

Status of Human Rights in the Netherlands for the 41st Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Kingdom of the Netherlands (Netherlands) for the 41st session of the Universal Periodic Review (UPR).

Background

2. The Netherlands is a country in Europe with an estimated population of 17.3 million people¹. Approximately 50% of the population identify as not belonging to any religion, 23% as Catholic, 15% as Protestant, 6% as reformed, 5% as Muslim, and 5% as other².

3. The Netherlands' previous review was held on 10 May 2017³. As a result of the review, the Netherlands received 203 recommendations, 105 of which the Netherlands supported⁴. One of the recommendations, which the Netherlands supported, was that the government “[f]urther improve the legislative framework to control trafficking in migrant women and their exploitation in prostitution and in inhuman and undignified occupations”⁵. It was also recommended, and supported by the Netherlands, that the government “[c]ontinue its solid efforts to strengthen the protection of the rights of the child, particularly with regard to child trafficking and child sex tourism”⁶. There were no recommendations made regarding freedom of religion.

Legal Framework

4. Under Article 11 of the Constitution of the Netherlands, “Everyone shall have the right to inviolability of his person, without prejudice to restrictions laid down or pursuant to Act of Parliament”⁷.

5. Section 273f of the Dutch Criminal Code defines the crime of and establishes punishments for human trafficking⁸ of all kinds, including labour, organ, and sex trafficking. Among other things, Section 273f prohibits any person from using coercion or violence, or threats thereof to recruit, transport, transfer, harbour, or receive “another person with the intention of exploiting this other person or removing his organs”⁹. Section 273 also prohibits those same acts with regard to minors¹⁰. In addition, sex trafficking, including “inducing [a] person to make himself available for the performance of sexual acts with or for a third party for remuneration”¹¹. Furthermore, under Section 273f, anyone who violates its provisions “shall be guilty of human trafficking and as such shall be liable to a term of imprisonment not exceeding eight years or a fine of the fifth category”¹².

6. In May of 2020, the Minister of Justice and Security proposed a draft bill entitled the “Sexual Offences Act”, which created a lesser crime of rape called “sexual acts against the

person's will"¹³. Someone convicted of this offense would receive half the sentence of someone convicted of the current crime of rape. Due to the outcry of civil society groups, the proposal was instead amended to be much tougher on rape. Consequently, in November of 2020, the Netherlands lowered the threshold for the prosecution of rape by making all forms of involuntary sex punishable as rape regardless of whether violence is used.

7. Now, under Section 242 of the Dutch Criminal Code it is considered rape if any person by an act of violence or any other act or by threat of violence or threat of any other act compels a person to submit to acts comprising or including sexual penetration of the body . . . ¹⁴.

8. On 1 October 2000, the Netherlands became the first European country to legalise prostitution when it removed a prior ban on brothels and prostitution. According to the Netherlands, "Prostitution is legal in the Netherlands as long as it involves sex between consenting adults"¹⁵.

9. In 2018, in order to better combat human trafficking and help victims, the Netherlands implemented a five-pronged anti-trafficking plan entitled "Together against human trafficking"¹⁶.

10. According to the State Secretary of the Netherlands its anti-trafficking plan will give much needed help to the victims and grow awareness of the trafficking industry and its methods:

My aim is to shed light on human trafficking. To make it visible to each and every Dutch citizen, so that they acknowledge it, recognise it and do something about it. For most people human trafficking is a remote issue. But human trafficking is closer to home than you might think, with victims' suffering often going unnoticed. We're not just talking about sexual exploitation and forced prostitution, but also about labour exploitation or forced criminality. It's about people being forced to do things that they would never choose to do of their own free will. We cannot and should not accept this¹⁷.

11. However, despite its efforts to combat human trafficking and forced prostitution, the Netherlands has allowed the very industry that fuels these heinous crimes to remain legal. In October of 2019, the Netherlands announced a regulatory measure which it hoped would help combat abuse in the industry¹⁸, and implemented a uniform minimum age – twenty-one – for "sex workers"¹⁹. According to the government, it hoped that the raised age limit would "help further combat 'exploitation and human trafficking' and create 'a safe and healthy working environment'"²⁰. However, this new measure does nothing to actually protect women from abuse and exploitation.

