United Nations CEDAW/C/NET/2

Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
15 March 1999

Original: English

**Committee on the Elimination of Discrimination against Women**

# Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

## Second periodic reports of States parties*

## The Netherlands**

Contents



* For the initial report submitted by the Government of the Kingdom of the Netherlands, see CEDAW/C/NET/1, CEDAW/C/NET/1/Add.1, CEDAW/C/NET/1/Add.2 and CEDAW/C/NET/1/Add.3; for its consideration by the Committee, see CEDAW/C/SR.239, and *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 38* (A/49/38), paras. 245-317.

** This document has been reproduced as received.

00-22284 (E) 120400

# CHAPTER 1 NOTES ON THE REPORT

## 1. Introduction

This is the second time that the Netherlands has reported to CEDAW, the Committee established under the UN Convention on the Elimination of All Forms of Discrimination against Women.[1] The present report follows a national report submitted to parliament in accordance with a provision included in section 3 of the Act approving the Convention.[2] This provision, which was proposed by E. Kalsbeek-Jasperse, a member of parliament, obliges the Netherlands government to report to parliament every four years on the fulfilment of obligations under the Convention before submitting a report to CEDAW. The Netherlands is believed to be the only country that has placed the subject of the Convention's implementation on the national political agenda by means of an extra monitoring instrument of this kind.

The first national report[3] was published in March 1997, and was followed in October 1997 by a conference of policy-makers, experts and others involved in the process. The government has now forwarded its comments on this national report to parliament. Although the national report has undeniably resulted in extra attention being focused on observance of the Convention, the very scale of the operation has delayed the submission of the report to CEDAW. Now that the national report has been completed, however, the Netherlands government believes that it has gained sufficient experience of this new instrument to ensure that in the future less time need be spent preparing the report to CEDAW.

Chapter 1 deals briefly with the procedure preceding the report. It also describes the structure of the report and the way it has been approached. Chapter 2 outlines Dutch emancipation policy, including not only its basic principles but also how the policy is organised and supported. The following chapters report on specific aspects of emancipation policy as contained in the various articles of the Convention. .

---

1 CEDAW - the Committee on the Elimination of Discrimination against Women - is the UN Committee established to consider the progress made by States Parties in implementing the Convention. The mandate and expertise of the CEDAW members are described in article 18 of the Convention.

2 The Convention is variously referred to in this text as the Women's Convention and simply the Convention.

3 L.S. Groenman et al., *Het Vrouwenverdrag in Nederland anno 1997. Verslag van de commissie voor de eerste rapportage over de implementatie in Nederland van het Internationaal Verdrag tegen Discriminatie van Vrouwen* (The Women's Convention in the Netherlands in 1997. Report of the committee on the implementation in the Netherlands of the Convention on the Elimination of All Forms of Discrimination against Women), VUGA, The Hague, 1997.

*Background*

The first national report was prepared at the request of the Minister of Social Affairs and Employment (who is also Co-ordinating Minister for Emancipation Policy) by a committee of independent experts chaired by L.S. Groenman, a former member of parliament.[4] The committee spent from July 1996 to February 1997 preparing a thorough and detailed report on the progress made in implementing the Women's Convention in the Netherlands. The report contained a large number of conclusions and recommendations for future policy. At the request of the authorities the University of Nijmegen held a national conference on the Groenman report in October 1997. A large number of non-governmental organisations (NGOs) took part in the conference, whose aim was to promote a debate on the results and conclusions of the report with experts from the women's movement and from other social organisations. The results of the conference were taken into account by the government when it sent its own comments on the report to parliament in February 1998. They have also been included in the present report.

In addition to the ordinary report to CEDAW, the Dutch authorities also regularly commission studies on particular aspects of the Convention for the purpose of acquiring additional information and expertise in these fields. Two such studies were published in the period from 1993 to 1997,[5] and their findings have been incorporated into the national report. A third study, which deals with the effect of the Convention on the legal position of pregnant women and young mothers, will be completed in 1998.

*Three levels of policy as a guide in the report*

The structure of this second report to CEDAW differs from that of its predecessor and is based on the approach adopted by the Groenman committee. In its report this committee subdivided the principal aim of the UN Women's Convention (i.e. the elimination of all forms of discrimination against women) into three sub-aims:

1. To achieve complete equality for women before the law and in public life. This is a reference by the committee to the aim specified in the Convention that women should be treated equally by the legislature, the public administration and the courts.

---

[4] The other members of the committee were C.E. van Vleuten, R. Holtmaat and T.E. van Dijk. J.H.J. de Wildt, a civil servant, attended meetings in an advisory capacity. The committee was supported by two assistant secretaries - L.T.M. Willems and A.M. Mulder.

[5] J.C. Hes, *Het Vrouwenverdrag in de Nederlandse rechtsorde* (The Women's Convention in the Dutch legal order), VUGA 1996. N. Holstrust, A.C. Hendriks and D.M.J. Baudoin, *De betekenis van artikel 12 Vrouwenverdrag voor Nederland: gezondheid als recht* (The significance of article 12 of the Women's Convention to the Netherlands: health as a right) VUGA, 1996.

2. To improve the position of women. This sub-aim emphasises that under the Convention the authorities must do everything possible to eliminate discrimination and abolish existing inequalities in society.
3. To combat the dominant gender-based ideology. The committee stresses in this way that not only the identity of individual people but also the structure and culture of society are determined by established and hence dominant views on what are deemed to be typically male and female characteristics. These views lead to the assignment of different roles to men and women, with the role of women often being subordinate to that of men.

These three sub-aims are also reflected in the government's emancipation policy in the Netherlands. By analogy with the three sub-aims, policy is formulated at three different, interconnected levels and can ultimately result in the achievement of fundamental changes in society. The aim of the measures at level 1 is to ensure that men and women are equal before the law and in public life. This is a precondition that must be fulfilled if the principal aim of the Convention is to be achieved, but it is not sufficient in itself. Measures at level 2 are designed to ensure that this formal equality before the law can also be realised in practice. These policy measures are intended to improve the position of women and at the same time to promote diversity as a means of enhancing the quality of society.[6] This form of policy is another precondition that must be fulfilled, but it too will be insufficient if the structure and culture of society continue to be based on outmoded ideas about the role of men and women. These views will not change by themselves; it will be necessary to stimulate to change them. This is why measures at level 3 are required. These are intended to do away with the stereotypes and outdated views on gender. In short, they involve a strategy of seeking ways of promoting and supporting cultural change.[7]

An example may show what the difference between the three levels of policy means in practice and what obligations this imposes on the authorities. To eliminate discrimination against women in management positions in education it is essential first of all that direct and indirect discrimination is prohibited. In addition, measures (temporary and otherwise) are needed to promote the proportionate representation of women in management positions in education. However, if measures are not taken at the same time to change the stereotyped concept of women in education, in other words as being suited for posts as nursery school teachers but not as school heads, it will be hard to effect the proposed changes.

The three policy levels are described in this report from the perspective of central

---

[6] Letter to parliament reporting on the progress of emancipation policy in 1997/1998 (1997).

[7] Letter to parliament concerning emancipation policy in 1997 (1996).

government. It is after all the government authorities that are submitting the report. The authorities are themselves a player in the process of women's advancement. They do not always have a pioneering role; sometimes changes in society may compel them to make adjustments in the form of policy measures or even amendments to the law. In such circumstances, the authorities play a more reactive role by supporting the process of emancipation in society. This is a process that must ultimately lead to an emancipated society to which people can contribute regardless of their sex, ethnic origin, religion or belief, political opinion, sexual orientation, age, nationality or marital status.

The progress made by the Netherlands in fulfilling its obligations under the Women's Convention is dealt with in the report at the three levels described above. It follows that the articles of the Convention too have been analysed in the same way. References to articles whose scope extends to subjects dealt with in other provisions of the Convention will therefore be found in several chapters. For example, article 5 concerns measures to modify social and cultural patterns of conduct and therefore has a bearing on all policy developed and implemented by the authorities. It is accordingly dealt with in the report not just once in its own right but also whenever matters of substantive policy are discussed at level 3. This is after all where the report examines the subject of cultural change as a strategy designed to promote an emancipated society. Below is a list showing where the articles under consideration can be found in the report.

## 2. How to trace articles in the report

Article 1: *Definition of the term "discrimination against women"*
This definition forms the basis of the Convention and has therefore provided the framework for the entire report.

Article 2: *Elimination of discrimination*
Paragraph (a) of article 2 is dealt with at level 1; the same is true of paragraphs (b)-(f) in so far as they concern legislative measures. To the extent that paragraphs (b)-(f) deal with policy measures, they come under level 2.

Article 3: *Human rights and fundamental freedoms*
The general statutory measures relating to human rights and fundamental freedoms are discussed at level 1 in the articles dealing with a specific subject. The specific policy measures are considered in relation to the relevant articles at level 2. The report on article 3 has been confined to information on violence against women and girls and on sexual orientation.

Article 4: *Temporary measures*
This article deals with a subject that comes under level 2 and is therefore discussed in relation to all the articles under consideration.

Article 5: *Patterns of conduct*
This article is described at level 3 and is therefore discussed in relation to all the articles under consideration.

Article 15: *Equality before the law*
Equality before the law is dealt with at level 1 and is therefore in principle part of the discussion of all articles under consideration in this report.

This new method of reporting has helped the Netherlands to appreciate more fully the scope of the UN Women's Convention. The Netherlands government hopes that as a result of this approach CEDAW too will gain a better understanding of how the Netherlands fulfils its obligations under the Convention.

## CHAPTER 2 DUTCH EMANCIPATION POLICY IN A NUTSHELL

Chapter 1 explained briefly how this report to CEDAW is structured. The main feature is the subdivision of the Women's Convention into the three levels at which government policy takes effect. Chapter 2 describes Dutch emancipation policy in general terms, including both the basic principles of policy and how it is organised and supported. The main elements of this policy are analysed by reference to the three levels. This analysis is preceded by a detailed explanation of the significance of the three levels and the connection between them. Finally, the report explains how the emancipation policy is organised and supported. It does this by describing the current national machinery, the policy of subsidy and support and the recent changes to this policy.

### 1. The three levels

*Level 1: the achievement of full equality before the law and in public life*

The Convention provides that States Parties are obliged to eliminate all forms of discrimination in and by legislation. Legislation may not discriminate against women and treat women worse than men, either directly or indirectly. The report will give a brief description of the present situation in relation to each article of the Convention. Statistical material will be used wherever possible as an illustration. The provisions coming under level 1 are paragraph (a) of article 2, all parts of paragraphs (b)-(f) of article 2 that refer to legislative measures, articles 3 and 15 and CEDAW's general recommendation 9.

*Level 2: towards diversity*

If equality is to be achieved 'de facto' and not just 'de jure' , it is essential that policy be developed, adopted and implemented. These subjects are dealt with at level 2.

After the Fourth UN World Conference on Women in Beijing, the Netherlands government drafted a national implementation policy document explaining how the authorities in the Netherlands would take account of the results of the Conference.[8] It pointed out that gender discrimination is bound up with other forms of discrimination, for example discrimination on the grounds of ethnic origin, age, fitness for work, sexual orientation, class, culture and religion. The government is increasingly trying to take account of this when formulating policy and policy measures. By overcoming wherever possible the obstacles that often result from such discrimination, the government is aiming to build a society in which differences are no longer looked upon as a problem. Instead, diversity should be regarded as enhancing the quality of society. A positive attitude to

[8] *Beijing: Nu en Toekomst* (Beijing: Women and Future), Department for the Co-ordination of Emancipation Policy, Ministry of Social Affairs and Employment, The Hague, 1996.

differences should be accompanied by a rejection of unjustified inequalities based on such differences. The concept of diversity, which was also regularly used in Beijing, is therefore becoming increasingly important in the Netherlands. It is precisely because of these background factors and characteristics that disadvantage and unequal treatment are not only an injustice to the individuals concerned but are also counterproductive socially and economically. They prevent society from harnessing the full potential of its members in terms of their capacities, capabilities and vision. Disadvantage and unequal opportunities therefore tend to foster social imbalance. Failure to harness this potential restricts the development of society and is also expensive. For example, when women leave the labour market, the capital invested in their education and training by government and industry is lost.

The Dutch emancipation policy does not view the position of women in isolation. Their position is seen in the context of moves to bring about a society that seeks to make optimal use of social diversity in the realisation that this is enrichment. The disadvantaged position of women is therefore no longer the central element of this policy. Instead, ways are being sought of overcoming structural and cultural obstacles that hinder the creation of a more emancipated society. Only when these obstacles have been overcome can the positions of men and women be equal. In this approach, emancipation is no longer a matter for women alone; it is a matter for men and women, employers and employees, government and citizens alike. The parts of article 2, paragraphs (b)-(f), that refer to policy and other measures are also relevant in this context. The same is true of articles 3 and 4 and general recommendations 5, 6 and 9 of CEDAW. The passages on institutional mechanisms from the report on the Fourth UN World Conference on Women have been reproduced in this connection.

*Level 3: strategy for cultural change*

Level 3 builds on the previous two. Each subsequent level attempts to penetrate more deeply into the structure of society. And the more deeply the issue of emancipation penetrates into this structure, the more difficult it is to formulate policy to cover this. Traditional ideas and customs are by definition regarded as so self-evident that they are never questioned. This unquestioning acceptance permeates ideas, notions and images, in short the entire culture of society. Although the Women's Convention draws attention to this problem, it does not indicate how changes can be effected. The government has, incidentally, only limited influence to bring about cultural change.

In the past five years, increasing attention has been focused in the Netherlands on this third level: i.e. identifying and eliminating hidden gender discrimination. The Netherlands has decided to tackle the problem by formulating a strategy for cultural change. This is based on recognition that policy has hitherto been determined as a matter of course by reference to the criterion of the white middle-class male. The implicit concomitant of this approach has been that women too have had to fulfil this criterion. In recent years the authorities have made an in-depth analysis of the problem. This has generated many new ideas. Translating

these ideas into specific policy measures is not easy. However, the report will show that it is not impossible.

Article 5 deals at length with this "hidden" discrimination and the need for cultural change. Article 10 (c) too covers this issue, albeit with particular reference to education. Gender discrimination based on stereotyped conceptions is also the subject of CEDAW's general recommendation 3. General recommendation 9 will be dealt with at level 3 in so far as statistical material is available. Since the theme of hidden gender discrimination recurs at different times and places both in the articles and in the general policy recommendations, it is clearly an important issue that is hard to tackle since it is so deeply entrenched in society.

*Interwoven levels*

The Dutch authorities have adopted a strategy for cultural change, but culture naturally changes above all as a result of developments and initiatives in society itself. The authorities in turn respond to these developments by introducing policies and/or amendments to the law that will support them. Clearly, the three levels of policy defined in this report are in practice closely interwoven and interactive. The main purpose of distinguishing between the three levels is to facilitate description and analysis of the process of emancipation. Similarly, the purpose of subdividing the UN Women's Convention into articles is mainly to provide an analytic instrument that sheds light on the position of a particular group. The link between the three levels within Dutch emancipation policy and between the different articles of the Convention is illustrated in annex 1 by reference to recommendation 18 of CEDAW.

## 2. The basic principles of Dutch emancipation policy, 1993-1997[9]

As described in the first report to CEDAW, the Netherlands has pursued since 1977 a two-track emancipation policy of which the objectives have formed an integral cross-sectoral part of general policy, as well as of specific emancipation policy programmes. The emancipation of women has had important and irreversible effects, not only on thinking about the position of men and women but also on the structure of society itself. More and more women are going out to work, and the role of providing unpaid care is no longer confined to women.

[9] Important government publications during this period:
*Met het oog op 1995* (1992).
*Emancipatie in uitvoering: koersbepaling van het emancipatiebeleid na 1995* (1995).
*Uitvoering van het emancipatiebeleid, evaluatie van de wijze waarop van 1993 t/m 1995 de ministeries uitvoering hebben gegeven aan het Beleidsprogramma Emancipatie Met het oog op 1995* (1996).
*Beleidsbrief Emancipatiebeleid 1997* (1996)
*Beijing: Nu en toekomst* (1996)
*Voortgangsbrief Emancipatiebeleid* (1997/98).

Although boys and girls still make different choices at school, the difference between them in educational attainment has disappeared. It is noteworthy that girls from immigrant backgrounds do particularly well at school. The rigid dividing lines between the 'male' and 'female' roles have become blurred. Instead, preference is now given to achieving a balanced division of paid work, unpaid care, income and power. Nonetheless, the process of emancipation is by no means complete. The situation in practice does not yet correspond in all fields to the new criterion of a balanced division.

The letter to the parliament reporting on the progress of emancipation policy in 1997/98 (*Voortgangsbrief Emancipatiebeleid*), which was published in September 1997, continues the approach adopted after the Fourth UN World Conference on Women in Beijing, in particular the strategic approach to emancipation policy. Besides making a continuous effort to eliminate disadvantages and inequalities between men and women, this approach strongly emphasises the need to broaden the basis of support in society for emancipation and emancipation policy. This policy perspective should be fully taken into account whenever decisions are taken. For example, when a new residential neighbourhood is to be developed allowance should be made for the possibility of combining paid work and unpaid care. And when policy is formulated those making it should be aware of the danger that it will not be effective if men are taken as the criterion as a matter of course. In addition, the authorities support and encourage action to promote initiatives in the field of emancipation policy that emanates from society.

Dutch policy is gradually turning its attention from the formal regulation of equality to the modification of the structures in society. Full equality before the law and in public life has in fact been largely achieved in the Netherlands. It is now a matter of ensuring that equality is achieved 'de facto' as well as 'de jure'. To this end, policy documents should contain not only general analyses and assessments but also specific and verifiable policy proposals whose implementation can be checked by means of monitoring.

## 3. Analysis of Dutch emancipation policy by reference to the three levels

LEVEL 1: LEGISLATIVE MEASURES

The equal treatment of men and women is regulated in various places in Dutch legislation:

* article 1 of the Dutch constitution contains a general prohibition of discrimination;
* article 646 of title 7.10 of the Dutch Civil Code and the Equal Rights Act (WGB) prohibit discrimination on the grounds of sex in matters of employment; these provisions have been introduced to implement Council Directive (EEC) 76/207;
* the Equal Treatment Act (AWGB) covers discrimination not just on the grounds of sex but also on other grounds (i.e. religion, belief, political opinion, race, nationality, sexual orientation (homosexual or heterosexual)

or marital status);

* the Equal Treatment (Working Hours) Act provides that part-time and full-time employees must be treated equally; since part-time workers are mainly women, this legislation is relevant to the measures to combat indirect discrimination against women (see article 11 above).

The content and implementation of the Equal Treatment Act are discussed in more detail below.

*Equal Treatment Act (AWGB)*

The Equal Treatment Bill referred to in the first report became law on 1 September 1994. The Act prohibits direct and indirect discrimination on the grounds of religion, belief, political opinion, race, sex, nationality, sexual orientation (homosexual or heterosexual) or marital status. The prohibition of discrimination does not extend to an indirect distinction that is justified on objective grounds. Direct discrimination is prohibited unless the Act expressly makes an exception to this rule. For example, the Act provides that the prohibition of discrimination on the grounds of sex does not apply in cases where the discrimination is for the protection of the woman, particularly in connection with pregnancy and maternity. The possibility of group action is preserved in the Act. The Act is scheduled to be evaluated for the first time in 1999.

*Equal Treatment Commission (CGB)*

When the Equal Treatment Act came into force, the Equal Treatment (Working Hours) Commission was replaced by a new Equal Treatment Commission. The latter has a wider remit and hence also has greater powers, more staff and a larger budget. The Commission can investigate - either on receipt of a written petition or of its own volition - whether a prohibited distinction has been made. Anyone who believes that he or she has been discriminated against may file such a petition. Others who may apply to the commission are works councils, pressure groups, judges and employers. The commission investigates and decides whether an act is in breach of the above-mentioned legislation. The opinion of the Commission is not binding. In practice, however, its opinion is usually accepted. The new Commission has also acquired the power to make recommendations, together with its opinion, to the person responsible for the discrimination. In its annual report for 1996 the Commission reveals that it makes regular use of this power. Its aim in exercising the power is to show that there is scope for the other party to act in accordance with the law without losing sight of the various interests. The Commission can also arrange for mediation between the parties.

The new Equal Treatment Commission also has the power to apply to the courts for a binding decision on whether a particular act is in breach of the equal treatment legislation. The Commission may do this, for example, where its own opinion is not accepted. It may apply for the act to be declared unlawful or to be prohibited, or for an order cancelling the consequences of the act. The annual reports for the period 1994-1996 show that the Commission has not yet exercised this power.

The number of petitions filed with the Equal Treatment Commission is rising. 29

were filed in 1994, 246 in 1995 and 421 in 1996. The number of opinions too has therefore increased. The Commission gave 70 opinions in 1995 and 119 in 1996 (an increase of 70%). The majority of the opinions concern discrimination on the ground of sex. These are followed by cases involving discrimination on the grounds of race and nationality. A quarter of the opinions given in 1996 relate to the last two grounds. It is noteworthy that the number of opinions relating to discrimination on the ground of religion rose in 1996. The number of opinions concerning homosexual orientation and marital status remains strikingly low. The Commission's annual report for 1996 shows that few complaints were submitted on these grounds.

## LEVEL 2: TOWARDS DIVERSITY

Ever since 1985 the central aim of emancipation policy has been "To promote the development of today's society - a society in which the differences between the sexes are still institutionalised to a great extent - into a pluriform society in which everyone has the opportunity - regardless of gender or civil status - to acquire an independent existence and in which men and women are able to realise equal rights, opportunities, freedoms and responsibilities."[10]

The Emancipation Policy Programme entitled "*Met het oog op 1995*" (With a view to 1995) was published in November 1992. This elaborated the substantive principles adopted in 1985, but chose three general policy spearheads:

1. to increase the proportion of women engaged in social and political decision-making (results reported in chapter 5);
2. to redistribute unpaid work and at the same time to increase the unpaid care responsibilities of men (results reported in chapter 9);
3. to dispel the traditional perceptions of masculinity and femininity (dealt with at level 3 in relation to each article of the Convention).

