

NETHERLANDS

The Netherlands

ALIDE ROERNIK AND ITE VAN DIJK

Introduction

We are in this seminar together, Ite van Dijk and me, with a specific reason, reflecting the actual situation in the women's movement in the Netherlands. My name is Alide Roerink. I will briefly introduce our presentation, and then Ite van Dijk will take over.

Ite van Dijk is a lawyer with a longstanding background in the Dutch women's movement. She was investigator and co-author of a national report on the implementation of the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) which was presented to the Dutch parliament in 1997. I am representing Vrouwenberaad, a network on gender and international cooperation in the Netherlands, facilitating and initiating policy influencing. Vrouwenberaad took on the task of National Correspondent to the CEDAW Impact Study and Network for a few reasons:

There is no focal point in the Netherlands for CEDAW and so no other organisation would have taken it on as a bridge builder for many years between the quite separate worlds of organisations which are focused on domestic issues on the one side, and those who engage in development cooperation on the other side, Vrouwenberaad is in the position to bring together experts from both fields, relevant to the impact of CEDAW in the role of national correspondent Vrouwenberaad intends to continue in the follow-up of this seminar, facilitating the exchange and mutual learning between women from different parts of the world, which is vital to a well-informed position.

Our contribution to the CEDAW Study is based on the results of a special session we

organised on November 25 1998, as part of a Non-Governmental Organization (NGO) Working conference on Women's Human Rights. The purpose of the special session was to assess the impact of CEDAW from the perspective of Dutch NGOs, in response to the Questionnaire set out for the International CEDAW Impact Study. No government officials were invited to attend this meeting since the Dutch government was supposed to present its own report soon to the CEDAW Committee. It was attended by women, all associated with Dutch NGOs and professionally active as lawyers, academics, trade unionists or lobbyists in the fields of human rights, women's rights and international development. The discussion was prepared by Ite van Dijk because of her role in involving NGOs in the preparation of the recent national report on CEDAW in the Netherlands.

We thank the initiators of the international project for providing this opportunity to exchange ideas and experiences. It led to an enlightening evaluation of the involvement of Dutch NGOs in the implementation of CEDAW, and to a fruitful assessment of the possibilities that CEDAW might yet have

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Netherlands

to offer. We sincerely hope that women in other parts of the world will benefit from the ideas and experiences which are expressed in our report, and look forward to learning how CEDAW has been applied and implemented by women elsewhere.

Main Conclusions of the Report

The ratification

About the ratification of the *Convention* I can tell you the following. It took more than 10 years before the ratification Act passed parliament. This was in 1991. In the meantime a legislation project took place resulting in the *Equal Treatment Act*. The political debates concerned two difficulties:

1. The collision of religious freedom with the right to equal treatment (the right to exclude women and homosexuals on religious grounds); and
2. The expected extra budget for social security when women get equal rights (the Dutch system of social security was based on rights for the male breadwinner and not for women earning the so called extras in part time jobs).

Later on I will show that the right to social security for female workers still is an issue and brings the Dutch government to a reserved attitude towards the CEDAW convention.

Facts, figures and in-depth studies

In the Netherlands exist several governmental institutions and departments for statistical data. They produce fortunately pretty reliable data about many fields (labour, health, participation) specified for men and women.

After the first hearing by the CEDAW committee of The Netherlands in 1994 the government decided to have regular in-depth studies into the obligations of the convention according to sub-areas. These

studies are performed by universities. The first one concerns the area of article 12 of the *Convention*: women's right to health (we brought an English summary published a few weeks ago). These in-depth studies are used to fulfill the obligation of the government to report to the Dutch parliament about the implementation of the convention. Each four years—one year in advance of the report for the CEDAW committee (art. 18)—the Dutch government is obliged to report to the parliament. The Parliament wants to be kept informed in this way and have the possibility to stimulate further implementation needed by new knowledge and new developments in society. I am the investigator and co-author of an overall study of the implementation of the convention (the report of the Groenman Committee, “Het vrouwenverdrag in Nederland: anno 1997”) presented to the parliament in 1997. A broad consultation took place of governmental sections and NGOs. The results were quite critical. Alide and I expected to be able to bring an English summary of this study, but unfortunately it is still not published.

