

Netherlands Institute for Human Rights

Written Contribution

To the Pre-Sessional Working Group of the 59th session of the Committee on Economic, Social and Cultural Rights (CESCR) on behalf of the consideration of the sixth periodic report of the Netherlands

August 2016

Table of contents

Introduction	1
Article 2: General obligation to implement the Covenant.....	1
A more prominent role for human rights in Government policy	1
Raising public awareness and training of professionals	2
Ratification of the Optional Protocol	3
Caribbean Netherlands: Bonaire, St Eustatius and Saba	3
Concluding observations par. 5, Government report par. 5.....	3
Constitutional changes	3
Equal treatment and non-discrimination (art.2, paragraph 2 ICESCR).	4
Special attention to ethnic minority groups	4
Discrimination against ethnic minorities in the enjoyment of the right to work	6
Special attention for persons with disabilities.....	6
Article 3: equal rights of women and men	7
Women’s economic independence	7
Discrimination of women in the labour market: concurrence of gender and religion	8
Pregnancy discrimination and the right to work.....	8
Unequal pay.....	9
Combining employment and care.....	9
Women in top positions in the business and academic sectors.....	10
Article 7: just and favourable conditions of work	11
Labour exploitation of migrant workers	11
Articles 7 and 9: Social security benefits for domestic workers	11
Article 10: protection of the family.....	12
Violence against women	12
Concluding observations par. 21, Government report par. 69-80.....	12
Prevalence of violence against women and police response.....	12
Gender-sensitive approach.....	12
Supporting and protecting victims of domestic violence	13
Women with a dependent residence permit more vulnerable to violence.....	13
Victims of domestic violence not holding valid residence permits.....	14
Violence against women in the Caribbean Netherlands	14
Protection of children.....	14
Article 11: right to an adequate standard of living	15

Poverty in the Netherlands: general	15
Children living in poverty	16
Asylum seekers	16
Adequate standard of living in Caribbean Netherlands.....	17
The right to housing and independent living for people with disabilities	18
The right to shelter for undocumented migrants.....	18
Article 12: the right to health	19
Access to social services to facilitate participation in society	19
Elderly in residential care	19
Treatment of persons with an intellectual disability in care facilities.....	20
Isolation of patients	21
Article 13: right to education	22
Equal access to education	22
Children and students with disabilities	22
Participation of children with disabilities in culture, recreation and sports.....	23

Introduction

By presenting this report, the Netherlands Institute for Human Rights (hereinafter: the Institute) provides the Committee on Economic, Social and Cultural Rights (hereinafter: the CESCR Committee or Committee) with information for its consideration of the sixth periodic report of the Netherlands. The Institute constitutes the National Human Rights Institution of the Netherlands and has been accredited with A Status in May 2014. The Institute protects, monitors, explains and promotes human rights in the Netherlands through research, advice, and awareness raising. Its mandate also covers urging the Government to ratify, implement and observe human rights treaties. One instrument used by the Institute to carry out this mandate is reporting to human rights treaty bodies, including the CESCR Committee. The Institute in this contribution will not address all topics covered by the Covenant on Economic, Social and Cultural Rights (hereinafter: ICESCR or the Covenant). This does not necessarily imply that the Institute believes those topics are sufficiently observed or that there is no reason for the CESCR Committee to consider them.

Article 2: General obligation to implement the Covenant

A more prominent role for human rights in Government policy

The Netherlands adopted a National Action Plan on Human Rights in 2013.¹ To a large extent, the Plan provides an - in itself useful - overview of policies the Government already has in place. The number of actually new plans and actions is, however, limited. This holds true in particular for the area of economic, social and cultural rights. A more comprehensive and all-encompassing action plan could provide a touchstone for all relevant Government policies and could encourage the various Government departments to fully integrate human rights in their work and to do justice to the principle of the indivisibility and interdependence of all human rights. The Action Plan is not accompanied by a strategy to encourage the various ministries to make human rights an integral part of their work. Basing Government policy on core human rights principles, such as the principle of autonomy and participation, would contribute to a culture of human rights. Neither does the Action Plan contain a monitoring mechanism, nor is one of the members of Government charged with monitoring and evaluating implementation. The establishment of an infrastructure to improve the implementation of human rights obligations across all ministries would further promote and protect human rights in the Netherlands. In light of the upcoming national elections the Government has decided not to present an updated and revised edition of the Action Plan. This is regrettable, since it would be worthwhile to further develop this Action Plan and take into account the Government's own experiences and the comments it received by civil society.

Suggestion for a question:

What steps does the Government take to monitor the implementation of the National Action on Human Rights and to continue to develop this Action Plan?

¹ Ministry of the Interior and Kingdom Relations, [National Action Plan on Human Rights](#), *The protection and promotion of human rights within the Netherlands*.

In addition to the National Action Plan on Human Rights, the Government presented a National Action Plan on Business and Human Rights.² This is an important step in addressing the responsibilities of business in respecting human rights. However, this Plan focuses mainly on the responsibilities of Dutch businesses operating in other countries. There is a pressing need to address also the responsibilities of businesses operating in the Netherlands. A number of the issues addressed in this report concern the responsibilities of corporations for human rights, such as the question of discrimination on the labour market and the exploitation of migrant workers. The National Action Plan on business and human rights does not provide for follow-up, neither does it provide for a monitoring mechanism for the Action Plan as a whole.

Suggestion for questions:

What steps does the Government take to raise the awareness of businesses for human rights in the Netherlands?

What steps does the Government take to monitor the implementation of the National Action on Business and Human Rights as a whole and to provide for follow-up?

Raising public awareness and training of professionals

Concluding observations par. 8 & 9; Government report par. 7-12

In its report, the Government points to various activities aimed at raising awareness of professionals that play a role in implementing human rights. The attention paid to economic, social and cultural rights lags behind the attention paid to civil and political rights. There continues to be limited knowledge of economic, social and cultural rights among Government officials, both at the level of the central Government and at the level of the local Government. It also reflects on Dutch jurisprudence: only rarely, the judiciary accepts that it can directly apply provisions of the ICESCR. Developments at the international level, such as the adoption of the Optional Protocol to the ICESCR, have not resulted in a change of this attitude. The Government could - and should - undertake more efforts to promote the application of economic, social and cultural rights in legislation, policy papers and by the judiciary. In various sections of this contribution, the Institute will illustrate this general remark.

The Institute itself has promoted the Committee's AAAQ-framework among civil servants in municipalities on several occasions. It has noticed that the awareness and knowledge about the precise meaning of economic, social and cultural rights requires further attention. This is especially important in light of the fact that in 2015 local authorities have acquired more responsibilities that touch upon human rights as a result of a major transition in the area of social services. In light of this overhaul, the strategic agenda of the Institute for the coming years pays due attention to the protection of human rights at the local level. It will continue to raise awareness of economic, social and cultural rights and to promote the application of these human rights.

² Ministry of Foreign Affairs, [National Action Plan on Business and Human Rights](#), April 2014.

Suggestion for question:

What steps will the Government take to ensure that professionals, in particular civil servants, at all levels of Government, develop more knowledge and expertise on economic, social and cultural rights so as to enhance their realisation?

