

# THE NETHERLANDS 2013 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The Kingdom of the Netherlands, which includes the Netherlands, Aruba, Curacao, and Sint Maarten, is a constitutional monarchy. The government of the Netherlands (the term used to designate, inclusively, the European part of the state and the Caribbean islands of Bonaire, Saba, and Sint Eustatius) has a bicameral parliament; the country's 12 provincial councils elect a first chamber and the second chamber is elected by popular vote. A prime minister and a cabinet representing the governing political parties exercise executive authority. Aruba, Curacao, and Sint Maarten have unicameral parliamentary systems and are autonomous countries within the kingdom, except in foreign policy, defense, and other "kingdom issues." General elections held in the Netherlands in September 2012 were generally free and fair, as were those in Aruba on September 27, 2013. Ultimate responsibility for safeguarding fundamental human rights and freedoms in all the territories of the kingdom lies with the combined kingdom government. Civilian authorities maintained effective control over the security forces. They investigated the infrequent reports that security forces committed human rights abuses and applied appropriate disciplinary or punitive measures.

With no widespread or systemic abuses, the most salient human rights problem in the Netherlands was societal animosity toward certain ethnic and religious groups, particularly Muslim immigrants from North Africa, Turkey, and the Middle East.

Authorities prosecuted individuals during the year for violations of a law prohibiting public speech that incites hatred or discrimination, but convictions were rare. There were reports of violence against women and children, anti-Semitic incidents, societal discrimination and violence against some religious and ethnic minorities, and trafficking in persons for sexual exploitation and forced labor.

Prison conditions in Aruba, Curacao, and Sint Maarten remained substandard in several areas, although new improvement projects were underway. In these portions of the kingdom, governments generally took steps to prosecute officials, but reputable observers contended that political factors prevented investigation or prosecution in some cases.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were no reports that the government or its agents committed arbitrary or unlawful killings.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices, and there were no reports that government officials employed them.

### **Prison and Detention Center Conditions**

In the Netherlands, prison and detention conditions generally met international standards, and the government permitted visits by independent human rights observers.

Prison conditions on Aruba, Curacao, and Sint Maarten remained substandard in a number of respects and were sometimes a threat to health. Security procedures at the detention facilities were inadequate to prevent the smuggling of weapons and other contraband. While authorities undertook construction to resolve water problems, prisoners at the Pointe Blanche prison on Sint Maarten had limited access to water. Medical resources and personnel at all facilities were very limited.

Physical Conditions: As of 2011 in the Netherlands, 11,550 adults were in detention, approximately 6 percent of whom were women. These figures excluded 2,170 persons undergoing treatment at forensic psychiatric centers and approximately 1,100 persons held in alien detention. The daily average in 2011 was 600 juveniles in detention. The occupancy rate in prisons was approximately 90 percent. The capacity of prisons and detention centers was 12,700 for adults and 790 for juveniles. In 2011, 39 persons died in penitentiary institutions; 15 were suicides.

On January 16, a Russian asylum seeker who may have been suffering from mental illness committed suicide while held in Dutch alien detention in the Netherlands due to an accumulation of bureaucratic errors. The government responded by taking several measures to ensure proper procedures were followed in the processing of detainees.

In Aruba, as of August 30, 240 persons, including 15 women, were in detention.

A January report by two Dutch prison experts who visited Aruba in 2012 listed such problems as infrastructural inadequacies and the lack of recreational or other meaningful activities. The report also mentioned violence between inmates, the absence of a prison security team, and mental health care. The report also noted several positive developments, including the hiring of a prison doctor and other personnel, improvement in some medical facilities, and provision of in-house educational courses for executive personnel. Authorities developed an evacuation plan, including provision for the transportation of prisoners in crisis situations.

Following a court verdict, prison management resolved problems with leaks that caused dampness and illness. New security personnel and correctional officers received training and began work, addressing a problem of understaffing. The prison also started to offer recreational and cultural activities.

Aruba received four K-9 transport vehicles. Training and implementation were ongoing, and dogs at the prison were regularly used to improve safety and security. Cell-phone sniffing K-9 units were used to enhance prison entrance security in general.

In Sint Maarten, approximately 180 persons were in detention in November, one-quarter of them at the police station in Simpson Bay and the remainder at Point Blanche Prison. Approximately 2 percent of detainees were women; the occupancy rate in Sint Maarten was 100 percent. Since there were no separate facilities for juveniles, authorities held them with adults.

Sint Maarten has taken steps to refurbish the jail's plumbing, but it still suffered frequent malfunctions and prisoners had no access to water in their cells. Construction work at the jail rendered certain areas unusable, which increased the negative impacts of overcrowding.

Authorities failed to keep weapons and other contraband out of the prison and jails. According to detainees, inmates used smuggled weapons to commit serious attacks against each other; security controls, such as daily body searches and regular cell searches, were not performed.

As of August, 438 persons were in detention in Curacao, with women comprising 8 percent of the prison population. The occupancy rate was approximately 62 percent. While overall occupancy was below total capacity, authorities reported they no longer had the space necessary to separate the members of rival gangs. The penal code mandates government programs to

monitor and provide follow-up long-term treatment for felons and other inmates with mental illnesses. It provides for felons convicted of serious crimes to have the chance to reside in mental health facilities even after serving their sentences. Curacao, however, lacked the facilities called for in its penal code. Youth detention facilities were also insufficient, according to health-care sector specialists. Inmates complained about inadequate access to water and lack of dental care.