To show more clearly that the individual ministries had their own responsibility with regard to emancipation policy, the government also indicated what specific objectives were to be achieved by each ministry in relation to its general ministerial objectives and key functions. The objectives of emancipation policy therefore had to be incorporated into the regular policy of all ministries. Another new element of the policy programme was that the emancipation policy should deal explicitly with the position of men. In addition, it had to take account of the position of the different categories of women. The implementation of the policy programme has been the subject of two interim reports and an evaluation carried out by the Interdepartmental Co-ordination Committee for Emancipation Policy (ICE) in 1996. One of the findings of the evaluation was that the choice of general spearheads had been successful. Virtually all the ministries indicated that they had carried out activities connected with one or more spearheads in addition

[10] *Beleidsplan Emancipatie* (Women's Right Policy Plan), Ministry of Social Affairs and Employment, 1985, p. 12.

to their own programme of action on emancipation policy. The recommendations resulting from the evaluation of the policy document *Met het oog op 1995* were incorporated wherever possible into the policy documents subsequently published. The government's analysis of the issue of emancipation policy is therefore still adequate, although this does not obviate the need for constant reassessment. Policy is therefore increasingly focusing on the implementation stage - a shift of emphasis which was vigorously supported by the Fourth UN World Conference on Women.

What is meant by different "categories" of women has also become clearer in recent years. Gender is connected with other principles of social classification such as ethnic origin, class, education and age.[11] It is no longer simply a matter of eliminating the disadvantages to which women are subject and thereby achieving a social redistribution. Instead, the organisation of society itself and the entrenched primacy of male values in our culture must be changed. The essence of emancipation policy in 1997 is the need to remove obstacles in the structure of society in such a way that diversity in terms not just of gender but also of age, ethnic origin, sexual orientation and religion can be seen and appreciated as a way of enhancing the quality of society. As far as the "ethnicity" factor is concerned, efforts have been made to assess the implications of this principle. The authorities have for this purpose set up a think-tank consisting of black, immigrant and refugee women with expertise in this field and representatives of the ministries of Social Affairs and Employment (SZW), Health, Welfare and Sport (VWS) and the Interior (BZK). This think-tank has considered four different themes: refugee women and access to the labour market; diversity in child-care facilities (at school and otherwise); opportunities for black, migrant and refugee women to set up their own business; and opportunities for black, migrant and refugee girls to study technical subjects. The composition of the think-tank differed from theme to theme, depending on the relevant expertise.

As a strategy for ensuring that diversity is seen as an enrichment of society, the authorities have tried to establish win-win situations together with partners outside the public sector. They have for example entered into new alliances with the two sides of industry. An example is the campaign entitled "Opportunity in Business". The aim of these alliances is to broaden the basis of support for emancipation in society. It is important that society as a whole, including individuals, businesses, employees, social and political organisations and other intermediaries, should be involved in the process of women's emancipation. Government alone is not able to implement the desired changes. It is essential that other parties too should play an active role in this connection.

The involvement of different parties is crucial to the attainment of an important objective of emancipation policy, namely that it should be possible for men and women to participate simultaneously or successively in different (and equal)

[11] J. Bussemaker (ed.), *Struikelblokken en verbindingswegen, nieuwe oriëntaties voor het emancipatiebeleid*, The Hague, 1996.

areas of life. The three areas identified by the authorities in their emancipation policy are:

* personal life
* work and income
* political and social life

Where women have to combine activities from these three areas, they must not as a result become overburdened or over-organised. In practice, work and care are presently arranged in such a way that they are hard to combine. As more and more men and women wish to combine different duties and responsibilities, the difficulties this presents are a matter of serious concern to the authorities. If a balanced combination of roles is to be possible, substantial social changes will be necessary. The contribution of the two sides of industry and social organisations will be crucial in this respect. The role of the authorities is principally to encourage and support the necessary changes by creating the appropriate conditions. Examples of such action by the authorities have been laws to extend shop opening hours, increase the scope for parental leave and provide more out-of-school care facilities.

Major advances in policy have been made as the result of the work of the experts of an existing committee known as the Future Scenarios Committee. The Committee has studied how unpaid care should be redistributed and has produced four scenarios. A combination scenario, which concentrates on the redistribution of paid work and unpaid care, has formed the basis for policy. This is explained in detail in chapter 9.

One of the major messages of the Fourth UN World Conference on Women in Beijing was the necessity of "mainstreaming the gender perspective before decisions are taken". The effect of this message in the Netherlands was to breathe fresh life into the existing policy on this subject. Ways are being sought of integrating the aims of emancipation policy into mainstream policy. In February 1997 the Netherlands held an EU conference on mainstreaming for directors - senior civil servants- responsible for emancipation policy. A study is now being carried out for the authorities to determine how this aim can be achieved in practice, since policy-makers need instruments that allow them to assess the possible impact of policy on the position of men and women. An instrument that has already been developed by the authorities to assess the possibility of undesired side-effects of policy is 'gender impact assessment' (GIA). This instrument is first used to assess how a given policy proposal will affect the existing situation and autonomous developments in the policy field concerned. Thereafter it is used to determine what effects (intended and otherwise) the policy is likely to have on the process of emancipation. These effects are assessed by reference to the criteria of 'equality' and 'autonomy'. The latter criterion involves the independence of the individual and the options open to him or her, which are reflected in the degree of pluralism in society.

The ministries are themselves responsible for the application of this instrument. Experiments have been conducted and are now being evaluated. GIA has in all cases revealed unintended negative effects. By serving as an eye-opener this

instrument is proving its worth, as became apparent during a working conference for policy-makers at all levels of government. It has been seen in practice how the instrument can be refined in the future. Above all, it must be made more accessible so that it can be widely used.

GIA is used at all levels of government, albeit still only to a limited extent. Through co-operation with lower-tier authorities the central government intends to make the instrument suitable for their use and at the same time to ensure that the concept becomes known nation-wide. The central government is therefore helping to produce a variant of GIA that is suitable for use by the municipal authorities.

## LEVEL 3: STRATEGY FOR CULTURAL CHANGE

Since 1985 the authorities have pursued a policy of identifying the processes in society that perpetuate stereotyped views of men and women. Traditionally, 'masculinity' has tended to serve as the norm and 'femininity' has been regarded as subordinate. This has therefore created a built-in inequality. The government considers that if this process can be identified and thus made susceptible to change, this would be an important way of bringing about cultural change in a broad sense. An interdepartmental project group set up to deal with this subject performed much valuable work between 1993 and 1996.[12] Mention should be made here of four related projects and activities:

*Gender Perceptions Section*

A 5-year experiment has been conducted in the national public broadcasting system to find out in practice how programmes can convey a more varied image of men and women and hence of masculinity and femininity. This project has had a considerable impact both among the Dutch broadcasting organisations and abroad. As a result of co-operation with other countries, including Scandinavian countries, the project is now being continued elsewhere. A follow-up project has been established in the Netherlands to ensure that the subject of gender perceptions becomes an integral aspect of programme-making by the public broadcasting organisations.

*Effective Image-Making Handbook*

A handbook containing instructions for professional 'image-makers' on how to recognise and break the mould of gender stereotyping is being produced with the help of a government subsidy. The image-makers in question are government spokespersons, advertising and media executives, teachers and even official draftsmen and writers. The handbook provides practical examples of how

[12] *Ongezien onderscheid naar sekse* (Hidden gender discrimination), Final opinion of the project group established to end gender stereotyping, The Hague, 1996.

perceptions of masculinity and femininity are created by word and image.

*Hidden gender discrimination: changing images*

The authorities are trying in various ways to acquaint a wider public with the important findings about gender stereotyping. One of these ways is the production of a simple brochure that uses many practical examples to illustrate the problem of stereotyping. The brochure has been distributed on a large scale.

*Research*

The results of various surveys have greatly helped to increase understanding of the existence of 'hidden' gender discrimination and how this is perpetuated.[13] These findings are important to a wide public. To ensure that this public is actually reached, a review paper is currently being written for policy-makers on the basis of the findings of the surveys. Entitled 'Sophistry and misleading use of language', the review sets out to alert readers to the possible pitfalls of 'gender-neutral' policy.

## 4. How Dutch emancipation policy is organised and supported

*National machinery*

The authorities are assisted by what is known as the 'national machinery' in their efforts to formulate policy and measures. When policy is intensified in a changing society, this naturally has an influence on the operation of this national machinery. Various important changes have therefore occurred in the Netherlands in recent years.

The primary political responsibility for emancipation policy still rests with the Minister of Social Affairs and Employment, who is also the Co-ordinating Minister for Emancipation Policy.[14] This responsibility derives from the shared

[13] M. Mossink and T. Nederland, *Beeldvorming in Beleid*, The Hague, 1993.
M. Verloo and C. Roggeband, *Emancipatie-effectrapportage*, The Hague, 1994.
M. Schaapman, *Ongezien onderscheid: een analyse van de verborgen machtswerking van sekse*, The Hague, 1995.
A. van Lenning, et al., *Inzichten uit vrouwenstudies, uitdagingen voor beleidsmakers*, The Hague, 1995.
M. Verloo and E. Hijmans, *Kwaliteit van onderzoek, inzichten uit vrouwenstudies voor toegepast onderzoek*, The Hague, 1995.
M. Brouns and M. Scholten, *Een kwestie van mannelijkheid: een onderzoek naar mannelijkheid, normativiteit en beleid*, The Hague, 1997

[14] Since the installation of the new government in August 1998 this changed. The primary political responsibility rests not with the Secretary of State of Social Affairs and Employment, who is responsible for Work and Care and Emancipation Policy.

responsibility of the government as a whole for overall government policy, under which the ministers of the spending departments have responsibility for the aspects of their own policies that have a bearing on emancipation policy. The core of the national machinery consists of the Department for the Co-ordination of Emancipation Policy (DCE), which has been incorporated in the Ministry of Social Affairs and Employment since 1981. The function of this unit is to develop the framework for a coherent emancipation policy. Its role is to initiate, innovate and co-ordinate. The Interdepartmental Co-ordination Committee for Emancipation Policy (ICE) is responsible, as the name suggests, for co-ordinating policy and is chaired by the director of Department for the Co-ordination of Emancipation Policy the Equal Opportunities Policy. All ministries have a representative on this Committee, and almost all of them have an internal co-ordinating body responsible for advising the minister concerned on matters relating to emancipation policy in so far as they have a bearing on the ministry's policy. The powers and actual influence of these bodies vary from ministry to ministry. The national machinery also includes the Equal Treatment Commission, which was discussed in the previous section.
A change since 1994 was the transfer of the duties of the parliamentary standing committee for emancipation policy to the parliamentary standing committee for social affairs and employment. This change has been one reason why the Lower House can now take greater account of emancipation policy issues in social and economic policy.

The Emancipation Council was abolished in 1997 at the end of its fourth 4-year term of office. The previous government had already decided to dispense with the Council as part of its sweeping reorganisation of the system of advisory bodies. The argument for abolition of the Council was that in the second half of the 1990s it was appropriate that the provision of advice on emancipation policy should be integrated into the new system of advisory bodies that took effect on 1 January 1997. At the request of the government, the Emancipation Council made recommendations in March 1994 about how the provision of advice on emancipation issues could be safeguarded after it had ceased to exist. On the basis of these recommendations the government has adopted three basic policies for the incorporation of advice on emancipation issues into the new consultation system:

(a) the provision of advice on emancipation issues is part of the ordinary duties of each advisory body;
(b) the government will guarantee the participation of sufficient women in the external advisory bodies;
(c) the integration of advice on emancipation issues into the new consultation system will be guided and supported.

Much emphasis was placed on the second of these policies - guaranteeing the participation of sufficient women - in the period prior to 1 January 1997. The aim was to achieve proportionate representation on the basis of the supply of qualified women candidates. Whereas around 13% of the members of advisory bodies were women in 1993, i.e. shortly before the review of the consultation system, the figure had risen to approximately 27% when the new system was introduced. If the newly constituted advisory bodies are taken into account, the figure is 45%.

To encourage the various ministries to achieve a correspondingly high figure, the Minister of the Interior and the Co-ordinating Minister for Emancipation Policy established a Help Desk for Women in Advisory Bodies in 1996 for a period of one year.

Policy (c) has been implemented by the establishment of a Temporary Committee of Experts to monitor the incorporation of the gender perspective into the new consultation system. Known as TECENA, the Committee has been set up for a maximum period of 3 years. The Committee's remit is "to help to ensure that the advisory bodies in the new consultation system themselves take proper account of the emancipation aspects of proposed policy when making their recommendations". For this purpose its duties include:

- helping to ensure that emancipation issues are specified in applications for opinions;
- advising the bodies concerned on how they can assist their members and staff in acquiring greater expertise on emancipation issues;
- helping to ensure that effective action is taken to find suitable women candidates when appointments are made to advisory bodies, particularly bodies in which the number of women members is significantly lower than the available supply of qualified women.

Whereas the advisory duties of the Emancipation Council have been transferred to each of the advisory bodies individually, its role as a centre of expertise has largely passed to E-quality: Institute for Gender and Ethnicity Issues since 1 January. This institute was established as the result of the merger of four government-subsidised centres of expertise on emancipation issues. E-quality receives more subsidy than the combined sum formerly received by the four original centres. The establishment of E-quality is discussed in more detail in annex 2, which deals with the emancipation support policy.

An informal network initiated by the national machinery is the Consultative Forum for Women from Minorities (OVM), which was set up in the early 1990s. This consists of representatives of black, immigrant and refugee women's organisations and institutions, together with representatives of four relevant ministries. The aim of the periodic consultations was originally to discuss proposed policy on a regular basis. After an internal evaluation in 1997 the Consultative Forum decided to concentrate more on trying to influence government policy at an earlier stage in order to ensure that it more closely reflects the wishes and needs of black, immigrant and refugee women with regard to the emancipation process.

*Emancipation support policy*

The government recognises that it is important and necessary to have an effective structure for the emancipation support policy. In its recent policy document on this subject, it has indicated how it will continue providing financial support.[15]

[15] Parliamentary Documents II, 1997-1998, nos. 1 and 2.

The Co-ordinating Minister for Emancipation Policy has for this purpose set aside 12.2 million guilders for 1998 and 13 million guilders for 1999. Besides subsidies to multi-year projects, activities and institutions, these sums include provision for one-off, short-term subsidies. A new subsidy scheme of the Department for the Co-ordination of Emancipation Policy also took effect on 1 January 1998. This replaces the method of providing subsidies that was introduced as a result of the 1989 policy document on support policy. The factors immediately occasioning the change were the introduction of the new General Administrative Law Act and the finding that the existing system for the provisions of subsidies was not in keeping with the general subsidy scheme operated by the Ministry of Social Affairs and Employment. However, the social changes described above also necessitated a review of the subsidy scheme. Like its predecessor the new subsidy scheme provides scope for financial contributions to small-scale and new initiatives. The scheme creates a basis for the provision of the extra stimuli that continue to be necessary despite the fact that in certain fields the gender perspective is gradually being incorporated into the regular policy-making process. Under this scheme it is still possible to subsidise private initiatives that make a positive contribution to the emancipation process.

The criteria for the provision of subsidy are that the proposed activity should have a nation-wide effect, be innovative or be intended to increase support in society for the emancipation process and policy. Other criteria for the granting of subsidies are the extent to which the activities in question:

(a) are in keeping with the current themes of emancipation policy as specified each year in the budget of the Ministry of Social Affairs and Employment;

(b) contribute to the policy that diversity enhances the quality of society; it must for this purpose be possible for men and women tó participate in different areas of life (work, care, social and political decision-making);

(c) help to generate support in society for emancipation..

As a result of the process of decentralisation, the provinces and municipalities have come to play a much greater role in determining and implementing the aims of emancipation policy. One way in which they have discharged their responsibility is by funding emancipation bureau's. The Co-ordinating Minister for Emancipation Policy will take steps in the years ahead to stimulate that emancipation policy is co-ordinated between the central government, the Association of Provincial Authorities (IPO) and the Union of Dutch Local Authorities (VNG). In recent years more has also been done to co-ordinate national and international emancipation policy. The European Union plays an important role at the European level (see also chapter 4). In addition, more attention is being focused on observance of international treaties such as the UN Women's Convention and the implementation of international agreements such as the concluded Beijing Platform for Action during the Fourth UN World Conference on Women.

*Subsidised national institutions*

A research report entitled *Van initiatieven uit de vrouwenbeweging tot*

*expertisecentra emancipatie* (From initiatives from the women's movement to centres of expertise on emancipation) and commissioned by the Co-ordinating Minister of Emancipation Policy was published in 1995. The report concluded that the support for initiatives emanating from the women's movement, which were originally concerned with creating awareness and later to a greater extent with lobbying, has led to the development of centres of expertise. Basically, these centres serve four functions:[16]

1. developing (or helping to develop) new products.
2. making information available and picking up signals from the target group;
3. generating social and political support;
4. influencing policy (directly or indirectly).

All the centres perform functions 3 and 4. The centres that develop new products (function 1) are divided into two categories:

(a) general expertise centres such as E-quality, which advises on gender and ethnicity issues, the Clara Wichmann Institute, which specialises in legal issues, and the nation-wide network of emancipation bureau's in the provinces and big cities;

(b) centres that concentrate on a particular theme or a particular sector such as Transact, which provides gender-specific help, Opportunity in Business, which supports companies in their efforts to appoint more women at all levels of their business, and Toplink, which is a databank for women in executive positions.

Organisations and institutions that concentrate on providing information and identifying problems (function 2) can also be divided into two categories:

(a) general organisations such as the International Information Centre and Archives for the Women's Movement (IIAV);

(b) umbrella organisations for certain themes or sectors, for example the Women's Alliance, the National Women's Council, TIYE International, the countrywomen's organisations, the refugee organisations and the Women's Council of Netherlands Development Agencies.

Annex 2 provides more detailed information about each of the centres.

By reviewing parts of the national machinery, establishing the new emancipation support policy and ensuring that advice on emancipation issues is included in the new system of advising on mainstream policy, the government has created the conditions to implement the policy so clearly enunciated in Beijing during the Fourth UN World Conference on Women in Beijing, namely that greater emphasis should be placed on implementing policy and generating support for it.

---

[16] Letter to the parliament reporting on the progress of equal rights policy in 1997/1998.

## CHAPTER 3 Article 3: Human rights and fundamental freedoms

Article 3 of the Women's Convention, which deals with human rights and fundamental freedoms, is used in this report in particular for the purpose of obtaining information about preventing and combating violence against women and violence occasioned by the sexual orientation of a person. Research, for example by the special UN rapporteur on violence against women, has shown that physical, sexual and psychological violence against women is an extensive and serious phenomenon which occurs throughout the world. It covers all possible forms of violence such as rape and other forms of sexual abuse and sexual harassment, trafficking in women (see chapter 4) and forced prostitution, physical abuse, domestic violence, violation of sexual and reproductive rights and violence against women in armed conflicts. Recommendation 19 and the Beijing Platform for Action also use this wide definition of violence, which is endorsed by the Netherlands. In consequence, the section on this subject in the present report will be more extensive than the corresponding section in the previous report, which dealt only with sexual violence against women and girls (in the addendum to article 2).

LEVEL 1: PRESENT POSITION AND LEGISLATIVE MEASURES

### 1 (a) Present position

Violence against women occurs on a substantial scale in the Netherlands as elsewhere. The great majority of the women who seek refuge in homes for battered women have suffered sexual violence. Almost half of these women are from immigrant backgrounds. In 1995 a total of around 47,000 women sought help from one of the different types of institution for battered women.

The Netherlands Government wishes to ensure that the measures for combating violence are incorporated more firmly into legislation and policy designed to safeguard the human rights of women. It is therefore supporting the introduction of an individual right of complaint in an optional protocol to the UN Women's Convention. The Netherlands is actively working at the international level to secure the introduction of this protocol. At the national level, it has gained much knowledge and experience of ways of preventing and combating violence against women. Since the next move will involve above all stepping up the implementation of policy proposals, the Netherlands government is presently drafting an interdepartmental plan of action to prevent and combat violence against women. This plan of action involves the Ministries of Social Affairs and Employment (SZW), Health, Welfare and Sport (VWS), Education, Culture and Science (OCW), the Interior (BZK), Foreign Affairs (BuZa) and Justice (JU). This approach concentrates in particular on the prevention, provision of information, investigation and prosecution of cases of violence, the provision of support and assistance to victims and, finally, the co-ordination and communication of the policy. Various spending ministers have also presented their own policy proposals to parliament. These include proposals and bills relating to health care, education, assistance, sport, police and the criminal justice

authorities. Each of these aspects is dealt with in the following sections.

The Netherlands continues to press internationally for the recognition of sexual and reproductive rights, viewed from the perspective of women and girls. In the Netherlands itself, this means that efforts are being made to reach a situation in which people can participate on an equal footing in all areas of society regardless of their sexual orientation. The special needs of lesbian women are a specific aspect of the homo-emancipation policy, which is being co-ordinated by the Minister of Health, Welfare and Sport.

## 1 (b) Legislative measures

*Rape within marriage*

The concept of "sexual penetration" was introduced into the Dutch Criminal Code when the revised legislation on sex offences came into force in 1991. The Dutch Supreme Court has chosen a wide interpretation of rape: i.e. every form of forcible penetration of a sexual nature. Rape within marriage became a criminal offence in 1991 when the word "extramarital" was dropped from the article on rape.

*Child pornography*

The Child Pornography Act came into force on 1 February 1996 and was followed by the issue of a guideline by the public prosecution service. The central feature of the legislation is the protection of minors from sexual abuse. Article 240b of the Criminal Code has been amended for this purpose. The sentence for disseminating and/or publicly displaying sexual images of persons under the age of 16 years has been increased to four years for a single instance and six years for repeated offences. Alternatively, the offence carries a maximum fine of 100,000 guilders.

*Terwee Act*

The introduction of the Terwee Act on 1 April 1995 radically altered the position of victims in criminal proceedings.[17] The scope for obtaining compensation for pecuniary and non-pecuniary loss and injury as part of the criminal process has been greatly expanded. The basic criterion of the Victim Care Guideline introduced to implement the Terwee Act is that the police and public prosecution service should always take reasonable account of the interests of the victim in obtaining victim support.

[17] The official name of the Act is "Act of 23 December 1992 to supplement the Criminal Code, the Code of Criminal Procedure, the Criminal Injuries Compensation Fund (Provisional Scheme) Act and other laws that make provision for victims of criminal offences"

*Working Conditions Act and sexual harassment*

A provision was included in the Working Conditions Act in October 1994 to oblige employers to protect employees as much as possible from sexual harassment in the workplace and from the adverse consequences of such harassment. The provision is worded in such a way that the employer is compelled to pursue a policy on sexual harassment. The legislator has expressly chosen not to dictate the form and content of this policy. However, sexual harassment must be included in the risk analysis and evaluation which employers are bound to carry out under the new Act. This should list the risks which cannot be avoided and any special risks to which particular categories of employee may be exposed. Each employee must be able to inspect the risk analysis and evaluation. The Act contains a provision that parliament must be informed of "its effectiveness and effects in practice" within five years of the date on which it comes into force.