Ratification of the Optional Protocol

Ratification of the Optional Protocol to the ICESCR could give a new impetus to the promotion and protection of economic, social and cultural rights in The Netherlands. However, the Government has not yet ratified the Optional Protocol to the ICESCR nor has it presented a timeframe for ratification. The Government argues that ratification is premature as it is difficult to predict how the committees will deal with complaints on economic, social and cultural rights in the various States parties. Moreover, it is said that it is difficult to establish the potential impact of ratification.³ However, this impact has been assessed in a report requested by the Government and submitted to it in 2014.⁴

Suggestion for question:

Please provide information on the obstacles for ratification of the OP to the CESCR and which steps are taken to overcome these.

Caribbean Netherlands: Bonaire, St Eustatius and Saba

Concluding observations par. 5, Government report par. 5

Constitutional changes

As of 10 October 2010 the country the Netherlands Antilles was dissolved. Instead, two new independent countries came into being (Curacao and St Maarten), both as part of the Kingdom of The Netherlands. The remaining Caribbean islands of Bonaire, St Eustatius and Saba became public entities and are an integral part of the country The Netherlands. The Institute's mandate includes these three islands, which are generally referred to as Caribbean Netherlands.

On 12 October 2015 a special independent evaluation committee published the report 'Joined together for five years',⁵ on the results of the new administrative structure of the latter three isles. The committee shows a mixed picture. Various objectives have been met: the levels of health care and education have improved significantly. But about many other aspects there is a lot of disappointment, on both sides of the pond. The Institute has issued its recommendations on the findings of the evaluation committee to the Government. The Institute addressed issues such as the application of the principle of equal treatment and the establishment of a reference point for the social minimum

³ See for example Eerste Kamer, vergaderjaar 2015-2016, 34 300 VI, N 26, pp. 26-27.

⁴ Alicia Dibbets, Antoine Buyse en Alexandra Timmer/ Netherlands Institute of Human Rights (SIM), [De juridische gevolgen van ratificatie door Nederland van het Facultatief Protocol bij het Internationaal Verdrag inzake economische, sociale en culturele rechten](#), (The legal consequences of ratification by the Netherlands of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights) presented to parliament on 5 September 2014.

⁵ [Joined together for five years. Bonaire, Sint Eustatius and Saba and the European Netherlands. Conclusions.](#)

required for a decent standard of living in the Caribbean Netherlands. These issues are addressed in other paragraphs in the present report.⁶

Equal treatment and non-discrimination (art.2, paragraph 2 ICESCR).

Where the Dutch Government motivates the existence of different regulations for Caribbean Netherlands and European Netherlands, such motivation is often very brief and superficial, and does not contain an explanation of the factual circumstances nor a proper assessment of the principle of equal treatment. The evaluation committee concludes that it is therefore not incomprehensible that on the islands one often hears complaints of arbitrariness.

According to the Government, differences in legislation between the two parts of the Kingdom are justified under article 1, paragraph 2, of the Statute of the Kingdom of the Netherlands. Under this provision, differing rules and measures may be set by virtue of factors by which the islands differ fundamentally from the European part of the Netherlands (e.g. socio-economic circumstances, the insular character, the small size and population and geographic circumstances). However, the principle of equal treatment and non-discrimination which is laid down in article 1 of the Dutch Constitution applies throughout the Kingdom. As a consequence, differences in legislation require thorough examination and adequate motivation.

Suggestion for question:

What steps does the Government take to ensure that it always examines and motivates whether legislation and policy measures proposed for Caribbean Netherlands are in compliance with the equal treatment framework?

Referring to the Committee's Recommendation 11:

There are no anti-discrimination services on these islands, nor is it possible for inhabitants to submit a request to the Institute for an opinion on discrimination. The national and the local Governments of Caribbean Netherlands have agreed upon legislative restraint in introducing new legislation for Caribbean Netherlands. Consequently, the Dutch Equal Treatment Act is not applicable in the Caribbean part of the Netherlands.

Suggestion for question:

What steps does the Government take to guarantee the right to equal treatment and non-discrimination in law and in practice with regard to Caribbean Netherlands?

Special attention to ethnic minority groups

Concluding observations, par. 12, Government report par. 22-27

Various recent reports published by the Netherlands Institute for Social Research show that members of ethnic and religious minorities continue to experience considerable

⁶ Netherlands Institute for Human Rights, [Naar een mensenrechtelijk aanvaardbaar voorzieningenniveau voor Caribisch Nederland. Reactie op het rapport 'Vijf jaar verbonden. Bonaire, Sint Eustatius, Saba en Europees Nederland'](#), (Towards a level of provisions in Caribbean Netherlands that complies with human rights standards), with English summary. 2016.

discrimination in many fields. Further, they face increasingly manifest xenophobia and racism that creates a breeding ground for further discrimination.⁷

Since 2013 the Government has acknowledged that discrimination on the grounds of ethnicity occurs more frequently than on an incidental basis. It has since intensified its efforts to improve the situation of ethnic and religious minorities in many fields, in particular in the field of employment and internships, which constitute an obligatory part of vocational education.⁸ One of the Government actions is to set up a training which is to be included in the regular curriculum. This aims to empower minority students and to discuss their experiences of discrimination and to facilitate their teachers in this process.⁹ Also in other fields, the Government paid special attention to ethnic minorities. After many years of close monitoring of discrimination of ethnic minorities in the access of public catering establishments, the Government provided municipalities in 2014 with a list of possible administrative measures they can take to combat discrimination. Its aim is to improve the possibilities for municipalities to enforce the prohibition of discrimination. Nevertheless, profiling and discrimination by doorkeepers and bouncers continue to be reported throughout the country. The impact of the publication will be evaluated in 2017.

The various measures are of course a significant step forward, but there remains much room for improvement. Too often the measures are of an *ad hoc* nature and do not sufficiently address discrimination and its causes. Further, there is inadequate attention for their effectiveness. The Government places large a large share of the responsibility for combating discrimination and the full participation in Dutch society and labour market with the individual citizen. It does so, for example, by emphasising individuals' responsibility to report discrimination to the police, anti-discrimination services and, where appropriate, to the Netherlands Institute for Human Rights.¹⁰ Discrimination is under-reported, so encouraging individuals to report experiences of discrimination could help gain further insight in the occurrence of the various forms of discrimination and to provide redress in individual cases. However, in order to prevent and combat discrimination more structurally, attention should also be paid to sectors where discrimination occurs. Such measures should include training of relevant professional groups aimed at preventing and combating discrimination. Training should include providing insight in the root causes of discrimination, such as the existence of stereotypes, and should enable professionals to prevent discrimination.

Suggestions for questions:

What measures will the Government take to complement the current measures aimed at supporting, empowering and facilitating (potential) victims of ethnic and

⁷ SCP, *Ervaren discriminatie in Nederland* (Experienced discrimination in the Netherlands), Den Haag: SCP, 2014.

