



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/SR.2631
22 July 2009

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Ninety-sixth session

SUMMARY RECORD OF THE 2631st MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 15 July 2009 at 10 a.m.

Chairperson: Mr. IWASAWA

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT (continued)

Fourth periodic report of the Netherlands (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.09-43573 (E) 170709 220709

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

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT (continued)

Fourth periodic report of the Netherlands (continued) (CCPR/C/NET/4 and Add.1 and 2;
CCPR/C/NLD/Q/4 and Add.1; HRI/CORE/1/Add.66, 67 and 68/Rev.1)

1. At the invitation of the Chairperson, the members of the delegation of the Netherlands resumed their places at the Committee table.
2. Mr. PIAR (Netherlands Antilles) said that, while the situation in Bon Futuro prison in Curaçao was far from perfect, the authorities were improving conditions using their limited financial and human resources, and with much-appreciated support from the Netherlands. Audio-visual equipment had been used since 2003. According to the Code of Criminal Procedure, access to a lawyer during initial questioning was not mandatory. However, based on recent European and Dutch case law, the Office of the Attorney-General had issued new guidelines on 14 July 2009 concerning access to lawyers in order to comply with new requirements. All the international instruments that were currently applicable to his country would automatically come into force as soon as the Netherlands Antilles was dismantled. The constitutions of Aruba and the Netherlands had been used as models in the preparation of the constitutions of Curaçao and Sint Maarten. In accordance with the Code of Criminal Procedure, compensation could be requested for legal and illegal detention and damage caused by searches and seizures. In each case, the decision to award compensation and the amount awarded were at the discretion of the judge.
3. Ms. THEODORA-BREWSTER (Netherlands Antilles) added that the number of complaints registered in Bon Futuro prison had fallen significantly. In 2007, eight complaints had been received about missing personal belongings after prison staff had visited cells where they suspected inmates were secreting weapons. Any loss incurred had been refunded. In 2009, four such complaints had so far been registered. The number of complaints about poor food had fallen from 13 in 2007 to 5 in 2009. Complaints regarding access to medical staff had decreased (from 17 in 2007 to 5 in 2009) after more nurses had been employed to cover evening hours and the medical ward had been reorganized. Complaints about prison guards' behaviour had fallen from seven in 2007 to four in 2009 in the wake of training courses for guards in 2008 and 2009 on the treatment of prisoners and prisoners' rights. Further training was being provided and efforts made to inform both prison staff and prisoners of their rights and obligations.
4. The monitoring group established to oversee follow-up to the recommendations made by the European Committee for the Prevention of Torture (CPT) held weekly meetings with all stakeholders to discuss progress. Achievements included the replacement of many mattresses, and improved hygiene, vermin control and maintenance. Dieticians monitored the quality of the three daily meals, which were provided on schedule, and prisoners with special dietary requirements were catered for. Training and recruitment of prison staff had been prioritized. The prison had a new governor and new management team members were being recruited. A fitness centre and a sports facility were now available. Surveillance cameras were being installed, a security wall had been built at the main entrance, and many cells and other areas were being

equipped with alarm systems. A building plan had been drawn up, including new sanitary facilities, and work was set to begin. The prison authorities in the Netherlands had agreed to support the staff at the prison for three years.

5. Mr. HIRSCH BALLIN (Netherlands), referring to the issue of reservations to the Covenant, said that Dutch law made a distinction between detention for persons suspected of having committed a criminal offence and those who were convicted of an offence. There were exceptions for suspects and convicted persons suffering from mental problems, who could be held together in the appropriate facilities, and for those who posed an exceptional risk of making a violent escape. He was, however, aware that exceptions were permissible under article 10, paragraph 2 (a), of the Covenant. Under Dutch law, juvenile criminal law was applicable to persons legally considered as adults and vice versa, which could be of great benefit to the persons concerned. He accepted, nonetheless, that the reservation might be the product of excessive attention to detail; if the Committee considered it superfluous, the Government would reconsider its position. The reservation to article 20 had been entered because of the difficulty in formulating a ban on propaganda for war that excluded grave breaches of freedom of expression.

6. Victims of sexual violence qualified in principle for protection under the asylum laws and could obtain a residence permit on humanitarian grounds. Indeed, Dutch legislation made specific reference to domestic violence as a basis for asylum from countries where such violence was linked to honour killings or where the local authorities did not offer protection in those cases. Applications could be made on humanitarian grounds and many residence permits had been granted on that basis.