Prison authorities in Curacao kept one female inmate under 24-hour monitoring in an isolation cell after she made an unsuccessful suicide attempt, but eventually, lacking other facilities, they returned her to a regular cell where she later committed suicide. One male detainee also committed suicide while in custody.

Curacao began construction of a separate facility for minors. The first phase consisted of a separate building with eight cells for juveniles. There were no reports of government plans to ease overcrowding in facilities for adult offenders or to repair existing facilities. The detention facility at the airport was declared unusable in February 2012; there was no official timetable for returning it to a useable condition.

Administration: Throughout the kingdom, authorities monitored prison and detention center conditions. Recordkeeping was adequate with the exception of Curacao, where Dutch experts reported deficiencies that impeded their efforts to monitor penal facilities there.

In the Netherlands, officials commonly used electronic house arrest for lesser offenses; other forms of alternative punishment included fines and community service. Authorities in Sint Maarten have the option of imposing community service and fines as punishment for nonviolent offenders, and they made use of this option during the year. In Aruba, authorities employed alternative forms of punishment, such as fines, community service, or mandatory courses on subjects such as anger management. In Curacao, there was a small-scale program to place selected individuals under house arrest and monitor them electronically.

In the Netherlands, prisoners could submit complaints without censorship through three channels: the prison supervisory committee, the penitentiary institution's official who decides on the placement of prisoners, or the prison system's complaint commission. The Caribbean portions of the kingdom also all had supervisory committees to receive prisoner complaints. Throughout the kingdom authorities permitted prisoners religious observance and allowed them to receive visitors.

Independent Monitoring: The kingdom governments permitted monitoring by independent nongovernmental observers, such as human rights groups, the media, the International Committee of the Red Cross, as well as by international bodies such as the Council of Europe's Committee for the Prevention of Torture (CPT). A CPT inspector was appointed to report to the Aruban justice and education minister concerning detention conditions in the Correctional Institute (KIA) prison. Two CPT experts also continued their annual reports to the Aruban governor regarding progress in the implementation of measures to improve detention conditions in Aruba in order to meet CPT standards.

Improvements: Curacao budgeted 34 million NAf (Netherlands Antillean guilders) (\$19 million) for special police and prison projects. The Dutch government committed to fund NAf 8 million (\$4.5 million) of that budget.

In Aruba, 16 new corrections officers started working in a variety of areas at the KIA prison. Unlike in the previous year, there were no reports that guards mistreated inmates. Authorities introduced training on the proper use of force for prison personnel in 2012. In cooperation with the Netherlands, detainee treatment training was provided for police officers and personnel of the Correctional Institute. The guards were vigilant in regard to interprisoner violence. The Correctional Institute had a written protocol aimed at combating inappropriate behavior and contacts. All detainees had access to this document and the house rules. Foreign instructors provided a five-day crisis negotiation training for Dutch Caribbean law enforcement personnel, prison staff, and public prosecutors. Crisis Negotiations Units in the Dutch Caribbean were responsible for responding to incidents that required officers trained in crisis intervention and negotiation techniques.

The renovation project of the Point Blanche prison in St. Maarten started in July to address sources of many of the prisoner complaints such as plumbing, sufficient access to potable water, and clogged toilets.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, and the governments generally observed these prohibitions.

#### **Role of the Police and Security Apparatus**

In the Netherlands, the Ministry of Security and Justice oversees law enforcement organizations, as do the justice ministries in the Caribbean territories. The military police (Marechaussee) are responsible for border control. Civilian authorities maintained effective control over the regional

police forces, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. Border control in St. Maarten is the shared responsibility of the Border Protection Service (immigration), police, and the Coast Guard.

### **Arrest Procedures and Treatment of Detainees**

A prosecutor or senior police officer must order the arrest of any person, other than one apprehended on the spot, for alleged transgressions. Arrested persons have the right to be brought--usually within a day--before a judge, a right generally respected in practice. Authorities informed detainees promptly of charges against them. Dutch law also allows persons to be detained on the order of a judge pending investigation. In these cases, no charges are filed. In the Caribbean region, detainees can sometimes be held for long periods without being charged. There is no bail system.

In the Netherlands, in terrorism-related cases, the examining magistrate may initially order detention for 14 days on the lesser charge of “reasonable suspicion” rather than “serious suspicion” required for other crimes.

In all parts of the kingdom, the law provides suspects with the right to consult an attorney. Suspects may always consult an attorney of their choosing prior to initial police questioning. In accordance with new guidelines introduced early in the year, attorneys must be present during police questioning of suspects if a minor is involved, or if the suspected offense carries a prison sentence of six years or more. Legal assistance is provided to suspects from the moment of initial contact with justice authorities, if necessary, at state expense. Beginning in 2012, authorities introduced procedures to bring the country into compliance with a ruling of the European Court of Human Rights (ECHR) mandating that states provide a right of consultation with a lawyer even before a defendant’s first police interview. In Curacao, this is not a statutory right, but, as a result of ECHR rulings, suspects may consult a lawyer, if necessary by telephone. In Sint Maarten, the right to legal assistance is enshrined in the criminal code and the constitution.

Detention of Rejected Asylum Seekers or Stateless Persons: The national ombudsman, Amnesty International, and other nongovernmental organizations (NGOs) asserted that rejected asylum seekers were being detained for too long before deportation and noted that lengthy detention occurred even when there was no clear prospect of actual deportation. In the Caribbean portion of the kingdom, asylum seekers and stateless persons were not usually detained.

### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, and the government generally respected judicial independence.

