



**Joint Input for the CERD joint statement
Dutch NGO's/civil society**

From

**Stichting National Monument Dutch Slavery Past
(Landelijk Platform Slavernijverleden)**

&

Tiye International

In cooperation with:

**Foundation African European Women's Movement 'Sophiedela';
Foundation National Forum Civil Society of African Descendant
African and African descendant Network**

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1. Introduction

This part of the Dutch NGO input is on behalf of the African and People of African Descents NGO's and Networks; Foundation National Forum Civil Society of African Descendant; The Foundation African European Women's Movement 'Sophiedela' in the Netherlands and Tiye International. Tiye International is the umbrella NGO of 21 member associations of Black, Migrant and Refugee women and youth. Tiye International has a special consultative status with the ECOSOC of the United Nations.

The inputs of these organisations is with reference too, to the remarks of the CERD in 2010 & 2015 and the input of our constituences at the NGO's shadowreports and during other occasions.

The Topics

Part 1:

1. In consideration of the Report of the Kingdom of the Netherlands under article 9 of the Convention on the elimination of Racial Discrimination 2018.

1.1.National Framework to tackling racism and discrimination

Under Constitution point A (pg.9).

With reference to the statement of the Kingdom (Article 1 the Constitution:

For our Comment, we refer to the CERD recommendation, august 28, 2015. under:

Legislation 9.

While noting the decision by the Dutch Supreme Court and an interpretation made by the government, according to which the term "race" in the State party's anti-discrimination legislation should be understood in accordance with article 1 of the Convention, and noting that the legislation of the State party contains a general prohibition of discrimination on the grounds of race, the Committee is concerned that some elements of the definition of racial discrimination are provided in the Criminal Code only.

The Committee notes with concern that a racial motive does not constitute an aggravating factor for criminal offences under the law and that a more severe sentence may only be requested according to "instructions" issued by the prosecutor (art.2 and 5).

10.The Committee recommends that the definition of racial discrimination should be included in the legislation and being full conformity with article 1 of the Convention, including also colour, descent and ethnic origin, and should cover all relevant fields of law. Furthermore, the Committee recommends that the State party introduce into its criminal legislation racial motivation as an aggravating circumstance in the determination of sanctions for criminal offences.



During several occasions we have brought to the attention that Article 1 is not sufficient enough to effectively tackle all forms of multiple racism. And it is therefore important to integrate '**ethnicity and nationality**' as important sources of racism into this Article 1.

The Kingdom of the Netherlands has ratified the CERD Convention, which also means compliance with it. The Convention defines racial discrimination as: any distinction, exclusion, restriction or preference based on race, colour, **descent, or national or ethnic origin** which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

"Racial discrimination" in this context, can be defined as the act. The concept of race does not replace the 'concept of ethnicity and nationality'. In this context, we are following Article 21 of the Charter on Fundamental Rights

https://www.europarl.europa.eu/charter/pdf/text_en.pdf of the European Union:

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.
2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, and without prejudice to the special provisions of those Treaties, any discrimination on grounds of nationality shall be prohibited. Non-discriminatie

Recommendation 1:

We recommend the CERD to take a stand against the explanation of the Kingdom of the Netherlands and to maintain the recommendations from August 2015. Concrete to recommend the Netherlands to include the respective grounds in Article 1 of the Constitution.

1.2. National Action Programme on Discrimination (Observations 14a, 21 b. (pg 9)

We would like to ask CERD and bring under your attention the following again: In our opinion the implementation of the Durban Declaration and Program of Action (DDPA 2001) and affiliated UN resolution must be one of the top priorities to combat all forms of multiple racism in the Netherlands. We also would like to bring the questions and answers of 2010, from the CERD respectively from the Kingdom of the Netherlands again under your attention. These are still relevant.

On the Question of the CERD in 2010, we quote Article Number 4:

Stichting Nationaal Monument Nederlands Slavernijverleden*Landelijk Platform Slavernijverleden*

After ratifying the Durban declaration in 2001, the Dutch government instituted a National Action Plan against racism effective until 2007. The government which took office in 2007 announced that a new action plan against racism would be launched. Please provide information on the preparation of a new action plan against racism, and on whether the recommendations of the 2009 Durban Review Conference will be included in its formulation.

