



Kingdom of the Netherlands

Concept opening statement

[Part head delegation of the Kingdom: Curaçao]

Distinguished Members of the Committee, ladies and gentlemen, It is an honour to address your Committee on the occasion of the dialogue on the seventh periodical report of the Kingdom of the Netherlands. My delegation is looking forward to a productive exchange of views.

But first permit me a moment to briefly explain the constitution of the Kingdom. Since 2010 the Kingdom of the Netherlands consists of four autonomous countries: the Netherlands, which includes the Caribbean islands of Bonaire, St Eustatius and Saba as special municipalities, and the island nations of Aruba, Curaçao and St Maarten. All four countries are represented here today. As they each are autonomous in the implementation of the Convention at national level.

It is my honour to introduce all four representatives:

- The Netherlands is represented by Mr. Riedstra Secretary-General of the Ministry of Justice and Security
- Aruba is represented by Mr. Alexander van Dam, Attorney General.
- Sint Maarten is represented by Minister of Justice, Mr. Van Hugh Cornelius de Weever.
- And I represent the country of Curaçao.

The delegation is supported by the staff of the Permanent Representation of the Kingdom of the Netherlands:

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...

Our delegation includes a number of experts in various capacities, from different fields of expertise. We are all at your disposal for any questions you may have on the implementation of the Convention, and will answer them to the best of our ability.

Any questions relating specifically to an individual constituent country of the Kingdom will be answered by the representative of that country.

After these general remarks I would now like to report on the implementation of the convention in my country Curacao

[Overig deel Curacao]

After these general remarks I would now like to report on the implementation of the convention in my country Curacao.

I'd like to share some of our successes, but also some of our concerns.

For Curaçao the provisions of the Convention are of fundamental and deep importance. Equality, fair treatment and self-determination are the core principles on which Curaçao is founded. No crime tarnishes these values more than torture and inhumane and degrading treatment. Prevention and prosecution of such acts are part of our legal framework. We are committed to continue to uphold national and international obligations to prevent and eradicate torture and inhuman or degrading treatment or punishment.

I'd like to briefly mention some concrete examples of this commitment:

- Aside from provisions in the Criminal Code of Procedure that stipulate that Public Prosecutors and Judges have to inspect the prison twice a year, the Minister of Justice installed the "Commission Supervision Detainee Care" in 2015. This to ensure independent and impartial supervision and investigation of the treatment of people in

detention facilities, such as police cells, foreigners detention centers, facilities for addiction and youth detention.

- Recently the Police, the Public Prosecutor's Office and the Ministry of Justice signed a cooperation agreement to improve the treatment of victims of sexual assault cases. This agreement specifies the cooperation, coordination and execution between the different stakeholders, as well as the legal approach to sex crimes. The aim is to establish a one-stop-shop where victims can get legal, psychological and medical assistance.
- In order to better sensitize detainees about their rights and obligations, new comers in detention centers, receive a booklet with the house rules, their rights and information on how to file complaints. These booklets are available in Papiamentu, Dutch, Spanish and English.
- Last year an extensive information campaign on human trafficking, spearheaded by the Ministry of Justice and the Public Prosecutor's Office, aimed at raising awareness about exploitation of hostesses in bars the so called "Trago girls".

At the moment there are 3 human trafficking investigations ongoing. In cooperation with the International Organization for Migration victims of human trafficking who serve as witnesses in these cases are accommodated in a secured location. They receive counseling and can choose whether they want to stay on the island or be relocated once the trial is over.

To conclude, Curaçao has been facing an enormous influx of Venezuelans. This poses many challenges to our island. We are constraint by among other things finances and capacity. Curaçao

therefore continuously seeks cooperation and assistance within and outside of the Kingdom in handling this regional crisis.

Curaçao recognizes the sacredness of human dignity and we prioritize the improvement of treatment of every single person in our territory, especially those deprived of their liberty.

Chair, members of the committee, my delegation and I stand ready to have a fruitful dialogue with you pertaining to the implementation of the Convention.

I'd now like to give the word to Minister de Weever of Sint Maarten.

Part of Sint Maarten

On behalf of the Government of Sint Maarten I would like to express our appreciation to the committee for your continuous efforts in advancing and protecting human rights.

I would like to highlight 1. Legislative and policy progress 2. the correctional system and 3. the status of asylum seekers.

1. Legislative and Policy Progress

Sint Maarten remains committed to the promotion and protection of human rights. This is enshrined in Article 3 of our Constitution, which states that no one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

In this regard, Sint Maarten has taken the following measures:

- Training to Improve conduct of law enforcement personnel
(following Recommendation 19)

- A new Penal Code
- Legislation to deal with abuse by public officials
- Joint Code of Criminal Procedure
- Proposed mechanisms for support of a victim fund. Until this is finalized government maintains strong relationships and subsidizes NGOs and other social partners to carry out work on its behalf to redress incidences of abuse.

