



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination Eighty-seventh session

### Summary record of the 2376th meeting

Held at the Palais des Nations, Geneva, on Wednesday, 19 August 2015, at 10 a.m.

*Chairperson:* Mr. Calí Tzay

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*The meeting was called to order at 10 a.m.*

**Consideration of reports submitted by States parties under article 9 of the Convention** (continued)

*Combined nineteenth to twenty-first periodic reports of the Netherlands*  
(continued) (CERD/C/NLD/19-21, CERD/C/NLD/Q/19-21)

1. *At the invitation of the Chairperson, the delegation of the Netherlands took places at the Committee table.*
2. **The Chairperson** invited the delegation of the Netherlands to continue replying to the questions put at the previous meeting.
3. **Ms. Boerefijn** (Netherlands Institute for Human Rights) said discrimination was a critical barrier to employment, both for migrants of non-Western origin and for Roma and Sinti. Denial of access to public places on grounds of ethnic origin or colour, ethnic profiling in police work, municipal bans on Travellers living in caravans, and hate speech in public places were also common manifestations of discrimination. Racial discrimination was widespread and structural and the police were often uncooperative when it came to registering complaints of discrimination. Of some 3,600 incidents registered, only 83 had been prosecuted. In the face of such statistics, victims were less likely to report for fear that their complaint would not be followed up properly.
4. The legal framework against discrimination was good, but largely reactive. More must be done to in the area of awareness raising. A comprehensive policy was needed to prevent and eliminate structural discrimination at all levels. Human rights education in schools and the training of law-enforcement officials, the judiciary and educators were also crucial.
5. The Government must be more active in combating discrimination, including by taking the lead in public debates on discrimination. Its readiness to facilitate a respectful dialogue on the issue of Saint Nicholas's servant Zwarte Piet (Black Pete) was a step in the right direction. Targeted policies were needed to tackle discrimination and its underlying causes.
6. **Ms. van Rijn** (Netherlands) gave a brief overview of the political structure of the State party. International treaty obligations were binding on the State party as a whole, but their domestic implementation fell to each of the constituent countries, Aruba, Curaçao, Sint Maarten and the Netherlands, and the situations there would therefore be described separately.
7. Curaçao had no overarching human rights action plan, but was in the process of establishing an independent human rights institution modelled on the Netherlands Institute for Human Rights. The languages of instruction during the first four years of school were Dutch and Papiamentu; afterwards classes were held in Dutch in order to facilitate students' access to universities in the Netherlands. As from 2012, education had been free of charge to all children, including undocumented migrants. A one-year intensive course was offered for children whose mother tongue was not Papiamentu or Dutch. In life-threatening situations all persons, including undocumented immigrants, had access to health care. All legal residents of Curaçao had equal access to social services, health care, housing, education, employment, social benefits and the justice system.
8. **Ms. Croes** (Netherlands) said that the Government of Aruba was in the process of drafting a national human rights action plan on the basis of recent periodic reports to human rights treaty bodies and the treaty bodies' recommendations. A committee set up to prepare for the establishment of an independent national human rights institution

was studying information obtained on a visit to the Netherlands Institute for Human Rights. New developments such as the recent parliamentary initiative to establish ombudsman's and children's ombudsman's offices would also be taken into account.

9. With colonization, Aruba's indigenous *caquetío* population had declined and eventually disappeared. Today's contemporary multi-ethnic society was a result of pre-colonial, colonial, industrial, post-modern and globalization influences. Although the people had disappeared, Aruba's indigenous heritage was preserved through education, museums and traditional celebrations.

10. Teaching languages in primary school were Papiamentu and Dutch, with English and Spanish being offered as foreign languages; secondary education took place in Dutch. Aruban school curricula were multilingual, which enabled students to attend higher education in any Dutch-, English- or Spanish-speaking country. Papiamentu was taught as a main subject in recognition of its importance to the Aruban cultural heritage and identity. Papiamentu was spoken primarily on Aruba; Papiamentu was spoken on Curaçao and Bonaire. While Curaçao and Bonaire had opted for a phonology-based spelling, Aruba used an etymology-based spelling. There were also differences in intonation and lexis between the two languages. Aruba had nine local judges; three of those and one examining magistrate spoke Papiamentu.

