education and religious institutions.

8. The Netherlands is building an effective mechanism to counter terrorism in the earliest possible stages. While this may mean that certain persons and organizations will have to be observed more closely, measures for combating terrorism are defined by law and enforced under legal supervision.

9. The Netherlands respects the absolute nature of the prohibition of torture in expulsion cases of terrorist suspects because human rights apply to everyone. This means that no one liable to Netherlands jurisdiction will ever be knowingly and wilfully subjected to treatment contrary to the provisions dealing with the right to life and the prohibition of torture. This is equally true for terrorist suspects and persons who fall within the scope of article 1F of the 1951 Convention relating to the Status of Refugees.

10. Human rights have a prominent role in addressing human trafficking and prostitution. The Netherlands combats trafficking and all related criminal activities fervently. The Netherlands is also the first country to have established an independent National Rapporteur on Human Trafficking in 2000. The Netherlands has imposed a period of reflection of three months, during which victims of trafficking can carefully consider whether or not they wish to cooperate with the police. Victims that decide to do so will receive a temporary residence permit. Those who do not cooperate can request a residence permit on special and individual grounds. Human rights also have an important role regarding Dutch policy on prostitution. The Netherlands lifted the ban on brothels in 2000. This has given the responsible authorities more and better possibilities to improve the position of sex workers, for example in the areas of safety, health and working conditions.

11. The State Secretary for Justice noted that the prevention and combating of discrimination is another issue requiring special attention. Discrimination, on whichever grounds, cannot be permitted. Consequently, prevention and combating discrimination require a substantial effort by the Government. Dutch laws prohibit discrimination and punish those breaking such laws. The Netherlands supports the victims of discrimination and has developed a new national infrastructure of antidiscrimination bureaus to assist the victims. The Netherlands is aware of the changes in its society since 2001 and has taken a wide range of measures to counter social divisions and the hardening of social attitudes. A policy plan is currently being developed that aims at combating racial discrimination on the labour market, in law enforcement, criminal investigation and on the Internet. The Netherlands strongly believes that real interaction between people of different backgrounds will help to combat discrimination and Islamophobia in the country. Respecting the

freedom of Muslims to practise their religion is also a key theme of integration policies and is in line with a longstanding tradition of freedom of religion in the Netherlands.

12. The improvement of women's rights and emancipation remain important. The State Secretary for Justice stressed that the main issues in the policy of the Netherlands are labour participation, the position of women and girls from minority groups, safety and international emancipation policy. There is a special portfolio, the Minister for Emancipation, tasked with the coordination of the emancipation policy. All involved departments have their own responsibilities related to this issue.

13. She noted that the appointment of a Minister for Youth and Family, among other measures, shows the importance paid to children's rights by the Netherlands. In part as a result of the United Nations Study on Violence against Children, the Netherlands developed the Action Plan on Child Abuse "Children Safe at Home", with the objective to reduce the number of cases of child abuse. Activities are aimed at prevention, discovery, stopping and damage control.

14. The State Secretary for Justice addressed the written questions asked in advance by States. With regard to the question by Italy, she indicated that the Netherlands is currently preparing for the final decision-making on the establishment of an easily identifiable, effective and efficient national institution for the protection and promotion of human rights, operating in accordance with the Paris Principles. Several very valuable institutions are already active, such as the Data Protection Authority, the National Ombudsman and the Equal Treatment Commission. Careful consideration is necessary to decide on the most suitable place for this new institution within this existing field of institutions.

15. In response to a question by France on the signature of the International Convention on the Protection of All Persons from Enforced Disappearance, the State Secretary for Justice noted that on 11 April, the Council of Ministers decided to authorize the Permanent Representative of the Netherlands to the United Nations to sign this Convention. Regarding the question by the United Kingdom on the involvement of civil society in the preparation of the national report, the State Secretary for Justice noted that the Government consulted over 20 organizations representing ethnic minorities, women, children, refugees, aliens, homosexuals, detainees and many more.

16. In response to the question by the United Kingdom on measures concerning garments covering the face, the State Secretary for Justice informed that the Netherlands considers wearing clothing that completely covers the face as undesirable. Wearing such clothing impedes open communication between people and equal opportunities for men and women. It also hampers the position of women in social transactions. At the same time, wearing Islamic face-covering clothing such as the burka or niqāb is a form of religious expression, and religious freedom may only be restricted in specific and closely defined situations.

17. With regard to the United Kingdom's concern about de facto segregation in the field of education, she confirmed that this is a serious problem and addressing it is one of the priorities of this Government. She noted that the establishment of a centre for mixed schools is one of the measures, but that there are others. In response to the question by Italy

regarding human rights education, primary and secondary schools choose their own programmes and educational resources within the framework of the so-called attainment targets and examination requirements set by the Netherlands.

18. On the question by Sweden about violence against women, following the report of Special Rapporteur on violence against women, she indicated that the Netherlands is working on a new action programme on domestic violence. Extra attention will be paid to prevention and early identification of domestic violence. Policy will focus on removing obstacles with respect to the exchange of information between professionals in the field of domestic violence.

