

Among the main human rights issues in the Netherlands in 2006 - criticized by several NGOs, the Parliamentary Assembly of the Council of Europe and the UNHCR - were Dutch asylum policy (in particular the procedures for the detention and expulsion of asylum seekers and their children¹) and the quality of fire safety measures in detention centres for illegal migrants. Furthermore, the radicalism of a small group of Muslims remained an important issue of concern.

In June the Dutch government resigned due to a disagreement between the coalition partners with regard to controversial proceedings by the minister for immigration and integration concerning the Dutch nationality of the Somali-born Ayaan Hirsi Ali, member of parliament. New parliamentary elections were held on 22 November.



The revelation of Ayaan Hirsi Ali, MP, that she had lied about her name in order to flee to acquire Dutch nationality resulted in a heated debate over citizenship, temporary revocation of her Dutch citizenship, and the resignation of the government. (c) AP/Keeris

Freedom of the media

Investigatory Powers Act

In January, reporters Bart Mos and Joost de Haas published articles based on classified information leaked by a source within the Dutch Intelligence Service (AIVD). The information concerned, among other things, corruption within the Criminal Investigation Department. After the articles were published, the AIVD intercepted the journalists' phone conversations and retrieved their call records. The journalists lodged and won a case against such monitoring methods. On appeal, however, the Court of Appeal ruled on 31 August that the AIVD could in principle intercept journalists' conversations, but only in restricted cases which are in the interest of national security.² Also the Review Committee on the Intelligence and Security Services established that the investigation by the AIVD had been legitimate.³

In November the District Court of The Hague ordered the detention of the above-mentioned journalists for refusing to abide by a judicial order to reveal their sources. The OSCE Representative on Freedom of the Media Miklos Haraszti protested against this decision saying that "The right to refuse to disclose journalistic sources should be protected by law."⁴ The two men were released four days later.

Anti-terrorism measures

On 13 March fourteen suspects from the so-called Hofstadgroup, a radical Islamic network, stood trial. Five of them were acquitted and nine were found guilty of participating in the activities of a terrorist organisation. These were the first convictions partly based on the new anti-terrorism law, which came into effect in August 2004. The defendants lodged an appeal.⁵

On 1 December the District Court of Amsterdam sentenced four members of another radical Islamic group related to the Hofstadgroup to imprisonment for plan-

ning attacks on politicians and the headquarters of the AIVD, but decided that the group could not be qualified as a terrorist organisation.

These convictions served as a test for new anti-terrorism laws, which provided for the use of special methods of investigation in cases where there were indications of terrorist acts. These methods for instance facilitated easier access to wire-tapping and made the detention of a terrorist suspect easier. Political parties from the left remained critical of this legislation expressing the fear that it could potentially be used to limit fundamental human rights.⁶

Conditions in detention facilities

A discussion on emergency procedures concerning the detention and treatment of illegal immigrants in the Netherlands continued in 2006. It had been prompted by the death of eleven detainees at the detention centre near Schiphol Airport in October 2005.⁷

In August 2006, the minister for immigration and integration issued 39 residence permits for illegal migrants who had been affected by the Schiphol fire.⁸ On 21 September the Dutch Safety Board established that the fire would have resulted in "less or no" casualties if the authorities had followed emergency procedures more effectively; the fatal outcome of the fire was the result of a failure by the Ministry of Justice, the Service for Construction and Maintenance of Government Buildings and the municipality of Haarlemmermeer; the aftercare of the surviving detainees was insufficient and poorly organized; the National Agency of Correctional Institutions (DJI) was primarily responsible for the tragic events; and that some survivors had been expelled without having been examined on trauma-related health complaints. Consequently, the minister for justice, the minister of public housing, and the mayor of Haarlemmermeer resigned. The board

concluded that structural deficiencies in fire security measures comparable to those in the detention centre at Schiphol were also common in other penitentiary institutions and advised the Ministry of Justice to examine such measures and to improve them if necessary. It also recommended that the ministry critically evaluate the contingency plans of the institutions, giving special attention to the reception and aftercare of detainees.⁹

