

ADVANCE UNEDITED VERSION

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Committee on the Elimination of Racial Discrimination**Concluding observations on the combined twenty-second to twenty-fourth reports of the Kingdom of the Netherlands***

1. The Committee considered the combined twenty-second to twenty-fourth reports of the Kingdom of the Netherlands (CERD/C/NLD/22-24), submitted in one document, at its 2828th and 2829th meetings (see CERD/C/SR. 2828 and 2829), held on 16 and 17 August 2021 in virtual format because of the COVID-19 pandemic. At its 2834th meeting, held on 24 August 2021, the Committee adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission by the State party of its combined twenty-second to twenty-fourth reports and appreciates the State party's agreement to conduct the dialogue in virtual format because of the COVID-19 pandemic. It welcomes the constructive dialogue with the State party's delegation and thanks the delegation for the responses and supplementary information provided to questions raised by Committee members during the dialogue.

B. Positive aspects

3. The Committee welcomes the State party's ratification of The Convention on the rights of persons with disabilities, on 14 June 2016.

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

- (a) The National Action Programme on Discrimination (2016);
- (b) The Policy framework for municipal traveller sites (2018);
- (c) The Action plan against discrimination in the labour market (2018-2021);
- (d) The establishment of the complaints office for online discrimination (MiND).

C. Concerns and recommendations**Data collection**

5. The Committee notes that the State party's domestic privacy laws prevent it from collecting some disaggregated data relevant to article 1 of the Convention, including on ethnicity. The Committee is concerned that lack of such disaggregated data hinders the State party's efforts to elaborate and implement effective public policies in line with the

* Adopted by the Committee at its 104th session (9 – 25 August 2021).

Convention, and that it impedes an accurate assessment of progress towards the material realization of racial equality in the State party.

6. Recalling general recommendation 24 (1999) and the importance of disaggregated data for identifying and effectively combating racial discrimination, the Committee recommends that the State party ensure that it collects disaggregated data and information on the demographic composition of its population, in light of the provisions of article 1 of the Convention and paragraphs 10 to 12 of the Committee's reporting guidelines (CERD/C/2007/1), and that it base its policies to fight racial discrimination on these data. For that purpose, the State party should consider seeking technical support from the Office of the High Commissioner for Human Rights and other relevant mechanisms.

Definition and prohibition of racial discrimination

7. The Committee notes that the term "race" in the State party's anti-discrimination legislation is interpreted in accordance with the enumeration in article 1 of the Convention. The Committee is however concerned that a definition of racial discrimination containing all grounds listed in article 1 of the Convention is not included in the State Party's Constitution or anti-discrimination legislation (art. 1, 2).

8. The Committee recommends that the State party prohibit, and include a definition of, racial discrimination in its Constitution and administrative and civil legislation in full conformity with article 1 of the Convention.

Implementation of anti-discrimination legislation

9. The Committee emphasizes that the Kingdom of the Netherlands as a State party is responsible for compliance with and implementation of the Convention with regard to its whole territory, including those parts which enjoy an autonomous status within the constitutional order of the Kingdom of the Netherlands. The Committee is concerned that the General Equal Treatment Act and the Netherlands Institute for Human Rights Act, which establishes the Netherlands Institute for Human Rights (NIHR) and enables it to conduct investigations in the area of human rights protection, are not fully applicable in Caribbean territories of the Kingdom of the Netherlands, though it notes that discussions are ongoing on extending the mandate of the latter with respect to these territories. While noting that there are also discussions ongoing on reforming the Municipal Anti-discrimination Services (ADVs), the Committee is concerned about the current lack of information on the implementation of the Act on Municipal Antidiscrimination Services and about the lack of a body that monitors effective implementation of this Act by municipalities, which may impede the enjoyment of rights under the Convention (art.2).

10. The Committee recommends that the State party:

(a) Take measures to ensure that the Convention and all legislation that furthers its implementation, in particular the Equal Treatment Act and the Netherlands Institute for Human Rights Act, are fully applicable throughout the entire territory of the Kingdom of the Netherlands;

(b) Put in place a mechanism to monitor and evaluate the implementation of the Act on Municipal Anti-discrimination Services by municipalities and ensure that any reforms of the ADVs result in a more effective institutional structure and ADVs that are equipped with the necessary resources and expertise.