11. All persons duly registered in Aruba were eligible for public health insurance. Babies born to undocumented migrants were issued a temporary health insurance pass pending the issuance of a residence permit. Parents must obtain the permit within one year; a one-year extension could be granted in exceptional cases. Undocumented persons requiring urgent medical care were treated at State expense. Although access to basic health care for illegal residents was not guaranteed by law, undocumented children did receive health care in practice.

12. There was no segregation in housing or education in Aruba. Social housing was provided for low-income groups regardless of their nationality so long as they were registered residents. All persons, migrant or Aruban, could avail themselves of the legal remedies provided by law. Free legal aid was available to those who could not afford a lawyer.

13. The Government was following the Black Pete debate in the Netherlands attentively; in Aruba, the Black Pete character was increasingly multi-coloured.

14. **Ms. Daal** (Netherlands) said that Sint Maarten planned to establish a national human rights institution in the near future.

15. There was no evidence of Colombian or post-Colombian indigenous settlements on Sint Maarten; archaeological evidence suggested that the Kalinago people had passed through the island during the pre-Columbian era.

16. Dutch and English were the languages of instruction at school. Pursuant to the 2009 Federal Ordinance on Compulsory Education, education was compulsory for all children aged 4 to 18, including undocumented migrant children. On registration at a civil registry office, children born to migrant parents were given the nationality of their mother. However, undocumented migrants were often reluctant to register themselves or their children, and that could result in their becoming stateless. Every person had access to justice.

17. **Ms. Van Rijn** (Netherlands) said that the 2010 National Action Plan to combat discrimination sought to use the momentum created by the United Nations Decade for People of African Descent, focusing on issues affecting persons of African descent. Activities would be developed in cooperation with civil society organizations.

18. The debate about Black Pete had been very emotional. Some felt that the figure perpetuated negative stereotypes of people of African descent, while others saw their fond memories of childhood celebrations suddenly linked to racism. Although stereotypical interpretation of the Black Pete character could certainly lead to discrimination, people who engaged in traditional Saint Nicholas celebrations were not necessarily racists. A ban on Black Pete would not solve the problem. Instead, the Government sought to facilitate a respectful national dialogue that took account of the diversity of opinions. Some changes had already occurred, such as the portrayal of a multi-coloured Pete on television and the use of a golden, rather than black, Pete as decoration by a big department store. Only open dialogue on Black Pete's appearance, and on racism and discrimination, could make the character evolve into something acceptable to all.

19. The Civic Integration (Preparation Abroad) Act was a tool to help new migrants settle. It was legitimate to expect residents to contribute to society and be self-reliant; it was also legitimate to expect migrants to pay for the civic integration examination abroad. Low-interest loans were available to those unable to pay. A study package in 18 languages, and personal support for using the package, were available to migrants wishing to prepare for the exam. Citizens of certain countries who were exempt from the provisional residence permit requirement were also exempt from the civic integration examination. That exemption policy was not discriminatory. Rather, it applied to citizens of countries that had concluded relevant bilateral agreements with the Netherlands. Giving a short overview of the main points of a European Court of Justice ruling on the civic integration examination abroad, she said the Government was currently considering amendments to the examination rules on the basis of the ruling. The Dutch Council of State would issue a final judgement based on the verdict of the European Court.

20. Even during times of high influx of asylum seekers, decent accommodation was provided while applications were processed. Those who were granted a residence permit were moved to a home of their own; those whose application was rejected were given time and help to prepare for their return home. Asylum seekers suffering from a medical condition or families with children received special attention. New facilities had been created in 2015 to house asylum seekers preparing for return. Persons granted asylum were normally given housing near the reception centre, but those who wished to live elsewhere were free to find a home of their own.