In May the publication of a weekly magazine article on the deficient fire safety and living conditions on a prison boat near Rotterdam,¹⁰ housing mostly illegal aliens, triggered an investigation by the Sanction Application Inspectorate and the Council for the Administration of Criminal Justice and Youth Protection (RSJ), which however established that there were no structural deficiencies on such boats. The investigation nevertheless recommended that social and material conditions on these boats be improved.¹¹

On 11 December, a group of asylum lawyers won their case against the Ministry of Justice for interim relief to improve the conditions on prison boats near Rotterdam, and for a second investigation into fire safety on board these boats. They also demanded that asylum seekers should not be detained for a period longer than six months.¹²

Asylum seekers

Detention and expulsion

In a report published in November 2005, the Parliamentary Assembly of the Council of Europe (PACE) expressed its concern about the treatment of asylum seekers' children in the Netherlands. It claimed that the Dutch asylum policy violated European standards on human and children's rights and specifically voiced concern about children waiting in detention centres to be expelled, or fearing separation from their parents.¹³ On 26 January

the Dutch minister for immigration and integration stated that while it was necessary to pay special attention to children and family issues, "all parents were responsible for their own children, and some parents had chosen to instigate a prolonged admission process while being well aware of the possibility of a negative outcome."¹⁴

Furthermore, PACE addressed the violation of the *non-refoulement* principle, which protects refugees from being returned to places where their lives or freedom could be threatened. In April the minister for immigration and integration was heavily criticized for allowing Syrian officials to interrogate failed asylum seekers from Syria on Dutch territory in the absence of officials from the Dutch Immigration and Naturalization Service (IND) and thus placing the asylum seekers at risk should they be returned. Their expulsion was initially delayed for six months. In May the national ombudsman commenced an investigation into the IND's methods to present asylum seekers to representatives of their country of origin.¹⁵

On 31 October, the minister for immigration and integration announced that, for the time being, no asylum seekers from Libya, Eritrea, Somalia and Syria would be expelled from the Netherlands.¹⁶

Another case where the principle of *non-refoulement* was under threat was the intended expulsion of Iranian homosexuals, who would possibly face the death penalty for their sexual orientation if returned to Iran. Following criticism by parliament, the minister for immigration and integration issued a residence permit to these asylum seekers.¹⁷

An additional issue was the fate of asylum seekers whose application had been rejected before 1 April 2001. After the elections of 22 November, the new parliament decided that no members of this "group of 26,000"¹⁸ was to be expelled until the new government is formed. The

minister for immigration and integration first stated that she saw no possibilities to comply with this resolution,¹⁹ but in the end the government decided not to expel asylum seekers from this group especially in cases in which families with children would be put at risk. This moratorium on expulsion was valid until a new government was formed.²⁰

Dispute over residence permit

On 11 May the Somali-born Ayaan Hirsi Ali, a member of parliament, revealed in an interview on Dutch TV that she had lied about her name in order to acquire Dutch nationality. As a result, the minister for immigration and integration declared Hirsi Ali's citizenship to be invalid and required her to hand in her passport. The minister refused to make use of legislation that foresees the possibility of granting a person Dutch nationality on the grounds of special circumstances and interests.²¹ Parliament objected to the minister's decision and forced her to carry out further investigations.²² On 28 June the minister established that Hirsi Ali could maintain her Dutch nationality but should sign a confession as to her guilt - a decision that led to the withdrawal of support for the government by one of the coalition partners (D66) and thus forced the government to resign.²³

The whole incident was prompted by the planned expulsion of Taëda Plasic, an 18-year-old secondary school student from Kosovo, without allowing her to conclude her education in the Netherlands because of having made "false use of the procedures concerning her residence permit."

Intolerance, xenophobia and hate speech

Muslim radicalization and Islamic activism

In March the National Coordinator for Counter-terrorism (NCTb) reported that Muslim communities in the Netherlands

had gained a degree of resistance to Islamic radicalization. Muslims engaged more visibly in public debate and publicly distanced themselves from violent Islamic movements.²⁴ Nonetheless, Muslim radicalization remained an important issue of concern.²⁵

According to a study published in October by the Institute for Migration and Ethnic Studies (IMES) of the University of Amsterdam, 2% of Muslims in Amsterdam were sensitive to radicalization. The researchers recommend that measures be taken to restore confidence in politics and society, to enhance religious defensibility and to improve contacts with radicalized young Muslims.²⁶