Racist hate speech and hate crimes

11. The Committee notes the efforts by the State party to combat racist hate speech, including through the appointment of a national coordinator on anti-discrimination and anti-racism and of a national coordinator on antisemitism. It takes note of the establishment of the Dutch complaints office for online discrimination (Meldpunt internetdiscriminatie, MiND), which has concluded agreements with social media companies to improve cooperation with these. The Committee is, however, concerned that:

(a) People protected under the Convention, including but not limited to people of African descent, Asian people and people of Asian descent, members of Jewish and Muslim communities and migrants continue to be victims of hate speech and hate crimes;

(b) A high number of expressions of hate speech remain online over weeks, months and years unless they are reported to MiND;

(c) The political debate on immigration has been polarized and has led to aggravated forms of racial discrimination (art. 4).

12. The Committee recommends that the State party take measures to increase awareness of the prohibition of hate speech, including on the internet, among the population, in particular potential victims of hate speech, as well as of remedies available to them including through the Dutch complaints office for online discrimination (MiND). It also recommends that the State party:

(a) Establish that MiND can proactively and ex officio identify and request the removal of discriminatory online content;

(b) Ensure the availability of MiND in other languages in addition to Dutch;

(c) Ensure effective implementation of agreements concluded between social media companies and MiND, and evaluate their impact on the propagation of racist stereotypes and discriminatory attitudes;

(d) Distance itself from political discourse on immigration that leads to racial discrimination and ensure hate speech expressions by politicians are thoroughly investigated and sanctioned properly.

Racism in Sport

13. The Committee notes that the State party has implemented several projects to fight hate speech and hate crime in football. The Committee is however concerned that cases of racist abuse in football have risen in the State party over the past years (art 4).

14. The Committee recommends that the State party ensure that its initiatives to fight racial discrimination in football are fully implemented and their impact evaluated. The Committee also recommends that the State party develop robust and meaningful education programs to tackle racial stereotyping and discrimination within the football community and all segments of society directly or indirectly involved with the problem.

Racial profiling

15. The Committee is concerned by reports that individuals continue to experience profiling by the police on the basis of their ethnicity, descent and skin colour, during traffic controls, identity checks, preventive searches and border stops. The Committee is also concerned that the problem of racial profiling is not recognized as a systemic issue (art. 4).

16. In light of its General recommendation No. 36 (2020) the Committee recommends that the State party include in its legislation an explicit prohibition of racial profiling. It also recommends that the State party take measures to ensure that all complaints of racial profiling are facilitated, registered and followed up on. The Committee further recommends that the State party train its police agencies on the handling of complaints specifically on ethnic or racial profiling. The Committee also recommends that the State party monitor and collect data to assess the impact of all measures that are taken against racial profiling.

Consideration of racist motive within criminal law

17. While noting that a bill that would establish discrimination as an aggravating circumstance for all offences was submitted to the Dutch parliament in January 2021 but not yet adopted, the Committee is concerned that a racial motive currently does not constitute an aggravating factor for criminal offences under the law (art. 4).

18. The Committee recommends that the State party ensures through its criminal legislation that racial motivation is taken into account as an aggravating circumstance

for criminal offences and take measures to ensure that the police and the Public Prosecution Service investigate and register discriminatory motives or the discriminatory context of an offence, including through updated guidelines, facilitated means to register such motives as well as training measures for law enforcement staff.

Discrimination in education

19. The Committee is concerned by reports of discrimination of students with ethnic minority and immigrant backgrounds, including that they are more likely to receive a lower assessment from their teachers for secondary school admissions than what they could receive on the basis of their school results. The Committee is further concerned that:

(a) Students with ethnic minority or immigrant backgrounds continue to face discrimination with respect to obtaining internships, which negatively impacts their future prospects on the labour market;

(b) Multilingual students with an ethnic minority or immigrant background are allegedly restricted from or punished for speaking their home languages in the school environment;

(c) The COVID-19 pandemic is having a disproportionate impact on the education of children from ethnic minority groups and with lower socio-economic status (art. 5).