B. Interactive dialogue and responses by the State under review

19. During the ensuing interactive dialogue, a number of delegations welcomed the national institutional framework of the Netherlands as well as its commitment and achievements in the field of promoting and protecting human rights. The Netherlands was also praised for the high quality of its presentation and its national report, including the participatory and cooperative approach adopted for its preparation. Numerous delegations commended the Netherlands on its frank recognition of remaining challenges and issues. During the interactive dialogue, 37

23. By quoting a recent poll indicating support among the Dutch society for the reinstatement of the death penalty, Egypt asked what steps the Government intends to take to respond to such a popular demand. Egypt recommended that the Government initiate a debate on this issue, with a view to reaching conclusions consistent with international human rights law. Egypt recommended that the legality of prostitution be reconsidered given its impact on the realization of a whole range of rights; first and foremost, the fact that prostitution constitutes a flagrant violation of women's right to dignity. Egypt enquired about steps taken by the Government to stem a recent trend to exploit the phenomenon of migration for political gains and recommended that, consistent with the relevant obligations under international human rights law, a mechanism be established with a view to verifying that political parties and social institutions do not adopt racist or xenophobic programmes. With reference to the recent court ruling on statements made by the producer of the film "Fitna" not qualifying these as illegal hate speech but as being protected by the freedom to expression, Egypt recommended that Dutch lawmakers discharge their responsibility under ICCPR, in particular with regard to the prohibition of incitement to hatred by law, and enacting the necessary restrictions to protect the rights of others. Finally, with a view to helping to address the aforementioned problems, Egypt recommended that the Netherlands accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).

24. Canada requested further information on how the new programme "Dealing with Domestic Violence" will address concerns expressed by both the Committee on the Elimination of Discrimination against Women (CEDAW) and the Special Rapporteur on violence against women in respect to the persistence of violence against women, including domestic violence. Canada recommended continuing efforts to intensify the investigation and prosecution of racial hatred and related violence through criminal legal proceedings and other measures.

25. The United States of America referred to a recent poll suggesting that parts of the Dutch society have negative views of Islam. It further noted that Dutch Muslims often feel compelled to defend themselves against prejudices regarding their poor integration, a high level of criminal activity among Muslim youth, and views of conservative Muslims on women's rights, homosexuality, and corporal punishment. Also, religious and ethnic minorities often perceive that they are discriminated against. The United States asked the Netherlands about its strategies to better integrate religious and ethnic minorities.

26. The United Kingdom noted with some concern the delays the Netherlands has faced in submitting its periodic reports to various United Nations bodies. It recommended to the Netherlands to ensure that in the future, information on the implementation of human rights conventions in the Dutch overseas territories be consistently included in its reports to treaty bodies, and offered assistance in sharing experiences in this respect.

27. Peru welcomed the fact that the Netherlands hosts many migrants and asylum-seekers, and its approach to multiculturalism. It noted that the Netherlands has not ratified the ICRMW and recommended to the State to do so.

28. Brazil acknowledged that progress has been made, inter alia, with respect to the protection against racial discrimination. It expressed concerns at counter-terrorism

measures and policies to combat human trafficking. It wanted to know how the act on expanding the scope of investigations and prosecution of terrorist crimes meets international human rights standards. It also enquired about the assessment of the Netherlands' current policy regarding immediate assistance to victims of human trafficking. It recommended considering the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Optional Protocol to CRC on the involvement of children in armed conflict.

29. Cuba noted that xenophobia and racism, particularly on the Internet and other media, and the stigmatization of religious and ethnic minorities are still present in the country. It stated that an anti-Islamic approach, which is an offence to people who hold that faith, is an exaggerated use of freedom of speech. In this context, Cuba wanted to know how the Government reconciles the freedom of speech with article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), to which it has not tabled any reservations. It recommended the immediate implementation of all relevant articles. Cuba also asked how the Government reconciles counter-terrorism measures with the respect of human rights obligations and recommended that it consider revising all anti-terrorism legislation to bring it in line with the highest human rights standards.

30. The Russian Federation noted with satisfaction information that the Netherlands is working on the ratification of the Optional Protocol to CAT and the Optional Protocol to CRC on the involvement of children in armed conflict and recommended that clear time frames be set in this regard and that the Human Rights Council be informed accordingly. It enquired about reservations with respect to CRC and recommended that the question of their withdrawal be considered. Lastly, the Russian Federation recommended that in the future, all treaty bodies and all reports should cover not only the European part but also Aruba and the Netherlands Antilles and that the Netherlands withdraw its reservations to the International Covenant on Economic, Social and Cultural Rights with regard to the Netherlands Antilles.

31. In response, the State Secretary of Justice said that the division of tasks between the Ombudsman institution, the Commission on Equal Treatment and the projected national human rights institution is currently under consideration. The new institution should add value to existing infrastructure, and its tasks will be defined in accordance with the Paris Principles.

32. Regarding the issue of integration of ethnic minorities and refugees, the State Secretary of Justice stated that it wants to build bridges between citizens. While she noted that there will always be value-based conflict within the country because it is a multicultural society, she indicated that in a democracy based on the rule of law, such conflict can be solved peacefully. She also responded to the question regarding the persistence of discrimination, noting that it has a lot to do with the identity of the Netherlands. She stated that it is unfortunately always difficult to remove prejudice from peoples' minds. Politics, media and society as a whole have become more intense, and fostering real dialogue will help to counter prejudice.

33. On discrimination in labour participation, the State Secretary of Justice said that people must have every opportunity to work and to access the labour market on the basis of equal rights and equal treatment. According to the Planning Bureau of the Netherlands, the growth of the labour market will slow down, an issue which is retaining very specific attention by the Minister of Social Affairs and Employment. In response to Egypt's remark, the State Secretary repeated that it firmly opposes the documentary "Fitna" and the decision of the filmmaker to show it on the Internet, noting that such an action is marked by a desire to create polarization. The Netherlands was pleased to see that reactions now are such as they are, and that the position of Muslims in the Netherlands is welcomed and encouraged.