So fact, figures and in-depth studies are available. The impact of all this however should be increased. Too few people know about the obligations of the convention.

The Government has chosen the strategy of improving the status of women mainly by discussions and publications, and less by positive measures, and not by legislation and a strict translation of the obligations of the convention. One of the conclusions that can be drawn for the Netherlands is, that we lack a strong opponent for the government. An opponent that lobbies, that starts test case lawsuits and that gives critical comments each time a violation of the convention is discovered or may happen to occur by new legislation. That is why we think that the impact of the convention will increase when a national focal point of action will be created. It is our opinion that it should be run by one or more NGOs, and not by the government. It should also play an important role in spreading information about the convention like the general recommendations of the CEDAW committee.

The government has chosen the strategy of improving the status of women mainly by discussions and publications, and less by positive measures, and not by legislation and a strict translation of the obligations of the *Convention*.

In Western Europe the *Equal Treatment Law* of the European Community is an instrument for women to gain a better position. This equal treatment law however can also be a barrier when the definition in the equal treatment articles will be changed or interpreted in a conservative way. The focal point of action should be part of a European network of experts to lobby for improvement of this European equal treatment law using the obligations of CEDAW. This is an activity, which is important because of the closer relationships of the European countries and the growing power of the policies of the European Community in each country.

Court cases

In an annex to our report we give an overview of Dutch court cases. The results of the 12 cases were all negative for several reasons. In some cases the court denied the applicability of the CEDAW *Convention* in court cases. The *Convention* is seen as a set of obligations for governments, not as individual rights. This idea is one of the main reasons that lawyers do not start cases. Another one is lack of budget and coordination between women’s organizations to start test case lawsuits.

The conclusion of this is simple. The CEDAW Optional Protocol will be very useful. It will put pressure on Dutch courts and further on will influence Dutch government to take the obligations more seriously. The *Convention* is more than a discussion paper. And it is more than a utopian piece of work, although I admit that discussion and developing ideas inspired by the convention is very useful, necessary and can be fruitful.

We have to admit that consciousness raising and debate is the basis for improvement of the status of women. But legal instruments like directly applicable conventions help.

Freedom of domestic violence, a better health, employment, child care, fair family law they all need to be reached by consciousness raising and political pressure, measurements, law and legal action if necessary.

In 1985 a Dutch woman won a case through a verdict of the human rights committee based on article 26 of the International

convention of political and civil rights concerning the right of a disability benefit for married women.

Some Examples of Policies Where the *Convention* Should Have More Impact

Medicines are very often mainly tested by using male laboratory persons. This is a threat for the health of women. This point was stated in the Dutch report about the obligations of art. 12 of the convention. It did not get much attention and I noticed it is not mentioned in the English summary of the official report. Still I am convinced that our female Minister of Health would be prepared to give attention to this subject in case of more political pressure. Her department is very conservative and she needs pressure from outside.

Cutting the health budget is worse for women than for men, especially when the reproductive health care is involved. This must be considered in times of cutting governmental budgets.

Our social security is still not adapted to the new family life with working mothers and fathers, trying to share the care for their children. The system is not fair for women working in part time jobs and for women (and men) who stop working for a certain period because of family needs. This can be the need to care for children as well as for parents or other relatives.

A new in-depth study has been published in 1998 about the obligations under the convention regarding parenthood and labour. The study is critical. It states that the convention is violated because women working in small jobs in the household do not get a paid pregnancy leave. And what was the comment of the government? There is a kind of social minimum benefit for these women and that is

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enough. Besides the *Convention* does not create an individual right for a woman to paid pregnancy. In my view this is an unacceptable interpretation. Political lobby is necessary and a test case to change this view of the government.

There are many examples of this kind. I hope the convention can become a stronger instrument for Dutch women. That is why I like to be here today and to participate in this impact study.