7. Fear of female genital mutilation (FGM) was also considered to be a ground for asylum, the danger of FGM being considered a violation of article 3 of the European Convention on Human Rights. If the relevant authorities in the country of origin could not offer protection and there was no alternative region in that country to which the girl could return without becoming a social outcast, asylum was granted. The Ministry of Justice had identified FGM as one of the issues to add to its list of top priorities, alongside domestic violence and human trafficking. It had introduced measures to detect potential victims, including a more proactive response from airport authorities if there were indications that girls who were being taken on holiday to their countries of origin could be at risk of being victims of FGM.

8. Terrorist intent was not a crime in itself, but a qualification for crimes as defined in other articles of the Criminal Code. It was understood as the purpose of causing serious fear among the population or part of the population, or unlawfully forcing the Government or an international organization to do something, not do something, tolerate certain actions or seriously disrupt or destroy the fundamental political, constitutional, economic or social structures of the country or international organization. It was a strict definition that covered terrorist acts that affected the independent, responsible functioning of the State or international organizations based in the Netherlands. The word "tolerate" related to situations in which a terrorist organization tried, using threats or other means, to cause the Government to refrain from taking action against extremist control of public organization, rendering the Government incapable of exercising its essential responsibilities.

9. In reply to the question about biometric passports, he said that it was common practice to store information on passports and other travel information in databases. The central storage of

that data provided the best guarantee of adequate protection. The high standards of protection in the Netherlands did not permit even the Public Prosecutor to access that data without specific reasons, which were enumerated in the relevant legislation.

10. In the light of the small number of errors that had been made in the surveillance of telephone conversations, the Public Prosecutor's Office had exempted telephone numbers used by lawyers from wire-tapping. The national lawyers' association had been satisfied with that outcome. Wire-taps were an important means of investigation owing to the high standards of evidence required to secure a conviction; hearsay evidence and vague indications were insufficient. Wire-taps could only be ordered by means of a warrant by the examining judge, and special attention was paid to lawyers and other professionals bound by confidentiality. The security services could tap telephones only when acting on the instructions of the intelligence services. Each case of tapping was assessed by the Minister of the Interior and, if granted, permission was for a limited period only.

11. On the question of the administrative measure on the disturbance of an individual raised by Mr. O'Flaherty, the preventive function of the complaint procedures for the police and the National Ombudsman was a key factor and it was important to keep it within limits. It was not an additional form of administrative detention. The Netherlands had rejected the administrative measures approach, such as that illustrated by Guantánamo Bay, in the fight against terrorism. That fight should be placed within the framework of criminal law and criminal procedure.

12. All asylum applications, many of which came from undocumented aliens, were examined. Many were successful, regardless of the status of the applicant. Undocumented aliens who did not apply for asylum were, of course, expected to return to their point of departure on the next available flight.

13. It was difficult to compare the Act on the Termination of Life on Request and Assisted Suicide with legislation in countries other than Belgium and Luxembourg. His Government fundamentally rejected any efforts to apply the relevant legislation in cases where there was a lack of sufficient treatment for older people. All cases of euthanasia were examined by an independent regional committee consisting of a member of the medical profession, an ethics specialist and a member of the legal profession. A central commission presided over by the secretary-general of the lawyers' association independently examined the work of the regional committees. If the commission considered that there had been insufficient grounds or inadequate procedures followed for the application of euthanasia, the case was referred to the disciplinary law system of the medical profession or to the Public Prosecutor. Judicial supervision was the last resort in such cases. The commission found that the vast majority of cases complied with the requirements of the Act. In 2008, there had been 10 cases requiring further examination in the disciplinary law system or the criminal law system.

14. The Medical Research (Human Subjects) Act prohibited trials involving subjects under the age of 18 or subjects who were deemed to be incapable of giving informed consent. Two exceptions to that rule were trials that could be of direct benefit to the subjects or that could not be conducted without the participation of persons of the same category as the subject, provided that the risk associated with participation was negligible and the inconvenience minimal.

15. The position of the Netherlands on the death penalty was a matter of principle. It was a constitutional provision that there would be no situation in which that penalty would be applied. His country was active in promoting that approach at the international level.

16. While the Government supported the principles behind the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, it contained some provisions that could contradict domestic legislation. The Netherlands was working the other members of the European Union to improve its protection of the rights of migrant workers and their families. While there were some problems with the exact wording of the Convention, his Government remained open to discussion on how it could further protect migrant workers.