As far as legislation relevant to freedom of sexual orientation is concerned, reference may be made to the discussion of the Equal Treatment Act in chapter 2 above and to chapter 12 which deals with the subjects of registered partnership, child custody and adoption.

LEVEL 2: TOWARDS DIVERSITY

Various evaluations have been carried out in recent years. The Dutch policy on combating sexual violence in the period 1991-1995 was evaluated in 1995. The main conclusions of this evaluation were as follows:

* There is a considerable gap between the estimate of the potential demand for help nation-wide and the amount of help (including support for battered women) actually provided.
* The help is insufficiently accessible to certain categories of victim. This is particularly true of immigrants, the physically disabled and female drug addicts.
* The vocational training courses relevant to work in this field still do not pay sufficient structural attention to sexual violence.
* Although prevention measures have been taken, a more coherent policy on this subject will certainly be necessary.

In November 1996 the Minister of Health, Welfare and Sport forwarded her comments on the results of the evaluation and her proposals to the Lower House of Parliament. Future policy will concentrate on promoting the structural implementation of what has already been initiated in this field. This includes developing instruments both to prevent sexual violence and to promote the provision of adequate assistance to victims. One aspect of prevention should be a greater focus on the perpetrators of sexual violence. Other important aspects are fostering expertise in this field, providing subsidy to social work organisations that have a national reach, and undertaking further study.

An extra sum of 2 million guilders has been allocated to the Regional Institutes

for Outpatient Mental Health Care from 1997 onwards for the provision of greater help to victims of sexual violence. These institutes can claim part of these funds if they submit of a plan of action showing how they meet the demand (in terms of quality and quantity) for assistance.

To provide an extra stimulus for the process of implementation, TransAct (the Netherlands Centre for Gender-Specific Care Innovation and the Combating of Sexual Violence) has been given the role of "catalyst" for a period of four years. It has four main duties: to foster regional co-operation, to try to ensure that the problem of sexual violence receives structural attention in vocational training courses, to enhance the quality of policy and to strengthen the role of the victim. Here too extra financial resources have been reserved. Another institute, known as Zorg Onderzoek Nederland, has been allocated funds for a period of three years in order to establish a coherent programme of research and development.

The central government policy on support for people in distress, including women, is intended for people who have left their home, whether voluntarily or under duress, and have become unable to fend for themselves in society (temporarily or otherwise). The capacity of these institutions must be increased in order to meet demand. It was recently decided to make extra funds available for this purpose.

The Minister of Education, Culture and Science has adopted policy measures to prevent sexual violence at schools. In its policy document "*De veilige school*" (Safe schools") the Ministry emphasises that children can function well at school only in safe surroundings. Schools must themselves try to create a safe atmosphere and should therefore take measures to prevent the sexual harassment of both boys and girls. A measure to prevent sexual harassment in schools was recently proposed by the Secretary of State for Education to the Lower House of Parliament: this would require every educational establishment that suspects sexual harassment to report this to the police as a "suspicion of a criminal offence". This would supplement the existing measures to prevent sexual harassment. A measure of this kind has, for example, been included in the Working Conditions Act, under which the competent authority (i.e. the municipal authority in the case of municipal schools and the school board in the case of private schools) and the school head are obliged to take measures to protect pupils and staff from sexual harassment and its consequences. Since 1992 every competent authority has also been required to have a scheme to prevent and combat the sexual harassment of teachers. A survey conducted by the Education Inspectorate in 1996 revealed that these complaints schemes are not yet in widespread use in education.

A report entitled *Huiselijk geweld* (Domestic violence) was published in October 1997.[18] This contains the findings of a survey commissioned by the Ministry of

[18] Dijk, Ton van, et al. *Huiselijk geweld: aard, omvang en hulpverlening* (Domestic violence: nature, scope and assistance), 1997

Justice. It can be seen as a supplement to an existing survey in that men aged between 18 and 70 have also now been interviewed. Since the target group has been extended through the adoption of a wider definition of domestic violence, the percentages too have risen since the previous surveys. For the survey violence is now defined as a violation of personal integrity, for which purpose a distinction is made between mental and physical violence (the latter includes sexual violence). The majority of victims were found to have been subjected to physical, mental and sexual forms of domestic violence in their youth (10-25 years). 45% of the victims of sexual violence were under the age of 18 when the incidents first occurred. Men (especially boys in the 10-20 age group) were more likely to be victims of physical forms of domestic violence than their female counterparts. Women in particular are likely to be victims of sexual forms of domestic violence. The percentages of men and women subjected to mental violence do not differ greatly. Women are more likely than men to be the victims of violence of very high intensity (i.e. frequent violence over a long period with physical injury and other consequences). The perpetrator of domestic violence is a man in 80% of cases. Generally speaking, the closer the relationship between offender and victim the more intense is the domestic violence. 20% of the victims stated that they did not dare to talk about the violence. The main reasons given for this were feelings of shame and guilt. Two thirds of those who sought help from a doctor or institution felt that they had been treated with understanding. Half of them reported that they had really benefited from this help. Resistance by the victim to the violence also seems to help. Over half of the victims who tried to take action against the perpetrator - talking, seeking help from an authority, fighting back or something else - reported that the violence stopped. Of all these forms of domestic violence 12% of cases are reported to the police. And an official police report is prepared in 6% of the cases. The results of the survey will be taken into account in future policy.

*50 years of women's human rights*

A round-table conference on ways of preventing and combating violence against women was held in The Hague on 10 December 1997, which was Human Rights Day. 50 policy-makers, experts and professionals from the sphere of prevention the police and the judiciary, assistance and support services and local governance met to discuss future policy. The round-table conference made recommendations to the Ministers of Justice and the Co-ordinating Minister for Equal Opportunities regarding the development of a plan of action. The recommendations were based not only on research and experience of past policy but also on local "good practices". Research has shown that a major obstacle to the development and implementation of the policy is the need for co-ordination and co-operation at all levels.

The results of the round-table conference were also submitted to an international conference of experts that was held in The Hague in February 1998, on the initiative of the Co-ordinating Minister of Emancipation Policy and the Minister of Foreign Affairs, as part of the commemoration of the 50th anniversary of the adoption of the Universal Declaration of Human Rights. Experts from 50

countries took part in this meeting of experts, which was intended by the Netherlands Government to help to mutually strengthen the policy of the various countries at local, national and international level and exchange knowledge, experience and good practices in the field of preventing and combating violence against women. The recommendations of this meeting covered a variety of subjects: traditional practices affecting the health of women and girls, trafficking in women for the purpose of sexual exploitation, sexual rights and human rights violations against sexual minorities, violence against women in armed conflicts, the optional protocol to the UN Women's Convention and domestic violence. The recommendations were intended for the national governments of the UN member states and were submitted in the preparations for the 1998 sessions of the two UN Commissions that were dealing with the subject of violence against women in 1998 (the Commission on the Status of Women and the Commission on Human Rights).

*Freedom of sexual orientation*

Freedom of sexual orientation enjoys increasingly broad support among the Dutch population. It follows that policy can now concentrate more on specific groups such as immigrants and the elderly. It was for this reason that the government commissioned a survey of the position of elderly homosexuals and lesbians in the Netherlands.[19] The survey shows that the position of some elderly lesbians is worse than that of the elderly as a whole in the Netherlands. This is true in particular of their income and their mental well-being. The government is still considering what conclusions should be drawn from the survey.

*Abolition of ban on brothels*

It is planned to abolish the ban on brothels with effect from 1 January 1999. This measure will make it possible for municipal authorities to pursue an effective policy on prostitution. The policy of the municipalities will have three components. First, the municipalities may determine their own policy on the establishment of brothels within their area. In this way they can influence the nature and size of brothels. Second, the authorities will introduce rules governing aspects of their operation, for example hygiene, prevention of sexually transmitted diseases and fire safety. Finally, they will lay down rules relating to the position and status of prostitutes, such as protection of their mental and physical integrity and a ban on employing under-age prostitutes or prostitutes present illegally in the Netherlands. To prepare for the situation that will occur after the abolition of the ban on brothels, the municipalities and the Union of Dutch Local Authorities are holding intensive consultations with representatives of the Ministry of Social Affairs and Employment, the Ministry of Justice and the National Consultative Committee on Prostitution. Together they have drawn up a law enforcement plan that co-ordinates supervision and action by the local

[19] J. Schuyf, *Oud Roze. De positie van lesbische en homoseksuele ouderen in Nederland*, University of Utrecht, Utrecht, 1997.

authority and the police. Police supervision itself must also be properly co-ordinated since it involves many different police units (the vice squad, the ordinary police units, the aliens police, the Criminal Intelligence Unit, the CID units investigating ordinary and organised crime and the financial investigation unit). It has been recommended that the supervision take the form of brothel inspections, i.e. regular visits to brothels specifically to monitor prostitution in the area and identify prostitution at an early stage. The inspections should preferably be carried out by a permanent team consisting of officers of the different departments involved.

*Centralised information system*

The authorities are working hard to establish a new criminal intelligence system that can identify connections between offences, including sex offences. The system will register and analyse all cases at national level. By combining data received from all regions it will provide a better overall picture and help to identify the patterns of particular offences and offenders. The aim is to facilitate and speed up the apprehension of offenders. In the case of suspected trafficking in women, the police will record their information in the criminal database system. This will then be passed on to the Criminal Intelligence Unit for registration. The aliens police will record information about foreign prostitutes in a database containing information about all aliens. The establishment of criminal information and intelligence systems is being accorded a high priority at the European level.

LEVEL 3: STRATEGY FOR CULTURAL CHANGE

Prostitution is regarded with a certain detachment in the Netherlands. If people freely choose to become a prostitute, they are exercising their personal freedom. On the other hand, people are entitled to be protected by the authorities from sexual violence and abuse. This right extends to prostitutes.

Neither prostitution nor the commission of sexual acts with a prostitute who has reached the age of 16 are generally criminal offences, unless there has been compulsion in the form of violence or coercion. The interests of prostitutes and former prostitutes are represented in the Netherlands by a foundation known as *De Rode Draad*, which was established in 1984 and is subsidised by the authorities. The very existence of this organisation and its recognition by the authorities shows that attitudes in the Netherlands towards voluntary prostitution have changed over the years. It is this which has led the authorities to revoke the general ban on brothels in 1998 and to replace it with a ban on involuntary prostitution and under-age prostitution. The law has thus been brought into line with changed social attitudes. In this instance, therefore, the authorities have followed public opinion.

*Development of expertise*

Action by the criminal justice authorities is the last element in a series of

measures that should be taken to overcome sexual violence and abuse. Prevention is of crucial importance because it can create a society that recognises and punishes violence against women. Prevention may include proper education (including sex education), good facilities for assisting young victims of sexual violence, public information campaigns, development of expertise, treatment of sex offenders and potential sex offenders and a clear policy.

In order to ensure that the police and others involved develop the necessary expertise the Ministry of Justice has arranged for the compilation of a guide to sex offences.[20] The aim is to clarify the new legislation on sex offences and to explain the various duties of the authorities involved. The police, for example, can learn about the role of the social workers, and vice versa.

*Evaluation of campaign for the prevention of sexual violence*

The previous report mentioned the government information campaign for the prevention of sexual violence. The campaign was mounted from 1991 to 1995 and finished with an evaluation survey.[21] The aims of the campaign were:

* to create an atmosphere in which the problem of sexual violence could be discussed;
* to make men and boys aware that images of masculinity and femininity are often stereotypes;
* to make men and boys aware of how these stereotyped images of men and women affect their own expectations and behaviour in relationships with girls and women;
* to make men and boys aware of how stereotyped images can create an atmosphere that may lead to all kinds of sexual violence;
* to influence stereotyped images and the behaviour they engender.

The campaign was two-pronged. It was mounted partly through the mass media (with four sub-campaigns) and partly through intermediaries. During the five years that it lasted, the campaign employed a wide range of instruments such as a

---

20 Part 1 of the guide provides background information about sexual violence. It also describes the courses of action open to victims after the offence and what authorities and organisations are involved. Part 2 is entirely devoted to a description of the different forms of counselling and assistance that are available for victims of sexual violence. Part 3 sets out the laws and rules that are relevant to victims of sexual violence. Part 4 describes the procedure if a victim decides to report the matter to the police and/or to start legal proceedings against the perpetrator. Part 5 lists various addresses and contains all kinds of information about sexual violence (including a list of recommended reading matter) and about the role of the social workers, police, etc. The guide is supplied with a computer diskette containing a program showing the prescription periods for the various offences.

21 Bos, Elroy, Carolien Martijn and Hedwig te Molder, *Sex is natuurlijk, maar nooit vanzelfsprekend: een onderzoek naar de effecten van de meerjarige campagne 'Preventie Seksueel Geweld'* (Sex is natural, but should never be taken for granted: a survey of the effects of the multi-year information campaign entitled 'Prevention of Sexual Violence'), 1997.

magazine for young people, a brochure, television and press advertisements, and posters. The survey revealed that the media had shown great interest in the campaign, probably because the subject matter was new. According to the findings of the survey, two thirds of the Dutch population had in one way or another seen something of the sub-campaigns, and recognition was as high as 70% among the primary target group. People who had seen something of the campaign were more likely to have discussed the subject, to feel more involved with it, to have a better knowledge of the subject of sexual violence and also to have an attitude more in keeping with the aims of the campaign than people who had not seen it.

*Greater awareness of employers about sexual harassment*

A government information campaign was mounted in the spring of 1994 after the sexual harassment provision in the Working Conditions Act became law. Research has shown that the campaign had a wide reach: 94% of men and 88% of women who go out to work had seen or heard something of the campaign. As a result, the Ministry received a large number of requests for brochures from both victims and employers. Besides providing more information on sexual harassment, the authorities have also stepped up enforcement and monitoring. The Factories Inspectorate has included the subject of sexual harassment in a number of inspection projects.

To evaluate the effect of the provision the Ministry of Social Affairs and Employment commissioned a representative survey of the measures taken by employers to deal with sexual harassment shortly after the provision became law. From the respondents' replies it appeared that sexual harassment occurred or could occur in almost a third of the companies and institutions. Around half of the employers had already taken action of some kind, for example appointing a confidential counsellor, making arrangements for cases of sexual harassment to be reported confidentially, instituting a complaints procedure, raising the subject during work consultations, and circulating brochures and pamphlets about sexual harassment at work. The survey also showed that large organisations were taking a more active approach than their smaller counterparts, and that around a quarter of the firms received support from their trade association.

The most important effect of the amendment to the Working Conditions Act appears to be that employers have become more aware of the problem of sexual harassment in the workplace and have been obliged to adopt a policy on this subject.

*Sexual harassment in sport*

The Minister of Health, Welfare and Sport supports the policy plan adopted by the national sports federations - the Netherlands Olympic Committee (NOC)/Dutch Sports Federation (NSF) - for tackling and preventing sexual harassment in sport in the period from 1996 to 1999. The national sports associations affiliated to the NOC*NSF adopted a code of conduct for

professional and voluntary staff in sport in May 1997. Telephone helplines were opened on 1 January 1998 for people wishing to report sexual harassment in sport.

## CHAPTER 4 Article 6: Trafficking in women

LEVEL 1: PRESENT POSITION AND LEGISLATIVE MEASURES

### 1 (a) Present position

The statistics show that at least 2,500-3,000 foreign women working as prostitutes in the Netherlands were coerced into prostitution. 75% of the women known to the social services come from Eastern Europe. This is just the tip of the iceberg, because the figures merely show the number of women applying for help to the Foundation against Trafficking in Women. The number of cases reported to the Foundation has risen sharply in recent years: 88 in 1993, 168 in 1994 and 180 in 1997 (January to November).

### 1 (b) Legislative measures

In 1997 the Netherlands Government prepared a number of legislative amendments designed to tackle trafficking in women. The first was the bill to amend the Criminal Code in order to provide heavier sentences for people convicted of exploitation of prostitution involving violence, abuse of a position of authority, debauchery and offences against minors. Second, there is a bill to abolish the general ban on brothels and allow municipalities the freedom to pursue a comprehensive policy on prostitution. Both bills were dealt with at length in the previous chapter.

Policy and legislation on marriages of convenience (also known as sham marriages) are also important in this connection. The public prosecution service is able to apply to the courts for an order that a marriage that is contrary to public policy in the Netherlands be annulled. A marriage of convenience is a marriage that is contracted between an alien and a Dutch national (or a person resident in the Netherlands and having an independent right of residence) for the purpose of enabling the alien to obtain a right of residence rather than of performing the marriage vows.

If aliens wish to marry in the Netherlands, they should complete a form giving their name and right of residence. This form is sent to the Aliens Police, who check the information and may, for example, investigate the applicant's matrimonial history. If the Aliens Police deem this necessary they may invite the future spouses to an interview. The purpose of the interview is to complete a questionnaire and allow the police to assess whether the relationship is genuine or sham. The declaration of the Aliens Police is then forwarded to the Registrar of Births, Deaths and Marriages. Unless this declaration has been filed, the Registrar may not solemnise the marriage. The final decision on whether or not to marry the couple is taken by the Registrar.

A similar check is made even where a marriage has been contracted abroad and the parties request its entry in the Dutch registers. The process of evaluating the law has started and will be completed in mid-1998. One of the points that will be

examined is whether many people are making alternative arrangements and getting married in neighbouring countries. It is hard to estimate at present how many marriages of convenience are contracted in the Netherlands.

## LEVEL 2: TOWARDS DIVERSITY

Measures are needed in a variety of fields in order to prevent and combat trafficking in women: for example prevention and identification, investigation and prosecution, support and assistance, and management and communication. A joint approach is required for this purpose at both national and international level. When the Netherlands held the presidency of the European Union, it arranged for this approach to be elaborated during an EU ministerial conference held in The Hague in the first half of 1997. By organising this conference, the Netherlands government specifically implemented the provisions of the Platform for Action of the Fourth UN World Women's Conference in Beijing, in particular the provisions concerning action to prevent and combat trafficking in women. In this way the Netherlands followed the line mapped out in the recommendations adopted as a result of the conference in Vienna in June 1996.

The basic assumption of the EU ministerial conference in The Hague was that the only way to prevent and combat trafficking in women is by a multidisciplinary and co-ordinated approach involving all concerned players, NGOs, social, medical, judicial, law enforcement and migration authorities. During the conference, which was held in The Hague from 24 to 26 April 1997, the EU member states unanimously endorsed "The Hague ministerial declaration on European guidelines for effective measures to prevent and combat trafficking in women for the purpose of sexual exploitation", known for short as The Hague Declaration. The Ministers of Justice and Ministers for Emancipation Policy from the EU member states attended the conference at the invitation of their Dutch counterparts, who organised the conference in co-operation with the European Commission. Representatives of countries from Central and Eastern Europe that are associated with the EU were present as observers. The aim of the Declaration was to encourage further action at national, European and international level. The Hague Declaration contains a specific plan of action, the details of which must be elaborated both by the international and European institutions and at national level. It is based on the premise that the proper provision of information is essential both nationally and between the different countries. It is therefore crucial that officials who may come into contact with such trafficking or with the victims should receive adequate training.

To ascertain whether the recommendations contained in the Declaration do indeed help to prevent trafficking in women, each country was advised to establish a monitoring system. Such a system should be designed to monitor developments in the fields of prevention, investigation, prosecution and victim support and the relationship between them. The Declaration recommended that national rapporteurs be appointed. The emphasis was to be on a multidisciplinary and co-ordinated approach in which all players involved play a role, i.e. NGOs, social services, criminal justice authorities, the police and the immigration

service. Action at the national, European and international level is required. However, the main responsibility rests with the EU member states themselves.

When implementing the points from the plan of action adopted in The Hague, the Dutch authorities will concentrate on providing further support for victims and on strengthening enforcement policy. To a large extent this is existing policy. Nonetheless, the Declaration has prompted a number of additional measures relating to victims. These are designed to increase the willingness of victims to report offences. The measures will be co-ordinated with the plan of action being drawn up in connection with the proposed abolition of the general ban on brothels. At the international level, the emphasis is on the provision of information. A letter describing follow-up policy has been sent by the Co-ordinating Minister for Emancipation Policy and the Minister of Justice on behalf of their colleagues of Health, Welfare and Sports, Foreign Affairs, Development Co-operation and the Interior to the Dutch parliament.

The EU ministerial conference on the question of trafficking in women not only led to the adoption of an interdisciplinary and interdepartmental approach at national level but also brought about an unique co-operation between the EU member states on emancipation policy and mainstream policy in the field of justice and the interior. As such it is an excellent example of the mainstreaming of the genderperspective in mainstream policy.

How the recommendations of The Hague Declaration are implemented and the consequences of such implementation will be monitored by means of a periodical survey. The interdepartmental working group on trafficking in women, which prepared the EU ministerial conference, will continue it's work until it has examined what possible scope there is for the appointment of a national rapporteur on the question of trafficking in women.

The four policy fields referred to above form wherever possible the framework for the report on the policy pursued in recent years.

*Prevention and identification*

The aim of government information campaigns in countries of origin is to enable women to take well-informed decisions. A crucial role is played both by the embassies, as the authority responsible for issuing visas, and above all by the NGOs such as the Foundation against Trafficking in Women. A good example of such a campaign is the government-subsidised La Strada project established by the foundation in Poland and the Czech Republic in 1995. Some of the aims of this wide-ranging programme are to bring the subject of trafficking in women to the attention of the public, to provide information to potential victims, to stimulate the political authorities and other bodies to take measures against trafficking and to offer help to victims returning to their country of origin. The project was extended to Ukraine in 1997.

*Investigation, prosecution and victim support*

The Netherlands has for many years tried to improve the investigation and prosecution of cases involving trafficking in women. In order to increase the willingness of victims to report offences a provision was included in the Aliens Circular of 1994 to the effect that where the authorities are proposing to expel a woman who is illegally resident in the Netherlands, the expulsion may be suspended for a period of three months if there is even the slightest evidence that she is the victim of trafficking. She then has ample time to decide whether or not she wishes to report the offence. During the three-month period she can claim social security benefit and medical assistance. She may also obtain confidential counselling and advice on criminal proceedings and proceedings for compensation under civil law. If the victim decides to report the offence, a residence permit is granted for the duration of the investigation, prosecution and trial (before the courts hearing the facts). The witnesses to such an offence may also be eligible for a residence permit of this kind if their testimony is necessary for the investigation.

