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**Human Rights Committee****Concluding observations on the fifth periodic report of the Netherlands\***

1. The Committee considered the fifth periodic report submitted by the Netherlands (CCPR/C/NLD/6) at its 3609th and 3610th meetings (CCPR/C/SR.3609 and 3610), held on 1 and 2 July 2019. At its 3647th meeting held on 26 July 2019, it adopted the following concluding observations.

**A. Introduction**

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its fifth periodic report in response to the list of issues prior to reporting prepared under that procedure (CCPR/C/NLD/QPR/5). It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the extensive supplementary information provided to it in writing.

**B. Positive aspects**

3. The Committee welcomes the following legislative, institutional and policy measures taken by the State party:

(a) New Criminal Code, which aims to expand the definition of "victim of domestic abuse" to include partners or companions, in 2015 in Sint Maarten;

(b) The introduction of human trafficking as a criminal offence in the Criminal Code of Curaçao in 2011;

(c) The establishment of the inter-country taskforce in the Caribbean part of the Kingdom of the Netherlands, in response to the 2016 judgment by the Grand Chamber of the European Court of Human Rights in the case of *Murray v. The Netherlands* (application No. 10511/10);

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\* Adopted by the Committee at its 126<sup>th</sup> session (1 – 26 July 2019).

- (d) The establishment of the Netherlands Institute for Human Rights in 2012;
  - (e) The adoption of a National Action Plan for Human Rights in 2013, and the adoptions of specific national action plans on business and human rights (2013) combatting discrimination (2016), and against labour market discrimination (2018);
  - (f) The administrative agreement signed by the European and Caribbean Netherlands, which aims to strengthen policy on combating domestic violence for the period 2017 – 2020.
4. The Committee welcomes the State party's ratification of:
- (a) The Convention on the Rights of Persons with Disabilities in 2016, for the European part of the Netherlands;
  - (b) The International Convention for the Protection of all Persons from Enforced Disappearance in 2011, for the Netherlands; and in 2017 for Aruba;
  - (c) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2010, for the European part of the Netherlands.

## C. Principal matters of concern and recommendations

### Implementation of the Covenant

5. While noting the transformation of the Netherlands Antilles into two autonomous constituent countries (Curaçao and Sint Maarten) and three special municipalities (Bonaire, Sint Eustatius and Saba) of the Netherlands through constitutional reform in 2010, the Committee is concerned about protection gaps in legislative and institutional frameworks and different levels of protection afforded to individuals in the four constituent countries (Netherlands, Aruba, Curaçao and Sint Maarten) (art. 2).

6. **The State party should intensify its efforts to put in place a legislative, policy and institutional framework to ensure protection of and to promote human rights in the Caribbean constituent countries and harmonize human rights protection standards across all its constituent countries and municipalities, including through funding programs and institutions with a view to address existing protection gaps.**

### Implementation of the Committee's Views

7. The Committee appreciates the positive steps taken by the State party to implement some of its Views on individual communications under the Optional Protocol. The Committee, however, regrets that the State party has not provided information about concrete steps taken to implement the Views in four cases (CCPR/C/66/D/786/1997, CCPR/C/80/D/976/2001, CCPR/C/99/D/1797/2008 and CCPR/C/102/D/1564/2007), which remain pending implementation for over ten years. It is also concerned about the evacuation of the community occupying the *Amserdamsche Droogdok Maatschappij* (ADM) site in Amsterdam on 7 January 2019 by the State party despite a pending request for interim protection measures relating to certain aspects of the evacuation (art. 2).

8. **The State party should fully implement all pending Views adopted, as well as requests for the interim protection measures made, by the Committee so as to guarantee the right of victims to an effective remedy when there has been a violation of the Covenant.**

### Reservations

9. The Committee notes that the State party maintains its reservation, *inter alia*, to article 10, paragraphs (1) and (2) of the Covenant. The Committee regrets that there has been no change in the State party's position in this regard since the last review (art. 2).

**10. The State party should withdraw its reservation to article 10 paragraphs (1) and (2) and should consider withdrawing other reservations to the Covenant.**

### National Human Rights Institution

11. While noting the efforts made and challenges faced by the constituent countries in the Caribbean to establish a national human rights institution, the Committee remains concerned that these countries have not yet established a national human rights institution (art. 2).