34. On domestic violence, the State Secretary of Justice said that the emphasis of the new action programme will be on consolidating results and responses to new developments, particularly on prevention and early identification. A national awareness campaign on violence against women was launched, as were a national hotline and a special website in April 2007. Regarding all forms of violence against women, such as sexual crimes, domestic violence, abuse and honour-related violence, the Emancipation Monitor addresses this with statistics and updates on prevalence and type of violence. As stated earlier, she said that its aim is to give immediate assistance to victims of trafficking. The Netherlands has implemented all the recommendations made by the National Rapporteur on Trafficking.

35. The State Secretary of Justice mentioned that lifting the ban on brothels in 2000 enabled the Government to exercise more control over the sex industry and to counter abuses. The police makes frequent controls, picks up on violations, and takes actions against sexual violence and trafficking. This has led to improved working conditions of prostitutes with regard to their health and safety. She also addressed questions regarding the issue of the end-of-life decisions for newborn handicapped infants whose suffering is unbearable. In recent State reports, the Netherlands has reported on developments on this issue, noting that hospital personnel can often face difficult decisions in this regard. Action to end the life of newborn handicapped infants is criminal even if the suffering is unbearable, and is considered homicide in the Netherlands. Nevertheless, extremely complex medical issues are raised when the infant has congenital abnormalities which cannot go away. In 2006, a Committee of Experts to advise on end-of-life decisions was established.

36. On the fire incident which resulted in the loss of 11 lives of illegal aliens who were about to be repatriated, the State Secretary of Justice said that the fire did not occur in a reception centre for asylum-seekers but in a detention centre for illegal aliens. The Netherlands has taken measures to improve fire prevention safety in reception and detention centres.

37. The State Secretary of Justice addressed the new legislation on counter-terrorism, indicating that the possible effects of all legislative measures on human rights are taken into account in new lawmaking process, in particular when such measures address sensitive issues such as the prevention of terrorism. Parliament will use all means and instruments to examine the compatibility of new legislation with human rights. She said that therefore the legislation meets international human rights standards.

38. The State Secretary of Justice stated that the Optional Protocol to CRC on the involvement of children in armed conflict is currently being reviewed by Parliament with a view to ratification and the Optional Protocol to CAT will be submitted to Parliament in the course of 2008. On the issue of the status of human rights in the overseas territories, she indicated that the overseas territories are independently responsible for their own reports to treaty bodies but experience challenges in this respect. The Netherlands Antilles adopted a policy on human rights to improve its compliance with and reporting on human rights treaties. The Netherlands accepted the offer from the United Kingdom to share its experience in this regard.

39. Regarding the opinion poll mentioned by Egypt and the question on the death penalty, the State Secretary of Justice noted that the Government is not run by opinion polls, even if it may be interesting to look at them. It also indicated that this poll does not represent the majority of Dutch society nor Parliament – Government is run by elected political representatives. It stated its firm opposition to the death penalty, and that its respect for human rights is basic in this position.

40. The Islamic Republic of Iran shared concerns expressed by treaty bodies and special procedures on a series of human rights violations, including increasing instances of Islamophobia and occurrences of racist and xenophobic incidents, as well as various manifestations of discriminatory attitudes towards ethnic and religious minorities and – most recently – a defamatory film against the Koran as an example of incitement to religious and racial hatred. It also expressed concern, inter alia, about discrimination in society and violence against immigrants, minority women, persistence of violence against women, the high incidents of child abuse, the high number of women and girls who are victims of trafficking, and the low presence of women in public and private sectors. Iran also expressed concern about the lack of legal access of persons in police detentions during the initial period of interrogation, the excessive length of pre-trial detention, and the high number of non-convicted detainees in the Netherlands Antilles and Aruba. Iran asked about concrete measures taken by the Government to tackle the incitement to racial and religious hatred. Iran recommended that the Netherlands strengthen its rules and regulations in this respect, particularly with regard to defamation of religions and Islamophobia. Iran was also concerned about the persistence of domestic violence and recommended to the Netherlands to promote and strengthen the foundation of the family and its values among the society.

41. With reference to the national report noting that people of Dutch origin and migrants still live in separate worlds, Turkey wanted to hear the views of the Government on measures which may be taken to address the issue of de facto school segregation as reported also by the Committee on the Elimination of Racial Discrimination (CERD) and the Committee on the Rights of the Child. Turkey also asked for further information about measures taken in relation to discrimination in the labour market. Finally, Turkey encouraged the Government to take a leading role in setting the tone of the current national debate on integration issues. Integration should be regarded as a two-way process and the voices of migrants and other groups should also be heard.

42. Pakistan indicated that the national report notes that there may be cases where individual freedoms and self-actualization seem to lead to a failure to acknowledge the rights of others – hence restrictions ought to be imposed on individual freedom if it

infringes other citizens' wellbeing or freedom of choice. Despite an array of laws and a framework to combat racism and xenophobia, Pakistan noted recent actions to incite racial hatred and religious intolerance that have shocked Muslims around the world. It noted that a defamatory documentary released by a Dutch parliamentarian, intended to demonize Muslims and distort the message of the Koran, has been widely and strongly condemned. While stating that the documentary violates articles 19 and 20 of ICCPR and article 4 of ICERD, Pakistan commended steps taken by the Prime Minister of the Netherlands and his Government to stop the release of the documentary. It invited the Netherlands to provide information about any steps taken by the Government to stem the recurrence of such acts of xenophobia and Islamophobia, and recommended that the Government complete its investigation about civil and criminal implications concerning the release of the film and initiate prosecution of the author in accordance with the law of the Netherlands.