17. The Government would begin the process of accession to the Optional Protocol to the Convention against Torture in the near future.

18. The Ministries of Justice and the Interior were planning to present to Parliament a bill establishing a national human rights institution. In the meantime, the Equal Treatment Commission had been asked to set up a national human rights institution, as that was a priority for the Government.

19. Mr. O'FLAHERTY asked for additional written information from the Netherlands Antilles on the extent of external review of detention facilities and police activity. He wished to know whether audio-visual surveillance in the Netherlands Antilles was subject to the same conditions as in the Netherlands.

20. He would also appreciate further explanation of the justification for the State party's position on the presence of lawyers in police investigations. Given that the practice was somewhat at odds with that used in many other countries, he asked why there was a pronounced reluctance to allow the presence of lawyers in every police investigation and why audio-visual surveillance was limited to such a small category of situations.

21. Ms. WEDGWOOD (Country Rapporteur) raised the question whether it was not time to re-examine the prerogatives of lawyers during police questioning in the Netherlands, the Netherlands Antilles and Aruba. It was astonishing that the right to counsel did not include the right of counsel to be present at all police interrogations, and to interject and halt the interrogation if it took a direction that counsel felt was inappropriate, and the right for a defendant to halt questioning on asking for a lawyer.

22. On the issue of medical trials involving minors, she asked whether the Government was aware of the cases in which a more than minimal invasive effect had been detected with lumbar punctures and the use of magnetic resonance imaging (MRI) machines.

23. Mr. BOUZID asked the delegation to confirm whether expulsion orders had been issued in the case of individuals who were categorized as "undesirable aliens" but could not safely return to their country of origin. He also asked whether corporal punishment still existed in Aruba and the Netherlands Antilles.

24. Sir Nigel RODLEY asked why, given that the post hoc procedure for authorizing euthanasia had been recognized as departing from the duty of care, it was not possible for the

procedure to operate pre hoc instead. In view of the need for a guarantee against all the types of pressure that people could be put under to end their lives, a better process than authorization by two doctors, even if one was unconnected with the case, was needed to offer a real guarantee against abuse.

25. He asked for more details on the statistics provided by the delegation on pretrial detention, including whether they covered both pretrial and pre-charge detention.

26. He requested further clarification of how the new eight-day general asylum procedure would work, as it appeared to be a target rather than a procedure. He also asked for details of the criteria the court could apply when considering appeals on asylum decisions, i.e. whether the court could review substantive issues rather than just procedural irregularities.

27. The fact that the Salah Sheekh case had been decided when that person had no longer been at risk of imminent deportation from the Netherlands was not relevant to the substantive issue of the case, namely the test of risk. In that connection, he asked for details on the distinction between groups at risk and vulnerable groups, which had been introduced following the Salah Sheekh judgement, and the consequences of its application.

28. In the light of a number of NGO reports, he asked the State party to confirm whether it accepted forensic-medical evidence as part of the procedure for determining the risk of ill-treatment following deportation.

29. Noting the many reports of cases where asylum-seekers were detained, he enquired whether those individuals who did not claim asylum status immediately upon detention then continued to be detained while their application was processed: Amnesty International had highlighted such a case in its 2008 report “The Netherlands: The detention of irregular migrants and asylum-seekers”. Were there any statistics on the number of individuals detained prior to their asylum applications being accepted or leave to remain in the Netherlands being granted?

30. Ms. MOTO asked for further information on how the State party envisaged improving the definition of labour exploitation in its new legislation on the issue.

31. Mr. HIRSCH BALLIN (Netherlands) said, in the light of a recent judgement of the European Court of Human Rights relating to article 6 of the European Convention on Human Rights, the Dutch Public Prosecutor had asked the police to allow suspects access to lawyers at every stage of their investigations. In his capacity as Minister of Justice, he had drafted a letter to the Dutch Parliament on how the European Court’s judgement would be effected. In accordance with that letter, special attention would be given to the issue of juvenile suspects, which had been raised in both the European Court’s judgement and a ruling by the Supreme Court of the Netherlands.

32. He expressed his intention to ask the Minister of Health to look into the issue of medical experiments on juveniles.

33. “Undesirable aliens” who were not in a position to return safely to their country of origin would not be deported. It was nevertheless possible for aliens committing offences to be categorized as “undesirable”, which was a purely legal term.