#### **Trial Procedures**

The law provides for the right to a fair trial without undue delay, and an independent judiciary generally enforced this right. Trials are public. Juries are not used. The law requires that authorities fully inform defendants about the proceedings at every stage. In criminal trials the law provides for prompt access to counsel at public expense for persons with low incomes, the presumption of innocence, and the right to appeal. The accused is not present when the examining magistrate examines witnesses, but an attorney for the accused has the right to question them. In most instances defendants and their attorneys have access to government-held evidence relevant to their cases. In certain cases involving national security, special procedures permit an examining judge to assess the reliability of official intelligence reports without exposing the identities of intelligence officers or releasing confidential intelligence information to the public or the defendant. In such cases the defense has the right to submit written questions to these witnesses through the examining judge. The law extends these rights to all citizens.

In Aruba, criminal proceedings may also be initiated by the injured party under certain circumstances. Injured parties who intend to claim compensation from a perpetrator, or who generally wish or be informed about the progress of proceedings against a perpetrator, should inform the authorities in their account of the incident. The police and Public Prosecutor have the duty to help victims obtain any assistance or support they may require. An interested party may file a complaint with the Court of Justice if he or she believes there has been a failure to prosecute a criminal offense.

#### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

#### **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary in civil matters. Individuals may bring lawsuits for damages related to a possible human rights violation before the regular court system or specific appeal boards. Although there are no government institutions explicitly mandated to oversee human rights in the islands, citizens of Aruba, Sint Maarten, and Curacao can seek redress for

alleged human rights violations through the existing court system or the ombudsman if the government is being accused.

### **Regional Human Rights Court Decisions**

The kingdom is a party to the European Convention on Human Rights and subject to the jurisdiction of the ECHR. The government was responsive to ECHR decisions. As of year's end, the Dutch government was still not in compliance with a 2010 ECHR ruling that it should strengthen the legal protection of journalistic sources (see section 2.a.).

### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions, and the government generally respected these prohibitions.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The law provides for freedom of speech and press, except in instances of discrimination and hate speech that constitute a criminal offense. The government generally respected these rights. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of speech and of the press.

Freedom of Speech: While the government generally respected freedom of expression, it is a crime to “verbally or in writing or image deliberately offend a group of people because of their race, their religion or beliefs, their sexual orientation, or their physical, psychological, or mental handicap.” Convictions were rare because courts were reluctant to restrict freedom of expression, especially when it took place within the context of a public debate. On March 11, the Amsterdam Appellate Court acquitted a city politician accused of making derogatory comments against homosexuals on the grounds that a politician’s freedom of expression was much broader in the context of article 10 of the ECHR. On February 26, the Almelo District Court, however, did convict a neo-Nazi on similar charges. A significant increase during the year of offensive speech, including anti-Semitic speech, on the internet led authorities to increase their referrals of such cases to courts for possible prosecution (see section 6, Anti-Semitism). Blasphemy is also illegal, but authorities have not invoked the prohibition for 50 years.

Press Freedoms: There was an active independent media that expressed a wide variety of views. Disputes occasionally arose over journalists' right to protect their sources. As of year's end, the government of the Netherlands was not in compliance with a 2010 ECHR ruling that it should strengthen the legal protections of journalistic sources.

### **Internet Freedom**

The internet is widely available in the country and used by citizens. There were no government restrictions on access to the internet, and the government generally did not monitor email or internet chat rooms without appropriate legal authority. Some media reports alleged that intelligence agencies overstepped legal boundaries through "untargeted" monitoring of web forums with a jihadist or extremist intent. The minister of interior responded that the law explicitly allows intelligence agencies to monitor websites of a suspect nature.

Authorities continued to pursue policies to prevent what they considered to be incitement to discrimination on the internet. They introduced a hotline for people to report discriminatory phrases with the principal aim of having them removed. There were a number of convictions on these grounds. For example, in July a website provider was convicted and sentenced to community service for not removing punishable texts from his website.

Police maintained a list of websites deemed to be purveyors of child pornography and reviewed the list periodically. The database of Interpol was also used for this list, as well as information from EU partners. Such websites based on servers in the Netherlands were usually taken down within 24 hours of discovery. The Ministry of Security ended a pilot effort to block access to sites on foreign servers and was evaluating the longer term prospects of such an effort.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedom of Peaceful Assembly and Association**

The law provides for freedoms of assembly and association, and the government generally respected these rights.

On April 2, the Leeuwarden Appellate Court nullified a lower-court decision ordering the dissolution and banning of the Martijn association, a group that advocated the acceptance of pedophilia and the legalization of sexual

relationships between adults and children. Although the court considered the association's activities in violation of public order, it argued that the association did not cause social disruption. The prosecutor's office filed an appeal against this decision with the Supreme Court.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

#### **Protection of Refugees**

Access to Asylum: The law in the kingdom provides for the granting of asylum or refugee status, and the government established a system for providing protection to refugees.

Safe Country of Origin/Transit: Authorities denied asylum to persons who came from so-called safe countries of origin or who had resided for some time in safe countries of transit. They used EU guidelines to define such countries. Applicants had the right to appeal all denials. Consistent with a 2011 ruling by the ECHR against Belgium for returning asylum seekers to Greece, the government did not do so during the year. Instead, such applications were processed individually under the asylum procedures of the Netherlands.