2. Correctional System

A progress committee was created and a plan of approach was approved to handle the needs of the detention centers and the entire justice chain. Significant improvements were made in the period 2014-2018, including a separate youth detention center and the recent reintroduction of the electronic monitoring system. Unfortunately, in September 2017, Hurricane Irma, the strongest Atlantic storm on record, made landfall on Sint Maarten. Severe damage was incurred at the following facilities:

- The Pointe Blanche Prison (resulting in the transfer of half of the prison population to Curacao and the Netherlands).
- The Simpson Bay holding facilities
- The Youth Detention Center
- The Justice Academy.
- Substantial loss of police equipment and vehicles was also experienced.

This is clearly reflected in the findings of the progress committee and significantly impacted the progress made in correcting some of the major issues in the justice system.

The effects both physically, psychologically and financially the government apparatus is still unaccounted. This has unfortunately not been seriously considered or understood by either the progress committee or by the decision makers within the Kingdom. To highlight this allow me to underscore the following:

- In our current constitutional status, Sint Maarten is unable to access funding on the global market.
- We receive no standing budgetary or financial support from the Netherlands.
- Financial monitoring institutions, mandated by the kingdom, require an annual balanced budget. Necessary investment is therefore challenging.

In October 2018, The European Court of Human Rights published its verdict on Corallo vs. the Netherlands, within which it agreed that Mr. Corallo's detention was in violation of Article 3 of the Convention. The Parliament of Sint Maarten has called for a review of the justice system; looking at the Consensus Kingdom Laws, which outlines, the workings of the justice chain including the Office of the Attorney General and the Public Prosecutor. Our top priority is the repair of the prison, for a healthy and dignified detention. As Minister of Justice, I want to reiterate that the willingness to improve is there, but the financial realities of a small developing island, as described above, presents its challenges. I do remain committed and will continue to work diligently on this subject matter.

3. Status of Asylum Seekers

Very briefly, I would like to reiterate that persons can request a temporary residence permit based on humanitarian grounds. When temporary residence is unattainable, persons are referred to a state where they would not fall victim to harm or any other inhuman treatment, ensuring that the principles of non-refoulement are embodied.

Ladies and Gentleman, I thank you.

Part of Aruba

Chairperson, Distinguished members of the Committee,

It is an honor for me to introduce to you the seventh report of Aruba under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

I would like to briefly highlight some important areas of progress and recent developments with regard to the implementation of this Convention.

The New Penal Code of Aruba came into force in 2014. In the new Code, the sanction arsenal is supplemented with, among others, the TBS-measure, which aims at influencing behavior and managing psychological and/or psychiatric disorders.

In response to the judgment of the European Court for the Protection of Human Rights in the Murray Case, an Inter-country Taskforce in the Caribbean parts of the Kingdom of the Netherlands has been installed. The objective is to provide a report supporting decision-making on the realization of a forensic care facility for the reception and treatment of detainees with psychological and/or

psychiatric disorders. The proposed measures will ensure compliance with article 3 of the European Convention and this Convention.

Furthermore, the Minister of Justice aims at signing a MOU for a joined mental health care between the Caribbean countries of the Kingdom. This will contribute to the above- mentioned forensic facility.

Special attention is given to the infrastructure of the Correctional facility. A task force established by the Minister of Justice, Security and Integration is preparing a project plan for a new facility. This plan is currently in the designing phase. Since 2018, different topics of collaboration are being discussed between the Directors of the correctional facilities in the Caribbean countries of the Kingdom, monitored by the Attorney Generals. The topics include the transfer of detainees between the islands, education, detention regimes, the treatment of detainees and day program for detainees.

Aruba has also made some important steps in the fight against human trafficking and migrant smuggling over the last years. After installing a Human Trafficking and Migrant Smuggling Taskforce a National Counter Trafficking Coordinator was appointed. Their focus is on a multilingual awareness campaign and a national hotline. In 2017 a dedicated investigative law enforcement team and a special prosecutor for cases of human trafficking and migrant smuggling were installed. This team has successfully investigated and prosecuted several cases in court. This resulted in Aruba receiving a Tier-1 ranking in the Trafficking in Persons Report of the US State Department in 2018, recognizing Aruba's efforts in the fight against Human Trafficking and Migrant Smuggling.

Finally, Aruba as well as other countries in the region, is being confronted with an increasing number of migrants and asylum

seekers from Venezuela. Aruba is signatory to the Convention of 1951 through the 1967 Protocol relating to the status of refugees. An asylum procedure for determination of refugee status is in place for Aruba, which has been revised recently in line with international regulations and the foreseen increase in asylum petitions. Aruba is currently in dialogue within the Kingdom and with international organizations, such as UNHCR and IOM in dealing with this regional crisis.

Distinguished members of the Committee, compliance with and protection of human rights is a continuous process in which we encounter many challenges on the road ahead. We hold your views and recommendations in high esteem in helping us on this road.