⁸ Ministry of Social Affairs, [Actieplan Arbeidsmarktdiscriminatie](#) (Action plan against labour market discrimination). The Hague: Ministry of Social Affairs, 2014. Ministry of Social Affairs & Ministry of Education, [Aanpak Jeugdwerkloosheid](#) (Tackling youth unemployment). Ministry of the Interior and Kingdom Relations, *National action programme on non-discrimination*, January 2016 (Appendix II).

⁹ Training *Beeldbepalend* (Training defining the image), Meldpunt Discriminatie Regio Amsterdam/Ministry of Social Affairs.

¹⁰ Netherlands Institute for Human Rights, *Submission to the Eighty-seventh Session of the UN Committee on the Elimination of all forms of racial discrimination (CERD) on the Examination of the combined nineteenth to twenty-first Periodic Reports of the Netherlands*. 2015.

religious discrimination with structural antidiscrimination measures aimed at preventing and combating discrimination?

Discrimination against ethnic minorities in the enjoyment of the right to work

Concluding observations par. 12, Government report par. 43-51 (on combating unemployment)

Since 2014 the Government has prioritised policies against labour market discrimination. It issued a revised 'Labour market discrimination action plan'. The plan includes specific measures for disadvantaged groups and campaigns to raise public awareness. However, until now the results of these plans and measures have been very disappointing. 2015 unemployment figures from Statistics Netherlands (CBS) published in June 2016 showed that the unemployment rate among native Dutch people was 5,6%, whilst for people with a non-Western background this was 15,2%. Even when having completed higher education, non-Western migrants are less likely to land a job.¹¹ The higher level of education and increased command of the Dutch language of second and third-generation migrants hardly seems to translate into better employment opportunities. Various empirical studies have shown that job seekers with an 'Arab' family name are much less likely to be invited for a job interview than someone with a 'Dutch' family name.¹²

Unequal opportunities for people with a migrant background begins at school. Migrant students following a vocational education have difficulties to fulfil their obligatory internship in mainstream 'Dutch' companies in most sectors.¹³ In the absence of work experience in mainstream 'Dutch' companies, young migrants are likely to have no equal opportunities entering the labour market. Research identified indirect and subtle discrimination of migrant students, caused by ethnic and religious bias and stereotypes.¹⁴ Structurally remedying this situation requires attention for such underlying causes of discrimination on the labour market.

Suggestions for questions:

What measures will the Government take to prevent and combat discrimination by employers and employment agencies? What measures does the Government take to prevent and combat discrimination against interns?

Special attention for persons with disabilities

Concluding observations par. 13, Government report par. 28-33

In 2010 the CESCR called on the Netherlands to continue its efforts to promote integration of persons with disabilities in the labour market and to facilitate their access to education.

¹¹ SCP, [Verschil in Nederland](#), (Different in the Netherlands) 2014. Research Centre for Education and Labour Market (ROA), *Schoolverlaters tussen onderwijs en arbeidsmarkt*, (Transition of graduates into the labor market). 2016.

¹² Netherlands Institute for Human Rights, *Submission to the Eighty-seventh Session of the UN Committee on the Elimination of all forms of racial discrimination (CERD) on the Examination of the combined nineteenth to twenty-first Periodic Reports of the Netherlands*, p. 18-19.

¹³ ROA (footnote 11). Kennisplatform Integratie & Samenleving (KIS), *Mbo en de stagemarkt, wat is de rol van discriminatie?* (Intermediate vocational education and internships, what is the role of discrimination?). 2016.

¹⁴ KIS (footnote 13).

Although the State has made efforts in this regard, persons with disabilities are still disadvantaged compared to people without disabilities.

A report by the Institute (2016) showed that fewer persons with disabilities have a job compared to persons without disabilities: 45% compared to 66% in 2012. The report further showed that opinions of the Institute under the Equal Treatment Act and other research show that people with disabilities still often encounter discrimination when applying for a job.¹⁵

Children with disabilities are regularly not accepted as pupils by regular schools or are sent away from school because of their disabilities. Because of this many children with disabilities are at home instead of at school. This is in violation of the right to education as laid down in the Covenant. It is also in violation of the Dutch Equal Treatment Act, which requires schools to examine whether access is possible, and to take special measures if needed. As of 1 August 2014 the Government introduced a new system, called 'Passend onderwijs', which means tailor made education. In this system a school has the obligation to investigate if it is possible to accept a child (if necessary with a reasonable accommodation). If not, it has to make sure a child is accepted at another school. One of the aims of this new system was to make sure that all children can go to school. Nonetheless there are still around the 15.000 children who do not go to school.

Suggestion for a question:

What measures does the Government to take to promote the integration of persons with disabilities in the labour market and to guarantee their equal access to education?

Article 3: equal rights of women and men¹⁶

Concluding observations par. 14, Government report par. 34-42

Women's economic independence

The number of economically independent women has hardly increased since 2008. Just over half of all women, 53%, is economically independent. The economic independence figure for men stands at 74%. Factors contributing to the lower economic independence figure of women include wage disparity and the number of women in part-time work. The Statistics Netherlands study entitled 'Women less economically independent already at a younger age' shows that, in particular, women living in a multi-person household are less often economically independent. Single women, on the other hand, are more often economically independent than single men.¹⁷

Some financially vulnerable groups require additional attention. The 2014 Netherlands Institute for Social Research Emancipation Monitor shows that many people were made redundant in sectors employing a relatively high percentage of women, including domestic care and childcare facilities. 50% of lowly educated women are not active on the labour

¹⁵ Netherlands Institute for Human Rights, [Inzicht in inclusie](#), (Insight in inclusion). 2016.

¹⁶ The Institute submitted a report to the presessional Working Group of CEDAW's 65th session (March 2016). The following section is drawn from that report and contains some updates.

¹⁷ CBS, [Vrouwen al op jonge leeftijd minder economisch zelfstandig](#) (Women are less economically independent already at a younger age). 2014.

market.¹⁸ While lowly educated women have been identified as constituting a financially vulnerable group, the Government policy memorandum on Dutch gender and LGBT-equality policy for 2013-2016 does not include measures to increase the economic independence and labour market participation of these specific groups.¹⁹

Suggestion for a question:

What does the Government intend to do to ensure that the position of financially vulnerable women and their economic independence improves?

Discrimination of women in the labour market: concurrence of gender and religion

The Institute receives many reports on companies and institutions refusing to accept girls wearing a hijab for internships. For example, in 2014 the Institute adopted an opinion in which it found that a municipal authority had committed discrimination by refusing a girl an internship position because it was believed she was wearing a too tight-fitting hijab that hampered communications.²⁰

Suggestion for a question:

What measures will the Government implement to prevent discrimination of girls and women wearing a hijab by companies and institutions hiring interns?