**12. The State party should establish a national human rights institution in Aruba, Curaçao and Sint Maarten in accordance with the Principles relating to the Status of National Institutions (the Paris Principles) as a matter of priority, including, *inter alia*, through considering the possibility of expanding the mandate of the existing institutions, such as the Ombudsperson, to protect and promote human rights. It should consider granting such new national human rights institutions the power to review individual complaints.**

### Anti-discrimination legislation

13. The Committee is concerned that anti-discrimination provisions of the Netherlands, including the Equal Treatment Act 1994, does not prohibit discrimination based on all grounds, including language, social origin, property, birth or other status (arts. 2 and 26).

**14. The State party should review its anti-discrimination legislation, including the Equal Treatment Act 1994, with a view to ensuring that its anti-discrimination legislation:**

**(a) Provides full and effective protection against discrimination on all the prohibited grounds under the Covenant in all spheres, including the private sphere, and prohibits direct, indirect and multiple discrimination;**

**(b) Provides for effective remedies in cases of violation, including effective complaints mechanisms in all the constituent countries.**

### Racial discrimination, hate speech and hate crimes

15. While acknowledging the clear denunciation of racial discrimination, hate speech and hate crimes by the Dutch government, the Committee remains concerned by reports of persistent racist hate speech against migrants, refugees, Muslims, Jews and other ethnic and religious minorities in the Netherlands, by politicians and high-level public officials, through social media and in public events such as football matches. It is also concerned that hate speech has not only led to significant harm to the rights or reputations of persons and groups of persons subjected to it, but has also contributed to a growing climate of intolerance and to hate crimes. It is further concerned that persons belonging to ethnic minority groups continue to face discrimination in the labour market in the Netherlands. The Committee regrets the lack of information on the prosecution of hate crimes in recent years (arts. 2, 19, 20 and 26).

**16. The State party should strengthen its efforts, both through law enforcement activities and awareness-raising, to combat racial discrimination, hate speech and incitement to discrimination or violence on racial, ethnic or religious grounds, in accordance with articles 19 and 20 of the Covenant and the Committee's general comment No. 34 (2011) on freedoms of opinion and expression. In particular, it should:**

- (a) Intensify its efforts to prevent hate speech, particularly by politicians and high-level public officials;**
- (b) Develop an effective strategy, in cooperation with digital technology companies, to reduce online hate speech, and develop effective programs for addressing manifestations of racial discrimination and hate speech in public events, including football matches;**
- (c) Investigate hate crimes thoroughly, prosecute suspected perpetrators where appropriate and, if they are convicted, punish them and provide victims with adequate remedies;**
- (d) Provide adequate training to law enforcement officials, judges and prosecutors on the promotion of racial, ethnic and religious diversity;**
- (e) Intensify its efforts to effectively implement the Action plan against labour market discrimination (2018) and the National Action Programme to combat discrimination (2016) with a view to increasing the actual participation of target groups in the labour market;**
- (f) Continue its efforts to bring about the end or transform the nature of parades involving the character of 'Black Pete';**
- (g) Collect disaggregated data relating to the investigation and prosecution of hate crimes.**

#### **Refugees and asylum seekers**

17. The Committee appreciates the continued efforts of the Netherlands to deal with asylum-seekers, including a family reunification policy that allows family reunification for persons granted subsidiary protection and the provision of free legal aid to asylum seekers at all stages of the asylum procedure. The Committee is, however, concerned about reports of forced returns of asylum seekers, whose application has been rejected, to Afghanistan, Sudan and Bahrain, allegedly in breach of the principle of *non-refoulement*. It is also concerned by the substantial numbers of asylum cases and family reunification cases pending decisions. The Committee regrets the paucity of data relating to asylum-seekers in the Netherlands (arts. 7, 9, 12, 13 and 14).

18. The Committee notes the challenges posed by the large influx of Venezuelan nationals seeking international protection in the Caribbean constituent countries in recent years. While noting that only Aruba among the three Caribbean constituent countries has acceded to the 1967 Protocol Relating to the Status of Refugees, the Committee is concerned about the limits of the legal framework governing asylum, which has resulted in shortcomings in dealing with asylum seekers. It is also concerned by the lack of clarity regarding the availability of legal protections against *refoulement* as well as at allegations that some Venezuelans seeking asylum in Curaçao were returned to Venezuela. It is further concerned by the poor conditions of detention, as well as reports of ill-treatment and abuse, in closed detention centres and police cells. The Committee regrets the absence of data relating to asylum-seekers in the constituent countries (arts. 3, 7, 9, 12, 13 and 14).