The Kingdom of the Netherlands answered as follows:

In December 2003 the National Action Plan against racism was sent to parliament. Subsequently, in July 2007, parliament was informed about the progress that had been made with it in the interim. In November 2009, a general letter on integration was sent to parliament with a chapter on racism incorporating recommendations contained in international treaties and, where relevant, those of the Durban Review Conference of 2009. This letter discusses the three prongs of the current policy: combating racial discrimination with the help of anti-discrimination services, the police and the public prosecution service; boosting the resilience of victims; and the professionalization of organisations involved in combating discrimination.

During the CERD consultation session on Februari 23, 2010 in Geneva the Kingdom of the Netherlands referred to several mechanisms and instruments that were developed to combat racial discrimination and other forms of institutional discrimination, xenophobia and related intolerance. Not one referred to the implementation DDPA.

We strongly believe and insist that the outcomes of the 2001 Durban Conference is and must be recognized on an equal level with the outcomes of other major United Nations conferences, Summits and Special sessions and that strong and concerted actions need to be taken by the Kingdom of the Netherlands with a voice for the Civil Society to reinforce its standing and rightful place at the top of the agenda of global priorities.

The DDPA 2001 shows some interesting text. One of the outcomes is that:

The adoption of this declaration of the acknowledgement of the transatlantic slave trade as a crime against humanity¹ was clearly the greatest victory during the UN WCAR 2001.

We must not forget the historical importance of the Durban Declaration and Programme of Action in several issues of racial discrimination concerns. We would like to refer for instance to the declaring of the trans-Atlantic slave trade, slavery and colonialism as a crime against humanity.

The DDPA also provided an understanding and clear analyses of the emergence of the present day world and the deep roots of racism in the transatlantic slave trade and colonial era.

For our constituencies 'People of African Descent', living in the Netherlands and the other Dutch Caribbean countries, the World Conference respective the Durban Declaration and Program of Action (DDPA) were historic.

¹ A/CONF 189/12 Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) less than 1 agreed to and accepted by 168 nation states.



It acknowledge that the "...transatlantic slave trade [is] among the major source and manifestations of racism..." and that Africans and People of African Descent continue to be victims of [its] consequences. The Declaration expressed a commitment to African and People of African Descent, including the eradication of all forms of racism, racial intolerance, xenophobia and other intolerance faced by African and People of African Descent. This Declaration and Program of Action were accompanied by very specific Programme of Action.

In this regards we would like to bring the letter in this <https://app.box.com/s/luvp7f7cu7ts9u177ypqisgyw2qe0a6u> link under your attention. As long the Kingdom of the Netherlands do not take stand against the negative propaganda about the Durban Conference the DDPA will not be use as a tool to combat racism, xenophobia and related intolerance.

Recommendation 2:

2.1 First of all we would like the CERD recommend that the Kingdom of the Netherlands undertake all necessary actions to ending the relentlessly negative and false characterization that the Anti Racism UN World Conference 2001 was a conference which promoted racism or anti-Semitism. In our opinion it was not.

2.2. We recommend the fully implementation of the DDPA 2001 in a National Acton Plan to combat all forms of Racism and that the government take into consideration: the affiliated UN decisions to reconfirm the DDPA 2001 during the Durban review 2009 and the UNGA High Level Panel on September 2011 during Tenth Years Commemoration of the DDPA. This includes the adoption of People of African Descents as a special group to combat racism. Although we must here emphasize that projects has been realise by the Kingdom of the Netherlands to fulfill this criteria. But it is not enough.

2. The issue of Afrophobia.

We would like to take the opportunity to bring this issue under your attention. In September 2012 during the 21st session of the Human Rights Council "Afrophobia" was adopted as a term at analogous of the terms that are using to address the stigmatization of other categories of groups. Taking into consideration too, the content of the Integration letter to the Dutch Parliament, November 2009, the conclusion is that here was a challenge for the Dutch Government to realise measures according to the DDPA.

To your information:

At present, there are several Anti-Discrimination Bureaus (ADV) that have expressed their willingness to cooperate in the development of a framework, legal and review framework for the implementation of the concept of "Afrophobia".



In the monitor 'Discriminatie 2020' of the Anti Racism Bureau 'Haaglanden-Hollands Midden', Page 24, paragraph 5.4. we read:

"... ..As part of the International UN Decade for People of African Descent (2015-2024), various initiatives are being developed The Initiatives focus on various areas, such as culture, social quality, imagery, awareness and tackling exclusion mechanisms faced by people of African descent.