Response to the Questionnaire Regarding the Implementation of CEDAW in the Netherlands

This contribution is the result of a NGO Workshop organized in the Netherlands on 25 November 1998, by Vrouwenberaad. Ite van Dijk (lawyer and CEDAW expert) presented an analysis of the impact of CEDAW in the Netherlands. Representatives of Dutch women's organizations and NGOs contributed to the debate on the Questionnaire. Sarah van Walsum (Faculty of Law, Erasmus University, Rotterdam) wrote this report as the result in this process, to which she herself also contributed.

1 December 1998

CEDAW was signed by the Dutch government in 1979 and ratified in 1991. The first Dutch report to the UN Committee on the Elimination of Discrimination Against Women was presented in 1992. A Shadow Report drawn up by some NGOs was also presented at that time.

At the request of the Dutch Parliament, all following reports to the United Nations were to be preceded by a national report to parliament. The Dutch Government appointed an independent committee, the Groenman Committee, to prepare such a report. The resulting document, which involved the participation of a broad range of Dutch NGOs, provided the basis for the final government report presented to the Dutch Parliament in June 1997. It will also play an important role in the second Dutch Government report to be presented to the United Nations.

Largely thanks to the procedure, which was

followed by the Groenman Committee, CEDAW has gained more impact in the Netherlands. Many more NGOs have been made aware of the existence of CEDAW and of the possibilities that it may offer. References to CEDAW have played a role in opposing Dutch legislation and policies both in parliament and in the courts—in some cases with success.

Much however remains to be done. Outside of the women's movement there is little public awareness of CEDAW and its implications for Dutch society.

CEDAW plays no significant role as of yet in most Dutch Human Rights organizations, media, government bodies or courts. Furthermore, if Dutch NGOs are to have a lasting influence on the implementation of CEDAW, then they must have access to a permanent national focal-point for action. Such a permanent national focal-point for action could initiate test-cases and lobbies, generate publicity, spread information and coordinate the involvement of NGOs in reporting procedures and other activities. It could establish links with other human rights organizations and with women and NGOs involved with the implementation of CEDAW in other countries—particularly in the EU—and it could take part in an international lobby for the introduction of an optional protocol providing for an individual complaints procedure regarding the application of CEDAW.

Introduction

The following report is based on the results of a meeting held in Oestgeest, the Netherlands, on November 25 1998 regarding the implementation of CEDAW in the Netherlands. The purpose of the meeting was to assess the impact of CEDAW from the perspective of Dutch NGOs, in response to the Questionnaire set out for the International CEDAW Impact Study. No government officials were invited to attend this meeting since the Dutch government was soon to present its own report on the implementation of CEDAW to the UN Committee on the Elimination of Discrimination Against Women.

This meeting was attended by sixteen women, all associated with Dutch NGOs and

professionally active as lawyers, academics, trade unionists or lobbyists in the fields of human rights, women's rights and/or women and international development. The discussion was prepared by the feminist lawyer Ite van Dijk, who had played an important role in involving NGOs in the preparation of a national report on the implementation of CEDAW in the Netherlands, which was presented to the Dutch Parliament in February 1997.

The participants at the meeting would like to thank the organizers for providing this opportunity to exchange ideas and experiences. It led to an enlightening evaluation of the involvement of Dutch NGOs in the implementation of CEDAW, and to a fruitful assessment of the possibilities that CEDAW might yet have to offer. They sincerely hope that women in other parts of the world will benefit from the ideas and experiences, which are expressed here, and they look forward to learning how CEDAW has been applied and implemented by women elsewhere.

NGO Involvement

1.1 State of affairs

National NGOs

NGOs operating on the national level and specialized in the field of women's rights have been well informed over the existence of CEDAW and the possibilities it offers. They were actively involved in the preparation of the shadow-report, presented in 1993 to the UN Committee, and the national report presented to the Dutch parliament in 1997 (see further #3). Until now however they have developed few other initiatives than those related to such reports.

Regional NGOs

NGOs operating on a regional level are not as well informed. While many were familiar with the Beijing conference, for example, and the resulting "Platform for Action", few had been aware of the political and legal possibilities offered by CEDAW until they had been asked to take part in the national report to the Dutch parliament in 1997. For many regional NGOs it is still not clear how this legal

document can be used in concrete ways to further women's rights, for example in the fields of employment, social security or gender-related violence.