20. The Committee recommends that the State party take measures to increase equal opportunities for all children in education, regardless of their background, and monitor the effectiveness thereof. The Committee also recommends that the State party:

(a) Ensure that all children receive an adequate assessment from their teachers for secondary schools, without discrimination including implicit bias, based on race, colour, descent, national or ethnic origin;

(b) Take measures to combat and prevent discrimination in accessing internships, develop protocols or guidelines that teachers can follow when students report such discrimination, and ensure that teachers are aware of these protocols;

(c) Take measures to ensure that multilingual students from ethnic minority groups are not restricted from or punished for speaking their home languages at school and expand teacher training on multilingual education;

(d) Ensure that programs to repair learning loss during the pandemic introduced by the State party considers the needs of all students from all backgrounds.

Discrimination in Employment

21. The Committee is concerned that many people with an immigrant background continue to face discrimination in access to employment. The Committee regrets that a bill requiring companies to adopt a recruitment and selection policy that eliminates racial bias has not yet been adopted since its submission to the parliament in 2020 due to the resignation of the Cabinet (Ministerraad) in the State party (art. 5).

22. The Committee recommends that the State party adopt the draft bill that would require companies to adopt a recruitment and selection policy that eliminates racial bias and that it set clear targets that focus on preventing and addressing racial discrimination in employment, take specific policy measures to this end and ensure effective monitoring and evaluation of such action.

Access to health care

23. The Committee is concerned about the difficulties faced by persons with low Dutch language proficiency in accessing health care (art. 5).

24. The Committee recommends that the State party take measures to remove language barriers in health care and work with organisations representing health professionals and patients in ensuring that people with low Dutch language proficiency have access to medical care without discrimination.

Discrimination against minorities

25. The Committee is concerned that minorities continue to face racial discrimination in many areas of life including in employment, housing, education, health and social care, and that they are underrepresented in elected bodies and in the public sector. In view of the intersectionality of religion and ethnicity in the State party, the Committee is also concerned by reports of feelings among some members of ethno-religious communities, in particular Muslim communities of discrimination, exclusion and isolation, based among other things on the law partially banning face-covering and on citizenship-stripping legislation (art. 5).

26. The Committee recommends that the to be established National Anti-discrimination and Anti-racism Coordinator takes into account intersectionality and ensures that all ethnic minorities are consulted on issues that affect them, in particular during the formulation of new policies and legislation. The Committee further recommends that the State party:

- (a) Take measures to address discrimination of minorities in employment, housing, education, health and social care;
- (b) Support the equitable representation of ethnic minorities in elected bodies and the public sector;
- (c) Ensure that laws and administrative practices have no disparate impact on members of specific communities protected under the Convention, in particular persons belonging to ethno-religious communities and that the State party seek the views of Muslim communities in evaluating laws and practices that are deemed to have such a potential effect;
- (d) Take measures to ensure that its policy of stripping dual nationality is only applied with regard to grave criminal offences, does not lead to statelessness, is subject to effective legal remedies, and does not lead to discriminatory effects based on race, ethnicity, national origin or descent.

Discrimination of people of African descent

27. The Committee notes that several activities are ongoing in the State party to investigate and highlight its role in connection to the slave trade, including an independent investigation into the national history of slavery and revisions to the Dutch school curriculum. The Committee is, however, concerned that stigmatization and the use of negative stereotypes for people of African descent continue to be present in Dutch society, including through the figure of Black Pete. It is also concerned that the lack of disaggregated data on the social and economic situation of people of African descent in the State party prevents it from developing targeted and effective measures to address their discrimination (art. 2, 5).

