

Contribution of the Dutch Section of the International Commission of Jurists (NJCM) and other stakeholders to the fourth Universal Periodic Review of the Kingdom of Netherlands (2022)

This report covers the period **2017 – 2021** and is written and published by the Dutch Section of the International Commission of Jurists (NJCM). This report is co-signed by Charity Netherlands (Goede Doelen Nederland), Cordaid, Defence for Children, Emancipator, Justice & Peace, Netherlands Council of Women (NVR), the Netherlands Helsinki Committee, NNID Foundation (Netherlands organisation for sex diversity), Privacy First, RADAR/Art.1, Stichting Landelijk Ongedocumenteerden Steunpunt (LOS) and TIYE International.

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CONTRIBUTION TO THE FOURTH UNIVERSAL PERIODIC REVIEW OF THE KINGDOM OF NETHERLANDS

I Introduction: the Netherlands must do better.

Overall, the Kingdom of the Netherlands is a well-functioning democracy where the rule of law is respected and the promotion of human rights, both nationally and internationally, is highly valued. Yet in practice, the Kingdom fails to meet its international human rights obligations in several areas. The recent ‘childcare benefits’ affair has exposed the ways in which many national policies are structurally flawed and how institutional discrimination remains a widespread problem. Due to the limited size of this contribution, we have had to make a selection of the issues that we find most pressing and structural. This also includes subjects that we have put forward in the previous UPR round, and in which we have seen insufficient improvement, such as ethnic profiling and immigration detention. Once more we would like to emphasize that the recommendations of UN treaty bodies and civil society actors must be taken seriously. We therefore welcome the opportunity to submit this stakeholders’ report for the fourth Universal Periodic Review (UPR) of the Kingdom of the Netherlands.

II Ethnic Profiling

Ethnic Profiling continues to make headlines in The Netherlands

During the reporting period ethnic profiling continued unabatedly and remained a topic of discussion in The Netherlands, implicating tax authorities, courts, and law enforcement agencies. The discussion came to a climax with the childcare benefits affair.ⁱ Part of this scandal was the application of a risk classification model based on an algorithmic system using nationality.ⁱⁱ The tax authorities used a foreign nationality as a risk factor in this algorithmic system. The use of nationality in the risk classification model is based on the assumption that people of certain nationalities are more likely to commit fraud than people of other nationalities. Also, in policing and border controls, racial or ethnic profiling remained a persistent practice,ⁱⁱⁱ in some cases leading to judicial scrutiny and raising questions on potential discriminatory practices and a violation of the presumption of innocence.^{iv} However, in a case brought by a coalition of civil society organisations against the Dutch State for ethnic profiling by the Royal Netherlands Marechaussee, the court found that ethnicity may be an objective indicator of foreignness, and thus may be used for selecting people for checks in the border areas.^v This is highly problematic, since an effect of the judgement could lead to normalizing discrimination.^{vi} Lastly, the bill ‘Wet gegevensverwerking door samenwerkingsverbanden’ (WGS), which proposes to allow certain public and private entities to exchange bulk data on private citizens in order to trace organized crime, was recently criticized by the Dutch Data Protection Authority for opening the door to mass surveillance and that it breached the presumption of innocence.^{vii} It found that it is more damaging than the so-called Syri-law, an instrument aimed to trace and fight fraud in relation to social security through risk-profiling. The court found in 2020 that this law was in breach of the right to privacy and risked resulting in stigmatisation and discrimination.^{viii}

- 1. The government should take adequate measures to ensure that risk classification models no longer use ethnicity and nationality, to improve independent oversight on the implementation of algorithmic systems, and to be transparent on the functioning and use of algorithmic decision-making systems.**
- 2. Following the CERD Committee,^{ix} we urge the government to collect and monitor disaggregated quantitative and qualitative data on relevant law enforcement**

practices, such as identity checks, traffic stops and border searches, and to make them available to the public.

