



# **THE NETHERLANDS: EXCESSIVE IMMIGRATION DETENTION, ETHNIC PROFILING AND COUNTER-TERRORISM MEASURES**

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC  
REVIEW – 27<sup>TH</sup> SESSION OF THE UPR WORKING GROUP, MAY 2017

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# INTRODUCTION

This submission was prepared for the Universal Periodic Review (UPR) of the Netherlands in May 2017. In it, Amnesty International evaluates the implementation of recommendations made to the Netherlands in the previous UPR, assesses the national human rights framework and the human rights situation on the ground, and makes a number of recommendations to the government to strengthen the protection of human rights and address human rights violations addressed in this report.

Amnesty International acknowledges that the Netherlands has in place a National Action Plan on Human Rights. However, the Plan has been poorly implemented and contains structural weaknesses, including in relation to migrants' rights and human rights education.

Amnesty International is concerned that immigration-related detention exceeds the limit set by the EU Returns Directive limit and that draft legislation on counter-terrorism and intelligence and security services could disproportionately restrict human rights. The organization is also concerned about police ethnic profiling and restrictions on the right to peaceful assembly.

## FOLLOW-UP TO THE PREVIOUS REVIEW

During its second UPR in May 2012, the Netherlands accepted a number of recommendations made by other States on issues that are key to improving the human rights situation in the country, including on the rights of migrants<sup>1</sup> and racial discrimination.<sup>2</sup> Amnesty International regrets to note that many of these recommendations are yet to be implemented.

The Netherlands accepted a recommendation to reduce the number of persons held in detention centres for immigration purposes.<sup>3</sup> Years of national and international criticism led to policy changes in 2013, aimed at ensuring that irregular migrant families with children under the age of 18 are detained only in exceptional cases.<sup>4</sup> In October 2014, a special closed facility was opened in Soesterberg for the detention of unaccompanied children and families with children in small houses rather than cells. However, this still constitutes detention and does not take into account

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<sup>1</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Netherlands*, A/HRC/21/15, 9 July 2012, recommendations 98.40 (Thailand), 98.65 (Bangladesh), 98.114 (Ecuador), 98.108 (Sweden).

<sup>2</sup> A/HRC/21/15, recommendations 98.40 (Thailand), 98.44 (France), 98.45 (Poland), 98.49 (Mexico), 98.55 (Qatar), 98.58 (Spain), 98.59 (Thailand), 98.65 (Bangladesh), 98.67 (Botswana), 98.70 (Cuba), 98.74 (Greece), 98.88 (Malaysia).

<sup>3</sup> A/HRC/21/15, recommendation 98.108 (Sweden).

<sup>4</sup> *State Secretary of Security and Justice, letter to the Parliament, September 13th, 2013, "Toezeggingen op Rapporten en adviezen vreemdelingenbeleid"* ("promises on reports and recommendations migration policy").

the rights and best interests of the children. Moreover, with the opening of this family detention centre, the threshold for detention of children has been relaxed,<sup>5</sup> leading to an increase in the numbers of families detained.<sup>6</sup>

The Netherlands also accepted recommendations to reduce immigration detention and promote alternatives to such detention.<sup>7</sup> In December 2013, the government published a draft Bill, "Return and Immigration Detention",<sup>8</sup> scheduled for debate in Parliament in October 2016.<sup>9</sup> The new Bill proposes some improvements, including that detainees spend less time per day being locked in a cell; however, the general policy with its punitive measures and restrictions on contact with the outside world remain largely the same. Amnesty International's analysis suggests that the Dutch authorities do not sufficiently assess the necessity and proportionality of an individual's continued detention.<sup>10</sup> Alternatives to detention are rarely offered and foreign nationals<sup>11</sup> who do not show a "sincere and demonstrable willingness to leave the country" do not qualify for an alternative to detention.<sup>12</sup>

During the previous review, the Netherlands also supported a recommendation to improve conditions in migrant detention centres.<sup>13</sup> While the draft Bill will also regulate conditions in detention, it is not expected to lead to significant improvements.<sup>14</sup> Importantly, it does not change the fact that individuals in migration detention are locked up in a cell for many hours a day, not permitted to work and subject to a range of disciplinary measures.