NGOs at grassroots level

NGOs at the grassroots level are not well informed at all. At best they have been made aware of CEDAW indirectly, through their contacts with regional or national umbrella organizations. The need to inform women at the grassroots level is pressing, since they are the ones who in fact are most directly involved in the day-to-day problems that women face, and that CEDAW is meant to remedy.

1.2 Suggestions for improvement

Women must be better informed

There is a clear need for wide-spread information about CEDAW. The content and meaning of CEDAW must be made accessible to women who are not versed in legal technicalities, and concrete examples must be given so that women can see how they could use CEDAW to improve their situation. Relevant material which is already available (for example a "little green book" published by UNESCO) should be made known and distributed. Three concrete suggestions were made during the meeting:

- a brochure providing, in accessible language, the necessary information concerning CEDAW and concrete suggestions for its application in the Netherlands educational television advertisements to make people in the Netherlands aware of the existence
- of CEDAW and of its relevance for specific issues, for example domestic violence;
- test cases in which CEDAW is applied to Dutch laws or policies. Such cases can generate considerable publicity, providing clear illustrations of the importance of CEDAW for Dutch women, and stimulating public debate over the relevance of human rights for women.

All these suggestions require initiative and active involvement on the part of NGOs and public support in the way of funding.

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A national focal-point for action

Better and more information is not enough. Once women have been made aware of the existence of CEDAW and of the possibilities that it offers, they must have access to the necessary professional support to:

- provide the legal research to conduct court cases;
- initiate and promote test-cases;
- monitor legislation, policies and jurisprudence;
- provide the publicity regarding violations of CEDAW;
- conduct political lobbies on national and international levels;
- document both national and international developments;
- keep Dutch NGOs informed of new developments and possibilities, for example by
 - publishing and commenting on CEDAW general recommendations;
 - coordinate the participation of NGOs in Shadow Reports to the UN and in national and international campaigns regarding women and human rights;
- provide basic information and training on CEDAW for NGOs, civil servants, politicians, lawyers and judges; etc.

Another factor that led to the delay in ratification was the growing awareness that Dutch social security law was discriminatory towards women. Fear of litigation on these grounds even prompted some politicians to suggest distancing the Netherlands from certain human rights treaties!

Besides operating on a national level, such a focal-point for action could also take part in international networks to exchange information, shadow reports, experiences and strategies regarding CEDAW. Furthermore, by establishing links with other human rights organizations, it could make them aware of the specific human rights issues that are of importance for women and ensure that women's issues gain a more central place within the broader human rights movement.

Again, to realize such a project NGOs will have to become actively involved, and the

necessary funds will have to be raised. A number of national Dutch women's organizations (particularly E-Quality and the Clara Wichmann Institute) already have access to relevant expertise and have taken some initiatives along the lines suggested here. But up to now they have taken no concrete steps toward a permanent and ongoing commitment to the implementation of CEDAW. The Dutch Government has expressed a commitment to involving one of these organisations more intensely in the implementation of CEDAW, but has taken no concrete measures. On the whole, past experience indicates that women cannot rely on the Dutch Government to develop initiatives on its own.

The Ratification Process

2.1 Ratification: down-playing the importance of CEDAW

The Dutch Government was actively involved in the realisation of CEDAW and signed the Treaty in 1979, making no reservations. Ratification however did not take place until 1991. The delay was caused by ongoing debates concerning the reconciliation of religious freedoms with policies geared at eliminating discrimination on grounds of sex and/or sexual preference.

Another factor that led to the delay in ratification was the growing awareness that Dutch social security law was in some respects discriminatory towards women. Fear of litigation on these grounds even prompted some politicians to suggest distancing the Netherlands from certain human rights treaties! In the end however the Dutch Government did confirm its commitment to international human rights treaties demanding the elimination of gender discrimination, and eventually also ratified CEDAW.