Refoulement: Decisions on deportation to countries or localities, where, in the opinion of specialists in refugee matters, safety from prosecution was not assured, were made in close consultation with the foreign ministry and international human rights organizations. Involuntary deportation to Afghanistan occurred despite UNHCR objections. The government relied upon a memorandum of understanding with Afghanistan that permitted involuntary deportation provided relevant humanitarian factors were taken into consideration. Authorities indicated they did not deport anyone who they believed would be incarcerated upon return. The UNHCR and NGOs, including Amnesty International, at times

objected to government efforts to return particular persons to countries such as Iraq, Afghanistan, Somalia, and China (in cases involving Uighurs), where, in the opinion of those organizations, they might be at risk.

High-level bilateral consultations with Iraq failed to reach agreement on the involuntary repatriation of at least 1,300 failed asylum seekers. A liberal asylum policy applied to lesbian, gay, bisexual, and transgender (LGBT) persons from countries such as Iraq, Iran, and Afghanistan, as well as Christians and Ahmadi from Egypt and Pakistan. Officials further announced a moratorium on involuntary deportations to Eritrea and of Tutsi to the Democratic Republic of Congo (DRC).

Durable Solutions: The country accepts up to 500 refugees from third countries each year for permanent settlement. The number of such refugees accepted during the year was not available.

Temporary Protection: Following criticism by NGOs and the UNHCR, the government made exceptions to its 2010 decision not to grant protection to categories of aliens based on country conditions, gender, and other factors. For example, authorities observed a de facto moratorium on deportations to Eritrea and the DRC.

### **Stateless Persons**

According to UNHCR 2011 statistics, there were 2,005 stateless persons in the Netherlands at the beginning of the year, including approximately 1,000 Romani immigrants and an unspecified number of Malaccans, who declined both Dutch and Indonesian citizenship for historical and political reasons. There were known cases of stateless persons on Curacao, mainly Cuban nationals who were unable to obtain citizenship documents.

Citizenship is based primarily on the citizenship of the parents. The laws in all territories of the kingdom provide the opportunity for stateless persons to gain Dutch citizenship. Stateless persons have no access to public services except emergency health care.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The law provides citizens with the right to change their government peacefully, and citizens in all parts of the kingdom exercised this right through periodic free and fair elections based on universal suffrage.

## **Elections and Political Participation**

Recent Elections: Observers considered the September 2012 elections for the second chamber of parliament in the Netherlands to be free and fair, as were the most recent governmental elections in the Caribbean territories.

Participation of Women and Minorities: There were 54 women in the 150-seat second chamber of the Netherlands parliament and 25 in the 75-seat first chamber. Of the 20 cabinet members, seven were women. Eight members of the second chamber of parliament and one in the first chamber were of immigrant descent.

Women also held positions in the parliaments and cabinets of the Caribbean territories, including the position of prime minister of Sint Maarten, where 20 percent of parliamentary representatives were women. In Curacao, women held approximately 30 percent of parliamentary seats, including the acting governor, and the recently appointed governor. In Aruba, women held one-third of the seats in the parliament.

## **Section 4. Corruption and Lack of Transparency in Government**

The laws provide criminal penalties for corruption by officials, and the government generally implemented the laws effectively. There were isolated reports of government corruption during the year.

Corruption: Several agencies combat corruption. The National Integrity Office serves as a knowledge center, develops new instruments for tracking problems, and identifies trends on matters of integrity. The independent Commission for Integrity in Government is an appeals board for whistleblowers in government and law enforcement agencies.

There were no official reports of government corruption on the Dutch Caribbean islands, although unproven charges and widespread suspicion of corruption persisted in some instances. For example, former justice minister Duncan of Sint Maarten resigned in the face of bribery allegations and alleged links to the sex trade, but authorities did not file charges against him. On Sint Maarten and Curacao, ministers, members of parliament and other public figures were publicly accused of corruption, illegal activities, and abuses of power. While official sources indicated serious investigations were ongoing, indictments and prosecutions were not forthcoming.

Whistleblower Protection: The law provides protection to whistleblowers in the public sector. An independent advisory board for whistleblowers in the public

and private sectors advises and supports whistleblowers on actions they could take to expose abuse.

Financial Disclosure: There are no laws requiring income and asset disclosure by officials. For most senior government positions, each ministry had its own regulations to avoid conflicts of interest.

Public Access to Information: The law provides for public access to government information, and authorities generally implemented it effectively. Requests for information require a response within four weeks, with a possible extension of another four weeks. When authorities denied information requests, they provided reasons based on the law. Persons and organizations seeking information could appeal refusals to the regular courts. Disputes occasionally arose in court over the scope of the government's right to withhold information in the public interest.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Government Human Rights Bodies: A citizen may bring any complaint before the national ombudsman, the Netherlands Institute for Human Rights, the Commercial Code Council, or the Council of Journalism, depending on the circumstances. The Netherlands Institute for Human Rights acts as an independent primary contact between government and domestic and international human rights organizations.

### **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution and laws prohibit discrimination based on age, race, gender, disability, language, political preference, sexual orientation, and social status, and the governments generally enforced these prohibitions.

#### **Women**

Rape and Domestic Violence: The law in all territories criminalizes rape, including spousal rape, and domestic violence. The penalty in the kingdom is imprisonment not exceeding 12 years, a fine not exceeding 78,000 euros (\$106,000), or both. In case of violence against a spouse, the penalty for

various forms of abuse can be increased by one-third. The Netherlands effectively prosecuted such crimes.