- 3. We highly recommend the government to involve civil society actors and other stakeholders in the drafting process of policies relating to new technologies such as AI.**

III Asylum and Migration

Nationality-Stripping has Discriminatory Character

Since 2017, the State Secretary of Justice and Security is legally permitted to withdraw the Dutch nationality from persons without the requirement of a criminal conviction. The Kingdom Act on Dutch Nationality (Rijkswet op het Nederlanderschap) permits it when persons voluntarily enter the foreign military service of a State involved in hostilities against the Netherlands and when they join an organization that is listed as constituting a threat to national security.^x Up until September 2021, 42 persons have been stripped of their Dutch nationality on these legal grounds. Judicial authorities leave considerable room for policy when interpreting this law, resulting in decisions by the government to withdraw Dutch nationality without sufficient judicial review.^{xi}

Since 2017, this legal permission was based on a temporary change in the law, but preparations are currently made to permanently change the law in this way.^{xii} This legal permission to withdraw the Dutch nationality is at odds with the principle of non-discrimination, since it only applies to individuals with a dual nationality, because of the prohibition of statelessness herewith favouring people with a single nationality.^{xiii} On April 30, 2021, the Council of State concluded in seven cases that the State Secretary of Justice and Security was indeed entitled to revoke Dutch citizenship.^{xiv} The Council only briefly dealt with the question of whether the law indirectly discriminates, without sufficiently testing against relevant international human rights law.^{xv}

- 4. The State should test the 2017 changes made to The Netherlands Nationality Act more sufficiently against existing international human rights norms and revise it accordingly.**

Adequate standard of living in reception centres

The Dutch asylum system has been clogged for years and in August 2021 the Central Agency for the Reception of Asylum Seekers (COA) sounded the alarm.^{xvi} For years the government has not been able to handle the influx of migrants, creating significant delays with the start of the asylum procedure.^{xvii} It is unable to decide within the legal time frame, and it fails to facilitate an efficient outflow from the asylum centres, as many people with a residence permit are waiting for a home, amongst others because of the national housing crisis.^{xviii} At the moment, all places, including emergency shelters, are completely full. There have been instances where asylum seekers had to sleep on the floor,^{xix} on chairs and stretchers,^{xx} and in tents.^{xxi} Preparatory plans for crisis emergency care places are being set in place,^{xxii} but the COA acknowledges that such places do not meet an adequate standard of living. It estimates that by July 2022 it will need more than 8000 places in centres than that are available now.

While municipalities have shown reluctance in allowing the COA to set up reception centres on their territory, these structural shortcomings can be attributed to the so-called yo-yo policy of the central government: when the influx of migrants decreases, reception centres are closed

and in case of shortages, new facilities must be set up last minute. As a result, the government is structurally unable to respond timely and adequately to the influxes of asylum seekers.^{xxiii}

- 5. The government must urgently provide sufficient accommodation for asylum-seekers that uphold the right to an adequate standard of living, and eliminate unnecessary delays in the asylum procedure.**
- 6. We highly recommend that the government implements policies that keep the COA and the Immigration and Naturalisation Service structurally prepared for increases in the migration influx.**

Asylum procedure and detention conditions in Curaçao

The treatment of asylum seekers in Curaçao is still highly problematic. This came to light when Venezuelan asylum seekers started arriving in greater numbers from 2016 onwards. Asylum seekers are automatically detained upon arrival,^{xxiv} meaning that the necessity and proportionality of their detention is not taken into account. In the detention centres and police cells they are subjected to ill-treatment and inhumane conditions. Their basic needs are ignored, the barracks are extremely unsafe, they are often forced to remain in detention for longer than the law allows for, and they suffer psychological and physical abuse.^{xxv} Furthermore, the asylum procedure in Curaçao is still not in line with international standards, as asylum seekers are systemically denied the right to (apply for) international protection, are effectively deprived of their right to legal assistance and possibly face refoulement.^{xxvi} The situation has not improved over the years.^{xxvii}

Following the Charter of the Kingdom of the Netherlands, the Kingdom (read: the European part of The Netherlands) is responsible for providing for an adequate asylum and deportation procedure and for guaranteeing the human rights of asylum seekers in immigration detention.^{xxviii} It has recently decided to stop providing financial support for immigration detention on the island, as it did not want to finance human rights abuses.^{xxix} However, the Netherlands should more actively support Curaçao in treating asylum seekers in line with human rights standards.