In 1989 the Procurators General issued five guidelines for the investigation and prosecution of cases of trafficking in women. The guidelines included a new definition of the offence of trafficking in women and dealt with police methods of investigating prostitution, the function of the Criminal Intelligence Unit in tackling this offence, and the provision of support and counselling to victims. The guidelines were updated and improved in 1994 after evaluation. The important role played by the provision of information has already been discussed in chapter 3.

A handbook entitled *Aanpak van Mensenhandel* (Measures to tackle trafficking in human beings ) was published by the Board of Procurators General in 1995. The handbook indicates how the authorities should decide whether there has been exploitation or coercion and gives a clear summary of situations that come within the definition of trafficking in human beings. A report by the victim or witnesses is often how the authorities are first alerted to an offence. However, cases of trafficking may also be identified in the course of checks on prostitutes or inspections by the vice squad, the administrative authorities, the aliens police, the Foundation against Trafficking in Women, field workers or the confidential counsellor of the Municipal Health Service. Reports may even be received from a prostitute's customer. The handbook also contains instructions for the action to be taken against offenders either under criminal law or under administrative law. Action under administrative law is possible on the basis of the provisions in the municipal licences ordering or prohibiting certain acts. Where the prostitution is involuntary, a prosecution may be brought under the criminal law. Aliens law is also important in tackling the trafficking problem since many of the victims are illegally resident in the Netherlands. The handbook sets out the assistance to be provided to victims by the justice authorities. This involves referring the victims to the social services, providing information about the procedure and taking the initiative in providing support and counselling. When an offence is discovered, the liaison officer for such cases at the public prosecutions service should be

immediately informed. Finally, the team used to track down those responsible should be multidisciplinary since this ensures that all available expertise is actually deployed.

In addition to the handbook, a protocol on trafficking in human beings was published in October 1996. This was written by two police officers and sets out all the written and unwritten rules and procedures to be followed by the police and the experience gained of such investigations and co-operation. The aim of the protocol is to provide guidance in preventing, reducing and combating trafficking in women. It is also hoped that the protocol will prompt a debate within the police about how to tackle this complex and rapidly growing problem.

*Coherent approach*

The Minister of Health, Welfare and Sport has for many years subsidised a number of voluntary organisations involved in one way or another in counselling or providing information about women who have been the victim of trafficking (the Foundation against Trafficking in Women, the Mr. A. de Graaf Foundation - a centre of expertise on prostitution issues - and the *Rode Draad* Foundation). Other organisations that assist the victims of trafficking are the municipal health services (through venereal disease clinics) and the victim support organisations. They too are considering ways of adopting a coherent approach. Legal assistance is provided to victims during the proceedings, for example if a victim wishes to claim compensation from the offender either by civil proceedings or by being joined as a party to the criminal proceedings. The provision of victim support before an offence is reported is also under consideration (Aliens Circular, chapter 17). Victims need legal assistance above all during the period in which they are deciding whether or not to report the offence. Consideration will be given to whether the legal aid centres can play a role in this respect.

*Incorporation of Dutch policy into international (emancipation) policy*

In 1997 the report of the UN special rapporteur on violence against women to the UN Commission on Human Rights contained a section on trafficking in women. During the preparation of this report, the Foundation against Trafficking in Women and the Global Alliance Against Trafficking in Women (GAATW) carried out research on behalf of the UN special rapporteur. This research was financed by the Netherlands.

In the first half of 1998 the EU, under the presidency of the United Kingdom and in co-operation with the United States, will mount an information campaign in two East European countries from which many of the women originate. The aim of the campaign will be to prevent and combat trafficking in women.

During the non-governmental conference which preceded the EU ministerial conference on the question of trafficking in women under the EU Presidency of the Netherlands (4-6 April 1997), NGOs decided to establish a European network of NGOs to prevent and combat trafficking in women. The Netherlands will

stimulate further support for this in the context of an EU programme (STOP or DAPHNE). The co-operation with the prospective member states of the EU on the prevention and combating of trafficking in people will be intensified as part of the Interior and Justice policy.

The Committee of Ministers of the Council of Europe has established a multi-sectoral working group to encourage co-operation between the countries of Western Europe and the countries of Eastern and Central Europe on the prevention of trafficking in human beings. The working group will concentrate on follow-up measures to be taken both by the Council of Europe itself and by the Council in co-operation with other international organisations and NGOs in order to prevent and combat such trafficking, particularly of women and girls. The Netherlands is playing an active role in this working group.

The Netherlands government wishes to ensure that the policy on combating the various forms of violence, including trafficking in women, is brought still more firmly within the ambit of the safeguards for the observance of the human rights of women. This is why the Netherlands is playing an active role in the negotiations to establish an optional protocol to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

An evaluation of the policy adopted in consequence of The Hague Declaration will take place in late 1999, together with the obligatory evaluation to be carried out under the terms of the EU Joint Action to combat trafficking in human beings and the sexual exploitation of children.

# CHAPTER 5 Article 7: Political and public life
# Articles 10 (g) and 13 (c): Sport and social life

## 1. POLITICAL LIFE

LEVEL 1: PRESENT POSITION AND LEGISLATIVE MEASURES

### 1 (a) Present position

There is little difference in the Netherlands between the percentages of men and women voting in general elections. In recent years the percentage of women voters has been slightly higher than that of men.

*Table 5.1 percentage of votes cast in successive general elections, by sex*

| Year | women | men |
|---|---|---|
| 1982 | 89 | 89 |
| 1987 | 93 | 93 |
| 1989 | 94 | 91 |
| 1994 | 81 | 76 |

The government has introduced targets for the participation of women in political and public life. This is dealt with in the section on level 2. The present government contains an unprecedentedly high percentage of women ministers and state secretaries. The percentage of women members of parliament is also rising at each election. At local level, however, the proportion of women in political life has ceased to rise. Since 1990 the figure has not exceeded 22%.

*Table 5.2 percentage of women in political and public life, 1992-1996*

| | 1992 | 1993 | 1994 | 1995 | 1996 |
|---|---|---|---|---|---|
| ministers | 21 | 21 | 29 | 29 | 29 |
| state secretaries | 27 | 18 | 42 | 42 | 42 |
| members of Lower House | 29 | 29 | 33 | 33 | 33 |
| members of Upper House | 25 | 27 | 25 | 23 | 23 |
| members of European Parliament | 28 | 28 | 32 | 32 | 31 |
| members of local councils | 22 | 22 | 22 | 22 | 22 |
| members of provincial councils | 30 | 30 | 29 | 31 | 31 |
| members of provincial executive | 25 | 24 | 25 | 19 | 19 |
| Queen's commissioners | 8 | 8 | 8 | 8 | 8 |
| burgomasters | 9 | 12 | 13 | 14 | 15 |

Source: *1997 Political and Public Life Progress Report*[22]

[22] The Ministry of the Interior publishes annual progress reports on the proportion of women in political and public life.

The proportion of women in the Upper House is declining. It will require a major effort if the target of 30% is to be achieved in the 1999 elections. The number of women members of the provincial executives dropped sharply in 1995. No change has yet occurred in this situation. The proportion of women members can vary substantially from province to province (between 0% and 40%).

One of the 12 Queen's commissioners is a woman. 513 of the 548 municipalities had a Crown-appointed burgomaster on 16 January 1998. 86 of these burgomasters were women.

The following table contains information about the proportion of women in civil service posts in central government in 1991 and 1996:

| Table 5.3 | proportion of women in civil service posts | |
|---|---|---|
| | 1991 | 1996 |
| central government | 28 | 31 |
| taking up posts | 52 | 47 |
| leaving posts | 42 | 41 |
| holding senior posts | 15 | 20 |
| part-time posts[23] | 42 | 49 |

The figures show that the proportion of women in senior posts is clearly rising.

## 1 (b) Legislative measures

*Advisory Bodies Framework Act*

The Advisory Bodies Framework Act came into force on 1 January 1997. Under this Act there is a statutory obligation to try to ensure proportionate participation of women (and of people of ethnic or cultural minorities) in advisory bodies. This has proved to be an important step towards promoting the participation of women in advisory bodies. As a result the proportion of women members has substantially increased, particularly in the case of newly constituted advisory bodies.

*Parental Leave Act*

Good child care facilities are essential for women who wish to play an active part in political and public life. These facilities have been greatly increased in recent years. More and more government ministries are themselves arranging child care facilities for their staff. The Parental Leave Act referred to in the previous report was extended in 1997. This is discussed in chapter 9.

[23] The percentage of men working part-time rose from 4% in 1989 to 7% at the end of 1996.

## LEVEL 2: TOWARDS DIVERSITY

In August 1992 the then government formulated a large number of measures that could be taken to promote the participation of women in political and public life. These included various quantitative targets to be achieved by the end of 1995. Only five of the nine targets had been achieved by the end of the period. Not only were the results of the 1994 elections to the municipal councils disappointing, but it quickly transpired that a relatively large proportion of the newly elected women and immigrants soon left political life. This is sometimes described as the 'revolving door' phenomenon. The government therefore decided in 1996 to take follow-up measures.

One way in which the authorities are trying to improve the position of women is by compiling target figures and monitoring performance (by means of an annual report). Some of the 1992 target figures were increased when the government adopted its follow-up policy in 1996. During the general consultations between the Minister of the Interior and the Parliamentary Standing Committee for the Interior on 15 April 1997, the majority of committee members advocated a further increase in the targets. The government has acceded to this wish. It now recommends the following target figures for the various assemblies and offices:

| | |
|---|---|
| Lower House: | over 35% (former target was 35%) at the next elections (to be raised by 5% at each subsequent election until proportionality has been achieved). |
| Provincial Council: | 35% (unchanged) at the next elections (to be raised by 5% at each subsequent election until proportionality has been achieved). |
| European Parliament: idem. | |
| Upper House: | 35% (former target was 30%) at the next elections (to be raised by 5% at each subsequent election until proportionality has been achieved). |
| Municipal Councils: | 30% (unchanged) at the next elections (to be raised by 5% at each subsequent election until proportionality has been achieved). If the target for the 1998 municipal elections is surpassed, the target for the next election will be raised by two steps at once, i.e. by 10%. |
| Burgomasters: | 25% by the end of 2002 (former target was 20%). |
| Queen's Commissioners: | 25% by the end of 2002 (unchanged). |

Besides introducing targets in 1996, the government proposed a number of measures to increase the participation of women immigrants in local politics. For example, a conference was held on 8 March 1997 to promote greater diversity in the lists of candidates for the 1998 municipal elections and to show that this is in the interests of local politics and the political parties themselves. The activities concentrated mainly on the process of recruitment and selection of candidates for the March 1998 municipal elections by the political parties at municipal level. The conference made a number of recommendations that can help to ensure the more varied composition of the lists of candidates. These recommendations have

been circulated in the political parties. In the run-up to the municipal elections, the government is also supporting a number of activities designed to achieve greater diversity in local politics. These include training courses for black, immigrant and refugee women interested in politics, measures aimed at local political groups and (shortly before the elections) an information campaign for the general public.

In view of the great importance of the recruitment and selection stage and the lack of information about this process at local level, the government has commissioned the Institute for Public and Political Life to monitor closely the selection of candidates in a number of municipalities. Special attention will be devoted to a number of local party organisations that take specific measures to recruit and select candidates in a way that will ensure political renewal and greater diversity (including more women and immigrants). The aims of the monitoring process are:

* to provide information about the consequences of processes of political renewal, in particular the recruitment and selection within the local party organisations of women and immigrants;
* to provide information about methods of recruitment and selection that create greater diversity in the local lists of candidates;
* to make recommendations to the political parties about how they can increase diversity within their groups on the council;
* to ensure that the efforts to achieve greater diversity are kept on the agenda of the political parties.

The results will be published in 1998. The report and its recommendations will then be communicated to the political parties through the intermediary of the Ministry of the Interior.

The Minister of the Interior has allocated extra funds for this policy in 1998 too. These funds will be used to preserve diversity in political offices after the elections. The emphasis in 1997 was on ensuring greater diversity among the people taking up political office. It is equally important that after the elections diversity should be maintained and that the political parties and others involved should continue to concentrate on putting their procedures on a more professional footing and on renewing the recruitment and selection process and their organisational culture with a view to achieving greater diversity. This is because it has been found that women and immigrants who are elected to office tend to leave political life more quickly than their male and Dutch counterparts (either because they resign or because they are available for only one term of office) and because the interest shown by the political parties in renewal, diversity and questions of recruitment and selection in general tends to dissipate fairly quickly after the elections.

The Ministry of the Interior and the Department for the Co-ordination of Emancipation Policy (DCE) of the Ministry of Social Affairs and Employment have held three brainstorming sessions with experts and field workers to achieve a more considered and coherent policy which commands the support of the latter. As a result of these sessions, two priorities have been established:

1. action aimed at in-depth change (cultural change, guidance for new and more varied political groups in councils, measures to prevent the 'revolving door' phenomenon, and the development of 'personnel policy' in local parties);
2. action aimed at encouraging/supporting black, immigrant and refugee women in politics.

These priorities will be underpinned by specific projects.

*Public decision-making*

No figures or expert analyses on which policy could be based are yet available at central level in respect of the involvement of women at decision-making level in voluntary organisations. However, some preliminary research was carried out in the context of the Project 'Women in decision-making, which was concluded in 1996. To be able to continue developing policy in this field, the authorities must first determine the precise scope of the decision-making in voluntary organisations. On this basis the authorities can then adopt certain policy spearheads (for example, choice of sectors, organisations and bodies, determination of the factors responsible for the under-representation of women, and establishment of targets).

*Decision-making in employers associations*

One of the aims of the emancipation policy pursued by the Minister of Economic Affairs is to increase the number of women holding executive positions in the decision-making bodies of the employers associations. The level of participation by women in this sector is lower than that in other sectors; for example women hold 20% of the seats on national voluntary organisations but only 4% of board positions in private enterprise. To improve this situation, the VNO-NCW Employers' Association and the Association Women Entrepreneurs (UVON) together established a project to increase the number of women holding executive positions in employers associations. The project was co-funded by the Ministry of Economic Affairs and the Ministry of Social Affairs and Employment. During the project a survey was conducted to ascertain the extent to which women join employers associations and become members of the executive boards. One of the findings was that the limited representation of women at board level is connected with the relatively small number of women members of the associations. The relatively inactive position of women entrepreneurs also plays a role in this respect. In addition, most organisations have no specific policy to attract women as either members or executives. By conducting this survey VNO-NCW has brought this matter to the attention of the employers associations and put the issue on the agenda.

LEVEL 3: STRATEGY FOR CULTURAL CHANGE

One of the priorities of future policy is to bring about a cultural change in politics that allows diversity to be seen as enhancing the quality of society. This was one of the findings of the brainstorming sessions held by the Ministry of the Interior and the Department for the Co-ordination of Emancipation Policy (DCE) of the Ministry of Social Affairs and Employment. It is after all the political representation of different categories of citizens that contributes to the legitimacy and quality of the decisions, since it reflects the diversity of society itself. At present, the culture of political life (unwritten rules, procedures, atmosphere and etiquette) is one of the factors restricting the participation of women. This culture - or in any event the image they have of it - discourages women from standing as candidates and even results in their leaving political life prematurely. The image of the political arena as a male battleground requiring male traits can also influence - unconsciously and unintendedly - the assessment of women candidates and women politicians already in office.

## 2. SPORT AND SOCIAL LIFE

LEVEL 1: PRESENT POSITION AND LEGISLATIVE MEASURES

Women and men have an equal right to take part in leisure activities, sport and all aspects of cultural life. With the exception of sport these subjects are therefore not considered further in this report. Extra measures are necessary in sport in order to achieve in practice the equal participation of women in all sports.

LEVEL 2: TOWARDS DIVERSITY

As the situation is still that fewer women than men participate in sport as a whole, the Dutch authorities have pursued a policy of promoting the active participation of women in sport since 1988. After 1990 this policy concentrated to a greater extent on the participation of women in sports generally regarded as male bastions, i.e billiards, chess, football, power sports, rugby, shooting, table tennis and tug-of-war. The national associations of these sports took part in this policy. In addition, the authorities have supported organisations such as the Netherlands Sports Federation (now the NOC*NSF), Bres, Stichting Spel en Sport, the Association of Provincial Sports Authorities and the municipality of Rotterdam. This policy of encouraging the active participation of women is now being continued solely for women from immigrant backgrounds. The measures take account of women's preferences, for example for gymnastics, keep-fit, jazz dance, walking and cycling. The evaluation shows that the organisations taking part did indeed encourage more women to join during the period of the project, but that the subject of women and sport was not a sufficiently integral part of their policy to ensure continued attention later. It also became clear that the participation of a larger number of women did not automatically result in the appointment of more women to managerial posts in sport. This subject has therefore been given extra priority through the appointment of emancipation staff to a number of sports organisations and through the encouragement of women to apply for managerial posts - for example by attending specific courses.

## LEVEL 3: STRATEGY FOR CULTURAL CHANGE

The small number of women in managerial posts in sport is closely bound up with the prevailing culture in many sports organisations. There is often a predominantly male culture, which is hardly conducive to women contemplating applying for such posts. This is one of the findings of a survey entitled *De arbeidscultuur van trainers/coaches* (The employment culture of trainers/coaches) by the University of Utrecht. The report of the survey was published as part of the research programme Values and Standards in Sport in 1996.

The Dutch authorities are trying to influence the culture of the sports world in such a way that women are no long put off from applying for managerial posts. The policy is now concentrated more and more on improving the perception of women's role in sport. One of the guidelines for this policy is an advisory report published by the Emancipation Council in 1997 and entitled *Sport en Gender, vrouwen in beeld* (Sport and gender: women in the picture). The factors that determine the image of women in sport are currently being researched by the University of Utrecht in co-operation with the relevant section of the Netherlands. Broadcasting Corporation (NOS). One of the examples is how women are portrayed in the media.

The policy aimed at bringing about cultural change has also proved to be of great importance in preventing sexual harassment in sport. This was discussed in chapter 3 above.

## CHAPTER 6 Article 8: Representation at international level

LEVEL 1: POSITION AND LEGISLATIVE MEASURES

The Netherlands has a foreign and diplomatic service that is staffed by transferable officials, i.e. officials who may be moved around between the missions of the Netherlands abroad and the Ministry of Foreign Affairs in The Hague. All staff are transferable. Each of the men and women who works in the foreign and diplomatic service therefore has an equal chance of representing the Netherlands abroad. They are recruited and selected at an early stage, namely when they are still junior employees. The number of women recruited to the service has grown sharply in the last ten years, although they are still underrepresented at senior level. 11 of the 167 ambassadors who represented the Netherlands in 1997 were women, compared with 1 out of 89 in 1993.

The two tables below show the proportion of women in the service between 1993 and 1996, broken down into the various job grade categories.

*Table 6.1* *Women joining the service, by job grade*

| | 1993 | 1994 | 1995 | 1996 |
|---|---|---|---|---|
| grades | | | | |
| 1-5 | 84% | 84% | 63% | 100% |
| 6-9 | 40% | 44% | 75% | 64% |
| 10-11 | 36% | 55% | 48% | 51% |
| 12> | 20% | 25% | 4% | 26% |

*Table 6.2* *Proportion of women in each job grade*

| | 1993 | | 1994 | | 1995 | | 1996 | |
|---|---|---|---|---|---|---|---|---|
| grade | # | % | # | % | # | % | # | % |
| 1-5 | 447 73 | 419 | 76 | 363 | 76 | 339 | 76 | |
| 6-9 | 394 44 | 424 | 47 | 443 | 52 | 456 | 49 | |
| 10-11 | 173 29 | 190 | 30 | 198 | 33 | 214 | 34 | |
| 12-14 | 66 | 13 | 87 | 16 | 89 | 16 | 120 | 19 |
| 15> | 6 | 3 | 8 | 3 | 8 | 4 | 9 | 4 |
| Total | 1086 | 39 | 1128 | 40 | 1101 | 40 | 1138 | 40 |

The Netherlands is trying to increase the number of women experts in the Multilateral Associate Expert Programme. The proportion of women experts has in fact risen sharply: from 40% in 1993 to 51% in 1997.

LEVEL 2: TOWARDS DIVERSITY

The Netherlands government has implemented a programme of positive action for the transferable foreign and diplomatic service since 1988. This contains target figures and measures for attracting and retaining women officials. However, the programme has gradually been scaled back since the inflow of women has remained stable at around 50% even without special measures.

Measures have nonetheless been taken to encourage the appointment of women to higher positions.

The Netherlands also advocates an increase in the proportion of women in international organisations. Women candidates are actively supported in appointment procedures. Although women are encouraged to apply for higher posts, it is still difficult to find suitable female candidates. No more than 10% of those who are in principle eligible for appointment to such posts are women.

Non-governmental organisations make an active and effective contribution to achieving the objects of the Convention. Their specific expertise and experience of a whole series of issues has proved to be valuable and sometimes even essential. This is also true of the preparation of international policy instruments. Examples of such NGOs are the International Alliance of Women, women's organisations that have a consultative status with ECOSOC and the women's organisations of political parties.

## CHAPTER 7 Article 9: Nationality rights and aliens law

LEVEL 1: POSITION AND LEGISLATIVE MEASURES

### 1 (a) Position

No changes have been made to nationality rights since the previous report. However, a number of bills are being prepared.

### 1 (b) Legislation measures

*Newcomers Assimilation Act*

People applying for residence in the Netherlands have been required to enter into an assimilation contract since 1 January 1996. The aim of the contract is in general to promote the assimilation of newcomers and in particular to improve their position in the labour market. Under the contract they are required to take Dutch lessons and some form of vocational training for a given number of hours. Assimilation contracts are often concluded on a voluntary basis. Such contracts can be made obligatory only in the case of newcomers who are entitled to draw social security benefit.

It has been found in practice that the policy of assimilation is at present failing to reach some newcomers, particularly women entering the Netherlands for the purpose of founding or reuniting a family. Often they have no independent entitlement to benefit and are therefore not obliged to conclude a contract. A bill to ensure that the policy covers larger numbers of these women is now before parliament and is expected to become law in July 1998. Under the Bill to amend the Newcomers Assimilation Act, a newcomer is defined as:

1. an alien who is permitted to reside in the Netherlands under a residence permit (section 9 of the Aliens Act) or as a refugee (section 10 (1) (b) of the Aliens Act), has reached the age of sixteen and has been granted entry to the Netherlands for the first time, with the exception of those residing here for a temporary purpose;
2. a Netherlands national who was born outside the Netherlands, has reached the age of sixteen and is resident in the Netherlands for the first time. This is regulated in section 1, subsections 1 (a) and 4, of the Aliens Act.