21. Most of the 2,800 stateless persons in the Netherlands had been born there or were legally resident in the country. Following a recommendation by the Advisory Committee on Migration Affairs, the Government was to set up a procedure whereby a person's nationality status could be determined by the civil court. Relevant legislation was expected to enter into effect in January 2017. Statelessness was nevertheless no guarantee of access to legal residence unless return to the country of origin was not possible.

22. Criminal law was applied as a last resort in combating discrimination, most discrimination cases being handled by means of disciplinary measures or alternative dispute resolution. However, the law enforcement authorities prioritized the fight against discrimination in cooperation with their partners. The Minister of Security and Justice had concluded a four-year agreement (2015-2018) on the fight against crime with the police, the Public Prosecution Service and local governments. The agreement, entitled the "Security agenda", contained a paragraph on intensification of the fight against hate crimes. The Government also fought discrimination and hate crimes through data collection, awareness-raising, capacity-building, and legislative and policy measures.

23. The police were required to register cases of discrimination. They were also improving the general reporting process by facilitating reporting from any location at any time, including through the Internet. Feedback to victims had also been improved.

24. Access to justice was enshrined in article 17 of the Constitution. Access to the anti-discrimination services, the police and the Netherlands Institute for Human Rights was free of charge. Since 1 January 2013, the judiciary had been financed by the users of the legal system. However, low-income users were compensated.

25. The Dutch courts could characterize any circumstance or motive as an aggravating circumstance when deciding on a penalty. The maximum penalties for hate speech offences were prescribed by the Criminal Code. The courts' discretionary power to determine a penalty was also considered to be a guarantee of the independence and impartiality of the judiciary. Public prosecutors could request more severe penalties based on an instruction concerning the prosecution of hate crimes or on the Criminal Procedure Guideline on Discrimination issued on 1 March 2015.

26. The rights of victims of crimes were specified in the Code of Criminal Procedure. Victims or surviving relatives could claim compensation for damages in criminal proceedings or submit the claim to a civil court. Criminal court judges could also order the payment of compensation for damages, but no statistical data were currently available. In some cases the Violent Offences Compensation Fund provided financial support to victims of violent crimes.

27. Parliament had announced in 2014 that the police would take further measures to prevent ethnic profiling, for instance by raising awareness among police officers and organizing meetings with citizens.

28. The public debate on issues such as migration and integration could sometimes be strident. However, the Netherlands was not a country in which hatred predominated in the media and politics. Freedom of expression did not protect hate speech, and offenders, including politicians, could expect a firm reaction from the public authorities. The judgement as to whether a statement was punishable was made by an independent court. For instance, in December 2014 the Supreme Court had found that a politician could be prosecuted under criminal law for inciting intolerance.

29. Acts of racism and discrimination on grounds of race, religion or belief, sexual orientation or handicap, in whatever form, were liable to criminal prosecution.

30. Everyone in the Netherlands enjoyed the right to freedom of religion. However, there were certain limitations, for example if religious freedom infringed on the rights or freedoms of others. Neither freedom of religion nor freedom of expression could be used for purposes of discrimination or incitement to hatred. Such acts or statements were in some cases punishable under the Criminal Code.

31. The Government was fully committed to ensuring equal rights and opportunities for the Roma, Sinti and Traveller communities. In 2011 the Ministry of Security and Justice had launched a programme to tackle and prevent the exploitation of children, especially Roma children, by promoting cooperation between municipal authorities, the police, the Government and civil society organizations. In 2012/13, the Government had submitted a national Roma strategy to Parliament and a structural monitoring process had been launched to identify further targeted measures on behalf of the Roma community.

32. The first monitoring report, published in 2013, had noted an improvement in primary school attendance but a persistently high dropout rate from secondary schools, especially among girls. It also expressed concern about discrimination in the labour market. The second report was being finalized and would be submitted to Parliament later in the year.

33. The Ministry of Social Affairs and Employment had organized several meetings in recent years to bring together Dutch municipalities and representatives of the Roma communities to identify problems and ways of tackling them. The Ministry also promoted cooperation between anti-discrimination agencies and Roma representatives to ensure that the Roma knew where to report discrimination and to obtain assistance in further proceedings.