- 7. The Kingdom should support Curaçao in implementing an effective and accessible asylum procedure in accordance with international obligations.**
- 8. We urge the Kingdom to provide the Curaçao government with the necessary means to improve detention conditions.**
- 9. The Kingdom must urge the government of Curaçao to comply with its international human rights obligations in relation to asylum seekers.**

The continuing criminalization of persons in immigration detention

Whilst immigration detention merely serves the removal of a person without a valid residence permit, the current Dutch immigration detention system continues to be criticized for its prisonlike, punitive and excessively restrictive character. Not only are most immigration detention facilities housed under the same roof as criminal detention,^{xxx} in most cases persons in immigration detention are subjected to the same austere and strict limitations as criminally convicted persons, as they are regulated by the same law.^{xxxi} As such, disciplinary measures, which do not belong in an administrative law setting, such as solitary confinement, have been criticized for their disproportionately harmful effect on persons in immigration detention. It has been applied in some cases for a prolonged period, but also on a standard basis when persons refuse a shared cell.^{xxxii} Reasons for refusing such cells often lie in traumas, language barriers and personality disorders,^{xxxiii} rendering an already inhumane measure even more cruel

for persons in immigration detention. Furthermore, even though cavity searches are generally not allowed and not structurally applied, more recent reports have been made of persons who have been subjected to it.^{xxxiv} The excessive use of handcuffs during transportation of persons in immigration detention is also degrading and promotes stigmatization.^{xxxv}

- 10. We urge the government to create appropriate and humane immigration detention facilities, that are in every aspect distinct from criminal detention centres,^{xxxvi} and promote the use of existing alternatives to detention.^{xxxvii}**
- 11. We urge the government to stop the standard application of isolation of vulnerable and traumatized persons when they refuse shared cells.**
- 12. We recommend the government to restrict the use of handcuffs during transportation of persons in immigration detention to exceptional situations.**

Post-return monitoring of expelled asylum seekers: out of sight, out of mind?

Little is known about what happens in the days and months after rejected asylum seekers are returned to the country they fled, but many are vulnerable and at risk of harm. Even if the asylum proceeding has not been successful, the decision to deport can still constitute refoulement. As such, cases have been reported of rejected asylum seekers who were subjected to severe human rights violations upon return, despite indications during the asylum proceedings that they were at risk of harm if returned.^{xxxviii} Although there is no obligation in Dutch law to monitor these persons upon their return, doing so is necessary, as it may not only enhance their safety, but also contribute to better decision-making in future asylum proceedings.^{xxxix}

- 13. We urge the government to integrate the monitoring of asylum seekers upon their return to countries of concern in its policies.**

IV Privacy

Data collection and dissemination by government entities

In the past years different government entities have been criticised in relation to the way they collect and disseminate data. In 2021 for example, the committee responsible for the evaluation of the 2017 Law on Intelligence and Security Services published a critical report,^{xl} in which it found that insufficient safeguards existed for the Intelligence Services when collecting, handling and sharing bulk data. In its recent report, the Security Services' Review Commission similarly found that after the Wiv entered into force the Service had not fulfilled its statutory duty of care, as there was insufficient supervision on the use of its powers when conducting cable interception.^{xli} Even though the government stated that it would adopt the committee's recommendations,^{xlii} ongoing disagreement regarding the way in which review, supervision and control of the Services' activities should take place, gives ample reason to remain observant as to the extent to which the new Law on the Intelligence Services will follow the 2021 recommendations.^{xliii}

Also, in November 2020 a Dutch newspaper found out that within a section of the Dutch army a special unit was created for the purpose of gaining insight into the social effects of the pandemic in order to predict social unrest.^{xliv} A large quantity of data regarding specific organisations and groups was collected and shared with the National Coordinator for Security and Counterterrorism (NCTV) and the National Police, without a clear legal basis for such activities.^{xlv} Following parliamentary questions, the Minister of Defence confirmed this.^{xlvi} The same newspaper published an article in 2021 in which it disclosed that the NCTV had been

following individuals on social media for years, oftentimes through the use of fake accounts,^{xlvii} without a legal mandate.^{xlviii} Only afterwards, a proposal for a new bill which would include a broad array of powers for the NCTV was drafted, and by November 2021 it was sent to parliament for review.^{xlix} The Dutch Data Protection Authority, in turn, expressed criticism regarding this proposed bill stating that the act is unclear on which circumstances may trigger the NCTV's power to collect, store and share personal data. It also found that the powers are not clearly limited and there are no proper guarantees, making independent (judicial) review very difficult.¹

14. We urge the government to stay vigilant when making new laws and policies that touch upon privacy issues, taking into account the necessity and effectiveness of these laws.

15. We urge the government to ensure that data gathering and the dissemination of citizens' data does not take place without a legal mandate and adequate safeguards.