43. Malaysia stated that the rights of individuals must be enjoyed in harmony with the rights of others in the community and recommended that the Government consider formulating measures that would recognize that a truly meaningful enjoyment of the right to freedom of expression is only realized when exercised with responsibility. Malaysia asked for some examples of the 102 proposals listed in the new human rights strategy.

44. Slovenia asked, also to be reflected as a recommendation, about what has been done to adopt a gender perspective during consultations and in the national report, including in the outcome of and follow-up to the review. While welcoming the appointment of a Minister for Youth and Family in 2007, it expressed concern about the lack of sufficient mental health services for adolescents, the prevalence of drug and alcohol abuse, teenage pregnancies and sexually transmitted infections, and requested more information on programmes and measures to prevent or reduce drug and alcohol abuse.

45. Guatemala shared the sentiment expressed in paragraph 93 of the national report. Nevertheless, it stressed that xenophobia and racism are a threat and that, while commendable, it is not enough to adopt progressive laws; actions for their implementation are needed. It encouraged the Government to continue its initiatives to combat xenophobia and discrimination, especially regarding asylum-seekers and migrants. In that connection, it stated that the developed countries should ratify ICRMW.

46. China noted that the spread of the Internet has facilitated a free flow of information and regretted implications on the dissemination of pornography, the planning of terrorist activities and the incitement of racial and religious hatred. It noted measures adopted, such as the establishment of a national cybercrime centre and the ratification of the Council of Europe Convention on Cybercrime. China wanted to know to what extent these measures have been effective and whether the Government was ready to adopt further measures.

47. Belarus said that the situation regarding torture in the Netherlands is not ideal; the Netherlands has not ratified the Optional Protocol to CAT although it had expressed its intention to do so in its voluntary pledges in 2006. In 2007, the Committee against Torture expressed a whole set of serious concerns and made recommendations in respect of the situation of torture in Aruba and the Netherlands Antilles. Quoting extracts from the summary report on 13 NGOs, "These organisations are increasingly concerned at continued illusions to the role of the Netherland in human rights protection worldwide are

not put in practice at the national level anymore”, Belarus hoped that the present statement will be taken constructively by the Netherlands. Belarus recommended that the Netherlands take part in international activities to promote and protect human rights on the basis of equitable and mutual respect for dialogue.

48. Indonesia sought clarification about governmental strategies to alleviate the continued discrimination in the field of education and employment faced by ethnic groups. It also wanted to know whether the Government has investigated and carried out any preventive or awareness-raising measures following reports on the stigmatization of and discrimination against certain members of minority groups, and whether it had considered new policies to address increased incidents of Islamophobia. Indonesia enquired about strategies to improve asylum procedures and to avoid discrimination of undocumented migrants. It also asked how the Government further assures that international human rights norms fall in line with national legislation in order that it may be applicable in all its territories. Finally, Indonesia recommended that the Netherlands undertake consistent efforts to counter racism and promote social and religious cohesion.

49. India recommended that the Netherlands continue to engage in a national dialogue with a view to promoting respect for diversity and tolerance and consider establishing an institutional mechanism to ensure this. India asked whether the freedom to freely profess, practice and propagate one’s religion and faith is a fundamental right. Against the backdrop of considerable socio-economic achievements, India is intrigued by the figures regarding the prevalence of domestic violence and asked about the reasons behind this situation. India recommended that the Netherlands consider implementing the recommendations of the Special Rapporteur on violence against women and CEDAW in this regard.

50. Noting the absence of a specific law to regulate restrictions on individual freedoms, Ghana asked what methods and procedures are used to determine when the exercise of individual freedoms infringes disproportionately on other citizens’ wellbeing or freedom of choice. It also wanted to know whether the Government was succeeding in its efforts to prevent the portrayal of girls and women as sex objects. Ghana recommended strengthening measures to increase the participation by ethnic minority women in line with CEDAW recommendations, and intensifying human rights education.

51. The Republic of Korea welcomed the development of an action plan on the role of human rights education in society. It recommended that general awareness of diversity and multiculturalism be promoted at all levels of education. It also noted that the Human Rights Committee had expressed concern about the issue of euthanasia and the possible violations of ICCPR concerning review procedures on the termination of life on request and assisted suicide. The Republic of Korea wished to know what measures are being taken to address this concern.

52. Nigeria noted that the policy of the Netherlands, which places emphasis on freedom of expression and equality of all citizens without regard to their political convictions, religion or race, encouraged the influx of a large group of immigrants. It enquired about measures taken to properly investigate cases of human trafficking with a view to punishing the perpetrators rather than the victims. Nigeria recommended that the authorities take

appropriate measures to prevent the use of excessive force by security forces when forcibly repatriating migrants, refugees and asylum-seekers.