The Netherlands received 28 recommendations on racial discrimination during its previous review,<sup>15</sup> of which it accepted 12 recommendations. In January 2016, after pressure from civil

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<sup>5</sup> At the time the new detention facility was opened the State Secretary announced in a letter of September 26, 2014 (2014-2015 Kamerstuk 19637 nr. 1896) that a previous policy of 13 September 2013 to stop detaining families (except when they had previously absconded), would be reversed, allowing the government to detain families again as a preventive measure.

<sup>6</sup> State Secretary of Security and Justice, Policy Letter, 25 September 2014 (In Dutch: Kamerstukken II 2014/15, 19637, nr 1896).

<sup>7</sup> A/HRC/21/15 and A/HRC/21/15/Add.1/Rev.1, recommendations 98.108 (Sweden), 98.112 (Brazil) and 98.113 (Ecuador)

<sup>8</sup> Internet consultation version published on December 21st, 2013, p. 20, <https://www.internetconsultatie.nl/vreemdelingenbewaring>.

<sup>9</sup> State Secretary of Security and Justice, Proposal for amendment of the law (In Dutch Kamerstukken 2015-2016, 34309, Nr 2: *Regels met betrekking tot de terugkeer van vreemdelingen en vreemdelingenbewaring (Wet terugkeer en vreemdelingenbewaring)*).

<sup>10</sup> For further information (in Dutch) please see the Amnesty International Netherlands website: <http://www.amnesty.nl/mensenrechten/dossiers/vreemdelingendetentie> (accessed 20 September 2016).

<sup>11</sup> Including migrant workers, rejected asylum seekers and refugees whose permits have expired or are withdrawn, overstaying tourists, Dublin claimants, etc.

<sup>12</sup> State Secretary of Security and Justice, Policy Letter, 13 September 2013 (In Dutch: Kamerstukken II 2013-2014 19637 nr. 1721).

<sup>13</sup> A/HRC/21/15 and A/HRC/21/15/Add.1/Rev.1, recommendation 98.114 (Ecuador).

<sup>14</sup> The only real improvement in the Draft Bill is that detainees spend less hours in a locked cell, as an additional 4 hours in the evenings involves open doors. The total number of hours detainees will be locked in will thus be reduced from 16/17h to 12h per day. Also there is an extra hour for visits: two instead of one. However, in practice this already exists.

<sup>15</sup> A/HRC/21/15, recommendations 98.38 (Iran), 98.40 (Thailand), 98.42 (Egypt), 98.43 (Egypt), 98.44 (France), 98.45 (Poland), 98.47 (Iran), 98.48 (Malaysia), 98.49 (Mexico), 98.50 (Nicaragua), 98.52 (Pakistan), 98.53 (Pakistan), 98.54 (Hungary), 98.55 (Qatar), 98.57 (Russian Federation), 98.58 (Spain), 98.59 (Thailand), 98.60 (Turkey), 98.61 (Uruguay), 98.63 (Algeria), 98.65 (Bangladesh), 98.66

society, the government drafted policies to address various forms of discrimination, including racial discrimination. However, the policies lack a timeline for implementation, as well as targets and benchmarks for evaluation.

In 2012, the Netherlands indicated that it considered two recommendations to strengthen efforts with regards to human rights education as already implemented.<sup>16</sup> However, Amnesty International considers that the Netherlands still does not fully comply with its obligation to provide human rights education to students in schools (see also below).<sup>17</sup>