34. The Salah Sheekh judgement would be adhered to and formed the basis for the new Dutch legislation on asylum. Changes introduced by the legislation included: more time to consider which procedure would be applied in each individual case; removal of the need for duplicate or multiple applications which introduced new evidence; and the possibility of incorporating new facts and developments into the first application for asylum. His Government considered that its legislation was thus consistent with requirements under the various international human rights instruments.

35. Mr. PIAR (Netherlands Antilles) said that an inspection of the prison in the Netherlands Antilles had been carried out in May 2009 and that there was no impediment to NGO inspections of prison facilities. Corporal punishment was a crime in his country and was prosecuted as such.

36. Mr. HIRSCH BALLIN (Netherlands) said that an inter-ministerial action plan had been introduced in 2007 with the aim of preventing child abuse and limiting its harmful consequences. A two-year national campaign to make the public aware of their responsibility to report child abuse had also been initiated in December 2008.

37. Under the new Temporary Restraining Orders Act, mayors could impose 10-day exclusion orders on perpetrators of domestic violence with a view to protecting family members at risk. More than 700 restraining orders had been issued since the Act's introduction in January 2009 and, in many cases, the situation had been resolved during the 10-day period.

38. An integration survey in 2008 had shown that unemployment among the target groups of Dutch integration policy had fallen. Nevertheless, the Government would take vulnerable groups, women and older persons into account when formulating policy to counter the effects of the international economic crisis on the employment of minorities.

39. Discrimination was not tolerated and anti-discrimination measures - both preventive and law-enforcing - were in place. According to a study carried out by the Migration Policy Group, the Netherlands was the only country whose enforcement of anti-discrimination law served as an example of best practice.

40. Mr. PIAR (Netherlands Antilles) said that, in his country, only minors aged 12 or over could be prosecuted, tried and sentenced. The great majority of under-age suspects were not convicted under adult law, but held under government supervision. Much use was also made of suspended prison sentences and professional supervision. The new Criminal Code would completely overhaul juvenile criminal law.

41. The Public Prosecution Service sought to keep the pretrial detention of minors to a minimum, aiming for release after 10 days of police custody by order of the examining judge. The main purpose of the detention was to give the Guardianship Council the opportunity to meet the minor's social needs and it was applied only to minors suspected of the most serious offences, for example, aggravated assault or homicide. The courts were furthermore required to examine the option of suspending the pretrial detention of minors. Setting up a fully operational young offenders' institution was a high priority.

42. Several cases of physical abuse of children had been reported to the Juvenile and Vice Police Squad: in cases where there was insufficient evidence of child abuse, the parents would be referred for supervision by the Probation Unit and Guardianship Council. An advice and reporting centre for child abuse had also been set up within the Child Protection Agency.

43. Under family law, children born out of wedlock but acknowledged by their fathers had the same status as legitimate children. The draft national ordinance on judicial declarations of paternity would introduce a provision enabling the court, at the request of a mother, a child or the Guardianship Council, to determine paternity even where the biological father had not acknowledged the child. The draft national ordinance relating to the Names Act would introduce a provision enabling parents to choose either the mother's or the father's surname for their children.

44. The Netherlands Antilles was the only country in the Kingdom of the Netherlands that had elected five female prime ministers. Women's political participation at both central and island level had been constant ever since women had been granted the right to vote.

45. Mr. PIETERSZ (Aruba) said that, under Aruban criminal law, a convicted young person aged between 12 and 18 could be detained only if no other appropriate sanctions were available. Each individual case was discussed at a meeting of the Guardianship Board, the Rehabilitation and Child Protection Board, the Police Youth and Sexual Offences Unit and the Public Prosecution Service, and detention was sanctioned only if unavoidable. As a rule, young offenders were not detained in the same institution as young people detained for behavioural problems. Alternatives to detention were increasingly being used: almost 80 per cent of cases involving young offenders were now dealt with by such alternative means as community service.

46. The entire youth wing of Aruba prison had recently been refurbished and enlarged to provide 36 places for young offenders in pretrial detention. Young prisoners were offered the opportunity to complete their schooling through independent study. At present, the prison was working on programmes to better prepare young prisoners for their return to society. To that end, contact had been established with young offenders' institutions in the Netherlands, where Aruba prison staff would undergo training. Vocational training programmes had also been set up to help juveniles re-enter society; they involved parents or legal guardians, and provided guidance on how to cope and interact with those juveniles after their release.