28. The Committee recommends that the State party firmly combat stereotypes and develop and implement specific measures and policies to eliminate the historically rooted racial discrimination against people of African descent in political, social and economic spheres including by increasing their participation in public affairs. In particular, the Committee recommends that the State party:

- (a) Consider apologizing for the country's role in the slave trade, as recommended in the report of the advisory committee on the history of slavery set up by the Government;
- (b) Continue to raise public awareness on the issues of colonialism and the slave trade, including on their lasting impact on people of African descent living in the Kingdom of the Netherlands today;
- (c) Enhance dialogue with representatives of people of African descent on matters related to racial discrimination;
- (d) Actively promote awareness among the general public of the negative impact of the figure of Black Pete on the dignity and self-esteem of children and adults of African descent and advocate for the elimination of those features of Black Pete that reflect discriminatory stereotypes;

- (e) **Provide disaggregated data in its next periodic report on the social and economic situation of people of African descent, including from a gender perspective.**

Discrimination of Dutch citizens born in the Caribbean

29. The Committee is concerned by a report that economic support provided to Dutch Caribbean countries in the context of the COVID-19 pandemic was linked to conditionalities and was thus less favourable than that provided to the European Netherlands, providing less assistance to alleviate the negative economic impact of the pandemic on the ethnic minorities in the Dutch Caribbean countries. The Committee also notes with concern reports about obstacles for the peoples of the Caribbean part of the Kingdom of the Netherlands to fully realize their right to self-determination. The Committee is further concerned by reports that within the European Netherlands, the Dutch legislature and local governments differentiate between Dutch citizens born in the European Netherlands and those born in or migrating from the Dutch Caribbean, for example in terms of freedom of movement (art. 2, 5).

30. **The Committee recommends that the State party evaluate the impact of the economic support provided during the COVID-19 pandemic on the population of the Dutch Caribbean countries, as compared with the impact on the population of the European part of the Netherlands, and ensure that no discrimination has occurred in the enjoyment of their rights under the Convention. The Committee also recommends that the State party ensure autonomy of the peoples of the Caribbean part of the Kingdom and ensure their participation in decision-making processes in the State party that are of particular concern to them. The Committee further recommends that the State party engage in a dialogue with representatives of the populations of the Caribbean part of the Kingdom who have been discriminated against because of perceived race or ethnic origin, in order to understand and address their concerns. The Committee also recommends that the State party take measures to address any discrimination against, and promote equality between Dutch citizens born in the Dutch Caribbean and those born in the European Netherlands.**

Discrimination against Roma, Sinti, Travellers

31. The Committee is concerned by research showing that the social inclusion of Roma, Sinti and Travelers continues to lag behind, compared to that of other residents in municipalities, with regards to employment, education and housing. The Committee is also concerned about reports that some municipalities have not yet implemented the 2018 policy framework for municipal traveller sites (art. 5).

32. **The Committee recalls its general recommendations No. 27 (2000) and No. 32 (2009) and recommends that the State party provide targeted support for Roma, Sinti and Travellers in the areas of housing, education and employment. The Committee also recommends that the State party take measures to counter the phenomenon of anti-Gypsyism. In particular, it recommends that the State party:**

- (a) **Evaluate the effectiveness of current measures to support the education of Roma, Sinti and Traveller children and take measures to improve their outcomes;**
- (b) **Provide support to stateless Roma, Sinti and Travellers who are eligible to obtain Dutch nationality but encounter difficulties in the naturalization procedure;**
- (c) **Ensure that any decision affecting Roma, Sinti and Travellers be based on prior consultation with representatives of these groups;**
- (d) **Promote the use of the recently developed and soon to be published manual to address anti-Gypsyism among all relevant authorities, and evaluate its impact;**
- (e) **Ensure that all municipalities implement the 2018 policy framework for municipal traveller sites.**

Civic integration

33. The Committee notes that under the new law on civic integration effective from 1 January 2022, municipalities will have a greater role in supporting individuals in the civic integration process, including by covering the costs of language and integration courses for refugee status holders. The Committee is concerned that the higher language proficiency requirements in the new civic integration programme may render it more difficult to complete successfully (art. 5).

34. **The Committee recommends that the State party ensure that integration indicators and targets are in place for all objectives and measures in the new law on civic integration and that they are monitored accordingly. The Committee also recommends that the State party ensure that additional support for acquiring the Dutch language is provided.**

Situation of refugees, asylum seekers and undocumented migrants

35. The Committee is concerned by reports that stereotypes may occur while assessing asylum claims based on sexual orientation. The Committee is also concerned by the barriers that undocumented persons face in accessing health care (art. 5).