34. Roma, Sinti and Traveller communities could be proud of their cultural background and the Netherlands did not apply an assimilation policy. However, it considered that the communities themselves bore responsibility for safeguarding their cultures and languages.

35. The number of people living in caravans had been estimated in 2009 at about 23,000 and the number of caravan sites had been estimated at 1,181. Since the abolition of the Caravan Act in 1999, the municipalities had assumed responsibility for the allocation of Traveller sites. They were required to comply with national laws and regulations and international conventions. There were no indications of a major shortage of housing facilities for Travellers and many municipalities held regular consultations with them. As the provinces could take action to improve the quantity and quality of caravan sites if necessary, there was no need for central Government to intervene.

36. The Government was radically opposed to discrimination in the labour market. It had launched an Action Plan in 2014, comprising 42 measures to fight such discrimination. The measures included: publication of inspection data relating to health and safety regulations; establishment of a team at the Inspectorate of the Ministry of Social Affairs and Employment to tackle labour discrimination; creation of a Diversity Charter; and research into discrimination at the recruitment stage. The problem of discrimination in the temporary labour sector had been fully acknowledged by many leading firms. The sector had taken steps to tackle the problem, such as adoption of a joint code of conduct, training of staff, and use of an anti-discrimination software application to assist staff who were asked discriminatory questions. Several temporary labour agencies had concluded a Work Agreement to improve opportunities for young people with a migrant background.

37. The Government attached great importance to stimulating the economic independence of women. The labour participation of women with a migrant background was increasing, but it was still lower than that of non-migrant women. The Minister of Education had therefore launched the Dutch Empowerment Tour, a series of meetings to raise women's awareness of the importance of financial independence and to empower women by providing them with ideas on how to change their situation. At the regional level, local authorities, businesses and educational institutes also helped women become economically independent. For example, 75 women in Rotterdam, many with a migrant background, had attended courses to develop their communication and job-application skills. At a subsequent meeting with potential employers, some of the women had found jobs.

38. Schools were legally required to promote citizenship by teaching students about the rule of law and human rights. The concept of citizenship had been included as one of the primary objectives of secondary education. An interactive website focusing on citizenship education was currently being developed and tested in about 20 pilot schools. An independent commission had led a discussion known as "Education 2032" among educational and social organizations, school governors, teachers and students, human rights organizations and NGOs in spring and summer 2015. The commission would present advice to the Government in autumn 2015 and the subject would probably be discussed in Parliament in early 2016.

39. In training law enforcement officers attention was paid to the prevention of discrimination, ethnic profiling and prejudice, and the recognition of multiculturalism. A training module on combating discrimination had been developed for the judiciary. The module was mandatory for public prosecutors and support staff who dealt with discrimination cases.

40. The Government was promoting social integration by focusing on the quality of education. Vulnerable pupils, regardless of their social or ethnic background, were given extra attention in preschool education. The municipalities were required by law to make provision for children with a language disadvantage and had been provided with additional funds for the purpose.

41. Primary schools with large numbers of disadvantaged or ethnic minority pupils received additional funding with a view to delivering education of the highest possible quality. Under the Learning Plus Funding Scheme, secondary schools also received additional funds if they had a relatively large proportion of pupils from deprived areas. Municipalities and school boards were required to hold annual consultations on how to tackle educational disadvantage and segregation and promote integration.

42. The Government invested in an extensive knowledge base concerning the situation of different groups in the Netherlands and sent an annual report on integration to Parliament with statistical information on key factors. In 2013 a study had been conducted on the causes of the low labour-market status of some migrant groups. The criminality figures for certain migrant groups were also a source of concern. The authorities had invested in a sports programme to support vulnerable young migrants, enhance their self-esteem and keep them out of prison.