Pregnancy discrimination and the right to work

Research by the Institute in 2016 shows that 43% of the women who were active on the labour market and gave birth had an experience that indicates pregnancy discrimination in the enjoyment of the right to work. Pregnancy discrimination can affect the job security of women. It appears that in the case of women whose contract expired during pregnancy, in 44% the contract probably was not renewed because of the pregnancy. The research shows that pregnancy decreases the chance of finding a new job. 11% of the women who were pregnant when they were interviewed was explicitly rejected because of their pregnancy. So it is difficult to combine pregnancy with an uncertain labour market position. Pregnancy discrimination is often not recognized as discrimination, also not by women who experience it themselves. Their readiness to complain about (possible) discrimination has halved in four years' time. These findings are similar to the results of the study on discrimination on the ground of of pregnancy and motherhood at work the Institute published in 2012²¹ and show that there has been no significant improvement.

Suggestion for a question:

What measures will the Government implement to actively counter pregnancy discrimination and actively enforce the prohibition of pregnancy discrimination?

What measures will the Government undertake to ensure that women and employers are better informed about the prohibition of pregnancy discrimination?

¹⁸ SCP, [Emancipatie Monitor 2014](#).

¹⁹ Minister of Education, Culture and Science, [Hoofdlijnenbrief Emancipatiebeleid 2013-2016](#).

²⁰ Netherlands Institute for Human Rights, 4 March 2014, Opinion No. 2014-24.

²¹ Netherlands Institute for Human Rights, [Study on discrimination because of pregnancy and motherhood at work](#). 2012.

Unequal pay

It still occurs that women on the Dutch labour market receive less pay than men for the same work. This wage gap is partly the result of the application of remuneration criteria not directly related to the employee's job performance. Such criteria include remuneration on the basis of the valuation of the employee's work experience, of wage negotiations and of seeking to attune to most recently earned pay. The application of such criteria are often disadvantageous to women and constitutes a risk for wage discrimination. A study on equal pay for men and women in general hospitals²² and a similar study into equal pay at universities for applied sciences²³ by the Institute showed that if employers, when applying such criteria, award too little salary, the effects are twice as disadvantageous to women. The studies provide insights into the traps lying in wait when determining wages. It is of the essence that employers become aware of those traps and work to prevent unequal pay. Such awareness is currently lacking. The Inspectorate Ministry of Social Affairs and Employment (Inspectorate SZW) insufficiently monitors the efforts made by companies.

Suggestion for questions:

What does the Government intend to do to ensure that companies become aware of the causes of unequal pay?

What does the Government intend to do to ensure that companies implement specific measures to guarantee equal pay and how will it monitor the implementation?

Combining employment and care

Fixed working hours and fixed workplaces impede the efficient combining of work and care duties. Recent amendments of applicable laws on leave and working hours removes some of these obstacles.²⁴ However, the Taskforce ParttimePlus report 'Beyond the discussion' shows that practice refuses to conform to theory, as company culture, too, proves to be an obstacle to a balanced combination of work and care duties.²⁵ There is a continuation of the stereotypical division of duties between men and women which has the woman be responsible for the lion's share of care duties. Statistics Netherlands figures show that only some 25% of fathers entitled to parental leave actually make use of it.²⁶ Combining care and work is served by a consistent Government policy fostering the availability and accessibility of childcare of high quality. This childcare must be beneficial for the development of children to ensure that in particular mothers are confident that their work will not hamper their children. Over the years the Dutch Government has pursued a 'jo-jo-policy' instead.

²² Netherlands Institute for Human Rights, [Study on Equal Pay for Men and Women in General Hospitals](#), 2012.

²³ Netherlands Institute for Human Rights, [Equal pay at universities for applied sciences](#), 2015.

²⁴ [Law on modernisation of regulations for leave and working hours](#).

²⁵ [De discussie voorbij, Eindrapport Taskforce DeeltijdPlus](#). Presented by the Government to Parliament on 6 April 2010.

²⁶ CBS, [Ruim drie kwart vaders neemt geen ouderschapsverlof op](#), 19 June 2015.

Suggestions for questions:

What measures will the Government implement to encourage employers to allow both men and women to combine their work with their care duties?

How will the Government foster that parents can continuously rely on the availability of affordable child care of good quality?

Women in top positions in the business and academic sectors

Establishing a target figure of women taking up 30% of the seats of the Boards of Directors and Boards of Supervisory Directors of large legal entities has hardly had any concrete effect. The 2012-2015 Company Monitor shows that the percentage of women having a seat in Boards of Directors went up from 7.4% in 2012 to 9.6% in 2014. Over the same period, the percentage in the Boards of Supervisory Directors went up from 9.8% to 11.2%. This growth is attributable to a small number of enterprises only. In 2014, 76% of all Boards of Directors and 63% of all Boards of Supervisory Directors had no female members. No sanctions are imposed to an entity not meeting the target figure.²⁷ There is little interest in effecting a culture shift. Initiatives aimed at improving the number of women in top positions, like the creation of a database listing suitable female candidates for vacant seats in Boards of Directors and Boards of Supervisory Directors, met with resistance from the business sector.

In academia, too, women have difficulty rising to the top. While the number of female professors is slowly increasing, the distribution is as yet still unbalanced. The ministry of education figures show that the percentage went up from 13.3% in 2013 to 17.2% in 2014.²⁸ No target figure for the number of women to hold a chair exists. The Minister of Education, Culture and Science announced she would discuss the matter with universities and that she is in favour of a target figure of 30%.²⁹ Existing views on the suitability and stereotypical views on the care duties, ambition and competence of women result in women being passed over as suitable candidates. Such appears from the 2012-2015 Company Monitor. The Government is insufficiently implementing measures to encourage companies and universities to actively work on promoting women to top positions.

Suggestion for a question:

What specific measures will the Government implement so businesses and universities will judge women on their skills, the job requirements are objective and the effect of stereotypes will be counteracted?

²⁷ [Topvrouwen in de wachtkamer, Bedrijven monitor 2012-2015](#). (Top women in the waiting room. Company monitor 2012-2015).

²⁸ Ministry of Education, Culture and Science, [Vrouwelijk universitair personeel; percentage](#) (Female university staff, percentage). 2015.

²⁹ Minister of Education, Culture and Science, [Kamerbrief met reactie op Monitor Vrouwelijke Hoogleraren 2015](#). (Letter to parliament with a response to the Monitor female professors 2015).

Article 7: just and favourable conditions of work

Labour exploitation of migrant workers

An investigation by the Institute in 2013, ‘Polish migrants from a human rights perspective’³⁰ and a research carried out by two expert organisations in 2016, ‘Profiting from dependency’,³¹ show that labour exploitation continues to exist. Exploitation includes being underpaid and housed in substandard accommodation. Some migrants, mostly female, are sexually intimidated or asked for sexual favours in exchange for work or better working conditions. Migrant workers also often work too many hours, work in unsafe conditions and are required to pay a huge sum for the rent of their housing. When workers complain they risk being dismissed. Labour exploitation particularly concerns Polish and other Eastern European migrant workers working in a number of sectors of the Dutch economy, such as agriculture, transport and construction. It is also clear that recruitment agencies play an important role in the exploitation. Recruitment agencies make questionable deductions from the salaries of migrant workers for accommodation, electricity, transport, medical insurance, extra services and various unaccountable costs. The Institute is concerned about the working conditions of migrant workers in the Netherlands. It stresses that more action is needed from Government to prevent exploitation of migrant workers and to address exploitation that is taking place. For example by introducing a licensing system for recruitment agencies, by decoupling work and housing and by improving labour inspections.