It has been decided that the assimilation policy should be put on a statutory footing to emphasise the bilateral nature of the relationship between newcomer and government. Newcomers must do their best to assimilate into the community and the local authority should give them the opportunity to do so. In the future, the aim will be to adopt an approach that entails an actual obligation to assimilate.

*Amendments to the Aliens Act necessitated by the Linkage Act*

One of the aims of the Netherlands government is to pursue a consistent immigration policy that is not frustrated by social services policy. This is why it has drafted legislation linking the two policies. In doing so it has taken express

account of the position of women and children. The Linkage Act bars illegal immigrants from claiming welfare benefits. It is also based on the principle that the nature of the right of residence should be taken into account when granting entitlement to welfare benefits. The bill to amend the Aliens Act in order to take account of the Linkage Act defines three categories of aliens:

1. *legal aliens: in principle entitled to all social services;*
2. illegal aliens: entitled under the Linkage Act only to education for their minor children and medical assistance in emergencies;
3. lawfully resident aliens: people whose applications for residence are still being processed. Under the new Linkage Act people applying for residence for the first time will not be entitled to welfare benefits while waiting for their applications to be processed. People who have previously been lawfully resident in the Netherlands will be entitled to benefits during the procedure.

Three exceptions have been made to the linkage principle, partly in order to comply with international obligations, for example under the UN Convention on the Rights of the Child. The exceptions involve education, health care and legal assistance and are as follows:

* Children of compulsory school age cannot be refused access to schooling *on the ground that they are not lawfully resident.*
* Health care safeguards: children of illegal immigrants are fully entitled to be vaccinated under national vaccination programmes, and both children and adults are entitled to medical assistance against infectious diseases. Under the human rights conventions, the Dutch authorities are obliged to provide the best possible health care and to do so without charge where the recipients of the care cannot pay for it themselves.
* Legal assistance under the Legal Aid Act: the question of whether or not a person is legally resident has no bearing on the granting of free legal assistance under the Legal Aid Act. In other words, an immigrant is entitled to free legal assistance not only in connection with an asylum application or appeal against expulsion but also for other civil, criminal and administrative proceedings.

LEVEL 2: TOWARDS DIVERSITY

The effects of immigration policy on women are constantly evaluated. The position of women in immigration policy is also discussed at regular intervals with experts and the persons concerned, for example by means of conferences and round-table talks. Examples are the international conference to commemorate the 50th anniversary of the Universal Declaration of Human Rights (see chapter 3) and the round-table conference on immigration policy held by the Ministry of Justice in the spring of 1998. One of the items on the agenda will be the effect of the dependent right of residence on the assimilation of men and women.

The position of various categories of women in Dutch immigration policy will be considered below in relation to the Women's Convention. The categories are:

1. women with a foreign partner or husband

2. women with a dependent right of residence
3. women asylum-seekers
4. women without a right of residence.

*1. Women with a foreign partner or husband*

Under Dutch immigration policy, a person legally resident in the Netherlands may arrange for his or her spouse (chapter B1/1.2 Aliens Circular) or partner (chapter B1/3.2 Aliens Circular) who is resident abroad to enter the Netherlands. The person already resident in the Netherlands is then responsible for the maintenance of the partner. For this purpose, a minimum requirement has been set for the monthly income. Where the person concerned has a permit for residence in the Netherlands or applies for the purpose of being united with a partner (i.e. to have a relationship in the Netherlands), he or she must satisfy the full income requirement, i.e. have an income of around NLG 2,000 a month. A person in this position may not claim social security benefit. Where the applicant is a refugee, a person with a permanent residence permit or a Dutch national and the purpose of the application is to bring together the spouses (i.e. for the purpose of a marital relationship), he or she must fulfil 70% of the income requirement. In such cases, the applicant may apply for social security benefit to cover the shortfall.

The statistics show that the majority of single, working Dutch, Surinamese, Turkish and Moroccan women in the 20-40 age group have an income in excess of the requested 70% level. Often they have medium-paid jobs. Men from the same categories are represented to a greater extent in the higher and lower-paid job categories.[24] There is a general rule in the Netherlands that people responsible for caring for children aged under 5 years are not obliged to accept employment. The same applies to people who wish to arrange for their partner or spouse to come to the Netherlands. Such applicants may therefore claim full social security benefit (chapter 1/1 2.4 Aliens Circular).

*2. Women with a dependent right of residence*

Women who come to the Netherlands for the purpose of family reunification obtain a dependent residence permit, in other words their entitlement to stay in the country is dependent on the fact that they have a relationship with the man for whom they have come to the Netherlands. This is therefore a derived right. The same applies to men who come to the Netherlands to be with their girlfriend or wife. An alien who loses the dependent right of residence because the family connection has ended is eligible for an independent right of residence only on certain conditions. These conditions are set out in the Aliens Circular (chapter B1) for spouses and partners.

---

[24] Statistics Netherlands (CBS), *Inkomen en vermogen 1992-1994* (Income and capital 1992-1994), 1995, The Hague.

If an alien applies for an independent residence permit after losing a dependent right, the first factor taken into account is how long the marriage or relationship has lasted. If it has ended within three years, this affects the position of a spouse or partner with a dependent right of residence (chapter B1/2.1). In principle the reason for the residence in the Netherlands ceases to exist and the right to reside also terminates. It does not follow that such a person can be summarily expelled. However, it is of the greatest importance that the Aliens Police are informed of a broken relationship within six months. They then assess whether or not the residence may be continued. Women who have a dependent right of residence and are mistreated or abused (sexually or otherwise) by their partner or spouse are in an extremely vulnerable position. Those who have been the victims of abuse are certainly not summarily expelled. They can be sure of receiving shelter, care and protection. They too are admitted to the homes for battered women. A residence permit that is still valid when the woman concerned obtains shelter in a home for battered women will not be cancelled during the period of shelter on the ground that the relationship has ended. If the residence permit has expired or the woman leaves the shelter, she must apply for an independent permit. Since such an application is assessed as an application for continued residence, the normal social security schemes continue to apply to her.

Under chapter B1/2.3 (marriage) and B1/4.3 (partnership) of the Aliens Circular, the residence of a person with a dependent residence permit may be extended on urgent grounds of a humanitarian nature even if the application is made within three years. This may be the case, for example, where the applicant has very close ties with the Netherlands or with people resident in the Netherlands or, in individual cases, if it is impossible for the applicant to return to the country of origin. This particular point was explicitly clarified in the Aliens Circular in December 1997: where there is clear evidence of abuse and violence (sexual or otherwise) leading to the breakdown of the marriage or relationship, this may constitute a humanitarian ground for the issue of a permit. Where the case does not involve a permanent residence permit, residence permit for urgent reasons of a humanitarian nature or residence permit for another purpose, an applicant with a dependent resident permit may be eligible for an independent residence permit provided that he or she is in possession of an independent income. Such an applicant is given one year to find work. If a marriage or relationship breaks down after three years (chapters B1/2.2 and B1/4/2 Aliens Circular), the partner with a dependent residence permit may be eligible for an independent residence permit, either because he or she fulfils the conditions for residence on another ground or for humanitarian reasons. In the latter case, the requirement of an independent income is not imposed.

Whether or not the marriage or relationship remains in existence, the person with a dependent right of residence may apply for an independent right of residence, namely a permanent residence permit, after five years. The income requirement is then assessed by reference to the family income.

The Clara Wichmann Institute has been commissioned to study the problems

faced by women with a dependant right of residence when their relationship ends. Its remit is to assess to what extent the welfare benefits and services are accessible in practice to women in this category.

The Netherlands government does not consider it desirable that a man or woman coming to the Netherlands for the purpose of family reunification should be issued with an independent residence permit immediately on entry. This would defeat the system on which family reunification is based, i.e. that the partner already resident in the Netherlands is responsible for the maintenance and accommodation of the newcomer. Indeed, the immediate issue of an independent right of residence to the newcomer could work to the detriment of the person concerned. There would after all be an increased danger of marriages being concluded under duress in order to obtain an independent right of residence. Needless to say, there is little point in taking action to combat violence against women and prevent marriages of convenience and forced prostitution if the scope for abuse is increased by a circuitous route.

*3. Women asylum-seekers*

If an alien claims the status of refugee, he or she applies for asylum (chapter B7, Aliens Circular). An application for asylum is addressed to the Minister of Justice and is dealt with by the Immigration and Naturalisation Service (IND). Refugees are deemed to be aliens who fulfil the definition of article 1 (A) of the UN Convention relating to the status of refugees. This definition is also contained in section 15, subsection 1, of the Aliens Act.

In order to gain recognition as an alien within the meaning of the Geneva Convention, an asylum-seeker must show that there has been:

* a well-founded fear of being persecuted for reasons of race, religion, nationality, or membership of a particular social group or political opinion;
* the authorities in the country of origin are responsible for the persecution or have culpably failed to provide protection against persecution.

Dutch asylum policy is based on assessment of individual cases. What is assessed is the personal story of each asylum-seeker. Asylum policy is neutral in terms of gender; men and women go through the same procedure.

When an asylum-seeker enters the Netherlands he or she should apply to one of the three reporting offices (chapter B7/3/2.2 Aliens Circular), where information is then provided on the asylum procedure. The first interview is conducted in the reporting office, where a decision is taken on whether the application is well-founded and admissible. The papers are examined and a fingerprint is taken in order to check whether the person is applying for the first time. After a maximum of 24 hours, asylum-seekers whose applications can be processed are transferred to a reception centre, where further interviews are conducted (chapter B1/7.4 Aliens Circular). A legal adviser prepares the asylum-seeker for the interview and, where the latter is a woman, advises her that she is entitled to have the case dealt with by a female interviewer and/or interpreter. The legal adviser also

explains to her the importance of giving a full account of her flight, including an account of any sexual violence to which she has been subjected.

At the start of the interview everything which the asylum-seeker has already been told is repeated. The legal adviser may be present during the interview. A record of the interview is drawn up and a copy of it is shown to the asylum-seeker, who may then make additions and amendments to it. The legal adviser too may make observations. The document is then sent to the official who decides on the application.

Various factors are taken into account when assessing the account of the flight:

* are the activities in question of more than marginal political significance and have they met with a negative response from the authorities (well-founded fear of persecution)?
* is the story logical and consistent?
* does the story tally with the information of the Immigration and Naturalisation Service about the situation in the country concerned?
* is the story generally plausible?

The officials decide on the basis of the account of the flight whether the person is entitled to refugee status and, if not, whether residence on humanitarian grounds is possible. If the applicant fulfils neither of these criteria, he or she must leave the Netherlands. If the application is refused, the asylum-seeker may lodge an objection. A notice of objection may specify new facts (chapter B7/11.3 Aliens Circular). Here too the legal adviser can play a role by helping the asylum-seeker to draft the objection. If the decision on the objection too is negative, an appeal may be lodged to challenge the lawfulness of the decision.

All asylum-seekers, including married women, must submit an application independently. The aim is to interview everyone individually. If a woman cites her husband's grounds for flight, the woman herself gets an independent right of residence at the moment when the husband receives his residence permit. Even if the wife reaches the Netherlands half a year after her husband, she can obtain an independent residence permit on the same grounds as previously cited by her husband (chapter B7/17.1.1 Aliens Circular).

The staff of the Immigration and Naturalisation Service carry out their duties in accordance with certain official instructions. Three of the existing instructions specifically concern female refugees. In accordance with an instruction published in September 1997 officials who take down the accounts given by female asylum-seekers of their flight are required to take particular note of aspects of the story that are connected with gender and may be important in determining whether they are refugees or may be granted a residence permit on humanitarian grounds. The officials are expected among other things to make allowance for differences between countries in what are regarded as private and public acts. For example, although cooking may be a private act in most countries it may be regarded as a public act in other countries. This may be the case, for example, where women cook for resistance fighters; the authorities may regard this as an act of resistance. In such a situation 'cooking' may lead to persecution. Another indicator is sexual

violence committed by officials in the country of origin or sexual violence against which the authorities are unwilling or unable to provide protection.

There is also a code of conduct for the officials who interview asylum-seekers. One of its provisions is that where the legal adviser believes that a female asylum-seeker may have been subjected to sexual violence the interviewer must be a woman if the asylum-seeker so requests. The Immigration and Naturalisation Service trains its interviewers to take proper account of different attitudes to gender in other cultures. The personnel policy of the Immigration and Naturalisation Service is that sufficient female interviewers and interpreters should be available to ensure that women can be helped by female staff if they so wish. It was stated in the previous report that the Ministry of Justice was trying to ensure that at least 25% of the staff of the Immigration and Naturalisation Service were women. However, the proportion of female interviewers had already reached 39% in the third quarter of 1997.

The Research and Documentation Centre (WODC) of the Ministry of Justice is studying the position of female asylum-seekers by analysing 1,000 case files. In addition, the interviewers are being questioned about their experiences. The report will be published in 1998.

*4. Women without a right of residence*

The legal position of women without a right of residence is the same as that of men in the same position. In practice, however, women who are present in the Netherlands illegally are much more likely to become the victims of abuse or ill-treatment. In particular, they may be exploited as a (live-in) domestic servant or au pair or forced into prostitution (particularly women who are victims of trafficking). The Aliens Circular contains a chapter on trafficking in women. This has two aims: first, to facilitate the investigation and prosecution of cases of trafficking in women and, second, to provide assistance to the victims of this offence both during the period when they are considering whether to report the matter to the police and, if they do so decide, later during the investigation, prosecution and trial of the offenders before the courts hearing the facts. As regards trafficking in women, see chapter 4 above.

## CHAPTER 8 Article 10: Formal and non-formal education

LEVEL 1: POSITION AND LEGISLATIVE MEASURES

### 1 (a) Position

Children in the Netherlands are required by law to attend school between the ages of 5 and 16. Students aged between 18 and 27 may in certain circumstances be eligible for student grants, which may be either basic or supplementary. As already mentioned in 1992, the legislation governing the different educational sectors does not contain any formal obstacles that would prevent women and girls

from taking part in education and obtaining a certificate at educational establishments funded by the authorities. There is no separate legislation in the Netherlands designed to reduce the number of girls and women abandoning their studies. On the other hand, there are numerous measures designed to prevent both boys and girls from playing truant and dropping out of school. As the dropout problem tends to affect boys rather than girls in the Netherlands, there is no specific policy for dealing with the problem among girls.

The rate of participation by girls in education is high in the Netherlands. Although women still have a lower level of educational attainment than men, the difference in attainment between the sexes in the younger generations has all but vanished. The level of educational attainment of the population as a whole has risen steadily, but the improvement has been much more marked in the case of women. A quarter of the women in the 25-34 age group had a university degree or higher vocational qualification in 1996. This was virtually the same as the proportion of men. The table below clearly shows how the level of educational attainment rises as age falls, particularly in the case of women. As two thirds of the 15-24 age group are still in education, the percentage breakdown of this age group is merely an interim figure. The average level of educational attainment will certainly rise further.

*Table 8.1* *Educational attainment by age, 1996*

| age | sex | % Bo | % Lbo/Mavo | % Havo/Vwo | % Hbo | % Wo |
|---|---|---|---|---|---|---|
| 15-24yrs | f | 16 | 35 | 40 | 8 | 1 |
| | m | 20 | 39 | 34 | 6 | 1 |
| 25-34 yrs | f | 8 | 20 | 48 | 17 | 7 |
| | m | 8 | 20 | 46 | 17 | 9 |
| 35-44 yrs | f | 13 | 24 | 41 | 17 | 5 |
| | m | 10 | 20 | 42 | 18 | 10 |
| 45-54 yrs | f | 19 | 33 | 32 | 13 | 3 |
| | m | 14 | 20 | 39 | 17 | 10 |
| 55-64 yrs | f | 28 | 37 | 24 | 10 | 2 |
| | m | 19 | 21 | 39 | 14 | 6 |
| 65 yrs > | f | 49 | 28 | 17 | 6 | 1 |
| | m | 27 | 21 | 37 | 10 | 5 |

Bo = primary education
Lbo/Mavo = junior secondary vocational education/junior general secondary education
Havo/Vwo = senior general secondary education/pre-university education
Hbo = higher vocational education
Wo = university education

Source: CBS, *Working Population Survey 1996.*

Girls from ethnic minorities still often have a low level of educational attainment. 36% of them obtain no more than a comprehensive school leaving certificate, compared with only 13% of pupils with a Dutch background. However, girls from ethnic minorities tend on the whole to perform rather better at school than

their male counterparts. And they also have rather better prospects in the labour market than boys from ethnic minorities.[25]

Young people from ethnic minorities are barely represented in higher education. Around 6% of them have a higher vocational qualification when they finish their education, compared with 13% of all those leaving the educational system. The percentage of immigrants obtaining a university degree is even smaller. It should, however, be noted that there are marked differences between the various ethnic groups. A large proportion of Moroccan and Turkish women only manage to complete their primary education, but the level of educational attainment among Antillean and Aruban women is virtually the same as that of women of Dutch origin. The position of Surinamese women is somewhere between these two extremes.[26]

Although gender no longer plays a role in levels of educational attainment, it is still relevant to the choice of education.[27] For example, some types of course attract mainly women and others mainly men. Although more and more women are choosing technical courses, the number is still low. The proportion of women on senior technical courses rose from 12% in 1990/91 to 15% in 1995/96. This actually represents a rise of 20% in absolute terms. Almost 17% of the students in higher technical education were women in 1995. In fact a change is taking place in the type of courses chosen by women. If courses are broken down into three categories - courses for women, courses for men and courses that are neutral in gender terms - it can be seen that a number of courses that were formerly male bastions have now shifted into the third - neutral - category. Since there is no evidence of any change in the opposite direction, it would seem that emancipation in choice of education is primarily a matter for women.[28] From the point of view of policy, it is important to note that the continuing imbalance between men and women in some educational sectors is attributable not only to stereotyped occupational choices but also to other factors such as expectations about the culture of the future workplace, the opportunities for working part-time and expectations about the availability of child-care facilities. The government's measures in these fields will be discussed in relation to article 11.

Recurrent or adult education is an important means by which adults can make up for poor educational attainment at school. Vocational schools for women are a

---

25 J.D. Vlasblom, A. de Grip and L. van Loo, *Arbeidsperspectieven voor meisjes en allochtonen* (Job prospects for girls and members of ethnic minorities), ROA-R1997/9, ROA, Maastricht, 1997.

26 Data from the 1997 Emancipation Yearbook, VUGA, The Hague, 1997.

27 Advisory Council of Government Policy, *Tweedeling in perspectief* (Dichotomy in perspective), The Hague, 1996.

28 J.D. Vlasblom, A. de Grip and L. van Loo, *Arbeidsperspectieven voor meisjes en allochtonen* (Job prospects for girls and members of ethnic minorities), ROA-R1997/9, ROA, Maastricht, 1997.

particularly effective way of helping women, including black and immigrant women, to fulfil their specific educational requirements. The table below shows that more women than men participate in adult basic education and that the participation of men and women from immigrant backgrounds is increasing faster than that of their Dutch counterparts.

*Table 8.2* *Participation in adult basic education, by sex and ethnic origin*

| | 1985 | | 1990 | | 1994 | |
|---|---|---|---|---|---|---|
| (in thousands) | f | m | f | m | f | m |
| basic education | 56 | 32 | 74 | 41 | 86 | 53 |
| of whom, | | | | | | |
| non-immigrants | . | . | 42 | 16 | 39 | 17 |
| immigrants | . | . | 32 | 25 | 47 | 36 |

Source: 1997 Emancipation Yearbook

However, the participation of women (particularly women in the 20-35 age group) in another form of recurrent education - company training - is markedly lower than that of men. This reduces women's chances of promotion in the organisation where they work. The limited participation of women in company training is mainly due to two factors, which tend to be mutually reinforcing. First of all, working women in the 20-35 age group often combine their work with caring for small children. This means that they are likely to have flexible working hours and/or a part-time contract. And, second, employers invest mainly in the hard core of the workforce, in other words the full-time employees. This is worrying because recurrent education is now regarded as one of the most important instruments for maintaining the employability of the personnel. Chapter 11 will deal at length with the measures that the authorities are presently taking to make it easier to combine work and care.

## 1 (b) Legislative measures

*The Proportional Representation of Women in Managerial Posts in Education Act (WEV)*

This Act came into force for all sectors of education in March 1997. It sets out to encourage educational establishments to pursue a deliberate policy on proportional representation, while not detracting in any way from the responsibility of the school board for appointments. It has long been an important aim of the emancipation policy in education to rectify the serious under-representation of women in management positions. An annual survey has been made since 1993 to ascertain the proportion of female heads of all educational establishments. The tables below are based on the data obtained from these surveys.

*Table 8.3* *Percentage of women heads, 1993-1997*

| | % 1993 | % 1995 | % 1996 | % 1997 |
|---|---|---|---|---|
| Primary education | 14 | 13 | 13 | 13 |
| Special education | 8 | 8 | 9 | 9 |
| Secondary education | 6 | 7 | 7 | 7 |
| Vocational/adult educ. | 21 | 24 | - | 26 |
| Higher vocational educ. | 9 | 10 | 12 | 15 |

Source: CASO/RAHO

*Table 8.4* *Percentage of women deputy heads, 1993-1997*

| | % 1993 | % 1995 | % 1996 | % 1997 |
|---|---|---|---|---|
| Primary education | 50 | 48 | 47 | 46 |
| Special education | 19 | 21 | 20 | 21` |
| Secondary education | 11 | 11 | 12 | 12 |
| Vocational/adult educ. | 39 | 43 | - | 46 |

Source: CASO/RAHO

The high percentage of women deputy heads in primary education is probably due to the merger of the old-style primary schools and nursery schools over 10 years ago. In many cases, the head of the old-style primary school became head of the new merged school and the head of the nursery school became deputy head. The former nursery schools were mainly run by women. As a slight downward trend is visible in the number of women holding deputy headships, it is necessary to remain vigilant. At one point there was a danger that the mergers in the vocational and adult education sector would have the effect of reducing the number of women in management positions. To counter this threat, the Regional Training Centre Resources Scheme was in force during 1995 and 1996. This provided a financial incentive to appoint women to the executive board or central management board of the merged institutions. Institutions that appointed a woman to such a post and also had a plan of positive action were eligible for a subsidy of 300,000 guilders. However, only a few institutions took advantage of the scheme.