53. Bangladesh noted that the Government has adopted a policy of integration to assimilate their migrant population in the society. It asked how the Government contemplates integration keeping in view the social and cultural rights and other fundamental rights of migrant population. It shared the Government's view that the explosive increase in the Internet usage poses new challenges to the protection of human rights. Bangladesh appreciated the creation of a new cybercrime centre and would like to know about the scope of the centre and its effectiveness so far. Bangladesh referred to the concern expressed by CEDAW about the number of women and girls victims of trafficking, and stated that the Government should address the issue of demand in the destination country in order to be successful in the fight against trafficking in persons. In regard to instances of incitement of racial hatred and religious overtone, Bangladesh appreciated the government to dissociate or deplore such incidents. Such acts are condoned in the name of freedom of expression and opinion, without fully appreciating and exercising internationally agreed limitations set for by ICCPR, particularly articles 19 and 20. Bangladesh recommended that the Government, while promoting the rights of freedom of opinion and expression, also pay due attention to commiserating responsibility and respect for others.

54. Italy referred to recommendations made by CEDAW to take effective measures to eliminate discrimination against women refugees and other women from ethnic minorities. It also referred to comments made by the Special Rapporteur on violence against women on the fact that Dutch law excludes undocumented migrant women from access to social welfare benefits, including to shelters for those facing violence. Italy invited the Netherlands to elaborate on the latest initiatives undertaken to address these issues.

55. The State Secretary for Justice stressed its position on the documentary film "Fitna". The film exploited fears in society and comes at a period of time following attacks in New York, London and Madrid as well as the murder of Theo van Gogh in the Netherlands. Debates on changes in society increasingly address religion, freedom of religion, particularly Islam, and the position of Islam in Western democracy. Debates on integration are often placed unjustifiably in the context of religion. The documentary addresses all these changes but aims at polarizing and dividing non-Muslims from Muslims, by stereotyping the beliefs of Dutch Muslims with the ideology of a small group of extremists. Fortunately, Dutch Muslims and Muslim organizations have reacted calmly and with dignity at the film and have openly rejected any form of violent reaction to this film. The Dutch Muslim organizations have also played a crucial role in explaining the situation in the Muslim world abroad; have defended freedom of expression, which is one of the fundamental rights, and discouraged Muslim Governments from boycotting the Netherlands. The Netherlands will continue to address this problem in cooperation with Muslims living in the Netherlands. As the Prime Minister stated, the public prosecutor is currently investigating possible criminal offences as concerns the film.

56. On the issue of cyber-crime and discrimination on the Internet, the Netherlands shared concerns about dissemination of racial and discriminatory material and continues its efforts to tackle online discrimination and to increase funding of the Complaints Bureau for

Discrimination on the Internet (MDI) for 2007. The National Cyber-crime Reporting Centre targets extremist utterances by responding to the public and monitors the Internet. The State Secretary of Justice is of the view that an international approach is needed to combat racism on the Internet. New measures have been announced in December.

57. On issues relating to integration, the Netherlands have already and are in the process of developing approaches to integration. The underlying concept is that the increasing diversity in Dutch society is a positive development but with strings attached. This means that people must respect freedom of religion, freedom of expression and equality of men and women. Criminal behaviour and discrimination against those of different beliefs, gender or sexual orientation or against those who have a different lifestyle will not be tolerated. The State Secretary of Justice said that integration is a two-way process, in which all citizens are expected to participate, with expectations of the receiving society.

58. Regarding questions about ethnic barriers in education, the Netherlands referred to its national report which states that it is keen to ensure that children attending segregated schools come into contact with each other. Since 2006, agreements have been reached at the municipal level and schools have to report on what they are doing to counter segregation. Both local authorities and schools can turn to the Expertise Centre on Multi-ethnic Schools, which was set up in 2006. The Education Inspectorate also ensures that schools are making an adequate contribution. Pilot projects will be launched in 2008 to see what is being done to tackle this problem. Segregation in school is also about segregation in housing, which is one of the major concerns of the moment.

59. The State Secretary of Justice shared concerns at the existence of domestic violence and its effects on society and individuals. She admitted that it affects women disproportionately, and that in most cases, it is inflicted by their intimate partners or ex-partners or family members. Men are also affected, as in the cases of honour-related crimes. For that reason, she stated that at present its policy is gender neutral. However, and partly due to the recommendations made by treaty bodies and the Special Rapporteur on violence against women, the Government is considering whether a gender-specific formulation of policy is advisable.

60. On the issue of trafficking and the position and abuse of women, the State Secretary of Justice gave the example of recent prosecutions of traffickers between Nigeria and the Netherlands, due to cooperation with Nigeria on this issue.

61. Regarding anti-discrimination policy, the State Secretary of Justice referred to the report of the Netherlands to CERD submitted in November 2007, which includes information on its anti-racist policy. She added that while the action plan does not include any actions vis-à-vis the Human Rights Council, the Netherlands does envisage promoting a draft European Union policy which will include human rights assessments. She indicated that will try to make the full action plan available to the Human Rights Council, as was the case with the underlying strategy.

62. The State Secretary of Justice indicated that the Netherlands secures rights to social security to both legal and illegal migrants. Certain basic needs of illegal migrants are secured, but it would go too far to bring the level of access to social rights of illegal

migrants to the same level as those of legal migrants. This position is well known in the United Nations. It added that undocumented migrants have access to education, legal aid, and health. The Netherlands has also adjusted to provide allowances for victims of domestic violence. She indicated that the National Minister for Youth and Family deals with how to strengthen family values, and issued a youth and family programme. Regarding euthanasia, she indicated that the United Nations has recommended a regular evaluation of the Act. Such an evaluation process already exists and we have followed it. The 2007 report can be made available for all; it basically shows that the Netherlands meets the three key aims of the act namely to ensure social control, guarantee quality medical decisions at the end of life, and provide certainties for medical personnel.