Suggestion for a question:

What measures does the Government take to intensify its efforts to prevent, address and prosecute exploitation of migrant workers?

Articles 7 and 9: Social security benefits for domestic workers

Concluding observations par. 17, Government report par. 56-58

The Committee recommended that the Government adopt measures to bring the rights and benefits accorded to domestic workers in line with those afforded to other workers, particularly in terms of social security benefits. So far, this recommendation has not been fully complied with. The Netherlands has not ratified the ILO Convention concerning decent work for domestic workers (No. 189). The Commission on domestic work concluded that the existing Regulation on domestic work is not compatible with the provisions of the ILO Convention. According to the Commission, abolishment of the Regulation would not improve the position of domestic workers without an investment of the Government. The Government chose to uphold the current Regulation and to increase its observance by launching a media campaign and making exemplary contracts available on all relevant Government websites. The campaign hardly reached its target group. Still, domestic workers working less than four days a week for a single employer are to take out social insurance themselves and are not entitled to social security benefits. It is the

³⁰ College voor de Rechten van de Mens, [Poolse migranten in mensenrechtenperspectief](#), (Polish migrants in a human rights perspective). 2013.

³¹ Fairwork and SOMO, [Profiting from dependency, Working conditions of Polish migrant workers in the Netherlands and the role of recruitment agencies](#), 2016.

Government's intention to prohibit the improper use of the Regulation by municipal authorities as per 1 January 2017.³²

Suggestion for a question:

Is the Government of the opinion that the legal position of domestic workers has significantly improved in the last years, and what measures will the Government implement to ensure that, both in the private and the public sector, it will be (further) improved in practice?

Article 10: protection of the family

Violence against women³³

Concluding observations par. 21, Government report par. 69-80

Prevalence of violence against women and police response

Despite the Government's efforts, the prevalence of violence against women in the Netherlands is high. A 2014 survey by the European Union Agency for Fundamental Rights (FRA) showed that 45% of women over 15 in the Netherlands have at one point been the victim of physical and/or sexual violence.³⁴ Statistics Netherlands reported that in 2014 31 women had been the victim of murder or manslaughter. Well over half the number of women murdered in the past five years were killed by their partners or ex-partners.³⁵ Poignantly, various victims had reported being threatened to the police. Professional training of police officers is necessary for them to be able to intervene in case of immediate danger and to properly assess the level of the threat reported by women.

Suggestion for a question:

What does the Government intend to do to ensure that the police will make a proper assessment of the risks for *each* report of violence against women?

Gender-sensitive approach

The study 'Genderscan on approach to domestic violence', commissioned by the Government, showed that current policy and practice to tackle domestic violence are insufficiently gender-sensitive.³⁶ The policy on intimate partner violence should pay more explicit attention to the effects of stereotyping and unequal power dynamics between men and women, both as regards the relation between partners and otherwise within family relations. The Netherlands at present do not possess sufficient data to monitor whether its approach to prevent and combat gender-related violence is effective. The survey by the FRA could serve as a baseline for a follow-up study to measure the effectiveness of the approach.

Suggestions for questions:

³² CEDAW/C/NLD/Q/6/Add.1, List of issues and questions in relation to the sixth periodic report of the Netherlands, Addendum, Replies of the Netherlands to the list of issues, 5 July 2016, par. 194.

³³ The Institute submitted a report to the pre-session Working Group of CEDAW's 65th session (March 2016). This section is drawn from that report and contains some updates.

³⁴ European Union Agency for Fundamental Rights, [Violence against Women: an EU-wide survey](#), 2014.

³⁵ CBS, [Ruim helft van vermoorde vrouwen door ex of partner omgebracht](#), (More than half of murdered women is killed by her partner or ex-partner). August 2015 (figures on 2014).

³⁶ Regioplan, [Genderscan aanpak huiselijk geweld](#), Amsterdam: Regioplan, 2013.

What does the Government intend to do to ensure that systemic attention is paid to gender in policy and practice on violence against women?

What does the Government intend to do to monitor the effectiveness of its policy on violence against women and, where necessary, to adjust it?

Supporting and protecting victims of domestic violence

As from 1 January 2015, the responsibility for preventing domestic violence and providing support and protection, rehabilitation and care to victims has been vested in the municipalities. This allows for individualised approaches, which is a positive development. However, in practice, specialist care provided to victims is often lacking. Nor is the quality and capacity of the support and protection services offered properly supervised on the national level. The Association of Netherlands Municipalities reports in ‘Waiting lists and safety at home’ that a waiting period is applied to reports of domestic violence classified as being less urgent. The risk exists that this waiting period will become longer and that, in time, urgent reports, too, cannot be processed directly.³⁷ It is observed that the waiting lists are the result of a successful campaign to the general public to report cases of (suspected) domestic violence. Many municipalities do not have sufficient capacity to deal with all reported cases. These include reports of cases classified as ‘troubling’.

Suggestion for a question:

What does the Government intend to do to ensure that all victims of violence have access to high-quality protection and support services and specialist aid at the local level without delay?

Women with a dependent residence permit more vulnerable to violence

The findings of the study ‘Immigration for the purpose of marriage in the Netherlands’ study show that women holding a dependent residence permit are especially vulnerable when becoming a victim of domestic violence.³⁸ These women are eligible for an independent residence permit only after having resided legally in the Netherlands for five years. It is very difficult for them to obtain an independent residence permit prior to this time. This is possible only if they are able to prove that they cannot remove themselves from the violence committed by their partner, not even by leaving the Netherlands and returning to their countries of origin. Victims of honour-related violence additionally have to prove that the threat of such violence is present in their countries of origin as well. The perpetrators of the violence use the fear their victims have of being deported and/or losing their right of residence as a weapon to prevent them from seeking out help or applying for a divorce. For marriage migrants holding a dependent residence permit, a lack of awareness of their rights and available support services or fear of (honour-related) violence or reprisals by the perpetrator can prevent them from seeking assistance. The Dutch agencies and services are not always sufficiently sensitive to the situation marriage migrants find themselves in. They are therefore not always able to offer suitable assistance, but tend to offer a ‘Dutch’ solution by proposing to seek shelter in a safe house and start divorce proceedings.³⁹ Making it easier for victims of domestic or honour-related

³⁷ VNG, [Wachtlijsten en Veilig Thuis](#), The Hague: VNG, 2015.

³⁸ SCP, [Huwelijksmigratie in Nederland](#), (Migration for marriage in the Netherlands) 2014.

³⁹ SCP, [Huwelijksmigratie in Nederland](#), 2014.

violence to obtain an independent residence permit and improving access to assistance allows for improved protection of this vulnerable group of women.

Suggestion for a question:

What does the Government intend to do to ensure the adequate protection of victims of domestic violence who depend on their partner for their residency status and the availability of high-quality assistance?