It is worth mentioning however that the Dutch Government down-played the potential importance of CEDAW for the Dutch legal order. It was claimed that the status of women in the Netherlands already met the standards set by CEDAW and that the demands made by the treaty were vaguely formulated in any case, and required no immediate concrete

action on the part of the Dutch state. This approach can partly be explained by strategic considerations. The government hoped in this way to reduce political resistance to ratification. The unfortunate effect however was that NGOs as well were led to believe that CEDAW offered few if any concrete possibilities to improve the position of women in the Netherlands.

2.2 The national report to the Dutch parliament: confronting the government with its commitments regarding CEDAW

On the other hand, during the ratification procedure an amendment was passed requiring that the Dutch Cabinet report to the Dutch Parliament before reporting to the UN Committee on the implementation of CEDAW in the Netherlands. The purpose of this amendment was to provide Dutch Parliament with the opportunity to regularly monitor the implementation of CEDAW in the Netherlands, and to become more directly involved in the UN reporting procedure.

Inspired perhaps by the rather critical response of the UN Committee to its first report, which had been presented in 1992, the Dutch Government started to take more active measures to implement CEDAW. An independent committee chaired by Ms. Louise Groenman, a former member of the Dutch Parliament, was appointed to prepare the first national report to the Dutch Parliament.

The Groenman Committee's report, which appeared in March 1997, consisted of diverse elements: official reports from various departments; written responses from 40 NGOs; and a review of a number of in-depth studies made concerning CEDAW: a legal analysis of the implications of CEDAW for the Dutch legal order, a report on the implications of CEDAW for women and health care in the Netherlands and a study of the implications of CEDAW for Dutch immigration law.

The Groenman Committee was quite critical in its conclusions. It noted for instance that the official reports provided a highly fragmented impression, and made clear that government policies regarding the status of

women lacked coordination. The Committee also remarked that when initiating legislation, policy changes, privatisation, decentralisation, etc. the Dutch Government had shown too little awareness of the different needs of men and women and that it had paid too little attention to possible discriminatory effects for women. Finally the Government had neglected to implement positive measures that were necessary to actually realize equality between men and women in the Netherlands.

Altogether, the report provided 65 recommendations for legislation and policy measures. At the request of the Dutch Ministry of Social Affairs, a conference was held in Nijmegen in October 1997 to discuss the findings of the Groenman Committee. The resolutions presented at this conference, which on the whole supported the Committee's recommendations, were taken into account by the Dutch Cabinet in preparing its report to the Dutch Parliament. In this document the Dutch government acknowledged that CEDAW did have a continuing relevance after all for Dutch legislation and policies, and that it could be directly applied. On a number of concrete points the government has in fact taken positive measures to change (proposed) legislation or policies to meet the requirements of CEDAW (see further under #4).

2.3 The need for continuing critical monitoring of legislation and policies

However much still remains to be done. In theory, the Dutch political and legal system is very open to international law. International treaties, once ratified, can be directly applied by the Dutch courts. But in practice both legislators and judges prove to be quite conservative when it comes to actually invoking international law. While some aspects of globalization have been welcomed

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with open arms, international human rights treaties are still seen as an unwelcome impingement on the national sovereignty.

Moreover, many politicians, government officials and judges are not yet sufficiently aware of the specific importance of human rights for women. Most government departments for example were considerably less prompt, cooperative and enthusiastic in their response to the Groenman Committee than NGOs.

The Cabinet reaction to the Groenman Committee report shows that the Dutch government can be sensitized to the importance of CEDAW, but it also shows how crucial it is that women remain outspoken in their critical assessment of legislation and government policies. NGOs will have to ensure that the Dutch Government remains committed to implementing CEDAW. Once again, providing the necessary ongoing pressure is hardly possible without the support of a permanent national focal-point for action, as proposed under #1.

Another topic of concern is the implementation of CEDAW within the European Union. European treaties, resolutions and directives are of increasing importance for the laws and policies of the member states. It is of great importance that women in the different EU countries keep each other informed of developments within their own countries, and that they can join forces in monitoring developments on the European level, and in applying CEDAW to protect women's interests where necessary. Again a permanent national focal-point for action could be instrumental in initiating contacts, distributing information, maintaining links and coordinating action on the European level.