43. The Government engaged in an active and flexible dialogue with a wide variety of different groups, including young people, older people, Muslims, Jews and people of African descent, on integration and discrimination issues. The Minister of Social Affairs and Employment met with minorities almost every week. A dialogue had recently been held about the International Decade for People of African descent. An interreligious meeting with representatives of different religions, philosophies and beliefs had been organized in November 2014.

44. The new action plan against discrimination would take into account all forms of discrimination, including on grounds of gender or sexual orientation. Specific measures would be taken to address the situation of vulnerable groups. The municipalities would continue to receive financial support for the implementation of the Municipal Anti-Discrimination Services Act. They would also be provided with handbooks and guidelines on targeting discrimination. The new action plan would certainly include preventive measures to counter prejudice and negative stereotypes. The Government had requested several organizations representing target groups, and the Netherlands Institute for Human Rights, to share their opinion on important topics for the new action plan. Civil society organizations would be consulted again when the draft was ready.

45. The term “nationality” in the General Equal Treatment Act referred to citizenship and not to national or ethnic origin. Any distinctions made on the basis of citizenship should be substantiated and objectively justified. The term “race” in the Act was to be interpreted in accordance with the Convention. It therefore comprised skin colour, descent and national or ethnic origin.

46. The Government acknowledged the importance of providing information on how and where to report incidents of racial discrimination. It intended to launch a multi-annual anti-discrimination campaign in September 2015 to promote awareness of the fact that discrimination constituted a criminal offence and should be reported. A

website would direct visitors to the nearest anti-discrimination service for advice or assistance.

47. The municipalities had been required since 2010, under the Municipal Anti-Discrimination Services Act, to offer their residents access to an independent anti-discrimination service. The services worked together with the local government, the police, the Public Prosecution Service and other actors to prevent and address discrimination at the local level. Following an evaluation of the Act in 2014, a working group had decided that measures should be taken to reinforce the effectiveness of the anti-discrimination services. The Government would be launching an investigation in the second half of 2015 into the functioning of the services, their independence and ways of ensuring the quality of the services provided.

48. Citizens were entitled to seek the assistance of the National Ombudsman free of charge. The Ombudsman was also authorized to handle complaints about administrative agencies, such as the tax department, the Public Prosecution Service and the police, on the islands of Bonaire, St. Eustatius and Saba. Most local authorities also had their own ombudsman.

49. **Mr. Vázquez** asked the delegation to address the concerns raised by the national human rights institution, including the problem of women and girls who wore headscarves encountering discrimination when applying for internships, which were necessary to complete their education, or in access to public places.

50. There were reports of ethnic profiling by judges, forensic psychiatrists and the police: it appeared that ethnic minorities served longer sentences than most other offenders and were four times more likely to be involuntarily admitted to psychiatric hospital. He was also concerned about reports of the disproportionate use of police stop-and-search powers, the imposition of higher fines, harassment and race-based violence by police.

51. He was concerned that lesbian, gay, bisexual, transgender and intersex (LGBTI) asylum seekers sometimes met with displays of prejudice on the part of employees of the Dutch immigration and naturalization service. That could have an adverse impact on the determination of their need for international protection. The Committee had received reports that asylum seekers fleeing persecution because of their sexual orientation might be subject to refoulement. There had also been reports of discrimination and violence against LGBTI asylum seekers by fellow asylum seekers.

52. He was concerned that domestic violence was not recognized as a ground for asylum, and at the possibility that unaccompanied children who had disappeared from large-scale reception facilities might have become victims of trafficking.

53. Detainees in asylum detention centres were often treated in the same way as convicted criminals, and the Committee against Torture had expressed a concern that the legal regime in asylum detention centres was the same as in penal detention centres. Reports alleging excessive use of restraints during forced returns had not been investigated. He was concerned that the right to freedom of expression was being upheld in a discriminatory manner. In one case, anti-racism protesters had apparently been denied the possibility of protesting in a meaningful way. He was also concerned at the fact that the Dutch word used for Afro-descendants might suggest that they were not considered to be part of the Dutch community.