# THE NATIONAL HUMAN RIGHTS FRAMEWORK

## NATIONAL ACTION PLAN ON HUMAN RIGHTS

In 2013, the Minister of the Interior and Kingdom Relations presented the first National Action Plan on Human Rights.<sup>18</sup> The Plan provides an overview of the state infrastructure for the protection of human rights and aspires to be a platform for dialogue and monitoring. Amnesty International has observed several weaknesses in the Plan, including lack of concrete actions on important issues, such as migration and human rights education. The Plan also omits human rights issues that fall under the remit of other Ministers, such as respect for human rights while countering terrorism. So far, the implementation of the Plan has been poor and it is not subject to adequate monitoring and evaluation. As such, the Plan fails to mainstream human rights into the policy making of some of the most relevant departments of local and national government.<sup>19</sup>

## HUMAN RIGHTS EDUCATION

While human rights education is mentioned in the National Action Plan on Human Rights, the Plan does not include concrete strategies on how to provide adequate human rights education.<sup>20</sup>

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(Bangladesh), 98.67 (Botswana), 98.69 (Costa Rica), 98.70 (Cuba), 98.74 (Greece), 98.87 (Indonesia), 98.88 (Malaysia).

<sup>16</sup> A/HRC/21/15 and A/HRC/21/15/Add.1/Rev.1, recommendations 98.98 (Spain) and 98.99 (Azerbaijan).

<sup>17</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 13: The Right to Education (Art. 13 of the Covenant)*, 8 December 1999, E/C.12/1999/10, available at: <http://www.refworld.org/docid/4538838c22.html>; UN Committee on the Rights of the Child (CRC), *General comment No. 1 (2001), Article 29 (1), The aims of education*, 17 April 2001, CRC/GC/2001/1, available at: <http://www.refworld.org/docid/4538834d2.html>

<sup>18</sup> The Dutch Ministry of the Interior and Kingdom Relations, *The National Action Plan on Human Rights*, February 2014, <https://www.government.nl/government/contents/members-of-cabinet/ronald-plasterk/documents/policy-notes/2014/03/19/national-action-plan-on-human-rights> (accessed 3 October 2016)

<sup>19</sup> Such as the departments of Interior and Kingdom Relations, Education, and Security and Justice.

<sup>20</sup> In 2009 the Committee on the Rights of the Child called on the Netherlands to "make sure that human rights and child rights education is included in school curricula at all levels". Committee on the Rights of the

In 2014, the State Secretary of Education, Culture and Science appointed an advisory commission, Platform Onderwijs 2032, to consider the future of education and make recommendations for reform.

In January 2016, Platform Onderwijs 2032 advised the government to incorporate human rights education in the mandatory core curriculum. The government has justified its failure to do so with reference to the importance it attaches to freedom of education. However, central government already determines minimum requirements for the school curriculum and could include human rights education, while maintaining respect for the Constitution and the notion of freedom of education.

# THE HUMAN RIGHTS SITUATION ON THE GROUND

## IMMIGRATION DETENTION

In 2015, the average length of immigration-related detention was 55 days, whether detention of asylum-seekers at the Schiphol border or detention prior to removal.<sup>21</sup> However, Amnesty International has recorded a number of cases in which an individual's repeated periods in detention cumulatively exceeded the absolute time limit of 18 months under the EU Returns Directive.<sup>22</sup>

Amnesty International is concerned that there is a disparity in access to judicial review for individuals held in immigration-related detention and persons in penal detention. In a criminal law context, a suspect will see an examining magistrate within three days and fifteen hours and have the lawfulness of his or her detention reviewed. In contrast, administrative immigration-related detention is not automatically or promptly reviewed by a judge.

Under the Aliens Act 2000, an individual held in immigration-related detention has the right to have his or her detention examined by the special "Migration Chamber" at the administrative district court.<sup>23</sup> However, often this examination does not take place for more than a month after

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Child, *Consideration of reports submitted by states parties under article 44 of the Convention, Concluding observations: Netherlands*, CRC/C/NLD/CO/3, 27 March 2009, paragraph 62 (d).

<sup>21</sup> For further information (in Dutch) please see the website of the Dutch Custodial Institutions Agency: <https://www.dji.nl/organisatie/publicaties/#paragraph4> (accessed 20 September 2016).