Reporting to the United Nations

3.1 Limited NGO participation in first shadow report to UN, 1992

As mentioned above under #1, a number of national NGOs did participate in drawing up a Shadow Report, which was presented to the UN Committee along with the Dutch Government's report in 1992. The informa-

tion provided in that Shadow Report no doubt contributed to the critical reaction of the UN Committee to the Dutch Government's report. However few if any regional or grass-roots NGOs were involved in the reporting process at that time, and as mentioned under #1, the direct impact of CEDAW on Dutch NGOs remained limited.

3.2 Extensive NGO-involvement in national report to the Dutch parliament, 1997

As explained under #2, the procedure leading to the second Dutch Government report to the UN Committee was very different. No less than 150 NGOs were informed of the reporting procedure and invited to take part in it. In the end 40 provided the Groenman Committee with a written response. On the whole their reactions were prompt, enthusiastic and informative. One of the in-depth studies made of the implications of CEDAW for the Dutch legal order, the one concerning Dutch immigration law, leaned heavily upon the accumulated knowledge and experience of NGOs directly involved with immigration policies and their impact upon women. For some of those NGOs that study was their first contact with CEDAW, and the results of the study prompted them to attend the conference in Nijmegen which had been organized at the request of the Dutch Cabinet in order to prepare its report to the Dutch Parliament (see further #2).

3.3 Plans for a second shadow report to the UN in 1999

Although Dutch NGOs have been successfully involved in the procedure leading up to the national report to the Dutch Parliament, there are still good reasons for them to draw up a shadow report to the UN as well. Since the Dutch Government has waited so long in drawing up its report for the UN Committee, the Groenman report is already somewhat dated. Also, many promises made in the Dutch Cabinet's report to Parliament have not been fulfilled. Finally, because the Groenman report was so thorough, NGOs could now use

a Shadow REport to highlight the specific situation of a certain category of women, for example migrant and refugee women, women with a physical handicap or lesbian women.

Such a thematic approach would make it possible to provide more extensive information and a more thorough analysis of the implications of CEDAW. It would also offer the opportunity to intensely involve NGOs at the grass-roots level, thus opening the possibility of confronting the UNCommittee with the day-to-day legal issues that individual women must deal with in the Netherlands. Through their intense participation in such a thematic shadow-report, grass-roots NGOs would also become better informed of the concrete applicability of CEDAW to their specific concerns.

3.4 The need to maintain established links

Clearly the value of the Groenman report lies not only in the thorough and critical description that it provides of the current status of women in the Netherlands, but also in the fact that it has made so many NGOs aware of the existence of CEDAW, and of the possibilities for their own involvement in reporting procedures on both national and international levels. While the first Shadow Report was prepared by a small group of NGOs operating largely on the national or international level, a second shadow report could now involve a far broader range of organizations and levels of experience. However this broad range of involvement cannot be maintained on its own accord. Again there is a clear need for a permanent national focal-point for action, such as proposed under #1, where the established links can be nurtured and maintained, so that NGO involvement in reporting procedures can be continued.

Use of CEDAW

Although awareness of and interest in CEDAW among womens organisations in the Netherlands has grown considerably thanks to the Groenman report, this treaty remains largely unknown in the rest of Dutch society. There have been very few references to it in

the Dutch media and it still plays an insignificant role in the Dutch courts, although it has received some attention in legal and feminist journals.

4.1 Successful application of CEDAW

Some political successes have been booked nonetheless. Proposed legislation to recognize the repudiation of a wife by her husband according to the Islamic laws of some countries was withdrawn, among other reasons because it was in violation of CEDAW, article 16. Recent changes in Dutch social security law that led to a worsening in the position of pregnant unemployed women were rescinded because of violation of CEDAW, article 11.

CEDAW was also instrumental in initiating a political debate on the position of pregnant part-time workers who provided care in private homes. During debates concerning the social rights of immigrants in the Netherlands, the Dutch government promised that undocumented women would be assured the necessary health care during pregnancy and confinement, in accordance with CEDAW, article 12. Finally, there has been more political awareness of the specific problems that women face in the area of health care, and of the need to maintain special facilities for women, following the publication of an in-depth study of the implications of CEDAW for this policy area (see # 2).