V Social Rights

Housing crisis

Housing and access to housing are increasingly put under pressure by different dynamics.^{li} The number of social houses built by the government is lagging behind, and an overheated housing market is effectively barring many young people to enter this market.^{lii} The number of homeless persons has more than doubled over a period of ten years (2009-2019), from 17.800 to 39.300. Furthermore, research has found trends of discrimination within the housing market, which makes it difficult for people of non-Dutch descent to rent a house.^{liii} The latter has also been found by the CERD.^{liv} These facts led to mass protests in 2021, starting with the first national protest on housing on 12 September 2021.^{lv} In addition, a large number of action groups and civil society organisations drafted a housing manifesto in which they urge the government to immediately start working on solutions for the housing crisis.^{lvi}

16. We recommend the government to develop a comprehensive vision on the housing market, with special attention to social housing, to release pressure from the overheated market, and uphold the right to housing (Article 11 ICESCR) for its inhabitants.

17. We recommend the National Anti-discrimination and Anti-racism Coordinator to consider intersectionality and to ensure that all ethnic minorities are consulted on housing issues, in particular during the formulation of new policies and legislation.

18. In addition, we recommend the government to create a flexible housing stock to provide homeless persons with temporary access to a house.^{lvii}

VI Human Rights Infrastructure

Shrinking civic space

A growing number of States have seen the trend of shrinking civic space unfold over the last twenty years.^{lviii} There is an increase in government restrictions that target civil society actors and limit their freedoms of assembly, association, and expression.^{lix} This is also a topic deserving of attention in the Netherlands.^{lx}

The Transparency Act

In recent years, the government's security approach has been criticised, especially by anti-discrimination organisations, for hampering the civic sector.^{lxi} The new draft Transparency Act presented in November 2020 is an example.^{lxii} This act was aimed at preventing undesired foreign influence via donations to civil society organisations from outside of the EU. However, organisations expressed concerns about the discriminatory and stigmatizing effect against CSOs that receive funding from abroad, as the discretion is on the Mayor. They also expressed concerns about the lack of clear criteria on what may constitute an indication of risk or disruption of 'public order' by an organisation, and about the additional administrative requirements, supervision and potential restrictions of their activities.^{lxiii} The above may lead to legal uncertainty and self-censorship.^{lxiv}

19. We recommend the government to either reconsider and amend or withdraw the Transparency Act.

Consultation of civil society actors in policy-making

Consulting civil society actors in policy-making is part of the human rights based approach, which is endorsed by the Dutch government. It is important for the quality and effectiveness of policy and legislation that civil society is actively approached for input and that they are given the necessary space and time to make their views known. Nevertheless, oftentimes civil society organization or *grassroot* organizations are given insufficient time to adequately share their input on draft bills. An example was the Bill on the Processing of Personal Data for the Coordination and Analysis of Counter-Terrorism and National Security, which was only open for five days, while the consequences for citizens and society could be significant.^{lxv} These consultation periods should be open for at least 30 days. In this regard, the Scientific Advisory Body for Government Policies has also urged the government to involve civil society earlier and more actively in the process of drafting policies relating to new technologies such as AI.^{lxvi}

20. We urge the government to systemically and actively facilitate the involvement of civil society actors in policy and law-making and to allow sufficient time for consultations.

21. We highly encourage the government to consider the position of civil society organisations when developing policy and proposing new laws which could have a negative impact on their position, funding and status.

The right to freedom of peaceful assembly and association (FPA) under pressure

Everyone has the right to freedom of peaceful assembly and association (FPA) at all levels, in particular in political-, trade union- and civic matters.^{lxvii} This right is under pressure in many EU member states, including The Netherlands. The Council of Europe Commissioner for Human Rights emphasized in 2019 that demonstrating is crucial for the good health of democratic societies, as it is a way for citizens to engage in public debates on societal and political problems, and stated that the multiplication of protests has led authorities in several European countries to take legal and other measures that jeopardize or tend to erode this right.^{lxviii}

Similar challenges exist, and concerns have been voiced, in the Netherlands. The Dutch National Ombudsman wrote a critical report in 2018,^{lxix} stating that the freedom of peaceful assembly is under pressure in the Netherlands. In recent years there has been a trend of curbing peaceful assemblies by the authorities, who sometimes seem to prioritize the protection of public order and security before the right to protest without apparent legal grounds to justify the limitation on the protestors' rights. Different assemblies on racism^{lxx}, as well as

demonstrations on climate justice^{lxxi} and Covid-19 measures^{lxxii}, have reached the news for being limited by authorities. COVID-19 demonstrations in particular, were sometimes faced with severe police violence as a result of anti-COVID riots.^{lxxiii} The public prosecutor's office has decided to take action against the police officers involved.^{lxxiv}

22. We call for better/permanent education of the decisionmakers in lower government and the police on the right to protests and the ways to facilitate this right.