12. In addition to its domestic laws and obligations, the Netherlands has signed and ratified the International Covenant on Civil and Political Rights (ICCPR). Articles 7, 8, and 24 of the ICCPR address trafficking in persons and the exploitation of children.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation²¹.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labour²².

Article 24

Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State²³.

13. The Netherlands is also a party to the Convention on the Rights of the Child (CRC). Under Article 34 of the CRC:

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performance materials²⁴.

14. Additionally, the Netherlands is a party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Under Article 6 of the CEDAW, “States Parties shall take all appropriate measures, include legislation, to suppress all forms of traffic in women and exploitation of women²⁵.”

Sexual Exploitation

15. According to the government, by legalising prostitution and treating it as any other business or job, prostitutes have been given better protection and it has “improve[d] their lives”²⁶. However, legalising prostitution in reality accomplishes the opposite. Instead of protecting women, the legalisation of prostitution allows a predatory and exploitative business to operate and profit legally, further driving the market for sex-workers. As stated by a parliamentarian belonging to the Christian Democratic Appeal party (CDA), “Most prostitutes would not actually want to have sex with the man in front of them. But it still happens, because it is paid. So consent is bought, the woman is a product. That is no longer possible in these modern times”²⁷.

16. In the Netherlands, it is estimated that the number of human trafficking victims is around 6,250, with approximately 1,300 of those victims being underage Dutch girls²⁸. The majority of these victims are used for forced prostitution and sexual exploitation²⁹.

17. One young woman, who had been forced into prostitution shed light on the dark world of legalised trafficking saying that “We are being sold just like something in a shop”³⁰. A Romanian woman told her story of how she was lied to and sold and forced into prostitution for five years in the Netherlands³¹. At the age of 17, someone she thought of as her boyfriend lured her from Romania to London where she believed she would have a good paying job as a hairstylist³². Soon after getting to London she was sold and forced to go work in an Amsterdam brothel and had her passport taken away from her³³. According to her, “The man who brought me to England and then to Holland used me like a piece of meat . . . When I saw the brothels with all the girls in the windows, I cried. I cried very hard because they looked horrible, and I knew that was coming to me”³⁴. She was forced to work 12 hours a day and only received £9 a day for food³⁵. After being sexually exploited for five years, she was finally able to escape with the help of a support agency³⁶. She explains perfectly the problem of legalised prostitution: “The problem is that once I was in that brothel, everybody just walked passed smiling and waving, or glaring and laughing, including some of the police, because everything was perfectly legal”³⁷. This woman’s story also fits the trafficking profile of pimps known as “*Loverboys*,” who “operate by trying to make young girls or boys fall in love with them. . . . Once they have victims under their influence they exploit them, for instance in the sex industry”³⁸. *Loverboys* are so prominent in the Netherlands, that the government has created action plans and resources, and set programmes to combat them³⁹.

18. In October of 2021, Dutch prosecutors listed a human trafficker on their most wanted list⁴⁰. According to the Dutch Public Prosecution Services, “His victims are subjected to severe beatings, kidnapping, rape, and/or unlawful deprivation of liberty . . . Many do not survive the journey to Europe, and even if they do make it to the Netherlands, he extorts money from them by making them pay him for the next member of their family who is on their way to Europe”⁴¹.

19. In June of 2020, Dutch police arrested five individuals for human trafficking⁴². Three of the individuals were released after being questioned by police but the other two remain in custody⁴³. According to the police, the individuals sexually exploited two women by forcing them into prostitution⁴⁴. Also, according to police, the suspects used violence to force the women to work as prostitutes for a period of four months⁴⁵. Similarly in August of 2020, two individuals were arrested by Dutch police for allegedly bringing women from South America to the Netherlands and forcing them to work as prostitutes⁴⁶.