Victims of domestic violence not holding valid residence permits

Women without a valid residence permit are more vulnerable to domestic violence. They fear that reporting to the police will have negative consequences for their stay in the Netherlands. Protection and support services for this group of victims are insufficiently provided for in law and practice. The Institute has received multiple signals that victims of domestic violence without a valid residence permit have difficulty accessing protection and support services, such as access to safe houses. This makes it even more difficult for this group of women to remove themselves from a situation of violence.

Suggestion for a question:

What does the Government intend to do to ensure that both victims of domestic violence without a valid residence permit and professionals are aware of these victims' rights and to ensure that such victims have access to protection and support services?

Violence against women in the Caribbean Netherlands

The scope and severity of domestic violence against women and girls in the Caribbean Netherlands are both significant. Poverty is rampant under the inhabitants of the Caribbean Netherlands and women often work in various jobs to generate sufficient income for their family. Still, they often depend on the income of their partner and/or maintenance money paid by their ex-partner. This financial dependency makes it difficult for them to remove themselves from the situation of violence. Solid initial steps have been taken to tackle violence against women in the Caribbean Netherlands. Safeguarding the reporting structure, safe shelters and a permanent public information campaign on all three islands is essential. This requires the availability of professionals.

Suggestion for a question:

What does the Government intend to do to ensure that structural measures are implemented on all three islands? And within what time frame will these measures be implemented?

Protection of children

Various reports have addressed the question of access to support services for children who are victim of domestic violence. The advisory services and complaints office 'Safe at home' ('Veilig thuis') are responsible for youth care services. Various problems have been reported by, among others, the Inspectorate for Youth Care and the Health Inspectorate

and the Netherlands' Ombudsman for Children.⁴⁰ The Ombudsman for Children found problems in cooperation between the various authorities, accessibility, safety and financing of services. Furthermore, he reported an alarming increase in the waiting period for access to services.

Suggestion for questions:

What measures does the Government take to guarantee immediate access to specialised youth care services for children who are victims of domestic violence?

Article 11: right to an adequate standard of living

Concluding observations par. 24, Government report par. 102-106

Poverty in the Netherlands: general

Poverty has been on the rise in the Netherlands as result of the financial crisis. Statistics show that while short-term poverty seems to stabilise for the coming years, long-term poverty continues to rise. This especially has an impact on the number of children living at risk of poverty. National anti-poverty policies largely focus on economic aspects of poverty. Measures are designed to increase purchasing power by focusing on increasing income through work.

According to the Netherlands Institute for Social Research (SCP) the number of households living in poverty rose sharply at the height of the financial crisis from 2008-2013.⁴¹ Figures from Statistics Netherlands (CBS) show the number of households living at a low income, and therefore at risk of poverty, rose less sharply in 2014 with an anticipated decline in 2015 and 2016.⁴² However, the number of people who have lived at risk of poverty for a period of 4 years or more (long-term poverty) rose in the latest known figures of 2014.⁴³ CBS noted in 2015 that a considerable number of households whose income decreased as a result of the economic crisis to 'poverty' levels, have not been able to recover from this.

Specific groups are more vulnerable to poverty than others. These groups include single-parent households, non-western migrant households and people with work. The number of non-western households at risk of long-term poverty is six times higher than Dutch households. Among the number of households living at risk of long-term poverty there is a sharp rise of people with paid work.⁴⁴ These are often self-employed or have flexible working contracts, including flexible hours. People between the age of 55 and 65 are most at risk of long-term poverty.⁴⁵

⁴⁰ Inspectie Jeugdzorg en Inspectie voor de Gezondheidszorg, *De kwaliteit van Veilig Thuis Stap 1, Landelijk Beeld*, (The quality of Safety at home, step 1, national picture). 2016. deelrapporten 1, 2 en 3 Kinderombudsman, *De zorg waar ze recht op hebben. Onderzoek naar de toegang tot en de kwaliteit van jeugdhulp na decentralisatie* (The care they are entitled to. Research into access to and quality of youth services after decentralisation). 2015.

⁴¹ SCP, Wildeboer Schut and Hoff, *Een lang tekort: langdurige armoede in Nederland*, (A long-term shortage. Long-term poverty in the Netherlands). 2016.

⁴² CBS, *Armoede en Sociale Uitsluiting 2015*, (Poverty and social exclusion). 2015.

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ CBS, *Kans op langdurige armoede het grootst tussen 55 en 65 jaar*, (Chances of long-term poverty are biggest at age 55-65). 2015, CBS, *Armoede en Sociale Uitsluiting 2015*.

It is commendable that CBS in 2015 published a report linking poverty to social exclusion, thus providing a more holistic approach to poverty. It reported that poor people participate less in society, are overrepresented both as perpetrators and as victims of crime, have a worse health condition, and less chance of getting better quality education.⁴⁶ This affects adults and children. There is also very little social mobility. Growing up in poor households increases the risk of poverty in adult life. These statistics and evaluation, showing both the causes and consequences of poverty, provide a good basis for a comprehensive human rights based approach to combating poverty. Developing a policy with specific attention for the groups facing long-term poverty, founded on human rights, such as the right to education, the right to health and the right to housing, can provide a structural contribution to the alleviation of poverty.

Suggestion for question:

Does the Government intend to integrate a human rights perspective in its anti-poverty policy?

Children living in poverty

The number of children at risk of poverty has risen in 2014, which is worrying after a period of decline.⁴⁷ The number of children living in long-term poverty also rose.⁴⁸ Almost 4,5% of all Dutch children now live in a situation of risk of poverty for more than four years. Children particularly at risk live in single parent households, families living on social benefits, as well as children in families with a non-western background.

A positive step was initiated by the Children's Ombudsman who suggested municipalities should develop special financial packages for children that can be used to increase participation of poor children in society. A growing number of municipalities is offering these packages. Some of them invite children to participate in the determination of the content of these packages.

Another positive development is that the Government has set out a request for research with the Social and Economic Council of the Netherlands, asking it for suggestions for an effective national anti-poverty strategy focusing on children. At the same time, the Government asked the Children's Ombudsman for a report with suggestions to reduce child poverty, with a focus on local policies.

Asylum seekers

Asylum seekers are generally housed in reception centres. In 2015 asylum seekers were also housed in emergency shelters, including tents, former prisons and sports facilities. The Institute has visited crisis reception facilities, emergency reception facilities and regular reception facilities. It found no human rights violations in that period, but pointed out that this form of shelter entailed risks of human rights violations, especially when people have to stay there for several months. There is a significant lack of privacy and possibilities to rest, which has consequences for safety. The procedure to apply for asylum could not start immediately, due to the large numbers of incoming refugees, and can last

⁴⁶ See, amongst others, CBS, *Armoede en Sociale Uitsluiting 2015*.

⁴⁷ CBS, *Armoede en Sociale Uitsluiting 2015*.

⁴⁸ CBS, *Armoede en Sociale Uitsluiting 2015*.

as long as more than a year. For the largest part of this waiting period, asylum seekers are provided with clothing and food and emergency health care. However, they have no right to a maintenance allowance, thus limiting the possibilities to make their own choices.