ⁱ The scandal had major political repercussions and led to the establishment of Parliamentary Enquiry Committee. See for an unofficial English translation of the report by the Council of Europe: 'Netherlands. Report of the childcare allowance parliamentary inquiry committee', Opinion No.1031 / 2021, 14 September 2021 (available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2021\)073-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2021)073-e)); see also *Geen powerplay maar fairplay. Onevenredig harde aanpak van 232 gezinnen met kinderopvangtoeslag* (Report by the Ombudsman), 9 August 2017, 2017/095 (available at: https://www.nationaleombudsman.nl/system/files/onderzoek/Rapport%202017-095%20Geen%20powerplay%20maar%20fair%20play_0.pdf); 'De Toeslagenaffaire', <https://verhalen.trouw.nl/toeslagenaffaire>.

ⁱⁱ For a detailed description of the human rights aspects of the case, please see *Xenophobic machines, discrimination through unregulated use of algorithms in the Dutch childcare benefits scandal* (Report by Amnesty International), 2021 (available at: https://www.amnesty.nl/content/uploads/2021/10/20211014_FINAL_Xenophobic-Machines.pdf?x32645).

ⁱⁱⁱ See J. Schalkwijk, 'Pushing Back Against Ethnic Profiling in the Netherlands', opensocietyfoundations.org, 22 June 2015 (available at <https://www.opensocietyfoundations.org/voices/pushing-back-against-ethnic-profiling-netherlands>); see also 'Ethnic profiling: a persisting practice in Europe', coe.int, 9 May 2019 (available at: <https://www.coe.int/en/web/commissioner/-/ethnic-profiling-a-persisting-practice-in-europe>).

^{iv} Hoge Raad 9 oktober 2018, ECLI:NL:HR:2018:1872.

^v Rechtbank Den Haag 22 September 2021, ECLI:NL:RBDHA:2021:10283.

^{vi} See 'Dutch court allows racial profiling', pilpnjcm.nl, 22 September 2021 (available at: pilpnjcm.nl/en/dutch-court-allows-racial-profiling/); See also 'Council of Europe extremely worried about ethnic profiling by Dutch Marechaussee', *Erasmus University Rotterdam* 11 October 2021 (available at: eur.nl/en/news/council-europe-extremely-worried-about-ethnic-profiling-dutch-marechaussee).

^{vii} Autoriteit Persoonsgegevens, *Advies over het gewijzigd voorstel voor de Wet gegevensverwerking door samenwerkingsverbanden (WGS)* (Advice), 9 November 2021, p. 5 – 6 (available at <https://autoriteitpersoonsgegevens.nl/nl/nieuws/ap-adviseert-eerste-kamer-neem-wgs-niet-aan>).

^{viii} Rechtbank Den Haag 5 February 2020, ECLI:NL:RBDHA:2020:865; see also 'Zaak gewonnen: SyRI uitgeschakeld', pilpnjcm.nl, 25 February 2020 (<https://pilpnjcm.nl/algoritmesysteem-syri-in-de-ban-na-uitspraak-rechtbank/>).

^{ix} CERD General Recommendation 36, CERD/C/GC/36, §50.

^x Act of 10 February 2017 (*Stb.* 2017, 52).

^{xi} T.L. Boekestein & G.-R. de Groot, 'Discussing the human rights limits on loss of citizenship: a normative-legal perspective on egalitarian arguments regarding Dutch Nationality laws targeting Dutch-Moroccans', *Citizenship Studies* 2019, 23(4), 320-337; D. Burchardt & R. Gulati, 'International Counter-terrorism Regulation and Citizenship-stripping laws- Reinforcing Legal Exceptionalism', *Conflict & Security* 2018, 23(2), 203-228; 'Deze staatsgevaarlijke man moet weg, maar waar heen?', *NRC* 24 September 2021 (available at: nrc.nl/nieuws/2021/09/23/deze-staatsgevaarlijk-geachte-man-moet-weg-maar-waarheen-a4059527).