<sup>22</sup> European Union: Council of the European Union, Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, 16 December 2008, OJ L. 348/98-348/107; 16.12.2008, 2008/115/EC, available at: <http://www.refworld.org/docid/496c641098.html> (accessed 20 September 2016), art. 15 para. 5, 6. Maximum period to be detained is 6-18 months. Since 2010, the Dutch government has not provided any statistics about the incidence of repeated immigration-related detention. The issue raises questions about the necessity, proportionality and effectiveness of immigration-related detention.

<sup>23</sup> *Netherlands: Aliens Act 2000* [Netherlands], 1 April 2001, <http://www.refworld.org/docid/3b5fd9491.html> [accessed 4 October 2016]

the initial detention; in some cases migrants can be detained for up to six weeks before seeing a judge.

Amnesty International is also concerned by the continued use of isolation cells and solitary confinement in immigration detention in a broad range of situations. People may be placed in an isolation cell for reasons such as aggression or resistance to deportation, or as punishment for disobeying orders by detention centre staff. While the authorities describe these measures as “isolation” or “separation”, in practice they may amount to solitary confinement, with the individuals concerned isolated for more than 22 hours a day without meaningful human contact. Sometimes migrants, refugees and asylum-seekers are placed in isolation for medical reasons or if they are on hunger strike; this is referred to as “observation”. Hundreds of migrants, refugees and asylum-seekers are held in isolation each year, with potentially detrimental health effects.<sup>24</sup>

## COUNTER-TERRORISM LEGISLATION

The Netherlands is increasingly making use of administrative measures in its counter-terrorism policy, without adequate safeguards for review or challenge.

Amnesty International is particularly concerned about two draft laws -- the Temporary Administrative (Counter-Terrorism) Measures Act and the Amendment of the Netherlands Nationality Act to Revoke Dutch Citizenship in the Interest of National Security -- which, if enacted, would enable the Minister of Security and Justice to impose administrative control measures on individuals on the basis of indications that they may pose a future risk to national security and revoke their Dutch nationality. Both laws have been adopted by the House of Representatives and are now pending before the Senate. The Temporary Administrative (Counter-Terrorism) Measures Act enables the Minister of Security and Justice to take measures restricting a person’s right to freedom of movement, by imposing, for example, a travel ban, a duty to report regularly to the police, an area ban or a restraining order, if that person can be connected to terrorism-related activities or the support of such activities.

The Amendment of the Netherlands Nationality Act to Revoke Dutch Citizenship in the Interest of National Security aims to revoke Dutch nationality of persons who are deemed a risk to national security because they have left the country to join an organization considered to be engaging in terrorism-related conduct. Such stripping of citizenship would take place outside of any criminal justice process, and be decided by the executive branch without any prior judicial involvement. The law includes a provision that the revocation of citizenship will not lead to a person becoming stateless; however, Amnesty International is concerned that, if adopted, both laws may violate due process standards and place restrictions on individual liberties based on perceived risks rather than established criminal offences. Under the laws, individuals do not have to be convicted of a criminal offence, and neither they nor their lawyers have proper access to the information on the basis of which the allegations have been made against them. This undermines their ability to effectively challenge decisions against them in an appeal process. Moreover, the lodging of an appeal does not suspend the effect of the decision and the right to a fair hearing is not guaranteed. Without strong safeguards and review mechanisms, the use of these vaguely worded powers could lead to arbitrary and disproportionate restrictions of individual liberties.

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<sup>24</sup> A joint study by Médecins du Monde the Netherlands, Amnesty International the Netherlands and the LOS Foundation has found that the use of isolation has not decreased since 2011. Hundreds of migrants are held in isolation each year, with potentially detrimental health effects. See Médecins du Monde the Netherlands, Amnesty International the Netherlands and the LOS Foundation, *Isolatie in vreemdelingendetentie*, 2015, [https://www.amnesty.nl/sites/default/files/public/rapport\\_isolatie\\_in\\_vreemdelingen\\_detentie19mrt.pdf](https://www.amnesty.nl/sites/default/files/public/rapport_isolatie_in_vreemdelingen_detentie19mrt.pdf) (accessed 20 September 2016).