Child Exploitation

20. Moreover, “[t]he Netherlands is a source, destination and transit country for children subjected to trafficking for sexual purposes, . . . the Netherlands is among the top five countries of citizenship of identified trafficked persons within the European Union (EU)”⁴⁷. But the exploitation of trafficked children is not limited to sexual exploitation, as children are also often trafficked “for exploitation in criminal activities”⁴⁸, such as “pickpocketing, forced begging, burglary, shoplifting, street vending (e.g. illegal cigarette vending), and drug trafficking”⁴⁹. According to a 2019 report:

Through a Multiple Systems Estimation method in the Netherlands by the National Rapporteur, it was shown that the estimated number of victims of exploitation is more than five times as high as the number of registered victims. The group of minor victims is the least visible, with only 11% of the victims known to authorities. According to a study in 2017, children exploited in prostitution or pornography are particularly unlikely to report abuse. Many do not perceive themselves as victims, distrust the justice system, risk retaliation and stigma . . .”⁵⁰.

21. Another 2019 report found that “[a]lmost half of the child sexual abuse images reported to the Internet Watch Foundation [in 2018] were hosted in the Netherlands”⁵¹. The report went on to state “that the country was becoming a ‘safe haven for child sexual abuse’”⁵². And that statement was correct, as, according to a 2020 report, “71 per cent of the world’s [online] child abuse material including torture and rape” identified by a watchdog organisation was hosted by the Netherlands⁵³.

Conclusion

22. It is critical that the Netherlands work to stop the massive sex industry in the country through making prostitution illegal. The fact that prostitution is still legal creates a massive problem and even contributes to the scourge of human trafficking. In addition to outlawing prostitution, the Netherlands must vigorously go after those who pay for sex as well as those who profit from the exploitation of women in order to drive down the demand for more sex workers. It is critical that this industry no longer be viewed as financially lucrative. Furthermore, it is critical that the Netherlands provide aid and help for the women who are trapped in this industry to safely get out and be able to transition back into society. Finally, the Netherlands must take drastic steps to combat the sexual and criminal exploitation of innocent children that is currently on the rise and flourishing within the country.

¹ *Netherlands*, The World Factbook (18 Jul. 2021), available at <https://www.cia.gov/the-world-factbook/countries/netherlands/>.

² *Id.*

³ Universal Periodic Review – The Netherlands, OHCHR, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/NLIndex.aspx>.

⁴ UPR of Netherlands – Thematic List of Recommendations, <https://lib.ohchr.org/HRBodies/UPR/Documents/Session27/NL/MatriceRecommendationsNetherlands.docx>.

⁵ *Id.* at A/HRC/36/15/Add.1.

⁶ *Id.*

⁷ Constitution of the Netherlands art. 11,

https://www.constituteproject.org/constitution/Netherlands_2008.pdf?lang=en.

⁸ Criminal Code of the Kingdom of Netherlands (1881, amended 2012) (unofficial translation), *available at* https://ec.europa.eu/anti-trafficking/netherlands-2-institutional-and-legal-framework_en?msclkid=5570935baed811ecb8fea5db6af6cef7.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Netherlands 2020*, AMNESTY INTERNATIONAL (2020), <https://www.amnesty.org/en/location/europe-and-central-asia/netherlands/report-netherlands/>.

¹⁴ Criminal Code, *supra* note 8, at Sec. 242.

¹⁵ *Prostitution*, GOVERNMENT OF NETHERLANDS, <https://www.government.nl/topics/prostitution>.

¹⁶ *10 Facts About Human Trafficking in the Netherlands*, THE BORGES PROJECT (25 Feb. 2021), <https://borgenproject.org/human-trafficking-in-the-netherlands/>.

¹⁷ *Fight Against Human Trafficking*, THE GOVERNMENT OF THE NETHERLANDS (14 Nov. 2018) <https://www.government.nl/latest/news/2018/11/14/fight-against-human-trafficking>.