47. The Aruban Criminal Code contained general statutory provisions covering violence against both men and women and, under the new Code, pretrial detention could be imposed for all forms of domestic violence. The Aruban police had recently launched a new management information system which would improve police capacity to register data on domestic violence and permit the development of a better strategy to combat violence against women. The police had also embarked on an important partnership with the Victim Support Office of the Ministry of Social Affairs, which provided round-the-clock professional support to victims and potential victims.

48. The NGO Foundation for Women in Distress played an important role in educating the public and raising awareness of violence against women. The Foundation's shelter not only

provided accommodation, safety, rest and protection for women and their children in situations of domestic violence and under serious threat, but also offered professional assistance and aftercare for women.

49. The National Sexual Offences and Stalking (Criminalization) Ordinance, which expanded the protection of minors against sexual abuse under criminal law, had entered into force. It considerably extended the period in which a complaint of a sexual offence could be lodged, so that child victims could report or lodge a complaint for sexual offences committed against them even when they were no longer children. It also made possession and distribution of child pornography criminal offences, included boys in protection against rape and unwanted physical penetration, and broadened the definition of the criminal offence of paying for sexual abuse of minors aged 16 and over or being present during such abuse. Lastly, it modernized the definitions of, and considerably increased the penalties for, the offences of promoting sexual abuse of minors by third parties and trafficking in children.

50. A child abuse registration and counselling centre had been set up in 2005 to function as a central registration point for child abuse and, in liaison with existing institutions and organizations, to promote a more structured approach to tackling the abuse and exploitation of young persons. Together with the relevant research, data analysis provided an important basis on which to develop policy. Various public information campaigns about the negative consequences of the ill-treatment of children and the promotion of positive, non-violent forms of discipline had also been carried out by the centre and other NGOs.

51. Mr. BHAGWATI, congratulating the delegation of the Netherlands on the very detailed answers it had provided, asked to receive statistics concerning the number of juveniles convicted and sentenced in each of the three previous years. The written replies referred to a Young Offenders' Institutions Framework Act which governed the sentencing of minors; he wished to know the main purpose of the Act and in what way it had improved the situation.

52. Turning to paragraph 125 of the written replies, he wished to know in what form community-based care and supervision were provided to young people in pretrial detention. He would like to learn more about the main provisions of the legislation introduced on 1 February 2008 and how they were intended to influence the behaviour of young people. Concerning paragraph 127 on the Netherlands Antilles, he asked when the new juvenile criminal law referred to was likely to be introduced and in what way it would differ from existing law. He enquired whether any of the measures to improve the juvenile justice system set out in paragraph 133 had been adopted and, if so, whether they had had any appreciable effect.

53. He asked for more details on the wide range of actions to combat discrimination, racial hatred and intolerance mentioned in paragraph 196 of the written replies. Referring to paragraph 197, he wished to know whether there had been any indictments or punishments issued under article 137c of the Criminal Code; the deliberate insulting of a group of people because of their race or belief was a particularly serious matter as it affected peace in the community. Referring to paragraph 199, he wondered how discrimination was prohibited in the Netherlands Antilles given that there was no specific legislation in place defining it. With regard to the action plan outlined in paragraph 201, he wished to know what steps had been taken to combat discrimination in recruitment, selection and promotion and in the workplace and with what result.

54. In connection with paragraph 203, he asked what steps had been taken by the State party to improve the employment situation of minorities, and in particular non-Western minority immigrants. He asked what concrete action had been undertaken in relation to the various instruments and initiatives mentioned in paragraph 204. Turning to paragraph 205, he wished to learn what practical tests had been carried out by the Social and Cultural Planning Office and what steps had been taken to remove the differentiation in treatment between candidates with a typically Dutch name and those with a foreign-sounding name.

55. Regarding the written reply to question 26 of the list of issues, he wished to know in what manner the Urban Renewal Investment Budget had contributed to the regeneration of low-income settlements.

56. Ms. MOTOC asked what measures had been taken in response to domestic violence, how many NGOs were working on the issue, and whether shelters, helplines and special centres were provided for women victims of such violence. She wished to learn more about the role of women in political life and what action the Government was taking to increase the number of women in Parliament and in public life in general. She sought more specific data on how well women were represented in the private sector, particularly in senior posts.

57. Referring to question 23 of the list of issues, she would welcome more information on measures adopted by the State party to comply with the decision of the District Court of the Hague of 7 September 2005 (No. AU2088) in relation to a political party that excluded women from its membership.