According to a 2010 study by the Research and Documentation Center of the Ministry of Security and Justice, there were approximately 200,000 victims of domestic violence annually in the Netherlands, 60 percent of whom were women. There were 100,000 to 110,000 perpetrators, 17 percent of whom were women. This study has not been updated, and the government still used the 2010 statistics as an indicator for the scope of the problem. According to a joint report on crime and law enforcement published by the Research and Documentation Center of the Ministry of Security and Justice and the governmental organization Statistics Netherlands (CBS), there were 9,104 registered cases of sexual crimes in 2012. During the same year, courts reached verdicts in 1,266 cases, of which 1,021 were convictions. The average prison sentence for a convicted rapist was 20 months.

The Netherlands government continued to give significant attention to combating domestic violence. In 2012 the government began a nationwide public campaign to raise awareness of domestic violence and the abuse of children and the elderly and to make citizens more active in seeking help or advice. The government provided support to the national organization Movisie, which assisted victims of domestic and sexual violence and trained police and prosecutors in investigating and prosecuting related crimes. The government also subsidized shelters for battered women. Mayors may impose temporary restraining orders on perpetrators of household violence; local government statistics indicated that mayors nationwide issued 3,529 restraining orders in 2012. There was a national hotline for persons directly or indirectly affected by domestic violence.

No official statistics were available regarding the incidence of rape, domestic violence, or sexual harassment in Sint Maarten, Aruba, or Curacao.

In Aruba, a government agency for the development of women (CEDEHM) worked to make women more aware of their rights. During the year the agency initiated, in cooperation with an NGO, an island-wide campaign against domestic violence. CEDEHM also provided free legal counseling and aid to victims. The Foundation for Women in Distress, which received some government support, provided ambulatory and residential care for victims of domestic violence. The foundation also raised public awareness on this topic.

In Curacao, there was anecdotal evidence of reported assaults without prosecutions. In at least one case, a victim asserted that she was told she herself might be prosecuted if she pressed charges.

The Safe Haven foundation in Sint Maarten collaborated with government agencies in cases pertaining to women and children, especially in abuse cases.

Harmful Traditional Practices: The Netherlands government continued to combat so called honor-related violence vigorously. A government center dealing with honor violence developed a checklist to help police and other professionals identify honor violence cases. Data on convictions and sentences were unavailable as authorities did not record honor-related crimes separately.

Sexual Harassment: The laws penalize acts of sexual harassment. The law commits employers to protect employees against aggression, violence, and sexual intimidation. Complaints against employers who fail to provide sufficient protection can be submitted to the Netherlands Institute for Human Rights. Victims of sexual assault or rape in the workplace must report the incidents to police, since these are criminal offenses. The Curacao government initiated a policy against sexual harassment and a complaints procedure to report violations. Sexual harassment is also illegal in Sint Maarten, but there were no indications that the Sint Maarten government took any measures specifically designed to discourage it. In Aruba, no laws explicitly forbid sexual harassment, but prosecution could be based on stalking or “insult.”

Reproductive Rights: The kingdom’s governments recognized the basic right of couples and individuals to decide the number, spacing, and timing of their children, and to have the information and means to do so. There were no restrictions on the right to access contraceptives. The governments provided skilled attendance during childbirth, including obstetric and postpartum care.

Discrimination: Under the law, women throughout the kingdom have the same rights as men, including rights under family law, labor law, property law, inheritance law and in the judicial system. The government actively worked to combat discrimination. The law requires equal pay for equal work.

In the Netherlands, female and male unemployment rates in 2012 were 6.6 and 6.3 percent, respectively. The Ministry of Social Affairs and Employment reported that the higher rate of unemployment among women, as well as their reduced chances for promotion and their generally lower-ranking jobs, resulted primarily from their more frequent engagement in part-time employment. In 2011, according to the CBS, the average hourly wage of female employees was 81 percent of their male counterparts’ wages for similar work. A 2012 study by the Wage Indicator Network confirmed this average. The government provided affirmative action programs for women, and collective labor agreements usually included provisions to strengthen the position of women.

In Sint Maarten, 2009 data indicated that the unemployment rate was 10.5 percent for men and 14 percent for women. In Curacao, the female unemployment rate during the year was 15.4 percent, and the male unemployment rate was 10.5 percent. In Aruba 2012 data indicated that the unemployment rate was 10.5 percent for men and 8.8 percent for women.

## **Children**

Birth Registration: Citizenship can be derived from both the mother and the father. Births are reported to authorities promptly.

Child Abuse: In the Netherlands, a 2010 government study estimated that 119,000 children were abused annually, but professional organizations had specific information concerning only half that number. Experts estimated that 50 to 80 children died each year from some form of abuse.

The government established a multidisciplinary task force in 2012 to monitor and combat child abuse. The government also continued the action plan, Children Safe 2012-2016, to improve victim care (including prevention), confront perpetrators, and stop intergenerational violence. Children Safe was part of a broader campaign, Safe Home, which also targeted domestic violence and elderly abuse. The children's ombudsman headed up an independent bureau that safeguarded children's rights and called attention to abuse. Physicians are required to report child abuse to authorities.

In 2012 the website Digibewust (Digital Awareness), a joint initiative of the government, the business sector, and various social organizations, opened a registration center where youth could report inappropriate internet behavior, such as bullying, discrimination, hacking, stalking, web cam abuse, and violations of privacy.

In Aruba, there was legislation specifically dealing with child abuse and cases were reported. Penalties for abusing a child could be increased by one-third if the abuser was a parent of the child. The government and NGOs conducted campaigns to focus attention on the problem. The second National Congress on the Prevention of Child Abuse and Neglect took place in November.

In Curacao, there were prosecutions for child abuse, but information on its scope was unavailable; physicians are not required to report instances that they encounter to authorities.