54. **Mr. Kut** said he wondered about the nature of the bilateral treaties with countries exempted from the temporary-stay permit (MVV) requirement under the Civic Integration (Preparation Abroad) Act, if they could favour the integration of citizens of those countries over the citizens of other countries. He considered the Act



to be a discriminatory because it encouraged citizens of certain countries to come to the Netherlands, while discouraging citizens of other countries.

55. The three-step model used to establish discriminatory or racist speech made it virtually impossible to punish such offences. Furthermore, reports indicated that few incidents were reported to the police, few were referred by the police to the Public Prosecution Service and very few were prosecuted. Thus, a system was in place, but it was not functioning as it should.

56. **Ms. van Rijn** (Netherlands) said that the issue of discrimination against women and girls wearing headscarves was indeed a problem and it was a high priority of the Government at the moment. It was not an easy issue to resolve.

57. Extensive training was provided to police officers and public prosecutors in order to counter ethnic profiling. Moreover, the Netherlands Institute of Forensic Psychiatry and Psychology attached great importance to the trans-cultural aspects of forensic psychology and organized relevant training and other activities for professionals.

58. The Central Office for Asylum was very aware of the challenges that LGBTI persons faced in the asylum process. Staff training was provided in that area, and people must be encouraged to speak out.

59. Child trafficking, and indeed all trafficking, was high on the Government's agenda, and efforts were being directed towards finding ways to combat the problem.

60. Freedom of speech and the right to protest was an important right in the Netherlands. The anti-racism protests in question had taken place in Gouda in 2014 during the Saint Nicholas celebrations. As the event had been primarily for children, it had been decided to keep the protest out of their view for their own protection and safety.

61. The term used for Afro-descendants that translated literally as "not from here" was not meant to be derogatory, but in any case it was no longer used in policy papers.

62. The bilateral treaties with the countries exempted from the MVV requirement were mainly trade and other agreements. The free movement of people was an element of the treaties.

63. **Mr. Kut** said that he was interested in whether citizens from exempted countries were required to take the tests required of citizens of other countries or not.

64. **Ms. van Rijn** (Netherlands) said that the bilateral treaties mentioned nothing about tests; rather they focused on the free movement of people between countries. It was therefore similar to the situation in the European Union.

65. **Ms. Coert** (Netherlands) said that, under the three-step model, the context within which an utterance was made could mitigate the discriminatory nature of a statement. However, if a statement incited hatred or violence, it was difficult to imagine that the context in which it was made, for example a public debate, could mitigate its potential to incite hatred. Therefore, the three-step model was not used in cases of incitement to hatred and violence.

66. **Mr. Winkel** (Netherlands) said that the reason for the difference in the figures given by the police for such incidents and those of the Public Prosecution Service was that the police had to register all incidents, whereas the Public Prosecution Service only had to collect data on incidents directly relating to the relevant sections of the Criminal Code. Moreover, where a large number of incidents were reported to the police, they might ultimately all relate to a single case referred to the Public Prosecution Service.

67. **Mr. Diaconu** (Country Rapporteur) asked whether the Ombudsman had the authority to receive complaints against every administrative body in the Netherlands and, if so, whether that was established in law.

68. His question regarding Travellers had not been about housing, but about municipalities refusing to allow Traveller caravan sites. It meant that Travellers had to renounce their culture. The Government must regulate the matter; otherwise either the Traveller culture would disappear or Travellers would resort to other measures to protect their culture, possibly involving violence.

69. With regard to the Civic Integration Act, migrants, who were poor and often illiterate, were not in a position to be self-reliant. As for the bilateral agreements, they should not be used as an excuse to violate the human rights of other persons, or human rights in general, by creating a discriminatory situation. The European Union was an entirely different case and it was justified in having different regimes for people coming from the European Union and for those coming from outside the Union.

70. What did the delegation mean by its comment that people should cooperate with the authorities when preparing to leave the country following denial of refugee status or asylum? What happened if they did not cooperate?