#### **19. The State party should:**

- (a) Continue its efforts relating to the family reunification policy and the provision of free legal aid;**
- (b) Introduce legislation governing asylum in line with international human rights and refugee laws, establish or strengthen their asylum procedures in the Caribbean constituent countries and consider the ratification of the 1951 Convention relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees by all constituent countries that have not done so already;**

(c) **Ensure that the *non-refoulement* principle is secured in law and strictly adhered to in practice in all circumstances by all constituent countries;**

(d) **Ensure that investigations are carried out into the cases of breach of the principle of *non-refoulement*;**

(e) **Intensify its efforts to reduce the backlogs in the asylum application process and the family reunification process, including by strengthening the capacity of the immigration and naturalization services in all constituent countries;**

(d) **Collect comprehensive data on asylum-seekers throughout the State party.**

#### **Children in migration**

20. The Committee is concerned about reports of a high number of unaccompanied minors who have gone missing from State-run asylum reception centres. It is also concerned about the conditions of undocumented migrant children living in family centres. While noting that the rejected asylum applications of 700 children have been re-examined under the ‘final regulation’ (*Afsluitingsregeling*) regarding the *Kinderpardon*, the Committee remains concerned by the number of children living in the Netherlands without a residence permit as well as the uncertainty about children whose application under the final regulation has been rejected (arts. 7, 9, 12, 13 and 24).

21. **The State party should:**

(a) **Intensify its efforts to investigate the phenomenon of missing unaccompanied minors, address its underlining causes and prevent such future occurrences;**

(b) **Intensify its efforts to improve living conditions of family centres with a special attention to the needs of children, including through the full implementation of the recommendations made by the Central Agency for Reception of Asylum Seekers;**

(c) **Develop viable solutions for those children who have been living in the country without residence permits;**

(d) **Ensure that the principle of the best interests of the child is given primary consideration in all decisions concerning asylum seeking children, particularly unaccompanied minors.**

#### **Statelessness**

22. The Committee is concerned by reports that the draft legislation establishing a statelessness determination procedure does not grant a residence permit to a person recognized as stateless and that the stateless determination procedure envisaged in the draft legislation, including the criteria for the acquisition of Dutch citizenship by children with stateless parents, is not in line with international standards (art. 24).

23. **The State party should review and amend the draft legislation with a view to ensuring that a person recognized as stateless is granted a residence permit so as to fully enjoy the rights enshrined in the Covenant and that the stateless determination procedure is fully in line with international standards, is aimed at reducing statelessness and considers in cases involving children the best interests of the child.**

#### **Administrative detention of asylum-seekers and migrants**

24. The Committee is concerned that the number of persons in immigration detention, including those in vulnerable situations, has significantly increased in recent years, and that the duration of such detention is often prolonged and, at times, exceeds the maximum timeline laid down in the EU Returns Directive. It is also concerned by the limited attention

paid by the authorities to non-custodial alternative measures, including with regard to asylum seekers arriving at Schiphol International Airport; and the long delay in judicial review of immigration detention decisions. Furthermore, it is concerned by the shortcomings of the Repatriation and Detention of Aliens Act (*Wet terugkeer en vreemdelingenbewaring*), which does not prescribe a vulnerability assessment; allows isolation to be used as a disciplinary measure, including for children above the age of twelve; and places all newly arriving migrants in a restrictive regime under which individuals may be locked in a cell for a maximum of 17 hours per day with limited rights to receive visitors and to outdoor activities (arts. 7, 9, 12, 13 and 14).

**25. The State party should:**

- (a) Ensure that immigration detention is used only as a measure of last resort and for as short a period as possible;**
- (b) Strictly limit the use of isolation or solitary confinement in immigration detention;**
- (c) Promote and apply non-custodial alternative measures in a systematic manner, and strive to extend it to asylum seekers arriving in Schiphol International Airport;**
- (d) Facilitate prompt judicial review of immigration detention decisions;**
- (e) Review the Repatriation and Detention of Aliens Act (*Wet terugkeer en vreemdelingenbewaring*) with a view to bringing it in line with international human rights law, including but not limited to a review of the treatment of children under the Act.**

**Elimination of slavery, servitude and trafficking in persons**

26. While noting the efforts made by the State party to curb trafficking in persons, the Committee remains concerned by the low level of reporting about such crimes, as well as the low rate of prosecutions and convictions. It is also concerned by the growing number of migrant workers, particularly from Eastern Europe, who are coerced by employment agencies to work under exploitative conditions. As regards the Caribbean constituent countries, the Committee is concerned that there are growing reports of human smuggling and trafficking; that victims of trafficking, especially women, have reportedly been subjected to inhumane and degrading treatment, including sexual violence; and that the response of relevant authorities is not adequate and often fails to identify and protect victims or to prosecute perpetrators (arts. 3, 7, 8, 12 and 13).