Forced and Early Marriage: The legal minimum age of marriage is 18 in all parts of the kingdom. In the Netherlands, there are two exceptions: if the persons concerned are older than 16 and the woman is pregnant or has given birth; or if they request dispensation from the minister of security and justice. Underage marriages were rare.

Harmful Traditional Practices: The law prohibits female genital mutilation/cutting (FGM/C) and provides a maximum penalty of 12 years in prison. The prevalence of FGM/C was high in the Netherlands among women and girls from high-risk countries of origin. Most FGM/C procedures took place in the native countries of the parents of victims. Ministry of Health funding for outreach continued as part of efforts to prevent domestic violence. A shelter project for victims continued to operate and to receive 300,000 euros (\$405,000) in annual funding. There are no laws explicitly prohibiting FGM/C in Sint Maarten, Aruba, or Curacao, and no reports that the practice occurred.

Sexual Exploitation of Children: In the Netherlands, the penalty for commercial sexual exploitation of a minor is imprisonment for up to eight years or up to 12 years if the victim is under 16. There was a national reporting center for sexual exploitation. The penalty for statutory rape is imprisonment not exceeding 15 years, a fine, or both. The minimum age of consent is 16 in the Netherlands, Curacao, and Aruba and 15 in Sint Maarten.

In Curacao, the penalty for an adult who entices minors into meeting for the purpose of committing lewd acts with them is a prison sentence of up to nine years. The penalty for statutory rape is 12-15 years.

Throughout the kingdom, the law prohibits production, possession, and distribution of child pornography. In the Netherlands, the maximum penalty for these offenses is eight years' imprisonment, while the penalty for accessing child pornography on the internet is four years in prison.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction, but the convention does not apply to Aruba, Sint Maarten, or Curacao. For information see the Department of State's report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html), as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_5785.html](http://travel.state.gov/abduction/country/country_5785.html).

## **Anti-Semitism**

The Jewish population in the Netherlands numbers approximately 40,000 persons.

Anti-Semitic incidents, including threats, verbal abuse, and the desecration of monuments and cemeteries, continued to occur during the year. The Hague-based NGO Center for Information and Documentation on Israel (CIDI) reported 114 incidents in 2012. These included spraying of swastikas on walls and public insults directed toward Jews wearing yarmulkes. Serious incidents remained rare. The CIDI reported a significant increase in hate mail and incidents at soccer matches, whose perpetrators were mostly of native Dutch origin. Muslim immigrant youth also were often responsible for anti-Semitic incidents.

In its report covering 2012, the government-sponsored, but editorially independent, Registration Center for Discrimination on the internet (MDI) stated that it received 285 reports of anti-Semitism on the internet, of which it considered 177 to be punishable, including 75 instances of Holocaust denial. Anti-Semitism was the largest category of discrimination reported (28 percent of total) on the internet. The MDI forwarded the 18 most egregious cases to the prosecutor's office. Authorities prosecuted a number of cases during the year. The MDI noted that, although the websites of right-wing extremists were well represented, the majority of instances of punishable anti-Semitic expressions were on mainstream interactive sites. The websites were located both in the country and abroad.

CIDI also reported that, during annual war commemorations, some Jewish organizations and others protested attempts to commemorate both victims and perpetrators simultaneously for the sake of reconciliation. These protests in turn triggered anti-Semitic hate mail in which Jews were accused of being "spiteful," "oversensitive," or "always inclined to claim an exceptional position for themselves." Some argued that commemorating the Holocaust had "lasted long enough," with a few calling the Holocaust "totally justified."

Dutch authorities continued to implement a 2010 action plan to combat discrimination in general and anti-Semitism in particular by promoting cooperation between authorities and Jewish and non-Jewish organizations at the local level. Particular attention was given to combating prejudice and anti-Semitism among youth. The government continued to sponsor the Jewish Moroccan Network Amsterdam, which sought to reduce tensions between Jews and Moroccans. The MDI started a "counter-speech" campaign on the internet to repudiate online anti-Semitic allegations and Holocaust denial.

In February the Hague Appeals Court upheld a 60 euro (\$80) fine against an Orthodox Jew for failing to show an identity card to the police on the Sabbath, citing religious reasons. The court ruled that the law which makes it mandatory for all persons older than 14 to carry identification cards and show them to police upon request is not at odds with freedom of religion.

In March Deputy Prime Minister Lodewijk Asscher described as “shocking” and “reprehensible” statements by Turkish-Dutch school boys in a television interview in which they approved of the Holocaust without reservation and stated that they hated Jews. He called it “unacceptable when solidarity and strong identification of--often young--Muslims with Muslims elsewhere in the world result in public hostility toward other groups in Dutch society.” In July, in an effort to combat anti-Semitism, a group of 150 Dutch teenagers from Arnhem rode bicycles to visit the site of a former Nazi transit camp where 100,000 Dutch Jews were held in transit to death camps during World War II.

The Jewish populations in the country’s Caribbean territories were small and well established. There were no official or press reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/](http://www.state.gov/j/tip/).

### **Persons with Disabilities**

There are antidiscrimination laws throughout the kingdom. In the Netherlands, discrimination against persons with physical, sensory, intellectual, and mental disabilities is illegal. The law requires equal access to employment, education, health care, and other state services. The law also requires that persons with disabilities have access to public buildings, information, and communications, but, despite continued progress, public buildings and public transport were not always easily accessible, as some continued to lack access ramps. Children with disabilities attended school (primary, secondary, and higher education) including specialized schools if needed. In 2011, 324 of the 6,849 primary schools were specially designed for impaired children. In higher education more than 100 schools offered facilities for impaired students. The law provides criminal penalties for discrimination and administrative sanctions for failure to provide access. Government enforcement of rules governing access was inadequate. The Netherlands Institute for Human Rights processed some 128 cases during the year related to persons with disabilities -- many of which dealt with workplace problems, including discrimination in hiring, failure to provide reasonable accommodation, lack of promotion and other issues --

resulting in 39 rulings. Although such rulings are not binding, authorities usually implemented them.