58. Ms. WEDGWOOD, referring to the written response to question 16, said people of many religious faiths believed that they must, as a tribute to God and as a sign of their own fidelity, wear a public manifestation of their belief. Paragraph 159 of the written replies stated that public-authority schools might prohibit the wearing of all headwear and jewellery in the interests of safety. While she could agree that a chain or a necklace with a cross might cause injuries during gym lessons, she believed that a man's tie could snag on a protuberance or catch fire during a practical lesson as easily as a headscarf. That requirement would therefore fail to meet the test of equal treatment. She accepted that the Netherlands saw itself as a secular society but the importance of being faithful to one's religion while receiving a public education was a fundamental right that was covered under articles 26, 18 and 19 of the Covenant. She urged the State party to devise a closer definition of acceptable clothing that might exclude veils from the classroom while allowing headscarves.

59. Regarding question 17, she understood that the Netherlands had decided not to broaden, and possibly to repeal, the provision relating to blasphemy. In connection with question 18 on combating anti-Semitism, she had been very troubled to learn of the anti-Semitic chanting at football matches; had she witnessed such an incident, she would have left the ground. She noted the attempts to use videotape to obtain evidence for prosecution, but felt it would be more appropriate to halt games where such chanting occurred. She referred to the work by Elias Canetti, Masse und Macht, which underlined the dangers of the mob: shouting by a crowd was even more threatening than something said by an individual on a street corner. In allowing such action to take place, the Netherlands, which had traditionally been a place of refuge for religious minorities, was setting a very bad example.

60. She requested confirmation of news reports that Ayaan Hirsi Ali, the Somali-born former Dutch member of Parliament, had been denied continued protection by the State on the grounds that it could not be guaranteed and was too expensive.

61. Regarding question 19, she believed that the raising of the age requirement to 21 for hosts applying for family members to join them and the raising of the income requirement to 120 per cent of the minimum wage were likely to have the greatest impact on women and members of minorities. In addition, the concept of wealth discrimination might be challenged under article 26. She understood that the Government did not wish the Netherlands to become a nation of people who could not support themselves, but the distinction between the income requirement for migrant families and the existing minimum wage seemed odd.

62. Finally, concerning question 26, the special measures municipalities were permitted to take under the “Rotterdam Act” to prohibit the housing of people who had lived in the region for less than six years and who did not have an income did not meet the requirements of article 26: if the objective of the Act was to prevent the decline of poor neighbourhoods, surely the same result could be achieved through subsidies and incentives rather than prohibitions.

63. Mr. O’FLAHERTY, referring to question 20 of the list of issues on child abuse, commended the way in which the Netherlands had set up the “Children Safe at Home” action plan. NGOs had indicated that the reporting of child abuse to the authorities by some childcare institutions and childcare actors under the plan was inadequate. He asked how the Netherlands was responding to that problem and what measures it was taking to oversee reporting procedures.

64. It had been suggested that there were serious problems associated with waiting lists for access to youth care centres and other residential care institutions. It would be helpful to know if that was the case and whether it was compromising the State’s health protection strategy for children who were victims of abuse. He asked whether it was true that undocumented children who did not have health insurance were deprived of access to the same range of facilities as children who did have insurance.

65. With regard to question 21, he warmly welcomed the change in the regulations on the naming of children in the Netherlands Antilles. While welcoming the initiative for judicial declaration of paternity, he was concerned that it had discriminatory elements that raised problems under the Covenant and, in particular, that the rules regarding the denial of inheritance rights might create hardship for widows and children. He understood that particular circumstances relating to the nature of society and the unusual family structures in the Netherlands Antilles had dictated the limitations imposed, but wondered how the non-discrimination provisions of the Covenant had been taken into account in crafting those limitations.

66. In connection with question 27 on dissemination of information relating to the Covenant, he asked what efforts had been made by the State party to ensure that the Committee’s concluding observations were disseminated to all the relevant stakeholders. Given that human rights education was a fundamental part of the obligation to promote and protect human rights, he sought the response of the Netherlands to concerns expressed by NGOs that levels of human rights education in the Netherlands were low, that there were insufficient references to

international human rights standards in primary and secondary education, and that the Government considered that mandatory human rights education would be in violation of the country's Constitution.

67. Finally, he would be interested to know what stage the proposal by the Netherlands Antilles to create a human rights website had reached, particularly in the context of the constitutional changes to be introduced in the islands and the need to put in place good human rights practices before the islands became autonomous.