I thank you for your attention.

[Dutch part]

Mr. Chairman, Distinguished members of the Committee,

It is my honor to address your committee today on behalf of the Netherlands. Like previous speakers said the Kingdom is committed to the aims of the Convention. Each country within the Kingdom is autonomous in its implementation of the obligations stemming from the Convention at the national level.

The Convention's absolute ban on torture is fundamental to the legal order of the Netherlands. The strong commitment to the UN treaty body system in general is exemplified by its annual contribution to the Office of the High Commissioner.

Combating torture globally is a fundamental objective of Dutch human rights policy. The implementation of the standards set by the

Convention is a high priority. An on-going effort is made to reaffirm the absolute prohibition of torture by means of resolutions in international human rights fora. Where possible, the Kingdom of the Netherlands supports the work of your Committee and the Special Rapporteur on Torture. It supports organisations that aim to prevent torture and assist victims of torture.

The Convention is an important standard not only in our foreign policy, but also in our domestic policies. Many of our domestic priorities are directly related to the Convention standards, including fighting human trafficking and exploitation, domestic violence, and sexual abuse and other forms of violence against children. Unfortunately these phenomena still occur in our society. But we will continue our efforts to achieve further improvements.

As I said, the implementation of the standards laid down in the Convention is a major priority for the Netherlands. For that reason, the Netherlands supported the drafting of the Optional Protocol to the Convention. In addition, the Netherlands is a party to the European Convention for the Prevention of Torture. The CPT visited the European part of the Kingdom in 2016 and I'm sure your Committee is aware of the CPT's findings.

[Recent examples]

> Migration

To provide your Committee with some examples of the relevance of Convention standards for the legal order, I would like to point out the following positive developments.

The first example concerns migration. The legislative proposal on return and immigration detention has been passed by the House of Representatives on 19 June 2018 and is now under scrutiny of the

Senate. The Bill reflects the principle – and current practice – of administrative detention as a measure of last resort and it includes among other things alternative measures to administrative detention. Furthermore with the adoption of the Act, administrative detention will no longer fall under the Custodial Institutions Act and therefore be better tailored to the situation of the migrants concerned.

> *State of the art prison Bonaire*

The following example can also not be left unmentioned. As of October 2010, the Netherlands bears full responsibility for the special municipalities in the Caribbean part of the Netherlands. This includes the island of Bonaire, St. Eustatius and Saba. This responsibility was reflected earlier this month by a visit of the Dutch Minister for Legal Protection to Bonaire where he officially opened a state of the art Correctional Institution. The institution has been in use since the end of August and meets all international rules and regulations and requirements. The new building has 113 places for different types of regimes and detainees. Very new to the island is the way of reintegration and resocialisation to society. Every detainee can “choose for change” and gets a chance to learn to read and write and when motivation is right, the detainee can study to improve their chances on the labour market. Society is involved to make the new program successful. Detainees who suffer from a mental health issue can be treated within the prison. All efforts are made to implement meaningful daily activities in order to reduce recidivism.

> Together against Trafficking in Human Beings

The victims of Trafficking in Human Beings have many faces. Yet the problem is often invisible. The fight against this form of degrading

treatment requires close cooperation between different parties. That is why on Tuesday 13 November 2018, the Dutch government published the programme Together against Trafficking in Human Beings, our new national action plan. This plan is developed together with municipalities, police, the Public Prosecution Service, the Immigration and Naturalization Service, schools, NGO's, private parties, international parties and many more. The programme contains different lines of action, including the strengthening of the local approach to Trafficking in Human Beings.

> *Combating domestic violence*

On the island of Bonaire the Minister also launched the campaign: **'It doesn't stop by itself. Reach out!** The Ministries of Justice & Security and Health, Welfare & Sport developed the campaign to draw attention to neglect, unhealthy relationships, and physical and mental violence in all kinds of relationships.

In addition, a programme to tackle domestic violence – called *'Geweld hoort nergens thuis'* ('Violence doesn't belong at home') – was launched in the European part of the Netherlands. These efforts reflect our strong commitment to fighting domestic violence in the European and Caribbean parts of the Netherlands.

> Fight against terrorism

I want to conclude with the fight against terrorism. Terrorism constitutes a serious threat to society and human rights. Action by states is necessary to prevent and effectively sanction terrorist acts. The Government of the Netherlands is aware of its compelling duty to protect the general interest of public security and the rule of law without jeopardizing the core of human rights for all individuals. There has been some criticism of the terrorist divisions in Dutch

prisons. The Netherlands has taken note of this and has demonstrated a willingness to undertake several reforms (new in-house regulations, individualized risk assessment to differentiate between categories of detainees).

Mr Chairman, distinguished members of the Committee, we hold the work of the Committee in high esteem. My delegation is pleased to meet with the Committee for further dialogue and stand ready to answer any questions you may have.