In Sint Maarten and Aruba, a wide-ranging law prohibiting discrimination does not specifically mention, but is in practice applied to, persons with physical, sensory, intellectual, and mental disabilities in employment, education, health care, air travel and other transportation, and the provision of other state services. Children with disabilities attended primary, secondary, and university-level schools on all three islands.

In Aruba, children with disabilities were able to participate in the “regular” school but there were also various types of special schools for them. Different foundations, subsidized by the government, provided adequate and free transportation for their clients, including citizens with disabilities free of charge.

Although discrimination is illegal in Curacao, human rights observers asserted there was a continuing need for more specific laws banning it since persons with disabilities had to rely on ad hoc measures by government and other employers to access buildings, parking spots, and information. Not all public buildings and public transport was easily accessible. The law does not make specific reference to access to air travel.

According to the Ministry of Education in Sint Maarten, children with physical disabilities had access to public primary and secondary schools “if they are able to participate fully in their academic programs.” Not all schools were equipped for children with a range of physical disabilities. There was one government-run school for special needs children, serving children with various disabilities.

### **National/Racial/Ethnic Minorities**

The laws of the kingdom’s constituent territories prohibit racial, national, or ethnic discrimination. In the Netherlands, members of minority groups, particularly immigrants and Muslims, experienced verbal abuse and intimidation and were at times denied access to public venues such as discotheques. In the Caribbean territories, there were also some instances of discrimination.

In the Netherlands, the Muslim community of approximately 850,000 persons faced frequent discrimination. Members of immigrant groups also faced discrimination, particularly in housing and employment. According to CBS, the minority unemployment rate during the year (16 percent) was approximately three times that of the ethnic Dutch workforce (6.4 percent), while the

unemployment rate among minority youths was 28 percent compared with 9.8 percent for native Dutch youth.

The government's campaign to increase public awareness of racism included a special website to improve the reporting of hate crime, including hate speech.

Both the government and NGOs actively documented instances of discrimination, and the National Discrimination Expertise Center, a unit of the police department, worked to register, evaluate, and prosecute discrimination cases. Organizations involved in combating discrimination voiced concern about the reluctance of victims to report incidents. During 2012 the center registered 114 offenses of discrimination. Race was the motivation for 41 percent of these offenses and religion for 35 percent (28 percent against Jews and 7 percent against Muslims). During the same year officials dealt with 131 offenses, brought 71 indictments, obtained 66 convictions, and entered into 17 out-of-court settlements.

The MDI recorded 449 instances of punishable discrimination on the internet in 2012. Of these, 138 qualified as racial, ethnic, or both. Those responsible removed most (86 percent) of the offending sites voluntarily when MDI asked that they do so. The MDI reported 18 cases to the prosecutor's office; prosecutors obtained several convictions.

Most court lawsuits charging defamation involved race. Persons who were not ethnically Dutch also filed civil lawsuits alleging discrimination in the supply of such services as mobile telephones and access to clubs. The Netherlands Institute for Human Rights focused on discrimination in the labor market, including discrimination in the workplace, unequal pay, termination of labor contracts, and preferential treatment of ethnically Dutch employees.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

The law prohibits discrimination based on sexual orientation in regard to taxes and allowances, pensions, inheritance, or access to health care. The legislature revised the Civil Code in July to make it easier for transgender persons to change their gender on their birth certificate.

The government gives high priority to combating antigay violence. The police have set up "pink in blue" units dedicated to protecting the rights of LGBT persons. According to law, when courts find acts of violence against LGBT persons to be motivated by bias, they may demand higher penalties.

During the year the government initiated a campaign to counter prejudice in immigrant and orthodox religious communities where the social acceptance of homosexuality was low. It conducted similar campaigns among youth and in sports, particularly soccer. It also pressured the Caribbean parts of the kingdom to extend equal rights to, and foster tolerance and acceptance of, LGBT persons.

Laws in the Caribbean territories also prohibit discrimination against LGBT persons. No cases of abuse or violence against LGBT individuals were recorded by authorities or described in press accounts. In Curacao a member of parliament who made derogatory comments about a planned Gay Pride event was countered by members of her own party.

### **Other Societal Violence or Discrimination**

There were no reports of societal violence against persons with HIV/AIDS or other groups not covered above.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The laws in all parts of the kingdom provide for public and private sector workers to form or join independent unions of their own choosing without prior governmental authorization or excessive requirements. Workers may conduct legal strikes and engage in collective bargaining, and unions may conduct their activities without interference. The law prohibits antiunion discrimination, and regulations prohibit retaliation against legal strikers. The law places some restrictions on these rights. Public sector workers generally have the right to strike, but a magistrate may forbid a strike that threatens the public welfare or safety. For example, magistrates often prohibited police strikes because of the essential services police perform.

Authorities effectively enforced the rights to organize and strike, and workers exercised them in practice. Freedom of association and the rights to collectively bargain were generally respected. Government, political parties, and employers generally did not interfere with union activities, attempts to form unions, or the right to collectively bargain.