*Table 8.5* *Percentage of women in university education and research, 1992-1996*

| | % 1992 | % 1994 | % 1995 | % 1996 |
|---|---|---|---|---|
| Professors | 4 | 4 | 4 | 5 |
| Senior univ. lecturers | 6 | 7 | 7 | 7 |
| University lecturers | 18 | 18 | 18 | 19 |
| Other research staff | 31 | 33 | 33 | 45 |
| Ph.D students/trainee research assistants | 29 | 31 | 33 | 38 |

Source: WOPI

Generally speaking, the percentage of women in managerial positions in education rises only very slowly over a period of years. By publishing these figures annually, the authorities hope to stimulate the institutions to take action. It was the growing realisation of the complexity of the problem and the dissatisfaction with the results of the incentive measures hitherto that led to the introduction of the Proportional Representation of Women in Managerial Posts in Education Act (WEV) referred to above. Under the Act the competent authority of an educational establishment is required to prepare a document specifying the establishment's policy on the proportional representation of women in management by 7 March 1998 at the latest, i.e. one year after the Act came into force. The plan must cover a 4-year period and include target figures. To encourage institutions to implement the new legislation, the authorities instituted a yearly prize in March 1996 (the Sapiëntia prize) for schools or school boards in the primary, secondary and vocational or adult education sectors that pursue an active policy on women in management.

LEVEL 2: TOWARDS DIVERSITY

The essence of education is to provide opportunities and choices for all children in such a way that they are prepared for a future of varied possibilities. In this connection there are three aspects which all require equally careful attention in education. When level 2 was described in chapter 2 above, these three aspects were described as the three areas of life in which the authorities believe that men and women should be able to participate effectively in an emancipated society. In relation to education, the essence of these three aspects is that individuals must:

* acquire economic independence by obtaining a good starting qualification that makes full use of their talents;
* be able to care for themselves and others independently, have a sense of responsibility and realise that pleasure can be derived from caring for others;
* acquire the skills they need to function in society and be able and willing to play a full part in society.

Some of the measures that have been taken to achieve the above aims are described below.

*Policy measures to ensure that girls and boys are prepared for a future of varied possibilities*

Care, technology and educational and vocational guidance were introduced into the curriculum of basic secondary education (the first stage of secondary education) in 1993.

Four new subject combinations have been developed for the upper forms of schools providing senior general secondary education and pre-university

education. One of the four is an arts combination, one is a social sciences combination and the other two are science combinations. All of these subject combinations include mathematics as a component. The nature of the mathematics taught depends largely on the content of the combination. This means that in addition to the existing mathematics variants of applied mathematics (syllabus A) and pure mathematics (syllabus B) there is now a third variant - syllabus C. The new science combinations Natural Sciences & Technology and Natural Sciences & Health are expected to attract more girls to the sciences. This is particularly true of the latter combination. Similar measures are also being considered for junior general secondary education and pre-vocational education.

A 'techno-monitoring' project has been started in the vocational education and adult education sector. As the name suggests, this involves monitoring the progress of women and girls studying technical subjects in order to improve their advancement. Primary schools too are being encouraged to include technology as part of the overall curriculum.

A policy document published in 1996 emphasised that greater attention should be paid to preparing children for a future of varied possibilities and to educational and vocational guidance based from a gender perspective. The information on post-secondary education published annually by the Ministry of Education, Culture and Science in various languages points out for example that technical and exact sciences can appeal to girls too.

*Policy measures to prevent abuse of positions of authority*

Action to prevent abuse of authority by teachers is a spearhead policy of the Ministry of Education, Culture and Science. This includes active measures to prevent sexual harassment at school. Chapter 3 contained a report on this subject.

*Application of Gender Impact Assessment (GIA)*

Since 1995 the Ministry of Education, Culture and Science has used gender impact assessment (EIA) to assess the effect of important policy proposals on the equal opportunities for women. The aim of GIA is to ensure that policy proposals cannot contribute unwittingly and unintendedly to the preservation of sexual inequality and stereotyped role models. The development of GIA was discussed at length in chapter 2. GIA has been applied to an advisory report on the link-up between junior general secondary education/pre-vocational education and subsequent education, to the university education and research plan, to the policy document on information and communication technology and to the policy document on the funding formula for vocational and adult education. The results of using GIA have been varied. As an instrument, it is not yet become a sufficiently integral part of the policy-making process. Furthermore, it is difficult to incorporate the results of GIA into mainstream policy. The main benefit for the time being is that policy-makers have become more aware of the potential gender impact of policies that they may have previously believed to be neutral in terms of gender.

*Proportional representation of women in advisory committees and bodies*

The Ministry of Education, Culture and Science hopes to ensure that women take 50% of the seats on newly established advisory committees and bodies. The result of this policy is already visible in a number of committees and boards. For example women account for almost 50% of the members of the Council for Culture, the Education Council, Education Research Programme Council of the Netherlands Organisation for Scientific Research (NWO) and the former presidium of the public debate on the future and importance of learning. Moreover, the last two of these organisations are chaired by a woman.

LEVEL 3: STRATEGY FOR CULTURAL CHANGE

Nowadays it goes without saying in the Netherlands that girls aim for the highest possible level of educational attainment and later for a good job. Dutch educational policy devotes much attention to stamping out stereotyped views of the role of men and women. Examples include the revision of textbooks and curricula and the adjustment of teaching methods. The Curriculum Development Institute is developing a guide for teaching methods in primary education. The aim of the guide is to enable schools to assess the quality of existing teaching methods by reference to nine quality criteria. One of the criteria is 'gender, roles and duties'.

The use of Gender Impact Assessment in preparing policy certainly helps to eradicate these stereotypes. The ultimate aim must be to change the underlying culture of society in such a way that people can make their contribution irrespective of their sex, ethnic origin, sexual orientation, age, class, culture and religion. The need to eradicate stereotyped views on the role of men and women at all levels and in all forms of education has to some extent been recognised by law in the Netherlands. The Netherlands has opted for freedom of conviction and freedom of organisation of teaching. It follows that the statutory provisions on this subject are always of a general nature. Schools have a wide discretion in how they organise the education they provide. For example, the attainment targets formulated in primary education and basic education include emancipation targets.

## CHAPTER 9 Article 11: Employment
## Article 13 (a) and (b): Economic life

LEVEL 1: POSITION AND LEGISLATIVE MEASURES

### 1 (a) Position

Great changes have taken place in the social and economic position of women in the Netherlands in recent years. The extent of these changes can be gauged above all by the sharp increase in the number of women going out to work. These changes are in keeping with the aims of the emancipation policy of the Ministry of Social Affairs and Employment and the Ministry of Economic Affairs. These are:

* to make better use of the economic potential of women; this involves taking specific, temporary measures to remove obstacles to employment that affect women more than men and thereby to increase the participation of women in the economy; to this end the authorities work closely with trade and industry, social partners, and intermediaries;
* to improve the position of women in the labour market in such a way that they can achieve economic independence;
* to increase the scope for combining work and care;
* to improve the position of women at work, including their income and social security rights.

Various studies have been made of the changes in the social and economic position of women in the period 1990-1997.[29] These also give a good picture of the measures taken with regard to employment in the period under review. Several of the studies also provide information about the effectiveness of the measures taken and about gaps in policy.[30]

---

[29] J. Plantenga et al. *De sociaal-economische positie van vrouwen 1990-1995* (The social and economic position of women, 1990-1995), a report prepared on behalf of the Ministry of Social Affairs and Employment, 1997.

Factories Inspectorate, Ministry of Social Affairs and Employment, *Emancipatie in arbeidsorganisaties, een onderzoek naar cao's en regelingen in de praktijk* (Equal opportunities at work, a study of collective agreements and schemes in practice), 1997.

[30] J. Mozes-Philips and A. Wester, *Zorgen voor de toekomst, een onderzoek naar carrièreperspectieven van verzorgende vaders* (Taking care of the future, a research on career perspectives of caring fathers), Ministry of Social Affairs and Employment, The Hague, 1993.

DCA, *Gemest land voor kostwinners, verslag van een onderzoek naar (on)gelijke behandeling van mannen en vrouwen* (Report of a survey of the equal/unequal treatment of men and women), DCA/VUGA, The Hague, 1993.

Surveys to evaluate the statutory arrangements for parental leave, DCA/LTD, The Hague, 1994.

*Onderzoek naar de effectiviteit van de Stimuleringsregeling Positieve Actie voor Vrouwen* (Study of the effectiveness of the Positive Action for Women Incentive Scheme), Ministry of Social Affairs and Employment, The Hague, 1994.

*De effectiviteit van de Wet gelijke behandeling m/v* (The effectiveness of the Equal

The rapid increase in the number of women joining the workforce in recent years is still continuing. In 1960 women held 23% of the jobs of more than 12 hours a week (in net terms). This figure had risen to 35% in 1987 and 45% in 1995. In addition, a further 10% of the female workforce have jobs of less than 12 hours a week. The forecasts indicate that the number of women going out to work will continue to rise. There are no longer any differences in educational attainment between the sexes, and boys and girls therefore have an equal chance in the labour market. However, there is still a kind of occupational segregation between men and women in the labour market.

Analysis of these figures shows that the increased participation of women in the labour market is mainly attributable to the changing attitudes to work of women with children. It was precisely in the 1990-1995 period that the increase in the number of working mothers gained momentum. The net participation of cohabiting and married women with a child aged between 0 and 5 years rose by 44.5% in this period. Expressed in absolute figures, this means that the number of women with small children who had a job in 1995 was over one and a half times

---

Treatment (Men and Women) Act, two sub-surveys, SZW/VUGA, 1995.

M. Brouns and M. Grünell, *Zorgverlof: inhoud en praktijk, een onderzoek naar gerealiseerd zorgverlof* (Care leave;study into the realisation of care leave in practice) VUGA, The Hague, 1996.

W. Groot and H. Maassen van den Brink, *Verlate uittreding, oorzaken van uittreding uit het arbeidsproces ruim na de geboorte van het eerste kind* (Study of reasons why women stop working well after the birth of their first child), VUGA, The Hague, 1997.

B. Cuelenaere, *Verder na langdurig ziekteverzuim: een onderzoek naar trajecten van mannen en vrouwen* (Survey of case histories of men and women who have been off sick for long periods), Sociology Department, Erasmus University Rotterdam, Rotterdam, 1997.

W.C. Kers, H.G. van der Stelt, J.G. Fiseler, *Afvloeiing of herintreding: WAO-toetreding voor en na de stelselherziening 1987* (Redundancy or re-engagement: claimants under the Invalidity Insurance Act (WAO) before and after the 1987 review of the system, VUGA, The Hague, 1996.

J.J.M. Besseling, W. van der Kolk and H. Verbrugh, *Uitkeringsrechten van cliëntgroepen in de Werkloosheidswet* (Benefit entitlement of groups of 'clients' under the Unemployment Insurance Act), VUGA, The Hague, 1996.

J.H.P.G. Wielders, *De 1990-maatregel: een juridische analyse van artikel 3 van de Toeslagenwet* (The 1990 measure: a legal analysis of article 3 of the Social Security Supplements Act), Gerard Noodtinstituut, Nijmegen, 1996.

I. Asscher-Vonk, Equality in law between men and women in the European Community: the Netherlands, Martinus Nijhoff Publishers, Luxembourg, 1995.

M.M.H. Kraamwinkel, *Pensioen, emancipatie en gelijke behandeling* (Pension, emancipation and equal treatment), FED, Deventer, 1995.

Consultative Body for Associations of Private Sector Pensioners, *Vrouwenpensioen in de steigers: onderzoek naar de mogelijkheden van pensioenreparatie voor oudere vrouwen* (Study of the scope for rectifying the loss of pension rights of older women), Instituut Vrouw en Arbeid, 1994.

M.J. de Meij, *Individualisering en verzelfstandiging: een internationale inventarisatie* (An international survey of the process of individualisation and independence), Ministry of Social Affairs and Employment, The Hague, 1993.

higher than in 1990. The sharp increase in the number of single mothers going out to work is also striking. 20% of the working women who gave birth to their first child in the period 1979-1981 continued to work. This figure had risen to 37% in the period 1987-1989 and 59% in the period 1991-1992. This trend illustrates the growing social acceptance of mothers who go out to work. Nonetheless, having children still affects the participation of women in the labour market: the percentage of childless women under the age of 40 in paid employment is over twice as high as that of women in the same age group who have children. The respective percentages in 1995 were 83% and 39%.

There is a close correlation between the participation of women in the labour market and their educational level. The proportion of women with low levels of educational attainment who have a job is very low in relative terms: 18% of women who had only completed their primary education had a paid job in 1996, compared with 79% of women graduates. The percentage of highly educated mothers who return to the labour market after breaking off their career to have a child is on average twice as high as the equivalent percentage of mothers with a low educational level. The difference in the degree of participation in the labour market between lowly and highly educated women which exists even before they have children tends if anything to widen thereafter.

Although more women are going out to work, the differences between men and women in paid employment are still considerable. There is much greater unused labour market potential among women than among men. As unemployment among women was 10.5% in 1996, it was almost twice as high as the male unemployment rate (5.4%). There is also much hidden unemployment among women. For example, they are not treated as unemployed if they have not recently sought paid work or have been temporarily unavailable for employment. Not only is the net labour market participation of men higher than that of women but the relationship between having children and holding a paid job is also clearly different in the case of men: married or cohabiting fathers have a much higher rate of labour market participation than single men (91% compared with 65%). Similarly, there is a major difference between men and women as regards part-time work. The proportion of women with a full-time job dropped from 52% to 42% between 1987 and 1995, mainly as a result of the growth in the number of part-time jobs. Part-time work is much less popular among men: only 10% of them are part-timers. Another difference is that men are more likely in relative terms to work part time in their youth (when they are students) or towards the end of their career (taking partial early retirement), whereas women tend to work part time above all in middle age. Part-time work therefore fulfils a different function in the careers of men and women: for men part-time work is merely a temporary solution, but for women it is a permanent mode of employment.

Part-time work also seems to explain why businesses run by women have a lower average rate of growth. Often such businesses choose not to grow because the women concerned wish to continue working part-time. 10% of the owners of small and medium-sized enterprises in 1979 were women. By 1993 this figure

had more than doubled to around 25% (including women who are co-owners of businesses). In 1992 businesses run by women in the Netherlands achieved a turnover of 12 billion guilders and provided employment for 110.000 people. Besides the women who own or co-own businesses, there are also many wives in the small and medium-sized enterprises sector who work in their husband's business. Their number is estimated at 120.000. This is between a third and a half of the total number of small and medium-sized enterprises. Many of them work in the hotel, catering and retail trades and in consumer-oriented craft sectors. The extent to which they are involved in the business and the level of the duties they perform vary considerably. 40% of the women who work in their husband's business spend at least 40 hours a week in the business, perform a variety of managerial duties and help to decide on business policy. The businesses in which they work have a combined turnover of 13 billion guilders and provide jobs for 42.500 people.[31]

Although the occupational level of women has risen sharply in recent years, it is still slightly lower than that of men. In the younger age groups the occupational levels of men and women are now comparable. Indeed, women in the 30-40 age group are actually slightly over-represented in the more highly qualified occupations. The proportion of women in these occupations was 40% in 1996, compared with 37% of the working population as a whole. However, the job grades of women are still much lower than those of their male counterparts. For example, women still held only 15% of the total number of managerial positions at senior and academic level in 1996. Various factors militate against an improvement in their labour market position and against promotion to senior or managerial posts; these include the fact that women tend on average to have less work experience (due to career breaks) and often work shorter hours.

As a consequence of the large number of part-timers among women and their relatively low job grade, women earn less than men. In 1995 they earned 74% of the average gross hourly pay of men. This differential has remained virtually constant over the last 20 years. Even when adjusted to allow for educational level, number of hours worked, years of service with the present employer, age, job grade, job category, economic sector and size of business, women's pay is still on average 9% lower than that of men. The measures taken by the government to bring about equal pay are described at level 2.

Finally, the redistribution of care between men and women is a precondition for the redistribution of paid work. In 1995 men in the 25-65 age group spent 33 hours a week on remunerated work and 12 hours on domestic and family activities; women in the same age group spent an average of 12 hours on remunerated work and 31 hours on domestic and family activities. Women therefore perform around 30% of the paid work and 70% of the unpaid work; the figures for men are the exact reverse. The more hours women spend on paid work the fewer hours they spend on domestic work. In 1995 women who performed

[31] EIM/KNOV/NIPO, *Vrouwen van 25 miljard*, Delft, 1994.

less than 30 hours paid work a week spent more than 30 hours on domestic activities; women who performed more than 30 hours paid work a week spent an average of 18 hours on domestic work. In households without small children, the man spends roughly the same amount of time as the woman on domestic activities. Where there are small children, the partners often opt for the traditional division of responsibilities in which the husband does the majority of the paid work and the woman the lion's share of the unpaid care. Only minor changes took place in this situation between 1980 and 1995.

**1 (b) Legislative measures**

In a society in which diversity not just in terms of gender but also in terms of age, ethnic origin, sexual orientation and religion is seen and viewed as an enrichment of that society, legislation should in any event not hinder the possibility of combining paid work and unpaid care. In recent years, legislation on the following subjects has been introduced:

* employment and social security (including pensions)
* combining work and care

* **Employment and social security (including pensions)**

*Equal Treatment Act (AWGB)*

The Equal Treatment Act, which came into force in September 1994, has been dealt with above in chapter 2. The present section will examine the impact of the Equal Treatment Act on relations under labour law. Discrimination by employers is prohibited in the following circumstances:

* when advertising a job and filling a vacancy;
* when entering into or terminating a contract of employment or the employment of a public servant;
* when selecting employees or prospective employees for training courses or for formal or non-formal education;
* when promoting staff.

The ban on discrimination extends to admission to the professions and the opportunities for practising a profession. It also applies to educational and vocational guidance and the provision of goods and services (business and otherwise). In addition to the Equal Treatment Act, the law on the equal treatment of men and women at work as contained in the Equal Opportunities Act (WGB) and article 1637ij of Book 7A of the Civil Code has continued in force. This specific legislation takes precedence over the general rules of the Equal Treatment Act in relation to discrimination between men and women in the workplace. However, the general rules of the Equal Treatment Act apply to sex discrimination in vocational guidance or the provision of goods.

Sanctions are partly imposed under the general rules of private law and partly under specific legislation. The sanctions of general employment law may also be used in certain circumstances. These include termination of the contract of employment and the award of compensation to the employee. The various types of sanctions are listed below.

* Discriminating when *entering into* a contract of employment is unlawful. Normally an employer is liable in tort only if there has been fault on his part. However, the only condition that has to be fulfilled to prove liability in these cases is that employer has infringed the prohibition under article 646 of Title 7.10 of the Civil Code. Fault on the part of the employer is therefore not required in such cases. This was laid down in the judgement of the Supreme Court in the Dekker case of 13 September 1991.[32]
  If the employer is held liable, he is obliged to pay compensation. The damage may consist of pecuniary or non-pecuniary loss. The law does not indicate how the damage must be assessed if the employer discriminates when entering into a contract of employment. Sometimes the courts award only very low compensation if an employer discriminates when entering into an employment contract.
* In some cases the employer may also be ordered to rectify an advertisement (which is discriminatory) under section 3, subsection 5, of the Equal Opportunities Act.
* Discriminating during the existence of a contract of employment constitutes a breach of contract. Here too an employer would normally be liable only if there has been fault on his part. However, this condition no longer applies since the judgement of the Supreme Court in the Dekker case.
* Dismissal on discriminatory grounds is voidable under section 8 of the Equal Opportunities Act. The employee may claim that the dismissal is void within two months of the dismissal or of the termination of the employment. The employee does this by giving notice to the employer.
* Where an employee has been dismissed for invoking the ban on discrimination in law or otherwise, the dismissal may once again be declared void.

*Equal pay legislation*

Article 646 of Title 7.10 of the Civil Code provides that an employer may not discriminate between men and women in their terms and conditions of employment. The Equal Opportunities Act sets out what is meant in practice by the ban on pay differentials. At present the law states that the employee with whom the comparison is made should work in the same enterprise. The term 'enterprise' is narrowly interpreted as meaning 'branch'. This means that it has not been possible hitherto to compare employees working in different branches of the same company. The government believes that this is not correct and will amend the law in such a way as to allow comparison between people in the service of the same employer.

[32] For the preliminary ruling by the European Court of Justice in this case, see C-177/88, 8 November 1990.

*The Equal Treatment (Working Hours) Act*

This Act came into force on 1 November 1996 and regulates the equal treatment of employees and public servants whose working hours differ. The law is based partly on article 648 of Book 7 of the Civil Code, which provides that the employer may not discriminate between employees on the basis of a difference in working hours when setting the conditions under which a contract of employment is entered into, renewed or terminated, unless such discrimination is objectively justified. This article also applies to other persons working under the authority of the employer. Section 125 (g) of the Central and Local Government Personnel Act contains similar provisions for public servants.

The Equal Treatment (Working Hours) Act is of particular importance to women, since it is they who mainly work part-time. The Act makes it easier for an employee to challenge unequal treatment based on the fact that he or she works part-time. In the past it was necessary to argue that this constituted indirect sex discrimination. Under the new Act it is no longer necessary to gather data on the division of working hours between men and women at a particular company. The Equal Treatment Commission (see also above and chapter 1) is responsible for ensuring that the law is observed. The Commission may investigate - either of its own volition or in response to a written request - whether there has been a prohibited act of discrimination as referred to in article 648 of Book 7 of the Civil Code and section 125 (g) of the Central and Local Government Personnel Act. The opinion given by the Commission is not binding.

*Working Hours Act*

Flexible working hours can also help people to combine paid work and unpaid care. The new Working Hours Act, which came into force in 1996, provides greater scope for employers and employees together to decide on working hours, within certain limits. This makes it easier for employees to combine their work with unremunerated activities. Under the Working Hours Act, employers are required to take account of the personal circumstances of employees in so far as this can reasonably be expected of them. To ensure that employers cannot suddenly spring different working hours on their employees, thereby disrupting their private lives, the Working Hours Act provides that employers must give employees at least 28 days' notice of a change of working hours.

*Working Conditions Act*

The new Working Conditions Act will take effect in late 1998. The new legislation merely lays down the general framework. The precise regulations that must be observed by employers and employees alike will subsequently be adopted by delegated legislation in the form of the Working Conditions Order. The aim of this new legislation is to enhance the effectiveness of the policy on health and safety at work. The employers and employees will for this purpose be held accountable more emphatically (i.e. financially) for the terms and conditions of employment. In addition, the Order provides greater scope for tailor-made

solutions at the level of individual companies.