^{xii} Kamerstukken II 2021/2022, 35934, nr. 1; see for further information: <https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?id=2021Z17225&dossier=35934>

^{xiii} UN Special Rapporteur on contemporary forms of Racism, racial discrimination, xenophobia, and related intolerance, Amicus Brief before the Dutch Immigration and Naturalisation Service, 23 October 2018, paras 8, 25, (available at https://www.ohchr.org/Documents/Issues/Racism/SR/Amicus/DutchImmigration_Amicus.pdf); UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, End of Mission Statement of the Kingdom of the Netherlands, The Hague, 7 October 2019, para 39; *Advies. Conceptvoorstel tot wijziging van de Rijkswet op het Nederlanderschap in verband met het intrekken van het Nederlanderschap in het belang van de nationale veiligheid* (Advice by the Dutch NHI) February 2015, (available at <https://mensenrechten.nl/publicatie/35355>).

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- ^{xiv} See for the news item including links to the cases: ‘Staatssecretaris J&V mocht Nederlanderschap ‘uitreizigers’ intrekken’, raadvanstate.nl, 30 April 2021 (available at: raadvanstate.nl/actueel/nieuws/@125250/nederlanderschap-uitreizigers/); ‘Raad van State: Nederlanderschap zes Syriegangers terecht afgenomen’, *NRC Handelsblad* 30 April 2021 (available at: nrc.nl/nieuws/2021/04/30/raad-van-state-nederlanderschap-zes-syriegangers-terecht-afgenomen-a4041965)
- ^{xv} ‘Intrekken nationaliteit uitreizigers op gespannen voet met gelijke behandeling’, mensenrechten.nl, 23 July 2021 (available at <https://mensenrechten.nl/nl/toegelicht/intrekken-nationaliteit-uitreizigers-op-gespannen-voet-met-gelijke-behandeling>): the NHI highlighted that there was no mention of the prohibition of racial discrimination as laid down in articles 2 and 5 of the CERD.
- ^{xvi} See e.g. ‘Kabinet luidt noodklok: asielopvang is vol’, coa.nl, 26 August 2021 (<https://www.coa.nl/nl/nieuws/kabinet-luidt-noodklok-asielopvang-vol>); ‘Ollongren en Broekers-Knol luiden noodklok: asielopvang is vol’, rijksoverheid.nl, 25 August 2021 (<https://www.rijksoverheid.nl/actueel/nieuws/2021/08/25/ollongren-en-broekers-knol-luiden-noodklok-asielopvang-is-vol>); ‘COA vraagt gemeenten om structurele opvanglocaties te bieden: ‘Alle azc’s zitten helemaal vol’, *Algemeen Dagblad*, 9 November 2021 (available at: <https://www.ad.nl/binnenland/coa-vraagt-gemeenten-om-structurele-opvanglocaties-te-bieden-alle-azc-s-zitten-helemaal-vol~a5fb8a70/>); ‘Asielopvang in acute nood: kabinet geeft aanwijzing’, rijksoverheid.nl, 14 December 2021 (<https://www.rijksoverheid.nl/actueel/nieuws/2021/12/14/asielopvang-in-acute-nood-kabinet-geeft-aanwijzing>)
- ^{xvii} ‘Het is crisis in de asielzoekerscentra’, *NRC Handelsblad*, 4 November 2019 (available at: <https://www.nrc.nl/nieuws/2019/11/03/het-is-crisis-in-de-asielzoekerscentra-a3979015>).
- ^{xviii} ‘Asielzoekerscentra bomvol: ‘We zitten tegen crisisnoodopvang aan’, *RTL*, 28 September 2021; <https://www.rtlnieuws.nl/nieuws/politiek/artikel/5256905/asielcrisis-ligt-op-de-loer-asielzoekerscentra-zitten-bomvol-azc>; ‘Veel vertraging bij bouw van asielzoekercentra’, *NRC Handelsblad*, 30 December 2019: <https://www.nrc.nl/nieuws/2019/12/29/veel-vertraging-bij-bouw-van-asielzoekerscentra-a3985258>; ‘Druk op asielproces door hogere instroom’, *ind.nl*, 15 December 2021: <https://ind.nl/nieuws/paginas/druk-op-asielproces-door-hogere-instroom--.aspx>