In 2020, the Inclusie and Diversiteits Bureau (iDb) Haaglanden en Midden Holland was informed about the project aimed at developing a guide for professionals and others involved in discussing, combating and preventing multiple discrimination faced by People of African Descent. The iDb Foundation has responded positively to the proposal to cooperate for the following reasons:

- a guide to combating Afrophobia will enable ADVs to better tailor supply to specific exclusion mechanisms which affects people of African descent and coping strategies applied to deal with discrimination and social exclusion;
- the involvement of the iDb Foundation in the project can be used to forge coalitions with organizations and key figures that focus on preventing and combating discrimination based on African origin. Stichting iDb has helped to draw up the basic document that will be used during the consultative meeting in which the contours of the framework of action will be submitted to professionals and experience experts.

After completion of this phase, the framework of action will be further developed and made available to the ADVs and other relevant parties to effectively combat Afrophobia.."

Note that the top of the Dutch College of Human Rights has respond positively.

Recommendation 3

We appreciate recommendations from the CERD towards the Kingdom of the Netherlands to introduce the term "Afrophobia" as a term at analogous of the terms that are using to address the stigmatization of other categories of groups like for Muslims (Islamophobia) Jewish people (Anti-Semitism) and Homo people (Homophobia) and to facilitate the project.

**Part 2:****3: Employment, Education and Training/Trainees****3.1 Employment: Article 5 e-i CERD**

Racial Discrimination is one of the most important causes of the high unemployment rates of BMR People in general. (See different monitors or barometers on this issue from the former Art.1)

In the governmental past policies

Re: “Labour Market policies for ethnic minorities” there had been various measures such as the Employment of Minorities Act (EMA). None of these measures or related activities (such as the New Approach to Labour Market policies after 2005 (The National Diversity Network), has been (sustainable) successful and/or effective.

The results were nor effective nor efficient, due to the facts that:

- There was no clear Anti-Racism Policy integrated into the policies or **forms of multiple discrimination** taken into consideration
- Diversity was one sided and narrowed defined by the Central government. Despite one of the conclusions of the last Parliamentary Commission on Ethnic Minority Policies that: Diversity was not unified defined, nor by the government, nor by politicians, institutes or civil society organizations. This conclusion was swept under the carpet.

3.1.1 In this context we also refer to the Multi-Year Framework for Police Diversity and labour. (2006 – 2010); slower after the implementation, from a social perspective the focus has shifted to a more business like perspective, concentrating on strategic and operation targets and police force performances. Diversity became a business (Labour Force Direction) issue.

3.1.2 Pay gap**Discrimination in the labor market: Equal pay. / CERD /C/NLD/18**

Par. 123.

Every two years the Labour Inspectorate surveys pay differentials between men and women, between full time and part time workers, and between people of ethnic (white) Dutch and ethnic minority origin.

The latest figures were represented to the House of Representatives in October 2006.

Despite the EU directive on Equal pay for equal work, there still is a pay gap, not only a gender pay gap, but also between people of ethnic (white) Dutch and those of ethnic minority origin of 21 % in the private sector, (Labour Inspectorate 2004).

The Labour Inspectorate did not mentioned that there also is a pay gap between white - and BMR women, Re; equal work and equal qualifications. (An average 7%).

There also is no data of the public sector in this context.



It is therefore urgent needed that the government take clear and concrete measures and take into consideration, that besides gender discrimination, there is also the intersection of other factors.

It is also important to take these pay gap discrimination, Re: people of ethnic minority origin extra into consideration, due to the fact that the FRA monitoring Implementation report (2010) in relation to the Paris Principles, concluded that the "Human Rights College of the Netherlands has a B status and not an A status. That means that not all forms of discrimination or violation of human rights can be solved.

Recommendation 4.

The government must take concrete and more effective and efficient (sustainable) measures, and monitor the implementation of equal (realistic) opportunities and equal treatment at the labour market in policy forces but also in other relevant forces, including the public ones.

N.B: In the recent Dutch (strategic) Governmental Bill 2012 – 2016, of different Departments (F. e. Foreign Affairs, Security and Justice the factor discrimination is focused on; homos, lesbians, transgender and gender discrimination, racial discrimination is not mentioned.