**27. The State party should:**

- (a) Establish effective complaint procedures to allow migrant workers, including those in irregular situations, and victims of trafficking to file complaints without fear of reprisal or deportation;**
- (b) Ensure that cases of trafficking and labour exploitation are thoroughly investigated, those responsible are prosecuted and, if found guilty, are sentenced appropriately, and victims are provided with full reparation and appropriate protection and assistance;**
- (c) Strengthen labour inspections in those sectors where most migrant workers are prevalent, particularly those from Eastern Europe;**
- (d) Provide adequate training to judges, prosecutors, law enforcement officials, immigration officers and staff working in all reception facilities, including on procedures for identifying victims of human trafficking.**

### **Termination of life (euthanasia, assisted suicide)**

28. The Committee notes that the Law on the Termination of Life on Request and Assisted Suicide provides for a number of substantive and procedural safeguards relating to the performance of euthanasia, including *ex post facto* review of the procedure followed by regional euthanasia committees. The Committee is concerned, however, at the limited *ex ante* review of decisions to terminate life, including the legal and ethical implications of such decisions (art. 6).

29. **The State party should strengthen the institutional safeguards to regulate euthanasia (assisted suicide) in accordance with the Committee's general comment No. 36 (2018) on the right to life, including by considering the introduction of an independent ethics committee to conduct *ex ante* reviews of medical decisions on requests for termination of life or assisted suicides.**

### **Voluntary termination of pregnancy**

30. The Committee is concerned that the Criminal Code of Sint Maarten criminalizes the provision of abortion-related information or services. It regrets the lack of information on the legislation relating to abortion and the sexual and reproductive services and information in other constituent countries (arts. 3 and 6).

31. **The State party should ensure that:**

(a) **The Criminal Code of Sint Maarten is revised with a view to decriminalizing the provision of abortion-related information;**

(b) **Abortion is legalized in cases in which the life and health of pregnant women or girls are at risk, the pregnancy was the result of incest or rape or is not viable throughout the State party, and that any other regulation of abortion does not run contrary to the duty to ensure that women and girls do not have to undertake unsafe abortion;**

(c) **Adequate sexual and reproductive health-care services and information are accessible to all men, women and adolescents throughout the State party.**

### **Violence against women, including domestic violence**

32. While noting the efforts made by the State party, including the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention), the Committee remains concerned by the persistence of violence against women, including domestic violence across the State party. It is also concerned about:

(a) The incompatibility of provisions on sexual violence in the Dutch Criminal Code, particularly those defining rape, with international human rights standards, including the Istanbul Convention;

(b) The different levels of protection and support for victims provided by different municipalities and different constituent countries, particularly for women in irregular migration situations as well as at the lack of monitoring and coordination at the national level;

(c) The limited access of victims of domestic violence to free legal aid;

(d) The absence of comprehensive data collection relating to violence against women, including domestic violence (arts. 2, 3, 7 and 26).

33. **The State party should step up its efforts to combat violence against women, including domestic violence, in particular:**

(a) **Review and, where necessary, revise provisions on sexual violence and domestic violence, particularly those relating to the definition of rape and other sexual**

violence offences, in the criminal laws of all four constituent countries in line with international human rights standards, including the Istanbul Convention, and ensure that the harmonized legal standards are applied across the State party;

(b) **Enhance the capacities of municipalities to provide adequate services and shelters and protection for victims, with special attention to women and children in vulnerable situations, and put in place an oversight mechanism for services and protection provided by municipalities at the national level;**

(c) **Ensure that free legal aid is provided to all victims of domestic violence;**

(d) **Collect comprehensive data relating to cases of violence against women and domestic violence.**

#### **Gas extraction operations in Groningen**

34. While noting the commitment of the State party to phasing out gas extraction in Groningen by the end of 2030, the Committee remains concerned by the serious effects that gas extraction operations have had on the safety and well-being of inhabitants in the region as well as their private lives in their homes (arts. 6, 17 and 23).