4.2 Continuing disputes

Not all attempts to apply CEDAW have succeeded however. A claim that a Dutch political party acted in violation of CEDAW because it did not allow its female members to stand for election was not recognized by the Dutch courts. Claims that the sharpened income requirements which have been imposed upon Dutch men and women who wish to let their spouses join them in the Netherlands are in violation of CEDAW, given that most women in the Netherlands do not earn enough to meet those requirements while most men do, have not been honoured either. And there are many other issues that could be raised by invoking CEDAW, such as the priority that is still

given to the father's preference concerning children's surnames or the negative implications, for women, of the use life insurance companies make of mortality figures.

4.3 The need for continuing and concerted action on the part of individual women

Much, therefore, remains to be done to further the impact of CEDAW in the Netherlands. Once again it is clear that the initiative for implementing CEDAW cannot be left to the Dutch government alone. Individual women and NGOs must remain alert and active. To remain effective however, concerted efforts must be made. Reference has already been made, under #3, of the impact that a permanent national focal-point for action (such as suggested under #1) could have upon politicians and policy makers. Such a focal-point for action could also influence the Dutch courts. Already some national NGOs are involved in running work-shops in which Dutch judges are being instructed in the content and applicability of CEDAW. As already mentioned under #1, a national focal-point for action could also play a key role in initiating test-cases and in providing the women and lawyers involved with the necessary research, expertise and publicity. Such test-cases would in themselves generate more public interest for CEDAW. Finally, such a focal-point for action could support an already active lobby in the Netherlands that is advocating the introduction of an optional protocol providing for an individual complaints procedure concerning the application of CEDAW, similar to the individual complaints procedure provided for by the *UN Treaty on Civil and Political Rights*. Experience with the Human Rights Committee in Geneva and with the European Court for Human Rights in Strasbourg has shown that international legal decisions concerning individual complaints can have considerable impact upon the Dutch national legal order.

Conclusion

The procedure followed by the Groenman

Committee in preparing the national report to the Dutch parliament on the implementation of CEDAW proved that CEDAW could offer effective strategic possibilities for NGOs. At the same time it became clear that the initiative for implementing CEDAW could not be left to the Dutch Government. NGO involvement is not only fruitful, but also necessary.

To make CEDAW effective in the Netherlands, sustained and concerted efforts must be made by individual women and NGOs. To make that possible, the Dutch public as a whole must become better informed of the existence of CEDAW and its implications for the Dutch legal order. Furthermore, individual women and NGOs must gain access to a permanent national focal-point for action that can initiate test-cases and lobbies, generate publicity, spread information and coordinate the involvement of NGOs in reporting procedures and other activities.

On an international level, such a permanent national focal-point for action could establish links with other human rights organisations and with women and NGOs involved in the implementation of CEDAW in other countries. Given the growing importance of European laws and policies for the national situation, it is of particular importance that European contacts be maintained and that CEDAW be applied in monitoring developments on the European level. The proposed permanent national focal-point for action could also participate in the already existing lobby advocating the introduction of an optional protocol providing for an individual complaints procedure regarding the application of CEDAW. Such procedures have proven to be invaluable for implementing international human rights law within the Dutch legal order.

Vrouwenberaad
Ontwikkelingssamenwerking
Ms Alide Roerink
P.O. Box 77
2340 AB Oegstgeest
The Netherlands
tel: 00 31 (0) 71 5159392
email: vbos1@antenna.nl

**Annex 1:
Implementation of CEDAW via Dutch court cases**

As a supplement to our report on the implementation of CEDAW in the Netherlands, we have asked the Clara Wichmann Instituut (CWI—an academic Institute regarding Women and Law in the Netherlands) to provide an overview of court cases in which CEDAW has been referred to, either by the parties involved, or by those who commented on the cases. In response to this request, the CWI provided a list of 19 Dutch court decisions, most with accompanying comments, that fell between July 1992 and April 1998. The (indirectly) discriminatory rules or practices addressed in these cases included:

Date: 02-07-1992; Number: 97012284
—the exclusion of women from educational facilities for those aspiring to the status of deacon.