Two other changes are relevant to the position of women. First of all, the decision that a-typical work, or outwork as it sometimes known, should be included in the Working Conditions Order. As a result, the Working Conditions Act has applied to all forms of a-typical work since 1994. Many women who would otherwise be unable to get paid work accept a-typical work. A-typical work gives businesses the scope for flexible production; such work is often regarded as an extension of the work done in the factory or business itself. The rules for working conditions , at home have therefore been the same as those for the workplace since 1994. In this way, the legislator has tried to afford homeworkers much the same protection that employees receive at the employer's premises. A-typical work must also be included in the risk identification and analysis that businesses are required to carry out under the Working Conditions Act (see also chapter 3).

Second, the Working Conditions Order will also protect the health of female employees and their children or unborn children from occupational dangers from 1 May onwards. Under the Pregnant Employees Order this protection applies both during pregnancy and during the period of breast-feeding. The specific measures that employers must take depend on the risk identification and analysis. Regular surveys have shown that more and more collective agreements contain measures to protect pregnant women and women who are breast-feeding.

*Sickness Benefits Act*

When introducing the obligation on employers to continue for one year to pay the wages of employees who fall sick, the government felt it right to provide special protection for various groups, including pregnant women and women who have just given birth. Women's chances of finding work would diminish if the full costs of paying their wages during pregnancy and confinement were to be borne by the employer. Employers would, after all, be running a considerable financial risk by taking on women who could become pregnant. To ensure that women's access to the labour market is not restricted, the government has therefore provided that the wage costs during the period of pregnancy and confinement leave will be fully financed from the provision for special groups. This means that insured women are entitled to sickness benefits equal to 100% of the daily wage for at least 16 weeks, i.e. the period of leave for expectant and new mothers. The period of 16 weeks starts to run immediately without any waiting period. In the event of sickness as a result of and following on from pregnancy and confinement, sickness benefits equal to the daily pay are paid for a maximum of 52 weeks.

*Invalidity Insurance Act (Self-Employed Persons) Act (WAZ)*

The government has included a clause in the Invalidity Insurance (Self-Employed Persons) Act to provide benefits during pregnancy and confinement for self-employed women, women who work in their husband's business and female professional practitioners. This is an improvement on the former situation since

there was no right to benefit for these groups under the Invalidity Benefits Act (AAW). Although provision was made under the Invalidity Benefits Act for these groups to insure themselves on a voluntary basis, this idea did not catch on sufficiently in practice.

Under the Invalidity Insurance (Self-Employed Persons) Act an expectant woman will receive benefit equal to 100% of her earned income in the previous year or of the average of the past five years, the maximum being the statutory minimum. The benefit will be payable in any event for 16 weeks. Confinement benefit may be chosen, but it is also possible to use this to pay for a replacement. No provision is made under the bill for the payment of benefit in the event of sickness following pregnancy and confinement, since the scheme also contains no provision for men in the event of sickness. Under the Invalidity Insurance (Self-Employed Persons) Act a person who works in his or her partner's business is also insured. This applies even where the person concerned receives no remuneration for this work. The (notional) admission requirement which had to be fulfilled in the case of benefit under the Invalidity Benefits Act has not been included in the Invalidity Insurance (Self-Employed Persons) Act. The latter Act came into force on 1 January 1998.

*Surviving Dependants Act (Anw)*

Under the Surviving Dependants Act, which came into force on 1 January 1996, both men and women are entitled in the same circumstances to surviving dependant's benefit. Previously only widows and orphans were entitled to benefit of this kind. As a result of decisions by the Dutch courts, however, men too have been entitled to such benefit since December 1987.

*New National Assistance Act (nABW)*

Under the new National Assistance Act, which has been in force since 1996, the emphasis is placed very much on the obligation of the benefit claimants to find work. The basic principle is that parents (single or otherwise) who are responsible for looking after children aged five and over have an obligation to seek work. However, it is possible to exempt a parent from this obligation for medical or social reasons. It was decided as the result of a private member's motion to give a blanket exemption to single parents with a child under the age of five years. This obligation to seek work gave rise to heated debate during the passage of the legislation through parliament. Over the years the municipalities had adopted the practice of not insisting that female claimants apply for jobs if they had growing children at home.

*Pension legislation*

An Act to implement the first stage of the Pension Memorandum (23 123) came into force on 8 July 1994. This made substantial improvements to various aspects of the arrangements allowing women to accumulate pension rights. For example, the new legislation prohibits the exclusion of part-timers from a pension scheme

and directs that there must be proportionate pension accumulation. Similarly, an employee may not be excluded from a pension scheme on the ground that the number of hours worked is too small. In addition, the legislation provides that admission to a pension scheme may not be dependant on a minimum wage limit. Women returning to the labour market after a career break can transfer the pension rights that they have built up in the last job to the scheme operated by the new employer, provided that the job in question ended after the new regulations came into effect (right to transfer of value).

The new legislation created a possibility for interest income of the Pension Insurance Advance Levy Fund to be used for a subsidy scheme for employers with a view to financing a catch-up pension for women who were excluded from a pension scheme in the past on the ground of their sex. The Fund has made use of this possibility and established a subsidy scheme.

The Division of Pension Rights on Divorce Act came into force on 1 May 1995, thereby improving the position of divorced women. Pension rights accumulated by one or both spouses during the marriage must be split on dissolution of the marriage. This then creates a direct right of action under the Act against the pension administrator.

* **Scope for combining paid work and unpaid care**

*Bills to extend leave facilities*

In the period under review the government has taken various steps to ensure that employees can participate fully in the labour market at all stages of their life. Various bills to encourage leave have been presented to parliament. It is clear from the unanimous recommendation of the Joint Industrial Labour Council of 18 March 1997 that these bills command wide support among social partners alike. The government adopted most of these recommendations in the policy document 'Work and Care' which it forwarded to the Lower House of Parliament on 29 April 1997. The government wishes to encourage leave in the following ways:

* Parental leave

The statutory regulations governing parental leave were amended on 1 July 1997. Parents can from now on take full-time leave too. Since the original limit of 20 hours has been dropped, part-timers who work less than 20 hours a week are also now entitled to parental leave. The age limit of the children whom they look after has been raised to 8 years. Over 20% of the women who are entitled to take unpaid parental leave exercise this right, compared with 4% of the men. If parental leave were to be paid, over 40% of the women and 24% of the men would exercise the right. The government therefore wishes to examine what the costs and benefits of paid parental leave would be for all employees and how such a scheme could be arranged. It will also consider how the costs of paid parental leave could be divided between social partners and the public sector. Finally, the government wishes to ascertain whether it would be possible for the

self-employed too to obtain paid parental leave.

* Emergency leave

The statutory basis for emergency leave has been strengthened. From now on emergencies affecting the combination of work and care can also be a reason for short paid leave.

* Adoption leave

In the event of adoption one of the parents is entitled to a maximum of four weeks' paid leave. Like confinement leave for expectant mothers, this 'bonding' leave is funded under the Sickness Benefits Act.

* Saving for leave from time or money

The provisions of the Civil Code on holiday entitlement are to be amended to allow sufficient scope for employees to save up leave for educational purposes or care activities. The possibility of allowing employees to save for leave from their pay is also being studied. The new rules will be ready in the course of 1998.

* Career Interruption (Funding) Act

A bill was passed by the Lower House of Parliament on 27 November 1997 to regulate the financing of career breaks. When an employee makes arrangements with his or her employer for protracted leave for the purpose of taking a course or caring for dependants, the employee may be entitled to a financial contribution in certain circumstances. The employer must then arrange for the employee who is on leave to be replaced during the leave by an unemployed benefit claimant, a disabled person or a returnee. By financing career breaks in this way, the government hopes to encourage leave for caring and educational purposes. This form of leave is also intended to enable employees to acquire new skills through education, thereby increasing their employability and maintaining it as they get older. The bill is expected to become law in 1998.

* Unpaid leave

On 27 November 1997 the Lower House of Parliament passed a bill to remove the obstacles to unpaid leave in the social security system (Parliamentary Documents II 1996/97, 25 618). The aim of the bill is to ensure that employees do not waive their right to leave because they would thereby lose their entitlement to social insurance cover. The obstacles that might prevent employers from allowing employees to take leave are also being removed wherever possible. The purpose of the proposed measures relating to sickness, invalidity and unemployment benefit is to ensure that at the end of a maximum period of unpaid leave of 18 months the employees do not encounter problems with the fixing of the daily rate of pay, the need for references or acceptance for insurance purposes. The bill also provides for the insurance under the Health Insurance Fund Act to

be continued during the leave. From 1 August 1997 onwards employees who take fully unpaid parental leave will remain insured under the Health Insurance Fund Act. A special pension scheme has been established for this group. In addition to the regular nominal contribution, an employee taking leave is required to pay a further contribution of around 30 guilders. This is the employee's part of the contribution on the minimum wage.

LEVEL 2: TOWARDS DIVERSITY

In its policy document *Kansen op combineren; arbeid, zorg en economische zelfstandigheid* (Opportunities for combining: work, care and economic independence) (September 1997), the government announced further steps to give everyone the choice of combining paid work and unpaid care. Two important instruments in this respect are paid parental leave for all employees and improvement and expansion of child care facilities. The government is making plans to improve these instruments. A committee whose remit is market forces, deregulation and legislative quality is formulating the broad outline of child care in the future. The Central Planning Office has also been asked to provide projections of the future use of child care facilities. In addition measures must be taken to make it financially more attractive for lowly educated women and single parents in particular to accept paid work.

The policy document is being submitted to the Socio-Economic Council and the Council for Public Sector Personnel Policy. The Joint Industrial Labour Council will in due course be asked for its opinion on the future policy on child care. The policy document contains the outline of a future policy of this kind. An interdepartmental committee is now engaged in fleshing out the policy. The document is to some extent a reaction to the report of the Future Scenarios Committee and a number of recommendations of the Emancipation Council. It contains a number of measures which the government has taken for 1998 and also sets out the arguments on which important choices by a subsequent government must be based. The main measures implemented to date are described below. For this purpose they have been divided into two categories:

* Measures to encourage women to go out to work, even when they are currently in receipt of benefit.
* Measures to make it easier to combine a paid job and unpaid care, for example leave schemes and child care facilities.

* **Measures to encourage women to go out to work**

A precondition for the participation of women in the labour market is that men and women should have equal opportunities. A survey of the effectiveness of the Equal Treatment Act in this respect was carried out on behalf of the Minister of Social Affairs and Employment. The first part of this survey involved analysis of the relevant case law and literature; it examined in particular whether the standards laid down by law were sufficiently clear and listed the ambiguities and gaps in the existing legislation. The machinery of enforcement and sanctions was also examined.

The second part of the survey involved a more thorough examination of the situation in practice in employees' organisations. This revealed that there is generally little knowledge or understanding of the law. A few people were well-informed about the content of the legislation and were aware of the problems in this field. Although the majority did agree that men and women should be treated equally, they were guided mainly by their own ideas on what is reasonable and just. The concept of indirect discrimination was unknown to many of the respondents. Similarly, there were not sufficiently aware of the existence and duties of the Equal Treatment Commission. The survey also revealed that it was hard to obtain a good understanding of the law because it was divided among different statutes.

Employers too tended to be guided more by their own views on the principle of equal treatment of men and women than by the statutory regulations. Although there was a fairly broad consensus that men and women should be treated equally, the interpretation of the concept by the employers was much more restrictive than that contained in the legislation. The decisions taken by employers are affected not only by their own views on what constitutes an 'equal treatment' but also by other factors. First, there is the financial interest which the business may have in not observing the law, but there is also the importance of maintaining a good atmosphere at work and the employer's appreciation of the employee in question. Another important consideration in any decision is the possibility of losing any ensuing legal action and the consequences of such a loss.

The following measures have been taken as a result of the survey's findings:

* the existing information has been clarified and a more efficient approach adopted to the provision of information; this should increase knowledge and understanding of the legislation;

* a study has been made of the scope for streamlining the currently rather fragmented legislation.

Whether further amendments should be made to the law will be examined when the planned evaluation of the Equal Treatment Act is carried out in 1999.

*Opportunity in Business*

The Opportunity in Business campaign, which was launched in 1996, is modelled on the Opportunity 2000 campaign in the United Kingdom. The aim is to breathe fresh life into the efforts to achieve a more balanced distribution between men and women of the jobs in trade and industry. The campaign's predecessor - the positive action policy - failed to obtain sufficient support in the private sector. When this new initiative was launched by the Minister of Social Affairs and Employment; Co-ordinating Minister of Emancipation Policy and the Minister of Economic Affairs, it quickly met with a sympathetic response from senior decision-makers in the Dutch business community. A steering group consisting of representatives of twenty companies - including KPMG, KLM, Unilever, ABN-

AMRO Bank and Akzo-Nobel - and of various government ministries and the two sides of industry was set up to help structure the project. The project provides tailor-made support for the companies taking part. Each company formulates its own plans and objectives for diversity and then includes them in its medium and long-term corporate strategy. One way in which this is done is by working to introduce a corporate culture that is open to differences between people and allows scope for diversity - a culture in which people are able to combine activities from each of the three areas of life (personal life, work and income, political and social life). Opportunity in Business therefore provides companies with specific instruments for achieving this cultural change. Approximately one hundred companies had joined the campaign within just over a year of its launch.

*Part-time work*

Working part-time is one way of combining paid work and unpaid care. The aim of government policy is to increase the number of part-time jobs, to encourage men to work part-time and to ensure that part-time work is accorded equal treatment. A practical handbook entitled *Leidinggeven in deeltijd* (Part-time management) has been drawn up on the basis of research by De Olde (1992).[33] Another survey has shown that there is often a reluctance in companies to discuss the wishes of men to work part-time.[34] Not only is part-time work for men a taboo subject, but experienced staff who work part-time find that it has an adverse effect on their career. The policy therefore deals specifically with the use that men make of the facilities for combining paid work and unpaid care. A survey was recently carried out to ascertain how male employees achieve their wish to work part-time and/or to take emergency leave and what obstacles they have to overcome in the process. The object of the survey was to discover whether these obstacles could be eliminated in any way by the authorities or by the two sides of industry. The main obstacles which the researchers uncovered were concerned with perceptions. Existing prejudices about part-time work, for example fears about loss of status and the idea that one's own job is not suitable for part-time work, have proved very entrenched. The role of the two sides of industry in combating these prejudices is essential.

In its recommendations of 10 October 1997, the Joint Industrial Labour Council called on the partners to collective agreements to make agreements about part-time work. The Council, on which employees and employers are represented, considered it of great importance that arrangements be made to ensure that the wishes of employees to work part time can be met wherever possible, while recognising that there may be circumstances in which the interests of the company outweigh those of the individual and the request has to be refused.

---

[33] C. de Olde, *Leidinggeven in deeltijd: ervaringen uit de praktijk*, VUGA, The Hague. 1992.

[34] J. Spaans, *Tussen wens en realiteit, onderzoek naar de wijze waarop mannelijke werknemers hun deeltijdwens en/of wens tot calamiteitenverlof realiseren en de belemmeringen daarbij*, VUGA, The Hague, 1997.

*Equal pay*

The government has commissioned a survey to find ways of identifying and overcoming sex discrimination in job evaluation systems. The aim is ultimately to have gender-neutral job evaluation systems which no longer form an obstacle to equal pay for men and women.

Various types of action can be taken if there is a suspicion that unequal remuneration is being paid without justification. Either individual employees or trade unions and works councils may raise the subject. If individuals are reluctant to enforce their rights in individual proceedings, a group action may be a solution (on this subject see chapter 2, Equal Treatment Act). A group action is also the ideal way of raising a matter that is of importance to a larger group of employees. In such cases it is more efficient than conducting a series of individual actions. Works councils may themselves institute proceedings independently before the Equal Treatment Commission. Pressure groups, including trade unions, have the capacity to initiate proceedings before the Commission or the courts.

The survey mentioned above of the effectiveness of the Equal Treatment Act revealed that works councils were insufficiently familiar with the equal treatment legislation. They were also poorly informed about the duties and powers of the Equal Treatment Commission. This is why a new information brochure entitled *Gelijke beloning (mv), Op de agenda van de Ondernemingsraad* (Equal pay for men and women. On the agenda of the works council) has been published. The aim of the brochure is to ensure that the works council:

- puts the subject of equal pay on its own agenda and draws it to the attention of employers and employees alike;
- examines whether there is unequal way (contrary to the law) in its own organisation and, if so, informs the employer of the unequal pay;
- in the event of unequal pay takes concerted action with the employer to introduce equal pay in accordance with the law.

The brochure contains a step-by-step plan.

*Women in technical occupations*

The aim of the *Women and Technology Plan of Action 1995-1998* is to increase the number of girls and women in technical occupations. Under the plan, the Ministries of Economic Affairs (EZ), Education, Culture and Science (OCW) and Social Affairs and Employment (SZW) are supporting projects of relevance to this aim. The projects were started in 1995 and the last of them will be completed in 1998. A final report of the civil service working group will be published in 1998. The findings to date suggest that the problem in the policy theme of women and technology lies not so much in the fact that women have a negative attitude to technology as in:

* their unfamiliarity with technical courses and industrial companies;
* the negative image of technical courses and industrial companies;
* the fact that the organisation and culture of technology is still rather inaccessible to women.

*Women and work 'shops'*

The previous report mentioned women and work 'shops' as a specific instrument that can be used by the Public Employment Service to encourage women to join or return to the labour market. From 1993 onwards the Public Employment Service gradually phased out the financing of institutes such as the women work 'shops' for women. The latter were therefore able to choose whether to become an integral part of the Public Employment Service while remaining a recognisable entity within them or whether they wished to continue as independent bodies having the Public Employment Service as one of their clients. A number chose the latter course, but owing to the spending cuts affecting the manpower services organisation they have had the most difficulty in surviving.

*Self-employed women*

A 1994 survey showed that some women encounter difficulties when setting up a business. Women often make insufficient use of information and advisory services, are poorly organised and have few contacts in the business world. The range of services for entrepreneurs is often not designed to cater to the specific needs of women. Similarly, the arrangements for the provision of loans to woman who are just starting their own business could be improved. Prejudice and traditional images still often play a role here, but are starting to disappear (as regards the 'Businesswomen and Banks' project see also level 3). In order to tackle the first two problems, four regional pilot projects were started early in 1995. The aim of these projects, which were partly subsidised by the Ministry of Economic Affairs, was to improve the service to women starting or running their own business. This was to be done by enhancing regional co-operation and co-ordinating the provision of information and advice by the different intermediaries. A subsidiary aim was to organise businesswomen into regional networks in order to lower the threshold for women starting or running their own business. One of these projects was terminated prematurely owing to lack of support from the intermediary organisations. The three remaining projects were completed successfully. The results of the pilots have now been gathered together in a single handy survey and distributed among the organisations that have a nation-wide network for the provision of information and advice to businesses. A national conference for the empowerment of businesswomen and in particular for encouraging business growth has been held.

In general, matters involving the finance and possessions of spouses who run a business together are poorly regulated. This gives rise to all kinds of vexing problems in the event of their bankruptcy, death or divorce. This is a particular problem for women who work in their husband's business. MKB Nederland (the organisation for small and medium-sized enterprises in the Netherlands) recently published an easy-to-understand booklet drawing attention to the poor financial

position of women in this position.[35] This booklet, together with tips and examples, is intended to induce partners to arrange their financial affairs properly at an early stage. An amendment to the tax legislation has made it easier for a wife to be registered as a co-proprietor of a business. This has clearly improved the position of women who work in their husband's business. However, officially recording their job and income does not of itself provide greater personal financial security. Only a small group (25%) is insured against loss of income through incapacity for work caused by sickness. In recent years it has been possible for self-employed women and women employed in their husband's business to insure themselves against loss of income in the event of pregnancy and confinement. An information brochure has been published on this subject.[36]

*Jobs for the 'hard to place'*

For a society that sets out to minimise the obstacles to the full participation of its citizens in the community it is important that as many people as possible should be able to find a suitable job. This requires good co-ordination of supply and demand in the labour market, in order that vacancies can be filled efficiently as and when they arise. To this end it is essential to provide a good service for those people who are 'hard to place' in the labour market.

The employment offices, which come under 18 regional boards, match job vacancies to people seeking work. One of their duties is to give special priority to job-seekers who are relatively 'far removed' from the labour market. The Minister of Social Affairs and Employment and the Public Employment Service (PES) agree the plans for these groups from year to year. A check is made afterwards to ascertain whether women have benefited proportionately (i.e. in keeping with the proportion of women in these groups of job-seekers) from any extra procedures and extra efforts. The regional employment offices have largely succeeded in achieving this proportionality since 1992. The most recent placement figures published by the PES are for 1996. In that year 408.000 women were registered as job-seekers out of a total of 867.000 unemployed job-seekers. Out of the total of 154.000 unemployed job-seekers found work, 68.000 were women. Extra efforts (e.g. training) were made for 52.000 people in this group in order to improve their chances of success. 20.000 of them were women.

In addition to the general measures and instruments, the Public Employment Service uses specific instruments to help women to find jobs. For example, the Public Employment Service buys in services from the women's vocational schools as and when necessary in order to promote the participation of women in training in general and the inflow of women into the technical occupations in

---

35 MKB Nederland, Royal Notarial Society and the NOvAA, *Let op uw zaak; zorg voor uzelf*, MKB, The Hague, 1997.

36 Ministry of Economic Affairs and Ministry of Agriculture, Nature Management and Fisheries, *Man en vrouw in één onderneming* (Husband and wife in a single business), The Hague, 1993.

particular. These schools gear their methods, rosters and amenities (e.g. child care facilities) to the needs of the participants. As in previous years, the Minister of Social Affairs and Employment has agreed with the Central Board of the Public Employment Service that the regional Employment Offices will buy in services from these vocational schools in 1998 up to a guaranteed amount (see chapter 8). The amount for 1998 is the same amount disbursed in 1997.