35. **The State party should:**

(a) **Take necessary measures to ensure the physical safety and mental well-being of people residing in the area of gas extraction in Groningen and the security and safety of their homes;**

(b) **Provide adequate compensation to the victims and prevent future occurrences of damages related to gas extraction;**

(c) **Ensure the meaningful participation of, and consultation with, inhabitants of Groningen in designing and implementing the phase-out plan.**

#### **Use of force**

36. The Committee is concerned that the criteria and thresholds for the use of force provided in the new draft guidance on the use of force and firearms by law enforcement officials (*Ambtsinstructie*) are not compliant with the international standards of necessity and proportionality and the requirements about when firearms may be used (arts. 6, 7 and 14). While noting that the State party intends to introduce electrical discharge weapons (tasers) into day-to-day policing in the Netherlands, and that pilot testing was conducted in 2017-2018, the Committee is concerned that the official evaluation of the pilot testing indicates that the guidance and training provided to the participating officers on their use was not sufficient. (arts. 6, 7 and 14).

37. **The State party should:**

(a) **Bring the draft guidance (*Ambtsinstructie*) on the use of force and firearms by law enforcement officials in line with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and other relevant standards;**

(b) **Ensure that proper training of law enforcement officials on the use of electrical discharge weapons in accordance with the standards on the use of force is conducted before they use such weapons.**

#### **Right to liberty and security of persons**

38. The Committee is concerned that the interests of the investigation provided for in Section 62(2) of the Dutch Criminal Procedure Code concerning the right of notification of custody is unduly vague and the exceptions and safeguards are not clearly specified, and about reports that the right of notification of custody of persons deprived of liberty, who are

not subject to the regime of the Section, is not always respected in practice. The Committee is also concerned about allegations of the lack of a clear rule on the role of lawyers during the questioning, which may unduly hinder their assistance to their clients (art. 9).

39. **The State party should review the Dutch Criminal Procedure Code with a view to ensuring that provisions on the right of persons deprived of liberty of notification of custody are clearly defined in line with the Covenant, and ensure this right is respected in practice. It should also provide a clear guidance on the role of lawyers during interrogation, in line with the Covenant.**

#### **Conditions of detention**

40. While welcoming the reopening of Alkmaar police station with improved conditions in 2018, the Committee remains concerned about the poor conditions of some detention facilities in the Caribbean constituent countries, including the Point Blanche and the Philipsburg police station in St Maarten, the correctional institution in Aruba and Block 1 of the Centre for Correction and Detention in Curaçao. It is also concerned by reportedly frequent incidence of inter-prisoner violence. It is further concerned about the insufficient healthcare services, including psychiatric services, provided in detention facilities as well as inadequate healthcare provided to drug-dependent inmates (arts. 7, and 9).

41. **The State party should:**

(a) **Continue its efforts to improve detention conditions in prisons and police stations, particularly in Aruba, Curaçao and Sint Maarten, to meet international human rights standards;**

(b) **Adopt preventive measures to reduce inter-prisoner violence, including by providing prison officers with training on appropriate and effective responses to inter-prisoner violence, improving prison management and strengthening the monitoring and protection of vulnerable prisoners;**

(c) **Ensure that inmates have access to the adequate level of healthcare services, including psychiatric services, and that harm reduction programmes, including opioid substitution therapy and needle and syringe programmes, are available to drug-dependent inmates;**

(d) **Ensure that effective monitoring is carried out by national preventive mechanisms into the conditions and treatment in detention and that detainees have free access to these mechanisms to file complaints.**

#### **Psychiatric institutions**

42. The Committee notes that the State party has adopted the Compulsory Mental Health Care Bill and the Care and Compulsion Bill, which provides for the use of involuntary measures in residential and outpatient care settings. However, it is concerned by the practice of calling upon police officers to deal with agitated patients in psychiatric institutions, who are not adequately trained to deal with psychiatric patients. It is also concerned about the right of these patients to access complaint procedures and appropriate remedies (arts. 7, and 9).