Date: 05-10-1993; Number: 97011254
Date: 10-03-1995; Number: 97014135
Date: 10-03-1995; Number: 97010022
—disability insurance policies that do not provide for income-compensation during absence from work in the period before and after giving birth;

Date: 10-03-1994; Number: 97011140
—the imposition of high and strict income requirements upon Dutch persons or persons permanently settled in the Netherlands who wish to let their partner and/or children join them in the Netherlands;

Date: 19-07-1995; Number 97010030
Date: 17-01-1997; Number 97050065
—Dutch legislation that provides for a maximum duration of twelve years for alimony claims;

Date: 20-12-1995; Number: 97010099
Date: 20-12-1995; Number: 97010100
Date: 20-12-1995; Number: 97010101
—election procedures within Dutch district water boards and polder/dike boards which do not provide for separate voting rights for

married women;

Date: 19-01-1996; Number: 97014165
—asylum claims submitted by women who fear their husbands will force their daughters into marriage and/or refuse them education, should they return to Iran;

Date: 29-04-1996; Number: 97030062
—exclusion of women working in private homes from unemployment benefits;

Date: 06-11-1996; Number: 97050125
—Dutch legislation limiting disability payments to persons who earned an income prior to becoming invalid;

Date: 20-12-1996; Number: 98010204
Date: 20-12-1996; Number: 98020010
—Dutch legislation limiting a woman's claim to her ex-husbands pension to 25%;

Date: 24-01-1997; Number: 98020009
—provision of building permits for discos, without taking the safety of the location into consideration (isolated location, insufficient street-lighting);

Date: 20-10-1997; Number: 98010231
—the exclusion of persons older than forty years of age from certain academic functions;

Date: 19-11-1997; Number: 98020234
—the rule that single mothers on welfare must apply for full-time jobs once their youngest child has turned five;

Date: 15-04-1998; Number: 98030192
—women with dependent immigrant status who risk losing their status when they leave their husbands because of domestic violence;

In only seven of these cases did the courts explicitly refer to CEDAW. In all of these seven cases, the appeal to CEDAW was refuted on formal grounds. In one case the court stated that CEDAW did not apply, since the case addressed legislation passed before the ratification of CEDAW in the Netherlands in 1991. In two cases the court decided that the legisla-

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tion in question was not discriminatory, and application of CEDAW was therefore not relevant. In the remaining four cases, the court ruled that CEDAW could not be directly applied by a Dutch court of law. Through evident reluctance to apply CEDAW, there have been no court decisions yet regarding the substantive interpretation of CEDAW and its implications for Dutch law.

Should anyone be interested in more detailed information concerning any of these cases, they can best contact the CWI:

Clara Wichmann Instituut
Ambonplein 73
1094 PW Amsterdam
The Netherlands
tel:(3120-6684069)

Annex 2:

List of Participants NGO workshop *International Cooperation on the Impact of CEDAW in the Netherlands*, 25th of November 1998, Oegstgeest, and the Netherlands

Ms Barryl Biekman, Afro European Women's Movement "Sophiedela"

Ms Topaas de Boer, WILPF

Ms Marjolein van de Brink
Dept. Women and Law, Leyden University

Ms Ite van Dijk

Ms Jans Gremmée,
VVAO and Vrouwenbelangen

Ms Frouke Kuiken,
Vrouwenpartij

Ms Trees Lambregts Brautigam,
Vrouwenpartij

Ms Martha Meijer, HOM

Ms Coby Meyboom,
Platform Action Plan 2000/WILPF

Ms Marian Nauta, NVR

Ms Ines Orobrío de Castro, E-Quality

Ms Marina Quindiagan, TIYE

Ms Willemien Ruygrok, EU-Quality

Ms Alide Roerink, Vrouwenberaad OS

Ms Annet Tesselaar, FNV

Ms Sarah van Walsum,
University of Amsterdam