

Oral Statement of the Dutch CEDAW Network
To the Committee for the Elimination of All Forms of Discrimination against
Women on the Fifth Periodic Report from the Government of the Netherlands
by Leontine Bijleveld, Hellen Felter and Linda Mans
25 January 2010

Thank you Madam Chair, members of the Committee,

My name is Linda Mans. To my left is Hellen Felter and to my right Leontine Bijleveld.

We all represent the 54 Dutch NGOs on behalf of which the Dutch CEDAW Network submitted this Shadow report, which is one more than in the printed report.

We are happy to share that the Older Women's Network has notified their agreement to this report.

Other NGOs have also ascribed to the report even after the passing of the deadline.

As an example of the diversity of NGOs representing a broad civil society support: both organisations of prostitutes and organisations engaged in the trafficking issue are amongst the 54.

During a public consultation representatives of the 54 NGOs selected the issues of this short statement.

Status of CEDAW

The NGOs remain concerned about the government's view on the status of the Convention in the domestic legal order - the issue of direct applicability in the legal order, see Q&A 4..

The concerns include the views about the status of the CEDAW-Committee, its views regarding communications under the Optional Protocol and its concluding observations.

During the court proceedings about the reinstatement of the maternity allowance for entrepreneurs the State Solicitor referred to the Views adopted by the CEDAW-Committee with regard to Communication No. 3/2004 as, and I quote, "merely a view of a committee".

The State claimed it has discretionary power to limit the obligations following Art. 11 paragraph 2 (b) to female workers (employees), notwithstanding the Committee's explicit views in the Communication and in the previous Concluding Comments about the applicability for **all** women working in gainful employment.

The State Solicitor moreover suggested that the views of the Committee in this Communication about the State Party's margin of discretion to determine the appropriate maternity benefits allowed for the interpretation of **no maternity benefits at all** for certain categories of working women.

NGO's concern is also about the answer to the Committee's question 4: "*The Netherlands recognises the competence of the Committee to **receive** communications from persons claiming to be victims of a violation.*"

Recognition of the competence of a mailbox: is that all the Optional Protocol means for the Dutch government?

Not to be read out: Recommendations Status of CEDAW

- *The Dutch NGOs remain concerned about the government's view with respect to the status of the Convention in the domestic legal order, including the status of the CEDAW-Committee, its views regarding communications under the Optional Protocol and its concluding observations.*
- *The NGOs urge the Committee to ask the Dutch government why it instructed the state solicitor to hold that the Convention has no direct effect and why the state solicitor quoted CEDAW Communication No.3/2004 selectively.*
- *The NGOs urge the Committee to ask the government whether it is willing to make a legal provision requesting full explanations when the judiciary disagrees with the view of the CEDAW-Committee.*
- *The NGOs wonder whether an obligation for judges to justify the (non) applicability of international legislation would help. The Committee could ask the government's view about this.*
- *The NGOs suggest the Committee asks the government to justify its lack of reference to the Convention in legislation and in correspondence with Parliament.*
- *The NGOs suggest the Committee requests the government to clarify its position regarding General Recommendations of CEDAW.*
- *The NGOs suggest the Committee addresses the possibility of once more promoting the Convention via in-depth assessments in conjunction with the next item.*
- *The NGOs regret that the Dutch government has abandoned its daring and unique strategy of inviting independent critical observations about its implementation of the CEDAW-Convention. They urge the Committee to request the rehabilitation of the national reports and in-depth assessments, or at least one of those.*

Dutch Shadowreport pp. 15-17 and 40 provides background information.

No recognition for the obligation to combat stereotypes

The NGOs are concerned about the seeming negation by the government of the obligation following from art. 5 to combat actively gender stereotypes.

The government seems to limit its analysis of the causes of inequality between women and men and combating these to the social-economic terrain.

In the meanwhile the government hardly pays any attention to the racial discrimination on the labour market causing hardship for black and migrant women. Another phenomenon the government seems to negate is the intersection of various forms of discrimination causing multiple discrimination.

What else could explain that the government report does not pay any attention to older women or to disabled women?

Or the silence about the fact that the unemployment among women from migrant origin and non-dominant groups is 2.5 times higher than women from Dutch origin, and about the fact that in every age group unemployment of women is higher than of men?

Instead of addressing forms of multiple-discrimination, the government is even reinforcing stereotypes by portraying men of migrant origin as having traditional views about women, and ethnic minority women as mainly not participating in society, disregarding the role they play at community level.

The government seems to deploy two strategies to neglect or even deny gender inequalities and forms of multiple-discrimination.

The first is the systematic non-providing and non-use of data disaggregated to gender, ethnicity, age, and other relevant indicators.

The other is the use of gender-neutral language: like domestic violence instead of violence against women.