In April 2006 the Scientific Council for Government Policy (WRR) published a report with the aim of “formulating a policy perspective that will contribute to reducing the tensions with and within the Muslim world on issues of Islamic activism.”²⁷ It concluded that a climate of confrontation and stereotypical thinking did not create stable conditions for security, democratization and human rights and noted that democratic values and respect for human rights could be found in Islamic activism itself.²⁸ Various political parties, including those in government, distanced themselves from the report and Geert Wilders, a right-wing leader, rejected the report by noting that “Islam is incompatible with democracy.”²⁹

Discrimination against Muslims

In June the National Bureau Against Racial Discrimination (LBR) presented a report on racial discrimination in 2005. According to it, about 50% of the people

of Turkish and Moroccan origin said that they had been subjected to racial discrimination at least once during that year.³⁰

In November the Dutch Equal Treatment Commission (CGB) decided that the suspension of a female Muslim teacher who had refused to shake hands with men had been unnecessary. The CGB called for more religious freedom in a multicultural society.³¹ The minister for immigration and integration and her party strongly disagreed and proposed to abolish the CGB. Other political parties also expressed concern over this CGB decision.³²

Hate speech

As of the end of 2006, the minister for immigration and integration was looking into possibilities to expel Imam Sjeik Fawad Jineid from the Netherlands after he had allegedly directed a curse towards Hirsi Ali and Theo van Gogh, a few weeks before Van Gogh was murdered.³³

The Advice Committee on Alien Affairs (ACVZ), an independent advisory body, advised the minister for immigration and integration that the expulsion of imams would be in violation of freedom of religion.³⁴

On 2 November the District Court of The Hague decided in another case that Imam Eisha Berham had been wrongfully deprived of his residence permit. The court rejected the opinion of the AIVD and the minister for immigration and integration that the imam posed a threat to national security, noting that it could not be unequivocally proved that the imam’s opinions expressed in his preaching could be a breeding ground for terrorist acts.³⁵

SOURCES FOR FURTHER INFORMATION:

- ◆ Netherlands Helsinki Committee, at www.nhc.nl

Other organizations:

- ◆ Hivos, at www.hivos.nl
- ◆ NJCM (Dutch Section of the International Commission of Jurists), at www.njcm.nl
- ◆ Dutch Council for Refugees, at www.vluchtelingenwerk.nl
- ◆ Dutch Equal Treatment Commission, at www.cgb.nl
- ◆ ECPAT The Netherlands (on child prostitution, child pornography and trafficking in children for sexual exploitation), at www.epcat.nl
- ◆ Scientific Council for Government Policy, at www.wrr.nl
- ◆ Dutch House of Representatives, at www.houseofrepresentatives.nl/
- ◆ Dutch Data Protection Agency, at www.dutchdpa.nl/index.stm
- ◆ Dutch Safetyboard, at www.safetyboard.nl
- ◆ The judiciary system in the Netherlands, at www.rechtspraak.nl

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Endnotes

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- Utrecht, May 2006, at www.defenceforchildren.nl/ariadne/loader.php/dci/documenten/Bescherming_20in_20bewaring.pdf/; PACE, *Policy of return for failed asylum seekers in The Netherlands*, Doc. 10741, 15 November 2005, at [http://assembly.coe.int/WorkingDocs/Doc05/EDOC10741.htm](http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/WorkingDocs/Doc05/EDOC10741.htm); Human Rights Watch, *The Netherlands: Fleeting refuge-the triumph of efficiency over protection in Dutch asylum policy*.
- ² NCJM, "Gerechtshof Den Haag: AIVD mag in beginsel journalisten afluisteren," 8 September 2006, at www.njcm.nl/index.php?page=nieuws&&id=146.
- ³ Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, "Rapport Commissie van Toezicht inzake het onderzoek van de AIVD naar het uitlekken van staatsgeheimen," 7 December 2006, at www.minbzk.nl/actueel/publicaties?ActtMldt=103510.
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- ²⁹ Ingrid van der Chijs, "Verhagen en Wilders woedend over Islam-rapport," 11 April 2006, at www.elsevier.nl/nieuws/politiek/artikel/asp/artnr/94208/index.html.
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- ³¹ *NRC Handelsblad*, "Hand of knik, het gaat om respect," 8 November 2006, site CGB: www.cgb.nl.
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