63. Mexico asked why the Netherlands had not signed ICRMW. It further asked about legislation to prevent discrimination, and whether it covers all inhabitants/citizens of the Netherlands, including migrants, and those of Aruba and the Netherlands Antilles. Mexico recommended that the Netherlands review its legislation in order to protect fundamental rights of all persons, independently of their migrant status. It also recommended that necessary measures be taken regarding discrimination against women refugees, migrants and women from ethnic groups, and to guarantee the integration of all female children. With regard to asylum procedures, it requested details about the accelerated procedure of 48 hours. Mexico also recommended establishing or strengthening the machinery for reviewing the accelerated procedure in order to guarantee the rights of the asylum-seekers.

64. Israel was interested in the multi-pronged methodology that the Government has implemented to tackle trafficking in persons, including the establishment of the post of a National Rapporteur on Trafficking in 2004. It invited the Netherlands to share its views on the effectiveness of this approach, and asked about the interplay between these mechanisms and how duplication would be avoided. Israel also wanted to know which enforcement responsibilities were available to these institutions and asked for an assessment of concrete and tangible results in combating trafficking in the last eight years.

65. With reference to respective parts of the compilation and summary reports prepared by OHCHR, Algeria recommended that the Netherlands include information on the implementation of human rights treaties in overseas territories, and remove the reservation to article 8 (1) (d) of the International Covenant on Economic, Social and Cultural Rights in respect of the Netherlands Antilles. It drew attention to concerns expressed by CERD about the sharp increase in the number of complaints, in particular those concerning Islamophobia and the manifestations toward ethnic minorities. It also noted that the Employment of Minorities Act is no longer in force. Algeria recommended that the Netherlands continue to promote awareness of diversity and multiculturalism at all levels of education and to ensure proper representation of minorities in the labour market, as per the ratio of minorities. Algeria recommended that the Government take proactive measures aimed at preventing the instrumentalization of the freedom of expression to justify campaigns of incitement to racial hatred and violence in the Netherlands. Algeria recommended the Netherlands adhere to ICMRW and to increase its efforts to prevent acts of discrimination in this area. Algeria recommended to the Netherlands to undertake an in-depth study on trafficking and exploitation of children, particularly with regard to sexual abuse, child prostitution and child pornography, as a basis for urgent remedial action in this regard.

66. South Africa strongly encouraged the Government to accelerate efforts in increasing female representation in top positions in the senior public service to 25 percent by 2011. South Africa invited the Netherlands to further elaborate on the Government's efforts to deal with the persisting problem of racial profiling and the success brought about by such interventions. It also asked for more details with regard to reservations entered on article 8(1) (d) of the International Covenant on Economic, Social and Cultural Rights and intentions to remove them. Lastly, South Africa requested information on numerous reservations on some of the key provisions of ICCPR, and whether the Government was considering the withdrawal of these reservations. It also requested information on measures regarding verification methods in place in regard to political parties and social institutions aimed at ensuring that these do not propagate racist and xenophobic agendas.

67. Morocco noted that article 1 of the Constitution states that all are treated equally under similar circumstances, and that no discrimination is allowed. This implies ensuring that beliefs and feelings of all believers are respected and measures are taken to combat defamation and intolerance. It noted with satisfaction the statement by the State Secretary of Justice that freedom for Muslims to practice their religion is a key theme of integration policies. It welcomed the position of the Government to dissociate itself from the most recent provocative act by Mr. Wilders, such acts being shocking to Muslim feelings. Morocco wanted to know whether the Government intended to take preventive measures against the defamation of Islam or any other religion or to discourage it, and what its intentions are with regard to adhering to ICRMW.

68. Jordan highlighted that the freedom of expression and opinion must be within a framework that allows for restrictions without necessarily involving an infringement on the rights of others. It asked how the Netherlands explained that respective provisions and constraints were not formalized. Jordan expressed the hope that the action plan designed to combat discrimination and Islamophobia would prove successful. It further expressed satisfaction about efforts made with regard to asylum-seekers, migrants and trafficking in persons, and welcomed the 0.8 percent of GDP allotted to combating poverty, an example that should be followed by other countries. Jordan recommended that the Netherlands take legal measures to deal with intolerance and initiate an awareness-raising campaign for the society at large to ensure a more generalized tolerance.

69. Azerbaijan emphasized that all measures should be taken to avoid the acts that could offend religious and cultural sentiments of others and strengthen polarization in society. It stressed the Netherlands' efforts to promote media literacy. While noting the creation of the Equal Treatment Commission, it wanted to know how effective it was vis-à-vis combating discrimination, and which enforcement measures are envisaged. It also asked about plans to adhere to ICRMW.

70. Switzerland, taking note of the new anti-terrorism legislation, which extends the scope of manoeuvre of services in charge, recommended that measures be implemented in respect of international human rights obligations, including the right to a fair trial and the right to freedom and security of the person. Switzerland asked whether the newly established Article 1 Association may receive complaints by individuals concerning discrimination, whether these complaints will be submitted to courts on behalf of victims, and whether they will be incorporated in statistics. Lastly, Switzerland invited the

Netherlands to provide information on its action plan on human rights education, noting that other States could benefit from its conclusions.

71. New Zealand noted with concern that there is growing polarization in the Netherlands between people of Dutch origin and immigrants, and the rising tide of racist and xenophobic sentiments this has generated. It asked how much progress the Netherlands has made in establishing a national human rights institution based on the Paris Principles, which had been one of its pledges for the Human Rights Council. New Zealand recommended that the Netherlands take the necessary steps to establish this institution, which would play an important role in ensuring the protection of human rights and fundamental freedoms that form the very basis of Dutch society.