### **b. Prohibition of Forced or Compulsory Labor**

The laws prohibit all forms of forced or compulsory labor, and the government enforced such laws; however, there were reports that such practices occurred. The Netherlands Labor Inspectorate conducted nearly 16,000 inspections at

many high-risk workplaces in 2012. Resources and inspections were adequate to deter violations. There is a tiered system of maximum penalties for forced labor: 12 years for routine cases, 18 years for cases in which the victim incurred serious physical injury, and 30 years in cases that resulted in the victim's death. This is comparable to other serious offenses.

In the kingdom, victims of coerced labor included women and men, both domestic and foreign, as well as boys and girls, (see section 7.c., Prohibition of Child Labor) forced to work in the sex industry, agriculture, horticulture, catering, cleaning, the inland Rhine River shipping sector, and illegal narcotics trafficking.

In Curacao, authorities believed that migrant laborers were forced to work in construction, landscaping, and shops.

In Sint Maarten, authorities reported that workers from India, Haiti, Jamaica, and other Caribbean islands were subjected to exploitive conditions that had characteristics of forced labor. Experts reported that illegal migrant workers were vulnerable to forced labor in construction, Chinese supermarkets, retail shops, and security, landscaping, and domestic service in Sint Maarten.

In Aruba, forced laborers included men and women working in supermarkets, Indian men in the jewelry sector, and Caribbean and South American women in domestic service. In Aruba, although labor inspectors reportedly inspected work sites where vulnerable migrants were present, they did not specifically screen for trafficking indicators.

In Sint Maarten and Curacao, front-line responders did not have standard procedures for identifying forced labor victims, hindering the government's ability to assist such victims. Authorities on the islands seemed mainly concerned with violations of local immigration and labor laws.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/](http://www.state.gov/j/tip/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

Children are separated into three age categories for purposes of employment: 13 to 14, 15, and 16 to 17. The youngest group is allowed to work only in a few light, nonindustrial jobs and only on non-school days. The scope of permissible jobs and hours of work increased as children aged, and fewer restrictions applied. The law prohibits persons under the age of 18 from working overtime, at night, or in activities dangerous to their physical or mental well-being.

Holiday work and employment after school are subject to very strict rules set by law.

In Sint Maarten, the law prohibits children under the age of 14 from working for wages. Special rules apply to schoolchildren who are 16 and 17 years of age. The law prohibits persons under the age of 18 from working overtime, at night, or in activities dangerous to their physical or mental well-being.

In Curacao, the minimum age for employment is 15. The rules differentiate between children and youngsters. Children are boys and girls under the age of 15 and youngsters are persons between the ages of 15 and 18. Inspectors of the Ministry of Education Sport and Culture enforce laws and policies to protect children. There were no registered cases of child labor violations in Curacao. Children who are 12 or older and who have finished elementary school may work if doing so is necessary for learning a trade or profession (apprenticeship), not physically or mentally taxing, and not dangerous. The government and a tripartite labor commission effectively enforced articles 17 through 21 of the 2000 Labor Law and conducted adequate inspections. The penalty for violations is a maximum four-year prison sentence and/or a NAf 100,000 (\$56,000) fine.

Some incidents of forced child labor were documented, in the areas of agriculture, horticulture, catering, food processing, cleaning, the maritime sector and construction industries, as well as illegal narcotics trafficking.

#### **d. Acceptable Conditions of Work**

In the Netherlands the minimum wage for an adult (23 and older) was 1,478 euros (\$1,995) a month. The official poverty level in 2011 was 1,810 euros (\$2,440) a month for a family of four. In Aruba, the monthly minimum wage was 1,637 Aruba florins (\$909). In Aruba, there is no official poverty level. In Curacao, the minimum monthly wage was 1,304 Antillean florins (\$733), and the official poverty level was 2,195 Antillean florins (\$1,233). The official minimum monthly wage in Sint Maarten was 1,413 Antillean florins (\$794); no poverty-rate information was available.

In Sint Maarten, the government provided guidelines for acceptable conditions of work in both the public and private sectors that covered specific concerns, such as ventilation, lighting, hours, and terms of work. The Department of Labor reviewed and updated the guidelines and also routinely visited businesses to ensure that employers were adhering to them.

The law does not establish a specific number of hours as constituting a full workweek, but most workweeks were 36, 38, or 40 hours long. The legal maximum workweek is 60 hours. During a four-week period, a worker may only work 55 hours a week on average or, during a 16-week period, an average of 48 hours a week, with some exceptions. Persons who work more than 5.5 hours a day are entitled to a 30-minute rest period. Workers are entitled to four times the number of days worked per week in annual paid leave (i.e., 20 days for most full-time jobs). There are seven government holidays. The interaction between government holidays and paid leave days depends on the collective bargaining agreement in each sector. Overtime is not regulated by law but by collective bargaining agreement or individual contract.

The Inspectorate for Social Affairs and Employment effectively enforced the labor laws with 664 inspectors in 2012. Combating labor exploitation was a key priority for the government.

The government sets occupational health and safety standards. In 2011 there were 80 workplace fatalities. In the Netherlands, labor exploitation occurred primarily in the horticultural and agricultural sectors, and victims were mostly undocumented workers from Eastern Europe. One NGO that provided care to trafficking victims registered 256 victims of labor exploitation. Estimates of total number of exploited laborers ranged up to 20,000, but the accuracy of this figure was questioned. Victims of exploitation were also found in the sex industry. There was also a significant informal economy, which included mostly cleaners and maids. Workers in this sector were not considered to be exploited in terms of compensation, but they received little to no legal, administrative, or safety protections compared to workers in the formal sector.