¹⁸ *Netherlands to Raise Sex Worker Minimum Age to 21, Require Permits: Report*, NL TIMES (11 Oct. 2019), <https://nltimes.nl/2019/10/11/netherlands-raise-sex-worker-minimum-age-21-require-permits-report>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1976), 999 U.N.T.S. 171, art.7.

²² *Id.* art. 8.

²³ *Id.* art. 24.

²⁴ Convention on the Rights of the Child art. 34, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

²⁵ Convention on the Elimination of All forms of Discrimination Against Women art. 6, <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>.

²⁶ *Prostitution*, Government of Netherlands, <https://www.government.nl/topics/prostitution> (last visited 28 Mar. 2022).

²⁷ *Bill Banning Prostitution in the Netherlands to be Debated Thursday*, NL TIMES (3 Sep. 2020), <https://nltimes.nl/2020/09/03/bill-banning-prostitution-netherlands-debated-thursday>.

²⁸ *Some 6,000 People a Year in the Netherlands are Victims of Human Trafficking*, DUTCH NEWS (18 Oct. 2017), <https://www.dutchnews.nl/news/2017/10/some-6000-people-a-year-in-the-netherlands-are-victims-of-trafficking/>.

²⁹ *Id.*

³⁰ Sanchez Manning, *Appalling Truth About Amsterdam's Red Light District*, NZ HERALD, <https://www.nzherald.co.nz/world/appalling-truth-about-amsterdams-red-light-district/A4RMWQUM5RWIAY6RNDHKRWJAQ4/>.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *'Loverboys'*, Government of the Netherlands, <https://www.government.nl/topics/human-trafficking/romeo-pimps-loverboys?msclkid=7625aab5aedf11ec8e71552cc1f92f80> (last visited 28 Mar. 2022).

³⁹ *Id.*

⁴⁰ *Dutch Prosecutors Place Eritrean on Most Wanted List*, AP (19 Oct. 2021), <https://apnews.com/article/europe-migration-netherlands-human-trafficking-mediterranean-sea-db72cf2a523499ae7ed6da2822384a6e>.

⁴¹ *Id.*

⁴² *Five Arrested in Forced Prostitution Investigation*, NL TIMES (24 June 2020), <https://nltimes.nl/2020/06/24/five-arrested-forced-prostitution-investigation>.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Amsterdam Residents Arrested for Human Trafficking*, NL TIMES (31 Aug. 2020), <https://nltimes.nl/2020/08/31/amsterdam-residents-arrested-human-trafficking>.

⁴⁷ *Netherlands*, ECPAT.ORG, <https://ecpat.org/country/netherlands/> (last visited 30 Mar. 2022).

⁴⁸ BRENDA OUDE BREUIL, ‘LITTLE RASCALS’ OR NOT-SO-IDEAL VICTIMS: DEALING WITH MINORS TRAFFICKED FOR EXPLOITATION IN CRIMINAL ACTIVITIES IN THE NETHERLANDS, ANTI-TRAFFICKING REVIEW (16), 86–103, at 86. Available at <https://doi.org/10.14197/atr.201221166>.

⁴⁹ *Id.* at 92.

⁵⁰ Reluctance to Report Sexual Exploitation of Children Related to Travel and Tourism, Defence for Children (2019) 10, available at <https://ecpat.org/wp-content/uploads/2021/08/Reluctance-to-Report.pdf>.

⁵¹ *Netherlands ‘Hosts Most Child Sex Abuse Images’*, BBC News (24 Apr. 2019), <https://www.bbc.com/news/technology-48022950>.

⁵² *Id.*

⁵³ Debbie White, *Vile Trade: Three-Quarters of Child Abuse Pics Are Hosted in Holland, Report Reveals as Coronavirus Lockdown Fuels Sick Trade*, THE U.S. SUN (27 Apr. 2020), <https://www.the-sun.com/news/744814/three-quarters-child-abuse-pics-hosted-holland-report-coronavirus-lockdown/>.