68. Mr. THELIN, associating himself with those who had praised the human rights record of the Netherlands, said that while the Covenant should be universally applied, the tendency to hold certain countries to higher standards than those required under the Covenant could be counterproductive. Although legislation in the Netherlands had received criticism for its vagueness and openness to discretionary measures, to his mind the country was a best-practice example when it came to the quality of its law enforcement and judiciary.

69. With regard to euthanasia, he supported the position of Sir Nigel Rodley and that taken by Ms. Wedgwood the previous day; he was in favour of enhancing the approval mechanism so that it included some form of judicial test in addition to a medical pre-approval arrangement.

70. Turning to question 17 of the list of issues, he said that he would be interested to know when article 147 of the Criminal Code on blasphemy would be repealed. He wished to point out, however, that the article appeared to be similar to provisions in his own country which had virtually never been enforced, in which case repealing it would not really contribute to promoting freedom of expression. The current issue, which concerned both freedom of expression and the sensitivities of religious and other communities, was a good example of the need to balance human rights which had been referred to by the representative of the Netherlands the previous day. He sought assurance that the changes in legislation would not diminish the right to freedom of expression and would not increase the self-censure already present in Dutch society.

71. Mr. AMOR said that the Netherlands contributed significantly to the protection and promotion of human rights and it was therefore all the more disconcerting when marginal issues arose. The replies given by the delegation to the list of issues demonstrated considerable commitment to human rights, and to freedom of expression in particular. Nevertheless, he wondered whether the Netherlands had taken the most effective measures to contain and, where possible, eradicate incidents involving discrimination, hatred, violence and extremism and to punish those responsible for them.

72. Concerning freedom of expression, article 19 could not be interpreted in isolation from article 20, which called on States to establish laws against incitement to discrimination, racial hatred and violence. He believed that the reservation of the Netherlands in respect of article 20 could not be supported on legal grounds: although it was not covered under article 4, article 20 contained elements that were fundamental to international law. In its general comment No. 29 on article 4, the Committee had stated in paragraph 8 that there were elements or dimensions of the right to non-discrimination that could not be derogated from in any circumstances, and in paragraph 13 (e) that no declaration of a state of emergency was justification for a State party to

engage itself, contrary to article 20, in propaganda that would constitute incitement to discrimination. Therefore, if there were no exceptional circumstances under which a State party could engage in actions contrary to article 20, then article 20 should apply to the incidents of incitement to violence and racial hatred in the Netherlands which had been described to the Committee the previous day. He wished to know how the very obvious commitment of the Government of the Netherlands to combating incitement to discrimination, violence and racial hatred could be reconciled with its wish to maintain a reservation in respect of article 20.

73. He asked the delegation to provide more information on the significance of the increasing incidence of discrimination and intolerance described and on the legal aspects of the question, in particular on the scope of the Netherlands reservation to article 20.

74. Mr. HIRSCH BALLIN (Netherlands), replying to questions raised by Mr. Amor, said that it was important to strike a balance between respect for freedom of opinion and expression and the need to combat discrimination and incitement to hatred. In that endeavour, criminal legislation was one tool, but not the only one. In its policies, his Government placed much emphasis on the promotion of mutual respect between persons of different ethnic backgrounds and religious faiths. Within that context, a comprehensive polarization and radicalization action plan had been adopted for the period 2007 to 2011.

75. Turning to a question asked by Mr. Thelin, he said that no one had ever been prosecuted under article 147 of the Criminal Code. A number of criteria had been established for the application of criminal law in cases pertaining to that provision. The system for registration of complaints of discrimination by the police had been improved in an effort to obtain clear data on the matter. Once the system was fully operational, his Government would be happy to provide the Committee with relevant statistics.

76. Referring to questions relating to the juvenile justice system, he said that in the years 2006, 2007 and 2008, the number of persons admitted to young offenders' institutions had been 2,663, 2,758 and 2,207 respectively, which illustrated the effectiveness of preventive methods, including the prevention of continued involvement in criminal behaviour patterns. In dealing with young offenders in particular, a balance was sought between preventive and punitive measures.

77. The main purpose of the new Youth Care Act was the creation of secure youth care centres. The Act had entered into force in early 2008 and provided for, inter alia: alternatives to deprivation of liberty; limits on the duration of imprisonment of juveniles; the imposition of compulsory care; individual counselling; and multisystemic or family therapy.