- ^{xix} ‘Burgermeester ‘heel boos’ over noodsituatie asielzoekers: ‘Nederland laat Ter Apel zitten’, *NOS*, 13 October 2021: <https://nos.nl/nieuwsuur/artikel/2401571-burgemeester-heel-boos-over-noodsituatie-asielzoekers-nederland-laat-ter-apel-zitten>
- ^{xx} ‘Burgermeester ‘heel boos’ over noodsituatie asielzoekers: ‘Nederland laat Ter Apel zitten’, *NOS*, 13 October 2021: <https://nos.nl/nieuwsuur/artikel/2401571-burgemeester-heel-boos-over-noodsituatie-asielzoekers-nederland-laat-ter-apel-zitten>
- ^{xxi} ‘Opnieuw crisis in azc Ter Apel: ‘Opvang zit overvol’, *RTL*, 24 November 2021: <https://www.rtlnieuws.nl/nieuws/nederland/artikel/5269306/ter-apel-opvang-overvol-asielzoekers-vluchtelingen>
- ^{xxii} ‘Asielzoekerscentra bomvol: ‘We zitten tegen crisisnoodopvang aan’, *RTL*, 28 September 2021: <https://www.rtlnieuws.nl/nieuws/politiek/artikel/5256905/asielcrisis-ligt-op-de-loer-asielzoekerscentra-zitten-bomvol-azc>
- ^{xxiii} See M. van Lieshout, ‘Rijk verplicht gemeenten tot opvang: wat gaat er mis in de ‘asielketen’?’, *De Volkskrant* 29 December 2021 (available at: volkskrant.nl/nieuws-achtergrond/rijk-verplicht-gemeenten-tot-opvang-wat-gaat-er-mis-in-de-asielketen~be8f1ad5/); see also ‘Een nieuwe opvangcrisis: hoe komt dat, en wat is de oplossing?’.
- ^{xxiv} ‘Curacao: Authorities continue to deny protection to people fleeing the crisis in Venezuela’, *amnesty.nl*, 11 October 2021 (available at: <https://www.amnesty.org/en/latest/news/2021/10/curacao-authorities-continue-to-deny-protection-people-fleeing-crisis-venezuela/>).
- ^{xxv} Id.
- ^{xxvi} Human Rights Committee, Concluding observations on the fifth periodic report of the Netherlands, CCPR/C/NLD/CO/5, 22 August 2019, para 18; Committee Against Torture, Concluding observations on the seventh periodic report of the Netherlands, 18 December 2018, para 11; B. Ebus, ‘Op Curaçao voltrekt zich een humanitair drama (en Nederland verdraait zijn nek bij het wegkijken)’, *De Correspondent*, 27 August 2018 (available at: <https://decorrespondent.nl/8622/op-curaçao-voltrekt-zich-een-humanitair-drama-en-nederland-verdraait-zijn-nek-bij-het-wegkijken/3901545229230-b7bd7849>); *Detained and deported: Venezuelans denied protection in Curacao* (Report by Amnesty International), 9 September 2018 (available at: <https://www.amnesty.org/en/documents/eur35/8937/2018/en/>); ‘Gevluchte Venezolanen krijgen geen bescherming op Curaçao’, *amnesty.nl*, 10 September 2018 (<https://www.amnesty.nl/actueel/gevluchte-venezolanen-krijgen-geen-bescherming-op-curacao>); D. Drayer, ‘Curaçao jaagt op vluchtelingen Venezuela’, *Trouw*, 27 February 2019: <https://www.trouw.nl/nieuws/curacao-jaagtop-vluchtelingen-uit-venezuela~bee9596a/>
- ^{xxvii} Curacao: Authorities continue to deny protection to people fleeing the crisis in Venezuela’, *amnesty.nl*, 11 October 2021.

^{xxviii} General conditions for the admission and expulsion of aliens are considered “Kingdom Affairs” (Art. 3). Furthermore, the countries should grant each other aid when necessary (art. 36) and the Kingdom is responsible for safeguarding human rights (art. 43).

^{xxix} ‘Nederland stopt steun vreemdelingendetentie Curaçao vanwege mensenrechtenschendingen Venezolanen’, amnesty.nl, 7 January 2022: <https://www.amnesty.nl/actueel/nederland-stopt-steun-vreemdelingendetentie-curacao-vanwege-mensenrechtenschendingen-venezolanen>.