Recommendation 5.

It is important that all employers and employees at all function levels are equipped with the competences of Social and Cultural Sensitivity.

In this way every individual employee feel safe, accepted, respected and valued and his/or her talents are granted or taken into consideration.

Recommendation 6.

A discrimination free labour force and a safe workplace are urgent needed. The role of the government, the government should at least facilitate.

Recommendation 7.

To protect BMR citizens it is essential to formulate quota in procedure including Dismissal procedures.

Recommendation 8.

Realistic job –opportunities are needed and equal treatment measures and/or policies are developed. Also in the context of the so called integration Policy to enroll in paid jobs. (Jobs which are not there)

Recommendation 9.

To elevate the pay gap for equal work for all individuals, especially women, not only the gender discrimination must be taken into consideration



also the intersection of other factors tot combat the pay gap between white and BMR people, including women.

Recommendation 9

There must be data available, especially of public pay gaps.

3.2 Education and Training

Introduction:

Education is a fundamental instrument to enhance the goals: Equality. Development and Peace sustainable. There are several requirements, such as; discrimination free education. Discrimination free education takes into account the diversity of society, (Not narrowed as the government is defining diversity), including all decision and / or board level of an Education institute. All employees and students are treated equal and have **fair** – and equal opportunities. To develop themselves and their potentials. There still is a gap, also in this context, between theory and practice.

Only 2, 5% of the Board members of the primary and secondary modern school are of a non-dominant group. (De Weerd en Geeke, 2007).

Human Rights education is mentioned in the CERD / NLD /18 27 report, also for teachers, especially those in a multi-racial setting. And measures taken. However there is no clear evidence that the measures were implemented and / or evaluated. Also in the recent budget of Ministry OCW, there is no budget for human rights education allocated, nor for anti-racism programs in the education sector.

Drop outs

In 2008 there were 70.000 drop outs. (Jaarboek CBS 2007 / 2008). It must be clear that this fact is not an ethnic minority problem, as addressed by the government, but a social economic one. The drop outs from the social lowest income groups are twice more than those of a higher income group. (CBS / 2007 /2008)

The inspection of education also shows that school with less quality related to the counseling of students or pupils, and /or not a right pedagogic didactic environment has more drop outs.

Another point of attention is that not all educational material is discrimination free or not historical objective written. And there are also teachers or student counselors who are prejudiced, or those who shows the motivation to stimulate the students or pupils. Educational curricula are not up to date; also this is a factor in relation to drop outs. The curricula need to be reviewed and revised (Inspectorate of Education Annual report).

Racial discrimination and social mobility.

Despite the progress , according to education statistics (CBS) of non-dominant groups at bachelor and master level, the national policy still is not focusing on this level, for example in relation to social mobility. Also in this context it is relevant to address the issue of racialized



jobs, despite the better and proper competences.

Factor segregation

There is a growing segregation in the education sector, not only in the context of Black and white schools, but also in the context of the not realistic opportunities for non-white students or pupils, partly due to prejudiced bias in general.

Training and discrimination.

It is a fact that BMR students cannot find a proper internship place, nor in the public, nor in the private sector. And without this practical training, they cannot be qualified, and became non-motivated and /or drop outs. If they find a workplace suitable, then it is not in general the best working place.

This fact has an impact on their future career and on the long term it also will have an impact on their lower retirement wages.

Recommendations

- To realize a discrimination free and safe education environment in the equality criteria of the education inspectorate
- To realize effective measures to enhance equality and effective participation of non-dominant groups, in School Boards and other relevant decision making level in the education spheres. Basic is a non-discrimination policy in the vision and Code of Conduct of school boards f.e.
- School books should be reviewed and revised, especially from a historical point of view.
- The government must facilitate the process of preventing and combating racism, also for trainees, and bullying more effective and efficient. The result will be that individuals are accepted and valued on basis of their competences and / or talents and not on the basis of the collar of their skin or belonging to a non-dominant group.
- Measures are urgent needed and monitored and evaluated to prevent the growing segregation in the education sector.
- Intercultural, (Not Multicultural policy/ CERD REPORT), policy is a must in all segments of the Educational sector, including PABOs.
- Civic driven initiatives for change can only be a success, if there is no Institutional Discrimination but cooperation with civil society, including BMR women s NGOs to review the curricula.

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