78. Referring to Ms. Motoc's question concerning the Reformed Political Party, he said that the Party held only 2 out of 150 parliamentary seats, which showed that it played only a minor role in the political landscape. Still, the Netherlands Supreme Court was seized of the matter raised and a ruling was expected in 2010. He stressed that all other political parties in the Netherlands encouraged women to take leading roles in political life.

79. In response to Ms. Wedgwood's concern about the prohibition of headscarves in schools, he explained that the presence of a small number of women wearing burkas in public had caused

considerable controversy. The somewhat disproportionate intensity of the debate had led the Government to consider the need for imposing certain limits on the public display of religious symbols, namely the wearing of clothing which covered the face in the classroom. However, great care was taken to ensure due respect for freedom of religion.

80. The new age and income requirements for hosts applying for family reunification aimed at promoting integration and, at the same time, sought to prevent fraudulent use of the relevant provisions. His country had to deal with large numbers of applicants for family reunification and there had been cases, for example, where the DNA of children seeking admission to the Netherlands on such grounds had borne no resemblance to that of the alleged parents. The new provisions were under review by the European Court of Human Rights. At the domestic level, the new legislation would also be reviewed periodically to assess its practicality and ensure that it was not detrimental to legitimate applications.

81. Mr. PIAR (Netherlands Antilles) said that the new juvenile criminal law was modelled on criminal legislation and contained several new provisions, including: non-punitive orders; conditional suspension of cases; placement of minors in youth care institutions; abolition of life sentences for minors; and application of provisions mainly intended for adults to young offenders under the age of 18, subject to strict criteria established by law.

82. With regard to Mr. O'Flaherty's question about progress in the establishment of a human rights website for the Netherlands Antilles, he said the Directorate of Foreign Relations was currently compiling relevant information with a view to its publication on the government website before the end of 2009. The provisions of the draft National Ordinance on Judicial Declarations of Paternity had been formulated with the nature of Antillean society and family structures in mind. The draft had been submitted to the country's advisory bodies to obtain legal advice.

83. Mr. HIRSCH BALLIN (Netherlands), replying to a question about waiting lists for admission to youth care centres, said that the Ministry for Youth and Families, in cooperation with the provincial authorities, had undertaken to eliminate by the end of 2009 the backlog of persons who had been awaiting admission for more than nine weeks. Sufficient resources had been allocated to increase the capacity of youth care offices by 8.4 per cent.

84. In reply to questions raised by Ms. Motoc about the participation of women, he said that their participation in public and political life was a key concern for his Government. The Ministry of the Interior was actively engaged in recruiting women for top positions in the police force. Efforts were also being made to increase female representation in the private sector, which had launched an initiative entitled: "Talent to the top" aimed, inter alia, at increasing the number of women in senior positions. Currently, 25 per cent of working women in the Netherlands held managerial posts. Detailed information on action plans to enhance the employment of women would be submitted in writing, including an action plan to prevent discrimination in recruitment and promotion.

85. In order to improve services for female victims of domestic violence, a national helpline had been set up.

86. He fully supported Ms. Wedgwood's views on the need to suspend football matches in the event of anti-Semitic chanting by fans. Provisions to that effect were contained in the guidelines for referees and the issue had been widely discussed with the Royal Netherlands Football Association.

87. The impact of Urban Areas (Special Measures) Act was due to be evaluated in 2011. It had thus far been implemented in Rotterdam only, and an intermediate evaluation had produced few results as the short time elapsed since its introduction was insufficient for any far-reaching conclusions to be drawn.

88. Undocumented minors had access to the same health benefits as those with proper documentation. No one was deprived of essential health care, regardless of their migration status. Moreover, foreign nationals with pending asylum proceedings were considered lawful residents, even if they had no Dutch identity documents.

89. Human rights education was one of the pillars of his Government's human rights policy and permeated all spheres of life. Human rights education in schools focused primarily on the promotion of active citizenship and integration. An important recent initiative was the establishment by the Ministry of the Interior, in cooperation with the Ministry of Justice, of a "National house for democracy and the rule of law". That institution would be open to the public and provide schoolchildren and other visitors with key information on human rights.

90. Mr. HIRSCH BALLIN (Netherlands), Mr. PIAR (Netherlands Antilles) and Mr. PIETERSZ (Aruba) thanked the Committee for a very constructive dialogue, which would assist their Governments in achieving further progress in the area of human rights.

91. Mr. PIAR (Netherlands Antilles) expressed strong support for cooperation between the three countries in that area.

The meeting rose at 12.55 p.m.