72. Saudi Arabia noted that the phenomenon of discrimination, targeting in particular Muslim communities, was for a proof of the deteriorating living conditions of these communities. With reference to the film “Fitna”, which was provocative and an unacceptable exploitation of the freedom of expression, it noted that the Netherlands had legislation but that international standards relating to prohibition of discrimination were not effectively enforced. It requested information on measures the Netherlands has taken to deal with Islamophobia and to raise awareness in order to promote tolerance and mutual respect. Taking into account measures and legislation, Saudi Arabia recommended to enforce legislation on equality and non-discrimination, adopt measures to combat Islamophobia, and to work on promoting a society of tolerance through educational measures.

73. Sweden asked a follow-up question with respect to trafficking. It noted that the Government has taken measures to combat trafficking in human beings, as described in its national report. In her 2007 report, the National Rapporteur on Trafficking issued a number of recommendations on further measures to be taken and to strengthen provisions for assistance to victims. Sweden asked if the Netherlands could elaborate on its view on these recommendations and other proposals made by the National Rapporteur.

74. The State Secretary of Justice indicated that the Netherlands has established a national human trafficking task force, with the duty to combine and coordinate all efforts of existing institutions, such as special police units and the National Rapporteur. The task force will exchange best practices and eliminate bottlenecks, with a view to adding to existing infrastructure.

75. The State Secretary of Justice stated that all inhabitants are protected against discrimination, be they Dutch nationals or migrants. The equal treatment law applies to the European part of the Netherlands. The Netherlands Antilles is considering a similar act on equality of treatment. She stated that various data, such as on health, trade union membership or criminal convictions constitute special data. Processing such data can be a breach of privacy, so there are specific restrictions in the law in this regard. Such data can only be revealed in circumstances where it is inevitable to do so. She added that by 2009 the national network of anti-discrimination bureaus will cover entire country and local governments will be required to provide assistance. A public information campaign will be launched to assist victims of discrimination in filling reports.

76. The State Secretary of Justice stated that the European part, Aruba and the Netherlands Antilles are three co-equal fully autonomous partners in their respective affairs. The Netherlands had stressed its concerns with the findings of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), and pledged 9.5million euros to modernise the prison system in Netherlands Antilles. The CPT had recommended that progress be monitored, and the State Secretary of Justice stated that cells have been improved since the issuance of the CPT report. Plans have been made to improve remaining facilities and the Netherlands is on its way to do so. She indicated that there are strict codes of conduct for the treatment of detainees and ill-treatment is dealt with and punished. Special detectives are assigned to deal with this issue, audits take place every three months regarding detention conditions and cell capacities, and prison officers are also trained in human rights. She added that prisoners are also informed of their rights under human rights treaties.

77. In her closing remarks, the State Secretary of Justice noted appreciation for all questions and remarks made, including the raising of issues in which the Netherlands can improve, which was its hope for this process. She appreciated and evaluated all questions and remarks made. Regarding the recommendations that were made, she indicated that the Government would examine them carefully and would come back to the Working Group in writing well before the eighth session of the Council. She stated that the promotion and protection of human rights is a continuous process and UPR is an excellent instrument to facilitate this process.

III. CONCLUSIONS AND/OR RECOMMENDATIONS

78. In the course of the discussion, the following recommendations were made to the Netherlands:

- 1) Ratify as soon as possible the International Convention on the Protection of All Persons from Enforced Disappearance (France); to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Brazil) and to set clear time frames in this regard, and that the Human Rights Council be informed accordingly (Russian Federation);
- 2) Initiate a debate on the death penalty, with a view to reaching responsive conclusions consistent with international human rights law (Egypt);
- 3) Reconsider the legality of prostitution given its impact on the realization of a whole range of rights (Egypt);
- 4) That a mechanism be established with a view to verifying that political parties and social institutions do not adopt racist or xenophobic programmes (Egypt);
- 5) Lawmakers discharge their responsibility under the International Covenant on Civil and Political Rights, in particular with regard to the prohibition of incitement to hatred by law, and enacting the necessary restrictions to protect the rights of others (Egypt);
- 6) Take appropriate measures to prevent the use of excessive force by security forces when forcibly repatriating migrants, refugees and asylum-seekers (Nigeria);