71. “Citizenship education” in schools should be renamed “civic education” because citizenship education would mean talking only about citizens of the Netherlands, whereas civic education would cover all persons living in the country.

72. He wondered whether the Committee could see any of the studies carried out into public participation. He emphasized that studies were only useful if they led to action being taken. How were members of civil society selected for participation in dialogue with the Government?

73. **Mr. Khalaf** said that, according to the State party’s periodic report (CERD/C/NLD/19-21), the law criminalized racist speech and insults, yet insults and slander were tolerated and accepted, even if they were discriminatory, in the context of religion, politics and art. In effect, then, it was merely insults between citizens that were criminalized. Political, religious and artistic discourse should set a standard for society, not the other way round. How could the failure to criminalize insults and slander at the political level, including in open political debate, be justified?

74. **Ms. van Rijn** (Netherlands) said that the Ombudsman’s authority to receive complaints against every administrative body was provided for in law. Her response on housing had not meant that Travellers would be moved into houses and not allowed to live on caravan sites. Some municipalities had been reluctant to have Traveller sites, but it had not been a problem in general.

75. With regard to the kind of cooperation required from failed asylum seekers and migrants in the arrangements for their return to their countries of origin, one example was that they were requested to go to their embassies to collect the necessary nationality and identity documents before departure. “Citizenship education” was the preferred official term for the school subject focusing on the concept of citizenship. The studies on public participation had not been carried out for academic purposes alone, but in order to look into specific problems with a view to adopting measures. One example was the yearly integration study. People were selected for dialogue with the Government from among the many civil society organizations, NGOs and migrant workers’ organizations.

76. **Mr. Winkel** (Netherlands) said that the three-step model on hate speech offences entailed first, checking whether the statement made was really offensive, second, examining the context in which it had been made and, third, verifying that the statement was unnecessarily hurtful, in which case the statement would be found to

have violated the freedom of expression. The model was not used, however, with statements inciting hatred or violence against other persons. In such cases, the requirement to verify the context of the statement did not apply.

77. **Mr. Khalaf** said that certain ethnic and cultural groups fleeing war-torn regions were at risk of being completely wiped out. He therefore wished to know whether the Government settled people from those vulnerable groups near each other, so as to facilitate their reunification and the preservation of their culture.

78. **Ms. van Rijn** (Netherlands) said that the municipalities were responsible for settling migrants and that culture was not a factor taken into consideration in that process. Nevertheless, the families themselves did have the choice to settle near people of the same culture if they so wished.

79. **Mr. Murillo Martínez** said that, in the light of the discriminatory connotations attached to the Black Pete character, the challenge now facing the State party was to determine the best ways of bringing about a change in attitude in Dutch society. He asked whether there was any structured plan in place to achieve that and to raise awareness within State institutions about the need to modify that tradition.

80. The statistical data provided seemed to indicate a high level of impunity for acts of racism and racial discrimination, and he hoped to see those figures improve in the next report. He requested further statistical information on cases of police violence, particularly against protesters of African descent, and he asked what penalties had been imposed in such cases.

81. There seemed to be some differences in the legal systems of the countries that made up the Kingdom of the Netherlands; the delegation should provide clarification in that regard. He had the impression that not all victims of racism and racial discrimination were treated equally. He hoped that the next report would show a more balanced treatment of victims and more positive developments regarding the recent racial tensions in the State party.

82. **Ms. January-Bardill** asked whether, given the widely held view that Black Pete was part of the country's cultural heritage, the State party would consider it appropriate to provide the general public and local authorities with a deeper understanding of the history of slavery and colonialism, which was also part of that heritage.

83. Research indicated that human traffickers were capitalizing on the legalization of prostitution, which had likely led to an increase in the demand for trafficked sex workers, many of whom were from minority communities. She therefore asked what legal steps the Government might take to stop procurers from engaging in human trafficking. Lastly, she wished to know what percentage of the 90 prosecutors specializing in human trafficking belonged to minority groups.