43. **The State party should strive to put an end to the practice of involving police officers to deal with agitated patients in psychiatric institutions and secure a sufficient level of staffing specifically trained to deal with the situation. It should also ensure adequate legal safeguards and training for the use of involuntary measures in residential and outpatient care as well as effective access to complaint procedures by psychiatric patients and regular monitoring of their conditions by an independent body.**

**Pre-trial detention**

44. While noting the efforts made by the State party to reduce the use of pre-trial detention, including the introduction of non-custodial alternative measures, the Committee remains concerned that the proportion of pre-trial detention remains high; that the initial duration of pre-trial detention, especially in police custody (up to for three days and eighteen hours), is longer than prescribed in the Committee's General Comment No. 35 (para. 33). It is further concerned about the proposed amendments to the Code of Criminal Procedure to extend the grounds for pre-trial detention. Furthermore, the Committee is concerned by the insufficient reasoning provided in judicial decisions ordering pre-trial detention (arts. 9, 14 and 15).

45. **The State party should:**

**(a) Ensure that pre-trial detention is used as a measure of last resort and for the shortest possible time, in line with the provisions of the Covenant, and that it is reviewed on a regular basis;**

**(b) Promote non-custodial alternative measures and apply the measures in a systematic manner;**

**(c) Reduce the grounds for pre-trial detention and revise the proposed amendments to the Code of Criminal Procedure accordingly;**

**(d) Strengthen the reasoning provided in judicial decisions ordering pre-trial detention.**

**Access to justice and fair trial**

46. While noting efforts of the State party to reform the legal aid system, the Committee is concerned at the decrease in funding allocated in the legal aid sector during the reporting period and is concerned about the measures that the State party is contemplating, including a competitive tendering system for subsidised legal aid, an advisory body that can review which cases qualify for subsidised legal aid and legal-aid-packages (*rechtshulp pakket*), which may have significant adverse effects on persons in a vulnerable position, who are in most need. It is also concerned about the weak state of the structures in place to provide legal aid in Aruba, Curacao and Sint Maarten (arts. 2 and 14).

**47. The State party should review the on-going reform measures in the Dutch legal aid system with a view to ensuring that people, including the most vulnerable in all constituent countries, can benefit from the new system on an equal footing and to enhancing access to justice by all, including in the constituent countries.**

**Racial discrimination in the administration of justice**

48. While recognizing the efforts by the State party to curb racial profiling in law enforcement, the Committee remains concerned about the disproportionate use of stop-and-search powers by law enforcement officials targeting persons belonging to ethnic minority groups (racial profiling). It is particularly concerned about the use of one's external appearance including ethnicity as well as of information and communication technologies (ICT), such as mobile applications, which may further such practice if applied without precaution. It is also concerned by the absence of a mechanism to monitor the use of stop-and-search powers by law enforcement officials and the lack of record on the use of such powers. It is further concerned by the disproportionately high representation of persons belonging to ethnic minority groups, particularly persons of African descent, in the prison population in the Netherlands (arts. 2, 9, 14, 15 and 17).

49. **The State party should:**

(a) **Ensure that its legislation clearly prohibits racial profiling by the police and that Article 27 of the Code of Criminal Procedure and Section 3 of the Police Act as well as the rules on the lawful stopping of persons (*staandehouding*) are applied in accordance with the Covenant;**

(b) **Continue its effort to provide all law enforcement personnel with effective training and sensitization in order to curb racial profiling, including as to the use of ICT in the stop-and-search operations;**

(c) **Set up a mechanism to monitor and collect data on the use of stop-and-search powers by law enforcement officials;**

(d) **Study and tackle the socio-economic and other root causes of the overrepresentation of persons belonging to ethnic minority groups in the prison populations;**

(e) **Continue to increase the proportion of law enforcement officials of ethnic minority background.**

**Counter-terrorism measures**

50. The Committee is concerned about the amendments to the Dutch Nationality Act, which provides for revocation, in absentia, of the Dutch nationality of dual nationals based on information that they have left the country to voluntarily join a foreign State's military service or a terrorist organization, and the implications that this would have for their family members. It is particularly concerned about the barriers faced by affected persons who are outside of the country to appeal the decision, which is based on classified information they or their legal representatives have no access to. It is further concerned by the Bill on Strengthening the Criminal-Law Approach to Countering Terrorism, which provides for pre-trial detention in cases of serious terrorist offences based on a reasonable suspicion for a maximum duration of 44 days (arts. 2, 3, 9, 10, 12, 13, 14, 15, 23 and 26). 51. **The State party should review regularly the counter-terrorism legislative measures with a view to assessing their human rights impact and bringing these measures and judicial safeguards on their manner of application in line with international due process standards and provisions of the Covenant, and ensure meaningful participation of civil society in the process. In particular, it should revise the Dutch Nationality Act with a view to ensuring effective safeguards against arbitrary loss of nationality and discriminatory effects as well as the effective exercise of the right to appeal.**