## GOVERNMENT SURVEILLANCE

Amnesty International is concerned that the draft Law on the Intelligence and Security Services,<sup>25</sup> if enacted, would legitimize sweeping surveillance and interception powers of the General Intelligence and Security Service and the Military Intelligence and Security Service. As currently drafted, the law would make nationals and non-nationals vulnerable to human rights violations, including of their rights to privacy, freedom of expression and non-discrimination.

The proposed law would enable the interception of communications of non-specified groups of individuals as long as the interception is “case-specific”. This limitation is vague and not explained in the draft law or in the explanatory memorandum that accompanies it, which risks arbitrary interpretation. This broadly drawn provision combined with the absence of any requirement for a reasonable prior individual suspicion would enable disproportionate interference with private communications.

The draft law also lacks sufficient safeguards against abuse. It proposes the establishment of a Review Board,<sup>26</sup> tasked with reviewing the lawfulness of the relevant Minister’s decision to approve the use of these surveillance powers;<sup>27</sup> however, it does not include adequate guarantees to ensure the Board’s independence. In addition, the recommendations of the Oversight Board for the Intelligence and Security Services<sup>28</sup> about the lawfulness of the activities of the security services are not binding and can be overruled by the relevant Minister. The Oversight Board cannot end surveillance operations, nor provide for redress.

The draft law does not provide sufficient guarantees that cooperation with foreign intelligence and security agencies will not involve the sharing of information resulting from or leading to serious human rights violations. Amnesty International is concerned that the government would be able to share private communications with states engaged in human rights violations. Moreover, the provisions of the draft law relating to human rights safeguards on the use, retention and destruction of communication data are also not sufficient.<sup>29</sup>

## DISCRIMINATION

There is substantial evidence of ethnic profiling by the Dutch police and the Royal Netherlands Marechaussee<sup>30</sup> in the context of traffic control, identity and immigration stops, and preventive searches. Studies show that ethnic profiling is a structural problem caused by broad and vaguely articulated police powers, weak accountability mechanisms for police stop-and-search operations

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<sup>25</sup> Bill containing rules concerning the intelligence and security services and amending certain acts (Intelligence and Security Services Act 20..), 2016/188/NL (Netherlands), 21/04/2016 <http://ec.europa.eu/growth/tools-databases/tris/en/search/?trisaction=search.detail&year=2016&num=188> (accessed 4 October 2016).

<sup>26</sup> In Dutch: Toetsingscommissie Inzet Bevoegdheden.

<sup>27</sup> For the AIVD – the general intelligence and security services – it is the Minister for the Interior and Kingdom Relations. For the MIVD – the military intelligence and security services – it is the Minister for Defence.

<sup>28</sup> In Dutch: Commissie van Toezicht op de inlichtingen- en veiligheidsdiensten, CTIVD.

<sup>29</sup> Example: the draft law (in article 67) prohibits disclosure of personal data whose correctness cannot be reasonably determined or which were processed over 10 years ago if no new data have been processed with respect to the person in question since that time; exceptionally disclosures to eligible foreign intelligence and security services regarding personal data can be permitted.

<sup>30</sup> The Royal Netherlands Marechaussee is a Dutch police force with military status.

(in particular those not leading to a fine or arrest), and unconscious bias in security policies demonstrated by the behaviour of law enforcement officers.<sup>31</sup>

Government data on ethnic profiling are lacking because police forces do not systematically monitor and record stop-and-search operations. However, comprehensive survey data published in January 2014 by the Netherlands Institute of Social Research indicate that significant numbers of people are directly affected by discriminatory stop-and-search operations.<sup>32 33</sup>

The police and the Minister of Security and Justice are currently developing measures to prevent ethnic profiling by increasing diversity within the police, conducting training and awareness-raising training for police officers, improving police-community relations, and helping individuals to file complaints against the police.<sup>34</sup> While Amnesty International welcomes these steps,<sup>35</sup> more vigorous measures are required to address the root causes of discrimination.