Not to be read out: Recommendations Obligation addressing stereotypes

- *The NGOs urge the Committee to elaborate about the obligations following article 5.*
- *The NGOs suggest that the Committee asks the government why it dropped the concrete target of 40 per cent share in care tasks of the previous policy plans for gender equality, and how it understands article 5 of the Convention.*
- *The NGOs suggest that the Committee asks the government to spell out its policy response to ‘Plan of the Man’, and how it intends to change its stereotyped approach to care obligations.*
- *The NGOs hope that the Committee can convince the government it should put more efforts into addressing stereotypes to meet its obligations under article 5.*
- *The NGOs suggest that the Committee addresses the subject of promoting diversity as a strategy in addressing stereotypes.*
- *The NGOs suggest that the Committee asks the government for facts and figures that would confirm the government’s view of ‘incompetent import-brides’.*
- *The NGOs suggest that the Committee asks the government to elaborate during the constructive dialogue on the ESF-Equal Project ‘The Glass Wall’ and what follow-up it intends.*
- *The NGOs are interested to know whether, according to the government, the Talent to the Top Charter is promising real progress or has turned out to be window-dressing?*
- *The NGOs think the government would be more successful in combating and eliminating stereotyped roles for men and women and changing socio-cultural behaviour patterns in the field of education if it focused on the integration of gender in teacher training. The NGOs suggest that the Committee addresses this need for anchoring gender awareness*

Dutch Shadowreport pp. 44 – 47 provides background information.

No social rights for domestic workers

Another gender neutral wording is the Services at Home Scheme.

It is very questionable whether the long existing exclusion from the labour legislation and from social security of domestic workers employed by a family on less than three days a week was ever in accordance with the Convention.

Indisputable, the overwhelming majority of domestic workers are women, as the Committee rightfully states in General Recommendation 26.

This applies as well to the 100.000 homecare workers, who via regulations are “equalised” with domestic workers.

Without any assessment of compliance with international legislation such as CEDAW, ILO or EC-Directives the number of days was extended to less than four, increasing the number of domestic and homecare workers deprived from social protection considerably.

The government covers the persistence of these unequal rights by describing this Services at Home Scheme in its report as, and I quote, “*a dual benefit*”.

The NGO’s cannot see how deprivation of social rights can be could a benefit.

By answering (Q&A 15) that the scheme applies to men and women, the government is disguising that almost only women are affected by the exemption from social rights. Moreover it seems to negate that the Convention is not only about *de jure* equality but also about *de facto* equality of women.

Not to be read out: Recommendations Domestic Workers

- *In the opinion of NGOs the exceptions Dutch social law makes for domestic workers are not in accordance with the CEDAW. The NGOs would be interested to learn the opinion of the Committee as to whether the 'Services at home Scheme' constitutes a violation of the Convention (Art. 1, 2 and 11).*
- *The NGOs consider it worrying that another category of predominantly women workers, childminders, has to work under a disguised employment relationship and would like to know how the government assesses compliance with the Convention.*

Dutch Shadowreport pp. 36-37 provides background information.

Income, poverty, economic independence

In the opinion of the NGOs the government demonstrates taking neither the Convention nor the Committee as seriously as it should by not providing any information about developments regarding women's income.

The government dropped the targets with respect to economic independence of women.

Even though the level of income a woman has to earn to be qualified as economic independent means is not enough to escape poverty.

Meaning the majority of women still has to rely on the income of a partner, or be doomed to poverty.

This is not ensuring the full development and advancement of women, to quote Art. 3. Women are overrepresented among the poor. As well the working poor as the people dependent on a benefit or a pension - other categories of women who have been completely left out the government's report.

The NGOs hope that the Committee requests the government to supply a complete picture of developments in women's income, from gainful employment, social security benefit and pension even before the next regular report is due.

Not to be read out: Recommendations Income of & Poverty among Women

- *The NGOs suggest that the Committee requests more specific information in all future reports about developments regarding income, and more specifically about poverty.*
- *The NGOs suggest the Committee requests that the government reports on the number of women in different age groups and ethnicities earning (at least) an income of 70-80% of the net minimum wage from wages or entrepreneurial income as well as via social security benefits, (pre-)pension-schemes etc. These figures should be included in the research about economic independence and in the 6th report as in addition to general information about developments in the individual income of women.*
- *The NGOs think the government should develop gender-sensitive policies in improving perspectives of the working poor F/M.*
- *The NGOs take the view that the government's slack approach, disadvantaging single mothers in social assistance and their (18+) children, is in contradiction with article 3 and article 5b of the Convention. The Committee could consider*

asking the government for an explanation.

- *The NGOs would like to know how the government assesses the poverty-consequences of measures, including those already embedded in legislation – like the abolition of the spouse benefit in the statutory state pension (AOW) in 2015. The development of the number of men and women without a full statutory state pension is relevant as well.*

Dutch Shadowreport pp. 30-36 provides background information.

Madam Chair, members of the committee, thank you.

We look forward to answer your questions.

We cordially invite you for an informal lunch-briefing tomorrow.