- 7) Accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Egypt, Peru, Algeria) and to increase its efforts to prevent acts of discrimination against migrants (Algeria);
- 8) Continue efforts to intensify the investigation and prosecution of racial hatred and related violence through criminal legal proceedings and other measures (Canada) and to implement all the articles of International Convention on the Elimination of All Forms of Racial Discrimination (Cuba);
- 9) Ensure that information on the implementation of human rights conventions in the overseas territories be consistently included in reports to treaty bodies (United Kingdom, Russian Federation, Algeria);
- 10) Consider withdrawal of reservations with respect to the Convention on the Rights of the Child (Russian Federation) and International Covenant on Economic, Social and Cultural Rights with regard to the Netherlands Antilles (Russian Federation, Algeria);
- 11) Strengthen rules and regulations with regard to hatred, defamation of religions and Islamophobia (Islamic Republic of Iran) and enforce legislation on equality and non-discrimination and adopt measures to combat Islamophobia (Saudi Arabia);
- 12) To promote and strengthen the foundation of the family and its values among the society (Islamic Republic of Iran);
- 13) Take a leading role in setting the tone of the current national debate on integration issues and have the voices of migrants and other groups also be heard (Turkey); Continue to engage in a national dialogue with a view to promoting respect for diversity and tolerance and consider establishing an institutional mechanism to ensure respect for diversity and tolerance (India);
- 14) Complete investigations about civil and criminal implications concerning the release of the film 'Fitna' and initiate prosecution of the author in accordance with Dutch law (Pakistan);
- 15) Consider formulating measures that would recognize that a truly meaningful enjoyment of the right to freedom of expression is only realized when exercised with responsibility (Malaysia), and undertake proactive measures aimed at preventing the instrumentalization of the freedom of expression to justify campaigns of incitement to racial hatred and violence in the Netherlands (Algeria);
- 16) Ensure the inclusion of a gender perspective the follow-up to the UPR (Slovenia);
- 17) Take part in international activities to promote and protect human rights on the basis of equitable and mutual respect for dialogue (Belarus);
- 18) Undertake consistent efforts to counter racism and promote social and religious cohesion (Indonesia);
- 19) Consider implementing the recommendations of the Special Rapporteur on violence against women and CEDAW (India), and strengthen measures to increase the participation by ethnic minority women in line with CEDAW recommendations, and consider intensifying human rights education (Ghana);
- 20) Continue to promote awareness of diversity and multiculturalism at all levels of education (Algeria, Republic of Korea);
- 21) Address the issue of demand in the destination country in order to be successful in the fight against trafficking in persons (Bangladesh);
- 22) While promoting the rights of freedom of opinion and expression, pay due attention to commiserating responsibility and respect for others (Bangladesh);

- 23) Review its legislation in order to protect fundamental rights of all persons, independently of their migrant status, and take necessary measures regarding discrimination against women refugees, migrants and women from ethnic groups, and to guarantee the integration of all female children (Mexico);
- 24) Establish or strengthen the machinery for reviewing the accelerated procedure of 48 hours in order to guarantee the rights of the asylum-seekers (Mexico);
- 25) To ensure proper representation of minorities in the labour market as per the ratio of minorities (Algeria);
- 26) Undertake an in-depth study on trafficking and exploitation of children, particularly with regard to sexual abuse, child prostitution and child pornography, as a basis for urgent remedial action in this regard (Algeria);
- 27) Accelerate efforts in increasing female representation in top positions in the senior public service to 25 per cent by 2011 (South Africa);
- 28) Take legal measures to deal with intolerance and initiate an awareness-raising campaign for the society at large to ensure a more generalized tolerance (Jordan);
- 29) While implementing anti-terrorism measures, respect international human rights obligations, including the right to a fair trial and the right to freedom and security of the person (Switzerland); and consider revising all anti-terrorism legislation to bring it in line with the highest human rights standards (Cuba);
- 30) Take necessary steps to establish a national human rights institution (New Zealand);
- 31) Work on promoting a society of tolerance through educational measures (Saudi Arabia).

79. These recommendations will be examined by the Netherlands, which will provide a response in due time. The response of the Netherlands will be included in the outcome to be adopted by the Human Rights Council at its eighth session.

80. All conclusions and/or recommendations contained in this report reflect the position of the submitting state(s) and /or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.

Appendix - Composition of the delegation

The delegation of the Netherlands was headed by H.E. Ms. Nebahat Albayrak, Head of Delegation, State Secretary for Justice, Ministry of Justice, and composed of 18 members:

- H.E. Ms. Nebahat Albayrak, Head of Delegation, State Secretary for Justice, Ministry of Justice;
- Mr. Rob Visser, Director General for Legislation, International Affairs and Immigration, Ministry of Justice;
- H.E. Mr. Arjan Hamburger, Human Rights Ambassador, Ministry of Foreign Affairs;
- Ms. Kappeyne van de Coppello, Deputy Permanent Representative, Permanent Mission of the Netherlands, Geneva;
- Mr. Robert-Jan Sieben, Counsellor, Permanent Mission of the Netherlands, Geneva
- Ms. Dorothee van Kempen, Press officer, Ministry of Justice;
- Mr. Walter Oostelbos, UPR Coordinator, Human Rights Department, Ministry of Foreign Affairs;
- Ms. Edit Bleeker, Policy Advisor, Ministry of Justice;
- Mr. Gert Bogers, Senior Advisor Organised Crime Unit, Ministry of Justice;
- Ms. Tessa Dopheide, Legal Advisor Human Rights, Ministry of Justice;
- Mr. Fred Lafeber, Head Global Affairs Unit, Ministry of Health, Welfare and Sport;
- Mr. Robbert Moree, Senior Policy Advisor, Ministry of Social Affairs and Employment;
- Ms. Nynke Jagersma, Policy Officer, Ministry of Housing, Communities and Integration;
- Ms. Nynke Wijmenga, First Secretary, Permanent Mission of the Netherlands, Geneva
- Ms. Lisette Sinkeler, Advisor Permanent Mission of the Netherlands, Geneva
- Ms. Ann Groot-Philipps, Senior Policy Advisor, Ministry of General Affairs and Foreign Relations, Curaçao, The Netherlands Antilles.
- Ms. Josephine Bakhuis, Senior Policy Advisor, Ministry of General Affairs and Foreign Relations, Curaçao, The Netherlands Antilles.
- Ms. Darryllin van der Veen, Senior Policy Advisor, Ministry of General Affairs and Foreign Relations, Curaçao, The Netherlands Antilles