Draft legislation to introduce a complete ban on the wearing of full-face veils in public has been withdrawn. In November 2015, the government proposed a “partial” ban on face-covering attire, limited to public transport and public, educational and healthcare institutions.

The government maintains that the draft legislation would address situations where clothing that covers the face may pose an obstacle to the quality of service<sup>36</sup> and to security. Amnesty International has reservations about the necessity of the ban and believes that, if implemented, the law would impact on the freedom of religion of Muslim women in particular.

## RIGHT TO PEACEFUL ASSEMBLY

Amnesty International is concerned about the manner in which a growing number of public gatherings in the Netherlands are policed, including unlawful detention of peaceful protesters, confiscation of banners and bans prohibiting assemblies at particular locations. The procedures

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<sup>31</sup> Key academic studies on ethnic profiling: Svensson et al., *Proactieve handhaven en gelijk behandelen*, 2012; Cankaya, *De controle van marsmannetjes en ander schorriemorrie*, 2012; Van der Leun et al., *Etnisch profileren in Den Haag? Een verkennend onderzoek naar beslissingen en opvattingen op straat*, 2014; Mustaers, *A Public Anthropology of Policing: Law Enforcement and Migrants in the Netherlands*, 2015. Van der Woude et al., *Belissen in grensgebieden, een onderzoek naar het Mobiel Toezicht Veiligheid zoals uitgevoerd door de Koninklijke Marechaussee*, 2016. Amnesty International Netherlands, *Proactief politiewerk een risico voor mensenrechten: etnisch profileren onderkennen en aanpakken*, Summary in English: Stop and Search Powers Pose a Risk to Human Rights: [http://www.amnesty.nl/sites/default/files/public/amnesty\\_stopandsearchpowersposearisktohumanrights.pdf](http://www.amnesty.nl/sites/default/files/public/amnesty_stopandsearchpowersposearisktohumanrights.pdf)

<sup>32</sup> Moreover, a government commissioned study on proactive police work was published on 3rd October 2016 concluded that ethnic minorities are disproportionately subjected to proactive investigatory stops and 40% of such stops could not be objectively justified, Landman et al., *Boeven vangen: een onderzoek naar proactief politieoptreden*, 2016. <https://www.tweedekamer.nl/downloads/document?id=b3141fca-b7eb-4962-88f8-97a4bd1b797e&title=Rapport%20%27Boeven%20vangen%27.pdf> (accessed 5 October 2016)

<sup>33</sup> Andriessen, I., et. all., *Ervaren discriminatie in Nederland*, 24 January 2014. [https://www.scp.nl/Publicaties/Alle\\_publicaties/Publicaties\\_2014/Ervaren\\_discriminatie\\_in\\_Nederland](https://www.scp.nl/Publicaties/Alle_publicaties/Publicaties_2014/Ervaren_discriminatie_in_Nederland) (accessed 20 September 2016). One third of Turkish and Moroccan Dutch, 25% of the Surinamese Dutch and 20% of people with roots in the Dutch Caribbean who had any contact with the police in the previous year reported feeling discriminated against.

<sup>34</sup> Minister of Security and Justice, Policy Letter, 8 July 2014 (In Dutch: Kamerstukken II, 2013/14, 29 628, nr. 463).

<sup>35</sup> Minister of Security and Justice, Policy Letter, 8 July 2014 (In Dutch: Kamerstukken II, 2013/14, 29 628, nr. 463).

<sup>36</sup> These are general services provided to the public. In public transport, public educational and healthcare institutions.

for giving notification of upcoming public gatherings vary across the country and failure to give prior notification has led to gatherings being halted. Moreover, the regulation of the use of photo and video surveillance and the resort to ID-checks can have a chilling effect on demonstrators.