There is a serious shortage of social housing for asylum seekers after they have successfully applied for a status. Nevertheless, there is a proposal to remove the priority access to housing for asylum seekers from the Act on Housing.⁴⁹ In the meantime, municipalities can provide temporary housing (maximum of two years) to asylum seekers with a permit to stay in houses which are not suitable for permanent residence. These refugees are not eligible for social welfare benefits, but instead receive a weekly allowance from the Central Agency for the Reception of Asylum Seekers (COA). This allowance is below the welfare level. As a consequence, they are at risk of poverty.

Suggestions for questions:

What measure does the Government take to ensure that asylum seekers have timely access to adequate housing?

How does the Government ensure that asylum seekers can take their own valuable decisions, for instance regarding their food?

What measures does the Government take to ensure that the temporary housing and the provision of allowances is compatible with human rights, including the right not to be discriminated against?

Adequate standard of living in Caribbean Netherlands

The level of poverty on all three islands is worrying. The material living conditions of many inhabitants have clearly worsened since the transition in 2010. After the introduction of the dollar on 1 January 2012, the inhabitants have experienced drastic price increases and reduced purchasing power. This is particularly threatening for the vulnerable groups in society, such as elderly depending on social security, single mothers and occupationally disabled. Poverty has an impact on other aspects of life. It often leads to low levels of education and employment, problems in the field of housing, dependency on drugs and alcohol and psychiatric symptoms.

The Dutch Government had agreed with the local Government of the public entities that the provision of wealth and health care would be elevated 'to a standard of services and provisions that is acceptable within the Netherlands'. However, from the onset, the Netherlands and the islands held different opinions on the interpretation of this agreement. The national Government has been too reticent to counter the increasing poverty. Article 11 ICESCR implies that states are obliged to guarantee a minimum level of social security to all its inhabitants. A 'safety net' should always be available for those in need. At present, the Netherlands does not comply with this obligation. For a long time, the Government refrained from determining a minimum level of social security, arguing that this would undermine the economic relations in the region and that it would be too costly. In response to the evaluation report it has promised to set a social minimum, but this will not be linked to benchmarks for subsistence. This does not meet with the obligations of article 11 of the Covenant.

⁴⁹ Wetsvoorstel 34454. [Wijziging van de Huisvestingswet 2014 inzake de huisvesting van vergunninghouders.](#)

Suggestion for question:

What steps does the Government take to determine on short notice a social minimum with benchmarks for subsistence in the Caribbean Netherlands and furthermore implement robust socio-economic policies for poverty alleviation?

The right to housing and independent living for people with disabilities

Concluding observations par. 13

Persons with disabilities have fewer opportunities to live independently and to take part in society than persons without disabilities. This can be concluded from the fact that still many persons with disabilities live in institutions. The accessibility of neighbourhood facilities, such as stores and parks, is limited.⁵⁰ But also for persons with disabilities who cannot live independently it is often difficult to find adequate housing. This is for example the case for persons who need some kind of care, but who do not meet the criteria to be accepted in a health facility. Adequate housing is also problematic for children with severe mental disabilities. For young adults (between the 18 and 30 years old) with non-congenital brain damage it is difficult to find accommodation that provides assisted living.⁵¹

Suggestion for question:

What measures does the Government take to provide more adequate housing for persons with disabilities and to make a plan together with municipalities to make neighbourhood facilities more accessible?

The right to shelter for undocumented migrants

Concluding observations par. 25, Government report par. 97-100

In its concluding observations the Committee urged the Netherlands ‘to meet its core obligations under the Covenant and ensure that the minimum essential level relating to the right to housing, health and education is respected, protected and fulfilled in relation to undocumented migrants.’ This recommendation has not been complied with.

Undocumented migrants in the Netherlands receive shelter on the condition that they express the intention to cooperate with the return to their country of origin or another country that is willing to accept them. The Government has interpreted this condition in the sense that in principle return has to be effectively possible within a period of twelve weeks and that the undocumented migrant should provide proof of his intentions to comply with the obligation to return. The two highest administrative courts in the Netherlands ruled that this condition is acceptable. In these decisions no concrete observations were made about the compatibility of the condition with article 11 of the Covenant. The Netherlands should offer shelter to undocumented migrants, and not make this basic right conditional on their cooperation in returning. In this discussion, the Government argues that the Covenant provisions have no direct effect. After the judgements of the highest administrative courts the Government seeks to reach an administrative agreement with the municipalities on providing shelter to undocumented migrants. Until such an agreement

⁵⁰ Netherlands Institute for Human Rights, [Inzicht in inclusie](#) (Insight in inclusion). 2016.

⁵¹ [MEE Signaal, Trend- en signaleringsrapportage 2014.](#)

has been reached, each municipality adopts different standards for access to shelter. The Institute is deeply concerned about vulnerable migrants that need continuous (medical) care. The night shelter offered voluntarily by municipalities does not offer adequate facilities as it provides no continuous care. For several reasons these vulnerable groups may not have been able to take steps towards their return and can therefore not receive shelter.

Suggestion for question:

Which measures does the Government take to comply with the minimum core obligations under article 11 of the Covenant and offer access to shelter to undocumented migrants who cannot comply with the conditions set by the Government?

Article 12: the right to health

Access to social services to facilitate participation in society

As a consequence of a major overhaul in the field of social services, local Governments have more responsibilities which affect human rights. The overhaul was accompanied by (severe) budgetary cuts. Municipalities are responsible to support individuals in participating in society and to provide access to care and services to facilitate this. Individuals are expected to do as much as possible themselves and to request their social network to provide informal care. Various reports indicate that the access and availability of care for various groups in vulnerable situations is affected. These include elderly, chronically ill and people with disabilities, women, and children. Local authorities are often not yet able to identify vulnerable groups who do not seek support themselves from local authorities.

Reports indicate that people avoid seeking support due to unclear and high financial contributions to obtain care and services.⁵² This disproportionately affects elderly and people with disabilities. Information on obtaining a waiver for such contribution is not always provided. Local authorities are not transparent about these contributions. In practice, many people faced unanticipated high bills for care.⁵³

Suggestion for a question:

What measures does the Government take to guarantee availability of and accessibility to quality care and support services for all, and to ensure the protection of vulnerable groups?

Elderly in residential care

Concluding observations par. 29, Government report par. 122-128

More attention is needed for the human rights of elderly persons in residential care. This was one of the conclusions of an investigation by the Institute into the situation of human rights of elderly persons in residential care. The investigation focused on autonomy and dignity, in relation to the right to humane treatment. The Institute found many examples

⁵² Ieder(in) and Binnenlands Bestuur, *Meldactie Eigen Bijdrage*, (Report on survey on own contribution). 2016; SSKIPR, *Ouderen mijden zorg om kosten*, (Elderly avoid care because of costs). 2015.

⁵³ National Ombudsman, *Een onverwacht hoge rekening*, (An unexpectedly high bill), 2015. p. 34.

of good practices of respect for human rights. It also found various areas where action is necessary to guarantee that human rights are guaranteed in full and breaches are prevented. More attention is needed for the respect of elderly persons' autonomy, especially in relation to their well-being and the way in which they live and spend their time in the residential care facility. This requires that staff members are capable, both in terms of competences and in terms of time, of taking the needs of the elderly as a starting point in their work. This should not only be so in looking after their personal hygiene, but in all aspects of their work.