^{xxx} *Geen Cellen Geen Handboeien* (Report by Amnesty International), February 2018, p. 8 (available at: https://www.amnesty.nl/content/uploads/2018/02/AMN_18_05_Rapport-Geen-cellen-en-handboeien_DEF_web.pdf?x32645); see also *Grenzen aan Vreemdelingenbewaring* (Report by the Ombudsman on detention centre Rotterdam), February 2020, p. 16 (available at: <https://www.nationaleombudsman.nl/system/files/onderzoek/Rapport%202020-002%20Grenzen%20aan%20vreemdelingenbewaring.pdf>).

^{xxxi} *Penitentiary Principles Act (Pbw)*; See ‘Solitary confinement in immigration detention’, pilpnjcm.nl, 29 September 2021 (available at: <https://pilpnjcm.nl/en/dossiers/solitary-confinement-in-immigration-detention/>).

^{xxxii} *Isolatie in Vreemdelingendetentie* (Report by Amnesty International, Dokters van de Wereld and Stichting LOS), September 2020, p. 43 (available at: https://www.amnesty.nl/content/uploads/2020/09/AMN_20_26_rapport-isolatie_digitaal.pdf?x52822).

^{xxxiii} *Isolatie in Vreemdelingendetentie* (Report by Amnesty International, Dokters van de Wereld and Stichting LOS), September 2020, p. 21; *Grenzen aan Vreemdelingenbewaring* (Report by the Ombudsman on detention centre Rotterdam), February 2020, p. 20; e.g. See further ‘Solitary confinement in immigration detention’, pilpnjcm.nl, 29 September 2021 (<https://pilpnjcm.nl/en/dossiers/solitary-confinement-in-immigration-detention/>).

^{xxxiv} *Geen Cellen Geen Handboeien* (Report by Amnesty International), February 2018, p. 13.

^{xxxv} European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Transport of detainees*, [CPT/inf (2018)24], June 2018, p.1 (available at: <https://rm.coe.int/09000016808b631d>).

^{xxxvi} UNHCR, *Detention Guidelines. Guidelines on the applicable criteria and standards relating to the detention of asylum-seekers and alternatives to detention*, 2012, guideline 4.3 (available at: <http://www.unhcr.org/refworld/docid/503489533b8.html>); See also Committee on Migrant Workers, General comment No. 5 (2020) on migrants’ rights to liberty and freedom from arbitrary detention, CMW/C/32/R.2, 14 August 2020, par. 97 – 99.

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^{xxxviii} *Risico’s bij gedwongen terugkeer naar Sudan* (Report by Amnesty International), March 2019, p. 8 (available at: https://www.amnesty.nl/content/uploads/2019/03/AMN_19_05_Rapport-gedwongen-terugkeer-Sudan.pdf?x10542); UK Home Office, *Country Policy and Information Note Sudan: Return of unsuccessful asylum seekers*, June 2018, p. 13-25 (available at: <https://www.justice.gov/eoir/page/file/1086211/download>); ‘Vluchtelingenwerk herkent signalen martelingen Soedanezen’, *Trouw*, 22 January 2021, (available at: <https://www.trouw.nl/nieuws/vluchtelingenwerk-herkent-signalen-martelingen-soedanezen-b1d0c9e2/>); see also ‘Soedanezen uitgezet ondanks aanwijzingen voor marteling’, *NRC Handelsblad*, 22 January 2021 (available at: <https://www.nrc.nl/nieuws/2021/01/22/soedanezen-uitgezet-ondanks-aanwijzingen-voor-marteling-a4028833>); ‘Wat er met Ali, Samoal, Ibrahim gebeurde na hun uitzetting naar Soedan’, *NRC Handelsblad*, 22 January 2021, (available at: <https://www.nrc.nl/nieuws/2021/01/22/wat-er-met-ali-samoal-ibrahim-gebeurde-na-hun-uitzetting-naar-soedan-a4028331>); ‘Door Nederland uitgezette vluchteling krijgt zonder eerlijk proces levenslang in Bahrein (update)’, amnesty.nl, 4 June 2020 (available at: <https://www.amnesty.nl/actueel/nederland-uitgezette-vluchteling-oneerlijk-proces-levenslang-bahrein>).

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