In July 2016, the government commissioned an evaluation of the Public Assemblies Act (*Wet Openbare Manifestaties*).<sup>37</sup> The study concluded that some legal provisions are inconsistent with international human rights standards.<sup>38</sup>

## HUMAN RIGHTS DEFENDERS

In 2016, the Netherlands failed to take sufficient steps to protect at least one human rights defender under its jurisdiction.<sup>39</sup> A human rights lawyer based in The Hague, representing the Palestinian NGO Al-Haq, has since February 2016 been the subject of a sustained campaign of organized and serious threats in response to her work at the International Criminal Court. She has been subjected to death threats, interference with her communications, intimidation, harassment and defamation.

# RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

## AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF THE NETHERLANDS TO:

### NATIONAL ACTION PLAN ON HUMAN RIGHTS

- Extend the National Action Plan on Human Rights to cover all relevant human rights issues, including counter-terrorism, government surveillance, migration and human rights education, and ensure independent monitoring and evaluation of the Action Plan.

### HUMAN RIGHTS EDUCATION

- Fulfil the state's obligation to provide human rights education to all students by including it in the mandatory core curriculum of both primary and secondary schools, as well as in teacher training courses.

### PROTECTION OF MIGRANTS, REFUGEES AND ASYLUM-SEEKERS

- Guarantee priority to the use of alternatives to migration detention;

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<sup>37</sup> Roorda, B. et. all, *Evaluatie Wet openbare manifestaties*, 3 July 2016, <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2015/07/03/evaluatie-wet-openbare-manifestaties/evaluatie-wet-openbare-manifestaties.pdf> (accessed 20 September 2016)

<sup>38</sup> The law provides an article that ensures that majors can end and prohibit an assembly when it has not been announced according to the stated procedures.

<sup>39</sup> The Dutch government was not prepared for possible security threats regarding HRDs. The human rights lawyer started to receive threats in February but it was not until April that effective measures were in place.

- Ensure that vulnerable individuals and children are never held in detention;
- Take measures to prevent repeated detention, and never exceed the time limit for immigration detention under the EU Returns Directive;
- Ensure automatic and prompt judicial review of all cases of immigration-related detention to determine its lawfulness, necessity and proportionality;
- Clearly distinguish between immigration-related detention and penal detention, including by ensuring that immigration detention centres do not use locked cells;
- Put an immediate end to the use of isolation and solitary confinement as punitive measures in immigration detention centres by ensuring that isolation is limited to situations in which a person is a danger to him- or herself or to others.

#### **COUNTER-TERRORISM**

- Ensure that effective safeguards against abuse in the Temporary Administrative (Counter-Terrorism) Measures Act and the Amendment of the Netherlands Nationality Act to Revoke Dutch Citizenship in the Interest of National Security, currently pending before the Senate, including in relation to independent oversight of the application and implementation of administrative control orders and mechanisms to effectively challenge those measures;
- Guarantee that those subjected to these measures, and their lawyers, have effective access to the information forming the basis of the allegations against them to ensure equality of arms.

#### **GOVERNMENT SURVEILLANCE**

- Bring the draft Law on the Intelligence and Security Services in line with international human rights standards, including by requiring that the interception of communications is based on individual reasonable suspicion of wrongdoing and authorised by an independent judicial authority;
- Amend the draft Law on the Intelligence and Security Services to provide a clear and accessible framework governing intelligence-sharing with foreign agencies to prevent the sharing of information that could lead to or result from serious human rights abuses, and the receipt of intelligence obtained by indiscriminate mass surveillance.

#### **NON-DISCRIMINATION**

- Ensure systematic monitoring of police stop-and-search operations;
- Provide instructions and guidance to police officers on how to use stop-and-search powers, including the requirement that police officers explain their reasoning and the legal grounds for the stop-and-search to the affected individual.

#### **RIGHT TO PEACEFUL ASSEMBLY**

- Amend the Public Assemblies Act by removing the prohibition on demonstrations due to a lack of prior notification, update relevant regulations and introduce national police instructions to guarantee the right to peaceful assembly.

#### **HUMAN RIGHTS DEFENDERS**

- Establish a focal point within the Ministry of Foreign Affairs or other suitable government department that can be contacted on an urgent basis by human rights defenders at risk in the Netherlands.

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