36. **The Committee recommends that the State party engage in a dialogue with civil society organisations working with and on the issue of LGBTI asylum seekers to explore possible improvements to assessments of LGBTI claims of asylum seekers. The Committee also recommends that the State party ensure that essential medical treatment is accessible for undocumented persons throughout the Kingdom of the Netherlands and that undocumented persons as well as medical professionals are aware that all persons residing unlawfully in the Kingdom are entitled to essential medical treatment.**

Climate change

37. The Committee is concerned about reports that the effects of climate change, which are already palpable in some of the Dutch Caribbean islands, will threaten a plethora of human rights such as the rights to work, health, and housing, and will disproportionately impact vulnerable groups. The Committee is also concerned about reports that these islands are not receiving support to address these issues (art. 5).

38. **The Committee recommends that the State party initiate studies to understand the negative impact that climate change may have on people living in Dutch Caribbean islands. The Committee also recommends that the State party take measures to mitigate and protect vulnerable groups from the negative effects of climate change, and consider avenues to provide full support to the affected communities.**

Underreporting of complaints against racial discrimination

39. While noting the increased awareness and acknowledgement of the existence of racism in the State party, the Committee continues to be concerned by the underreporting of acts of racial discrimination and by the reluctance of victims to lodge complaints, including due to fear of social censure, anticipation of disrespectful treatment, and lack of trust in the authorities (art. 6).

40. **With reference to its general recommendation No. 31 (2005) the Committee reminds the State party that the absence of complaints about and legal action for racial discrimination may reveal a poor awareness of the legal remedies available, a lack of will on the part of the authorities to prosecute the perpetrators of such acts, a lack of trust in the criminal justice system or a fear of reprisals against victims. The Committee recommends that the State party take legislative and administrative measures to ensure that the public, in particular ethnic groups, asylum seekers and stateless persons, know their rights, including all legal remedies in the area of racial discrimination. The State party should ensure that complainants of racial discrimination acts are treated with respect by the relevant authorities and victims of racially motivated crimes are adequately supported to participate in criminal proceedings.**

D. Other recommendations

Ratification of other treaties

41. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Follow-up to the Durban Declaration and Programme of Action

42. In light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

43. In light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party continue to implement suitable measures and policies in collaboration with organizations and peoples of African descent. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

44. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Dissemination of information

45. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State entities and territories as well as bodies entrusted with the implementation of the Convention, including municipalities, in the official and other commonly used languages, as appropriate.

Common core document

46. The Committee urges the State party to update its common core document, which dates to 12 December 1995, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

47. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 12 (b) (c) (d) , 18, and 20 (a) (b) (c) above.

Paragraphs of particular importance

48. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 6, 30 and 38 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Preparation of the next periodic report

49. The Committee recommends that the State party submit its combined 25th to 28th periodic reports, as a single document, by 9 January 2027, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

- (e) Provide disaggregated data in its next periodic report on the social and economic situation of people of African descent, including from a gender perspective.

Discrimination of Dutch citizens born in the Caribbean

29. The Committee is concerned by a report that economic support provided to Dutch Caribbean countries in the context of the COVID-19 pandemic was linked to conditionalities and was thus less favourable than that provided to the European Netherlands, providing less assistance to alleviate the negative economic impact of the pandemic on the ethnic minorities in the Dutch Caribbean countries. The Committee also notes with concern reports about obstacles for the peoples of the Caribbean part of the Kingdom of the Netherlands to fully realize their right to self-determination. The Committee is further concerned by reports that within the European Netherlands, the Dutch legislature and local governments differentiate between Dutch citizens born in the European Netherlands and those born in or migrating from the Dutch Caribbean, for example in terms of freedom of movement (art. 2, 5).

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- (a) Evaluate the effectiveness of current measures to support the education of Roma, Sinti and Traveller children and take measures to improve their outcomes;
- (b) Provide support to stateless Roma, Sinti and Travellers who are eligible to obtain Dutch nationality but encounter difficulties in the naturalization procedure;
- (c) Ensure that any decision affecting Roma, Sinti and Travellers be based on prior consultation with representatives of these groups;
- (d) Promote the use of the recently developed and soon to be published manual to address anti-Gypsyism among all relevant authorities, and evaluate its impact;
- (e) Ensure that all municipalities implement the 2018 policy framework for municipal traveller sites.

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