84. **Ms. van Rijn** (Netherlands) said that society had an important role to play with regard to the Black Pete tradition. The Government worked to facilitate dialogues on the subject at the local level. She could not provide any information on punishments handed down to police officers involved in cases of alleged violence, as those cases were still pending before the courts.

85. **Ms. Croes** (Netherlands) said that the Government was in the process of drafting a national human rights action plan. As part of that process, it would look into the matter of the Black Pete character and would take the Committee's views into consideration.

86. **Ms. van Rijn** (Netherlands) said that, in the curriculum for compulsory primary and secondary education, attention was already paid to the history of slavery and the

present-day multicultural society, as those subjects were part of the Canon of the Netherlands. She did not have any information about the ethnic background of the prosecutors specializing in human trafficking. She did not believe that the legalization of prostitution had led to an increase in the demand for prostitutes.

87. **Ms. January-Bardill** asked to what extent procurers abused the legal status of prostitution and how far the law intervened to protect sex workers' rights.

88. **Ms. van Rijn** (Netherlands) said that the primary aim of the new legislation on prostitution was to gain better insight into the real situation on the ground. She expected that it would lead to better control over prostitution, but only time would tell.

89. **Ms. Daal** (Netherlands) said that each country in the Kingdom had its own legal system, though the Constitution stipulated that their laws should be harmonized as far as possible. Further information would be provided in the next periodic report.

90. **Mr. Yeung Sik Yuen** asked whether public prosecutors had the power to require the courts to hand down heavier sentences for racially motivated offences, or whether the court had discretion to follow the public prosecutor's recommendation. He asked whether there was any legal provision specifically requiring heavier sentences for racially motivated crimes. It was important to ensure that the judiciary retained its independence in the application of the law.

91. **Ms. Hohoueto** requested further information about the legal assistance offered by the State party and asked whether persons with low incomes had access to the justice system. The fact that hate speech was permitted in the public arena was problematic, and it seemed that, due to that legal provision, very few complaints of hate speech were actually addressed. Traditions that enshrined discrimination should be done away with, even if they were considered to be part of the country's intangible cultural heritage.

92. **Mr. Winkel** (Netherlands) said that public prosecutors must follow the Discrimination Instructions referred to in paragraph 208 of the periodic report (CERD/C/NLD/19-21). In cases where discrimination was determined to have played a role, public prosecutors would take that into account in their sentencing requests. Judges acted independently and were under no obligation to comply with those requests. With regard to hate crime, the Ministry of Security and Justice believed that the current system was preferable to adopting a specific legal provision, as it made it possible to take discrimination into account even when discriminatory intent could not be proved.

93. **Ms. van Rijn** (Netherlands) said that the municipal anti-discrimination services were provided free of charge and that special provisions were made for persons with low incomes to ensure that they had access to the judicial system. The issue of Black Pete was a complicated one that had generated much discussion, and that itself had recently led to significant changes.

94. **Ms. Crickley** said that she was concerned that the new action plan to combat discrimination did not directly address racism and racial discrimination. The national Government should demonstrate political will and leadership regarding the situation of marginalized groups and should take proactive measures to protect the culture of those groups.

95. **Mr. Lindgren Alves** said that, if the Black Pete character was really such a deeply rooted tradition, then insisting on banning it might only serve to foster resentment.

96. **Mr. Avtonomov** asked whether Curaçao, Aruba and Sint Maarten had established national human rights institutions.

97. **The Chairperson** said that the delegation could reply in writing within twenty-four hours to any questions still pending.

98. **Mr. Diaconu** said that he hoped due attention would be paid to all the issues raised during the dialogue and that the Committee's recommendations would be distributed and made known, including to municipal governments. The Committee's objective was to improve the implementation of the Convention in each State party, which was why it stressed the need to adjust legislation and practice whenever possible.

99. **Ms. van Rijn** (Netherlands) said that the constructive dialogue with the Committee would help the Government to shape and improve its policies. Her Government shared the Committee's goals and was eager to learn from the dialogue. The new action plan on discrimination would include specific measures to combat racial discrimination.

*The meeting rose at 1 p.m.*