**Right to freedom to choose one's residence**

52. The Committee is concerned, despite the explanation by the Delegation, that the 2016 Amendment to the Urban Areas (Special Measures) Act, which allows Dutch municipalities to screen persons for antisocial and criminal behaviour or requires prospective residents to provide a certificate of good conduct, does not fully comply with articles 12 and 17 of the Covenant (arts. 12 and 17).

53. **The State party should review the Act and its application with a view to ensuring their compliance with the Covenant and take effective measures to ensure that the right to freedom to choose one's residence and the privacy of prospective residents is fully respected.**

**The Intelligence and Security Services Act**

54. The Committee is concerned about the Intelligence and Security Act 2017, which provides intelligence and security services with broad surveillance and interception powers, including bulk data collection. It is particularly concerned that the Act does not seem to

provide for a clear definition of bulk data collection for investigation related purpose; clear grounds for extending retention periods for information collected; and effective independent safeguards against bulk data hacking. It is also concerned by the limited practical possibilities for complaining, in the absence of a comprehensive notification regime to the Dutch Oversight Board for the Intelligence and Security Services (CTIVD) (art. 17).

**55. The State party should review the Act with a view to bringing its definitions and the powers and limits on their exercise in line with the Covenant and strengthen the independence and effectiveness of CTIVD and *Toetsingscommissie Inzet Bevoegdheden* (TIB) that has been established by the Act.**

#### **The Market Healthcare Act**

56. The Committee is concerned that the Act to amend the Market Regulation (Healthcare) Act allows health insurance company medical consultants access to individual records in the electronic patient registration without obtaining a prior, informed and specific consent of the insured and that such practice has been carried out by health insurance companies for many years (art. 17).

**57. The State party should require insurance companies to refrain from consulting individual medical records without a consent of the insured and ensure that the Bill requires health insurance companies to obtain a prior and informed consent of the insured to consult their records in the electronic patient registration and provide for an opt-out option for patients that oppose access to their records.**

#### **Ban on face-covering clothing**

58. Considering that various situations can exist in public places and on public transport, in which no interaction with an official is involved or required, the Committee is concerned by legislation that provides for a ban on face-covering clothing in all governmental institutions, educational institutions, healthcare institutions and on public transport, which might restrict the freedom of religion of women wearing a niqab or burka, is beyond the level of necessity and proportionality. It is also concerned that the legislation, if enforced, may exacerbate the marginalization of Muslim women in the Netherlands (art. 2, 3 and 18).

**59. The State party should consider reviewing the legislation on face-covering clothing in light of the State party's obligations under the Covenant.**

#### **Right to peaceful assembly**

60. The Committee is concerned that provisions of the Public Assemblies Act, including the provision that allows mayors to end and prohibit an assembly in the absence of a prior notification, are not consistent with the Covenant. It is also concerned about the increasing degree of police surveillance and the use of identity checks during peaceful demonstrations, which reportedly have a chilling effect on demonstrators (art. 21).

**61. The State party should review the Public Assemblies Act with a view to removing the prohibition on demonstrations due to a lack of prior notification and to bringing the Act in line with article 21 of the Covenant and other relevant international standards. It should also provide local authorities and police officials with clear guidance on dealing with demonstrations so as to ensure a safe and enabling environment to exercise the right to peaceful assembly.**

### **D. Dissemination and follow-up**

62. The State party should widely disseminate the Covenant, its Optional Protocol, its fifth periodic report, and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and

administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into its official language.

63. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party is requested to provide, by 26 July 2021, information on the implementation of the recommendations made by the Committee in paragraphs 16 (racial discrimination, hate speech and hate crimes), 19 (refugees and asylum seekers) and 35 (gas extraction operations in Groningen) above.

64. The Committee requests the State party to submit its next periodic report by 26 July 2025. Given that the State party has accepted the simplified reporting procedure, the Committee will transmit to it a list of issues prior to the submission of the report in due course. The State party's replies to that list will constitute its sixth periodic report. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.

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