The question of monitoring human rights of elderly in residential care requires special attention, since this group of persons does not easily complain. They should have easy access to a support person. Raising awareness among health professionals of the relevance of the human rights framework is crucial.

Suggestion for a question:

What measures does the Government take to promote and protect the human rights of the elderly in residential care?

Treatment of persons with an intellectual disability in care facilities

Persons with severe intellectual disabilities often live in care facilities. They are especially vulnerable because they are dependent on others and often are not capable of standing up for their rights. As a follow-up to information about irregularities in care facilities for persons with an intellectual disability, an organisation called the 'Stichting Klokkenuiders Verstandelijke Gehandicaptenzorg' (Foundation whistle-blowers care for mentally disabled) started a hotline in 2013. In a time span of two years hundreds of people contacted the hotline and reported on inadequate care and ill-treatment in care facilities. These reports - although not verified - concerned inadequate care, using force unnecessarily, (sexual) abuse, no respect for the privacy of clients, lack of action after complaints and intimidation of clients after they had filed a complaint. The reports concerned 76 health facilities in the Netherlands. Given the vulnerability and dependency of persons with an intellectual disability in care facilities, these reports are particularly alarming.

The State Secretary of Health, Welfare and Sport first promised to present an action plan in November 2015. On 1 July 2016 he announced to present the action plan in November of 2016.⁵⁴ Given the severity of above mentioned incidents, an action plan is urgently needed.

Suggestion for a question:

Which short-term and long-term measures will the Government take to prevent, combat and remedy inadequate care and ill-treatment in care facilities for persons with an intellectual disability?

⁵⁴ Kamerbrief [Samen werken aan een betere gehandicaptenzorg](#), (Letter to parliament, Working together to improve care for disabled). 1 juli 2016.

Access to mental health services for child victims of sexual abuse

The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children is concerned about the lack of expertise among local authorities as regards sexual violence against children and trafficked children. She has reported that access to mental health services for children and adolescents is too restrictive for child victims of sexual violence and trafficking. Where there is no diagnosed mental disorder, there are no funds for treatment. This implies that minor victims with serious problems but who do not (yet) have a diagnosed disorder can have problems in accessing specialised mental health services.⁵⁵

Suggestion for questions:

What measures does the Government take to ensure access to specialised mental health services for all child victims of sexual abuse and trafficking?

Isolation of patients

Despite various measures, isolation of patients in residential care still occurs and sometimes for long periods. Isolation is an extreme measure which brings a significant risk of adverse physical or mental health effects for the patient concerned. It can even constitute ill-treatment. Since 2002, psychiatric units have attempted to limit both the frequency and duration of isolation. In 2004, the sector's representative body GGZ Nederland (Dutch Association of Mental Health and Addiction Care) announced the intention of achieving a ten per cent reduction in the use of such measures. Between 2006 and 2012, the Ministry of Health, Welfare and Sport (VWS) provided additional funding to support the pursuit of this aim.

The Health Care Inspectorate devotes particular attention to ensuring that patients in residential care are not subject to any unnecessary restriction of freedom. Since 2008 it has been closely monitoring progress of efforts to reduce the use of isolation. In late 2011, the Inspectorate reported that the field had thus far failed to achieve the desired reduction in the use of isolation, and that little or no further progress was being made. Since then the Health Care Inspectorate has intensified the monitoring of care facilities. In 2015 it concluded that isolation in care facilities is diminishing, but that the pace at which improvements are made differ greatly between care facilities. Research of the Inspectorate also shows that, despite the efforts made, there are still facilities where patients are isolated for a long period of time.

Suggestion for a question:

Which measures will the Government take to accelerate the reduction in the use of isolation in all care facilities?

⁵⁵ Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen, *Zorg voor voldoende expertise in wijkteams*, (Guarantee adequate expertise in local teams), nieuwsbericht 24 april 2015.

Article 13: right to education

Education for illegally resident minors

Concluding observations par. 31, Government report par. 135

Minors residing illegally in the Netherlands have a right to education. However, for (pre) vocational and higher education problems can arise with respect to mandatory internships, because this is considered to be work. In 2012 the court determined that denying access to an internship constitutes a violation of the right to education. The court observed that it is not possible to graduate without completing the internship. On 1 July 2015 regulations have come into force which allows this group of students to perform an internship in certain curricula of pre-vocational education (VMBO), in practical training and in secondary education for children with special needs. The regulations include the requirement to start the education before their 18th year and that the internship is unpaid. Students in universities (of applied science) are not able to perform an internship. They can therefore only enroll in studies without a mandatory internship. Most studies at universities of applied sciences require the performance of an internship.

Suggestion for a question:

What measures will the Government take to make also higher education accessible for illegally resident minors?

Equal access to education

Scientific study shows that social status increasingly affects opportunities in Dutch education and social mobility.⁵⁶ The 2016 report of the Inspectorate of Education confirms these findings: depending on the parents' level of education, children with the same talents do not get the same opportunities at school.⁵⁷ A number of Government measures in the last years have contributed to the increasingly important role of social status (education and income) and (indirectly) ethnicity as ground for access to and mobility in higher education, rather than merit. One of these measures is that for the selection of young students to enter secondary education, the teachers' evaluation of a child's capacities is granted more weight than the results of a uniform national test. This risks creating more space for bias of teachers and making teachers more vulnerable to the pressure of parents who try to influence the teacher's opinion on their child's capacities.

Suggestions for questions:

What measures does the Government take to examine the effects of policies that appear to contribute to maintain or even increase unequal opportunities in the right to equal access to education?

Children and students with disabilities

The Institute regularly receives complaints and gives opinions about children and students who are not accepted at schools or sent away because of their disability or chronic illness.

⁵⁶ P. De Beer, *Meritocratie: op weg naar een nieuwe klassensamenleving*, (Meritocracy: towards a new class society). 2016.

⁵⁷ Inspectorate of Education, [De Staat van het Onderwijs 2014/2015](#) (The state of education).

Or about children or students with a disability who do not receive a reasonable accommodation, such as an adapted exam. According to Dutch law it is discriminatory to refuse a reasonable accommodation, unless this imposes a disproportional burden on the school. Part of the problem is that teachers do not always know how to treat a person with a disability and are often unaware of what kinds of reasonable accommodation are available.

Suggestion for a question:

What measures does the Government take to ensure that in the curriculum of teachers attention is paid to (how to deal with) children and students with disabilities?

Participation of children with disabilities in culture, recreation and sports

Children with disabilities often are not able to enter establishments such as theatres, restaurants or sport facilities because they are not accessible or because they are not accepted because of their impairments. It also happens that they have to pay an extra sum for bringing along something that is necessary for their mobility, such as a wheelchair or a guide-dog. For example when their parents book a vacation. On 14 June 2016 a law has come into force that forbids discrimination when offering goods or services. Also a regulation is foreseen which will oblige organizations to effectively grant the accessibility of their services.

Suggestion for a question:

What measures does the Government take to ensure that all children can access cultural institutions?