*Off benefits and back to work*

The government has set itself the target of creating 40.000 extra jobs in the public sector and the care sector for the long-term unemployed by the end of 1998. The unemployed do not need to undergo additional training in order to get these jobs, which are also intended to improve the public service. The central government will pay a contribution for each job that is sufficient to cover the wage costs. The pay in the first year will be 100%-103% of the statutory minimum wage and may rise thereafter to a maximum of 120% of that minimum wage. The government contribution includes a sum of 4.000 guilders for overhead costs such as training and counselling. The persons appointed to these posts are treated as normal employees to whom the provisions of the relevant collective agreement apply. The funds for these jobs have been included in the multi-year estimates of the central government and may therefore be regarded as structural. In recent years the jobs have been allocated in quotas to selected municipalities and to particular parts of the care sector. Women have taken around 42.4% and 67.5% of the extra jobs with the municipalities and in the care sector respectively.[37]

Since 1 October 1994 the municipalities have been able to provide incentives in order to encourage benefit claimants to find paid work and thus give up all or part of their benefit. One example of such an incentive is work acceptance premiums for the performance of part-time work. A municipality may also pay a reward to people who take or complete a course of training. A premium for the acceptance of part-time work may be a particular incentive for women with children, many of whom would anyway prefer part-time work because of the children. The municipalities receive 150 million guilders a year to implement this policy on incentives. A municipality may spend the money as it sees fit, but is not obliged to pay premiums. It may use the money instead to establish in-work benefit projects or provide more intensive counselling. The provision of incentives can in any event be geared to the particular nature of the claimants in a municipality. For example, some municipalities provide an incentive to claimants who find paid work or start their own business. This then constitutes an in-work benefit for which people who have been in receipt of national assistance for more than, say, three years are eligible. They may also, for example, provide incentives for unemployable people who undertake voluntary work or for benefit claimants who successfully complete a course of training. Incentives of the latter kind may be

[37] These jobs are known as 'Melkert jobs' after the Minister of Social Affairs and Employment, who is also Co-ordinating Minister for Emancipation Policy. He is the originator of these jobs.

particularly appealing to women with small children. If they succeed in obtaining a diploma by the time their children reach the age of 5, this can help to cut the number of claimants. It has been seen in practice that this process should be initiated at the earliest possible moment. The longer the period that single parents do no paid work, the more difficult it becomes for them to return to the labour market. When they have raised their children and start looking for work again, they find that their qualifications and job experience are badly outdated. It follows that the postponement of women's obligation to work, which was once viewed so positively, is in fact a trap since it implicitly condemns them to a lifetime of claiming benefits. The municipality passes a bye-law specifying how its policy on incentives works and for whom it is intended.

The 1997 policy letter to parliament on emancipation policy announced a project to combat poverty among women. The aim of the project is to help female benefit claimants to find work again. This is being done by identifying and publicising procedures used by the different administrative organisations that have proved successful in getting people off benefits and back to work. Activation policy in the broad sense was the subject of a symposium held on 22 September 1997 by way of preparation for the 1997 Social Conference. At the symposium a brochure entitled 'Investing in women claimants' was presented to the directors of the Union of Dutch Local Authorities (VNG) and Divosa. During the course of the anti-poverty project, there has been constant co-operation with policy-makers, administrators and representatives of the target group at national and local level.

* **Measures such as leave schemes and child care that make it easier to combine paid work and unpaid care**

The creation of additional leave facilities was discussed above at level 1 under legislative measures. Here the emphasis is on child care.

*Child care*

To enable paid work and unpaid care to be combined and thus to increase the participation of women in the labour market it is essential that child-care facilities be made available. From 1990 onwards the Netherlands government made available extra funds - through the Child Care Incentive Scheme arranged through the municipalities - to encourage the provision of additional organised child care facilities. It was intended that the capacity of these facilities should be increased by 50.000 places over a 4-year period (1990-1993). The municipalities received a contribution towards the costs of child care of about 5.000 guilders per place per year. The shortfall had to come from parental contributions, income from hiring out places to employers and the municipalities' own funds. The incentive period was extended for two years (1994-1995) to provide a firmer base for the results and to achieve further growth by hiring out more places in the child-care facilities to companies and institutions. At the end of 1995 the funds were transferred to the municipalities. A new tax incentive has been available since 1996 to employers who provide child-care facilities for their employees. Under the Salaries Tax and Social Security Contributions (Reduced Remittances) Act,

employers who arrange child care facilities receive a tax incentive equal to 20% of the net costs, which is equivalent to the cost price less the parental contribution.

The primary aim of the policy is to enlarge the capacity of the child-care facilities and thereby to enable more women to go out to work. In addition, the subsidy conditions and the recommendations made to the municipalities are intended to achieve a number of side-effects:

* to make the child-care facilities more available to the children of people on low incomes, children from ethnic backgrounds and children of single parents;
* to increase the participation of companies and institutions and of employers and employees in enlarging and funding the child-care facilities;
* to improve the quality of the facilities still further.

The results of the measures taken are evident from the following figures:

* The number of municipalities with child-care facilities has risen from around 200 to around 600 (i.e. 95% of all municipalities).
* The number of places in child-care facilities for children under the age of 4 grew from just over 20.000 in 1989 to 71.000 in 1995 and 75.000 in 1996. 125.000 children used the 71.000 places in 1995. Only 14.000 places are available for children aged between 4 and 12 years. And there are few if any facilities for children over 12.
* The number of facilities (day nurseries, out-of-school care, childminding agencies) has risen from 900 to 2.300.
* The number of places hired out to companies rose from 2.700 in 1989 to 32.000 in 1996. 40% of the total capacity in 1989 was hired out to companies. Half of this capacity was in fact paid for by the parents. By 1996 the proportion of the total capacity hired out to companies was 43%. Parents whose child has a company-funded place pay a parental contribution (usually income-related) to the employer. 45% of the costs of child care facilities as a whole is borne by the parents, 45% by the employers and 10% by the authorities.

As a result of the expansion of the facilities, the structure of the child-care sector has changed too. Not only has the number of organisations increased but they have also become larger. This has been partly due to straightforward growth, but has also been caused by mergers, alliances and a process of regionalisation. The changes are apparent at various levels: organisations manage more centres and the centres themselves are also larger. These changes have taken place mainly at the level of the organisations that operate the facilities in practice. A growing proportion of the capacity in child care facilities is hired out by institutions to employers that wish to provide a service to their staff, often pursuant to the terms of collective agreements. Company-funded places serve as a necessary source of additional income. Over the same period the financial contribution of the parents has also gradually increased. Although the public sector share has multiplied in absolute terms, it has declined in relative terms. Table 9.1 gives a breakdown of the funding for child care.

*Table 9.1* *Child care funding in 1995 (in guilders)*

| | |
|---|---|
| public sector | 403 million37% |
| parents | 288 million26% |
| employers* | 368 million33% |
| other | 40 million 4% |
| Total | 1,100 million |

*) including parental contribution for company places.

In addition to quantitative aims, the policy on child care also has some qualitative goals:

* A system of quality assurance and quality control is being drawn up for which the child-care sector itself is to be responsible. In addition, there is an order in council which specifies that a municipal licence is required in order to open and manage a child-care facility. The municipality lays down a number of fundamental quality criteria (size of group, hygiene and safety standards) in a local bye-law.
* The availability of child care facilities to a number of priority groups (single parent families, low-income families, ethnic minorities). This goal has not been achieved. The reason is that child care is mainly geared to people who are in paid work. Relatively few of the people in the groups mentioned above have a job. As a result, it was thought that these groups had less need of child-care facilities. Extra funds were made available on 1 January 1996 for facilities for the children of single parents on benefit.
* Since child-care organisations are now catering more to market demand because of the need to hire out places to companies, their operations are being put on a more professional footing.

The policy in recent years has concentrated on increasing the facilities for children under the age of 4. However, there is also a great need of child-care facilities for children of primary school age. The government wishes once again to provide a major stimulus for the creation of facilities for children aged under 16 years. It has therefore earmarked a sum of 160 million guilders for the period from 1997 to 1999. 20.000 new places can be created with this money by the year 2000. A structural sum of 35 million guilders was added following the debate on the Speech from the Throne in 1997. From the point of view of enabling women to participate in the labour market, it is desirable that a substantial sum be allocated for expanding out-of-school care in order to avoid a gap in child-care facilities when children go to primary school. The responsibility for expanding the facilities rests with the municipalities. They are expected to consult with the providers of local services such as schools and social services and to provide facilities that are as varied as possible. The government has therefore set aside 85 million guilders for municipalities that buy in child care facilities for single

parents on benefit. This is necessary to allow these parents to go out to work or take a course. The scheme is retroactive to 1 January 1996. A sum of not more than 18.000 guilders per year is available for each place. The municipality does not have to collect a contribution from the parents. The sum of 85 million guilders is intended for extra places. The scheme imposes few requirements as to how the child care is organised. Municipalities can buy extra places from existing child-care organisations, can organise facilities themselves or can reimburse benefit claimants who have paid the parental contribution themselves. The facilities must be of a certain standard. Unlike the usual arrangement for child care facilities, there is no provision here for a parental contribution towards the cost of the child care. All municipalities are given the opportunity to participate in the scheme. The 85 million guilders is apportioned among the municipalities in accordance with the number of single parents on benefit in those municipalities.

At the request of the government, the Central Planning Office is making a projection of the expected costs of child care based on sufficient facilities in the year 2010. Various ways of improving the standard of child care facilities are being examined in this connection. The government considers it important that employers and parents should make a financial contribution to child care. In recent years employers and employees have done much to increase the capacity. However, 40% of collective agreements still lack provisions on child care. Of the remainder, some contain specific agreements and others contain statements of intent. Furthermore, the employers concentrate almost exclusively on child care places for children under the age of 4. The government will continue to remind the two sides of industry of their responsibility for child care.

LEVEL 3: STRATEGY FOR CULTURAL CHANGE

Women still participate less than men in the economic life of the community and in the labour market, and they are also at a disadvantage in terms of the distribution of jobs, occupations and job grades. If they are to catch up quickly, legislative measures are needed to give women preferential treatment. However, it has been found that the policy of positive action has not caught on in large parts of the private sector. Despite the information that has been provided, there is a lingering notion that positive action for women is synonymous with positive discrimination. And this obviously has the connotation of discrimination against men. It has also been hard to dispel the idea that in the case of positive action women are appointed not on merit but purely because of their gender. Positive action has failed to appeal above all to small and medium-sized enterprises, but it is precisely this sector which provides much employment for women. The instrument of positive action is not always suitable for small firms, since they tend to have an organisational structure and personnel policy that do not differentiate markedly between men and women. In addition, there is often little scope - financial or otherwise - to improve the position of women, for example owing to a lack of opportunity for career moves within the business. These firms therefore need a practical approach that is geared to the particular trade or industry and takes account of the economic motives of employers. The government therefore decided not to extend the Positive Action Incentive

Scheme. The Opportunity in Business campaign was started in its place in October 1996 (see also the description at level 2). The aim of this campaign is to ensure that businesses and institutions realise that taking on more women and appointing them to more responsible positions is in their own commercial interests. This involves a change of culture. The focus is no longer solely on the disadvantaged position of women. Instead the argument is now that it is in the interests of the employers and of society as a whole to make use of women's potential and for this purpose to create opportunities and remove obstacles. Three measures designed for this purpose are discussed below.

*The Daily Routine Committee*

A survey has shown that 80% of the Dutch population consider that domestic activities and raising children are the shared responsibility of men and women. In reality, however, the responsibilities are divided differently. It is therefore important that the authorities, in co-operation with other partners, should create the means for matching theory and practice more closely. In 1996 the Co-ordinating Minister for Emancipation Policyminister responsible installed the Daily Routine Committee. The remit of this Committee is to suggest ways in which the daily routine of Dutch society could be better geared to the needs of people who wish to participate fully in different areas of life (paid work, unpaid care and political and social activities). The Committee wishes to achieve this by demolishing the 'walls' that presently separate the various fields of policy and by devising innovative and creative solutions. From the outset, the contribution of children has been considered essential to the activities of the Committee. The Committee is due to report to the minister in 1998.

The Committee is carrying out activities related to five themes. The subjects are as follows:

1. Better co-ordination of paid work and unpaid care in terms of time and place

In collaboration with various experts the Committee is drawing up a step-by-step plan that will enable municipalities to establish projects designed to make it easier to combine paid work and unpaid care. This involves co-ordinating the time and place at which paid work and unpaid care are performed, in particular by adjusting the opening hours of schools, shops, child-care facilities and other amenities and by ensuring that transport facilities (including public transport) and spatial planning are arranged to take account of these combined duties. The Committee has devoted special attention here to the differences between urban and rural life. Two pilot projects (one in a city and one in a rural community) will provide the basic data for the step-by-step plan.

2. The adoption of flexible working hours geared to employees who have care responsibilities

The 1996 Working Hours Act referred to above provides that the employer must take account of the employee's other responsibilities, for example caring for dependants. This new legislation requires a different way of thinking. In the view of the Committee, a different approach to working hours could be in the interests of both employers and employees. Five organisations from different sectors are helping with a survey of flexible working hours in practice. The aim is to identify the problems with flexible working hours and the solutions chosen by these organisations. A guide for the adoption of flexible working hours that takes account of the economic interests of employers is being prepared on the basis of five case studies.

3. The provision of adequate out-of-school care

The Out-of-School Care Incentive Measure referred to above was the direct reason for choosing this theme. The Committee is paying particular attention to the joint experiments of educational, welfare and cultural institutions and care facilities. The Committee considers that the facilities should be more in keeping with the wishes of children in different age categories. Moreover, the opening hours should be sufficiently flexible to meet the wishes of the parents. Once again, the end result will be a step-by-step plan for the preparation of policy at local level.

4. The children's wishes regarding daily routine

The lack of out-of-school care is a particular problem for couples who have children aged between 4 and 16 and who both have paid jobs and care responsibilities. The wishes of the parents are the main guide in developing facilities of this kind. However, the Committee considers that it is also important to hear the wishes of the children themselves regarding their daily routine and out-of-school care. It has therefore organised children's panels, conducted surveys among children and organised a competition in which children can design their ideal daily routine.

5. Demand for personal services

Where both parents go out to work, they often have insufficient time to carry out all kinds of domestic activities themselves. Since they therefore look for support and assistance, this has created a market for an entirely new kind of service. The Committee wishes to find out how this market operates. How are supply and demand matched? And what new services - particularly small-scale ones - are being developed and offered? To answer these questions the Committee is having an inventory made of personal services projects. If the results of the inventory warrant this, they will be presented in such a way as to encourage other providers and potential providers to establish personal services projects.

*Fostering awareness among employers that it pays to invest in women at the 'bottom' of the labour market*

At present there are still too few employers who invest in women at the 'bottom' of the labour market. This is because they already have ample choice in this section of the market. One of the main reasons for the lack of investment in women is the assumption by employers that women will stop work after having a child. However, in reality many young women with low qualifications intend to continue working, particularly if their employer provides good quality work. It is therefore important for employers to invest in the quality of the work offered to these women. This is in the interests not only of the women themselves but also of the employers. After all, employers have a growing need of qualified staff at all job levels who have the capacity to adapt quickly to change. The Ministry of Social Affairs and Employment proposes to start fostering awareness among employers in 1998 by publishing and distributing a booklet containing convincing practical examples. These will be cases of women at the lower end of the labour market who have continued to work after having a child, thereby repaying the employer's investment in them (for example in the form of training).

*Bank's perception of businesswomen and vice versa*

Some women who wish to start a business are having difficulty getting a loan. One reason is that many women starters are in high-risk businesses. Another factor that tends to militate against women is that they often apply for small business loans. The complaints of women in this position mainly concern the way they are dealt with by the banks. Banks for their part consider that women are not sufficiently businesslike. However, stereotypes and prejudices are in fact gradually dying out in the lending business. Banks are becoming aware of the importance of female entrepreneurs. If women have difficulty nowadays in getting a loan, this is likely to be due not to the fact that they are women but to the commercial criteria applied by the banks and to the fact that women tend to apply for relatively small business loans.

Since 1996 the Ministry of Economic Affairs, the Ministry of Social Affairs and Employment and Rabobank have together funded a 3-year project known as "Businesswomen and banks". Its aim is to change the perceptions that banks have of businesswomen and vice versa in such a way that the process of obtaining and providing a loan goes smoothly for both parties. In co-operation with the project group, the Centre for Marketing Analyses has developed an instrument that makes it possible to examine how both parties have handled a loan application.

## CHAPTER 10 Article 12: Health care

### LEVEL 1: POSITION AND LEGISLATIVE MEASURES

It was mentioned in the foreword that the Dutch authorities commissioned a number of in-depth studies of various aspects of the UN Convention on the Elimination of All Forms of Discrimination against Women prior to the second report to CEDAW. One of them was concerned the meaning of article 12 of the UN Women's Convention and was subtitled 'Health as a right'.[38] The report was presented to the Minister of Health, Welfare and Sport in 1996. The Lower House of Parliament was informed in early 1998 of the Minister's response to the report and of the action she proposed to take on it.[39]

### LEVEL 2: TOWARDS DIVERSITY

A summary of the report on the significance of article 12 has been included as an annex to this report to CEDAW. The position of the Minister of Health, Welfare and Sport is broadly set out below. Generally, the Minister states that the report has not identified any obvious problems regarding the health of women in the Netherlands or regarding the conditions that women must fulfil in order to be assured of good health. However, the survey report shows that differences do exist between the sexes as regards sickness and health and that in order to achieve equality 'de facto' or (to use the terms of the UN Women's Convention) to 'eliminate discrimination' it is necessary that unequal cases be treated unequally. Allowance is already being made for this in health care policy. One example in this connection is the growing emphasis placed on health services for women.

In her letter to the Lower House, the Minister indicated that the changing views on differences in sickness and health that are specifically related to gender will have to be reflected even more clearly in policy. The results of the study of the meaning of article 12 of the UN Women's Convention can be of assistance in this connection. A civil service working party will be set up in the near future to make proposals for drawing greater attention to the Convention in such a way that more account can be taken of its principles and aims when formulating health care policy. In addition, the Minister intends to ask two advisory councils - the Council for Social Development and the National Advisory Council for Public Health - to make recommendations in 1998 on how the recommendations in the report can be specifically incorporated into health care policy. The Minister has had a summary of the report produced in English in order to ensure that the research findings become known internationally.

---

[38] N. Holtrust, A.C. Hendriks and D.M.J. Bauduin (eds.), *De betekenis van artikel 12 Vrouwenverdrag voor Nederland: gezondheid als recht*, VUGA, The Hague, 1996.

[39] Letter DSB/SCB-975145 dated 6 February 1998.

## LEVEL 3: STRATEGY FOR CULTURAL CHANGE

*Women's health services*

Dutch policy has long taken account of the existence of differences in sickness and health specifically related to gender. This is clear from the measures and subsidies for women's health services. The aim in this connection is to ensure that the services to women become an integral part of the ordinary health care services. This was indeed the purpose of the Women's Health Services Work Programme which existed from 1992 to May 1997. This programme had a number of policy spearheads relating to such varied subjects as family doctors, sexual violence, experience-based expertise, mental health care, women's self-help (quality assurance and financing) and information. A special Steering Committee will have responsibility for promoting the integration of women's health services into general health and welfare policy until mid-1998. The Steering Committee consists of representatives of the ordinary health care services, social services and the Chief Medical Inspectorate of Health and the association of patients/ consumers and has an independent chairperson. In addition, the Committee is advised by the women's organisations for health services, health care and self-help.

The authorities subsidise a number of institutions that help to support and develop policy in this field and to transfer and document information about characteristics aspects of women's health. The institutions concerned are TransAct (the Dutch centre for 'gender-specific' care innovation and combating sexual violence (see also chapter 3)) and Aletta (the Centre for Women's Health Care). In addition, the Women's Self-Help Federation receives a basic subsidy.

The Targuila advice centre was set up in 1996 for a 2-year period with the help of a government subsidy in order to ensure that health care is more easily available to black, immigrant and refugee women. The centre supplies information to intermediaries about specific aspects of providing help to black, immigrant and refugee women. It is also developing ideas about the relationship between these women and the existing medical and health care services for women. Another institute - ZorgOnderzoek Nederland - has been given funds for experiments and research in relation to women's health services for a 4-year period starting on 1 January 1998. Priority is being given to projects concerning client satisfaction and evaluation.

*Integration of women's health services into the mainstream system of health care*

Policy has for a number of years concentrated on the integration of women's services into the mainstream system of health care. The underlying idea is that for the provision of proper care to both men and women it is important that allowance is made for their problems and social situation. The role and significance (social and otherwise) of gender has always played a central role in women's services. This is how women's services have become an important instrument for improving the quality of care and establishing a system of tailor-made care. The function of TransAct and Aletta is to provide nation-wide support

in matters relating to the provision of women's medical services and combating sexual violence. They play a central role in the implementation of policy in these fields.

An evaluation survey shows that although the process of integration has been initiated, women's health services have not yet become a structural part of the mainstream system of health care. Progress has certainly been made in creating a basis of support, in familiarising the people working in the mainstream system with the services for women, and in establishing co-operation between the mainstream and autonomous health care institutions. There is also an increasing demand for training. Despite this growing interest, there are still considerable problems. These concern the image of women's services, the underpinning at management level and the structural link to quality assurance policy. Not only is the expression 'women's health services' becoming increasingly emotive and provocative but it is also open to varying interpretations. The debate about the importance of women's health services as an instrument for improving the quality of care is still in progress. For the time being, it is necessary for the authorities to continue providing encouragement.

*Women and AIDS (General Recommendation 15)*

This subject is dealt with at rather greater length here by reference to general recommendation 15 of CEDAW. In 1995 the National Mental Health Federation (NcGV) carried out a survey of the circumstances of HIV-infected women in the Netherlands. Among the matters covered were the psycho-social problems that confront HIV-infected women and women with AIDS and to what extent the problems that these women encounter are due to their gender. The survey revealed that there is no community to take in and support these women and that they are therefore consigned to a life of even greater isolation than their male counterparts. A number of factors can play a role here, for example motherhood, family situation, prostitution, drug abuse or former drug abuse, need to care for partner, children and parents, and money problems. Woman tend to try to solve these problems on their own and are reluctant to seek help. In fact they have low expectations of possible help and some of them are also critical of help they have received in the past. Another reason they do not seek help is to protect their privacy.

The programme to assist AIDS patients has focused increasingly on women since the Women & AIDS project was incorporated into the work programme of Aletta, the Centre for Women's Health Care. In addition, the AIDS Fund is financing projects on the subject of women and HIV/AIDS. Two of the projects of the AIDS Fund programme in 1996 were the production of an information kit about STD/HIV prevention for women and a programme of further training for obstetricians concerning HIV infection and pregnancy (both run by the STD Prevention Foundation).[40] The projects of the Aletta Centre concentrate on

[40] STD = sexually transmitted disease.

improving the measures to prevent infection with HIV/AIDS and on providing care for HIV-infected women and women with AIDS.

## CHAPTER 11 Article 14: Rural women

### LEVEL 1: POSITION AND LEGISLATIVE MEASURES

### 1 (a) Position

To create a better environment the Dutch authorities have adopted a policy of rural regeneration. Women play a major role in these plans. Rural women are engaged in various ways in developing new economic activity in rural areas. Around 13% of rural women have started their own business in recent years. In addition, the number of women running a business (for example in partnership with their husband) has almost trebled: from 7.000 in 1990 to 20.000 in 1995 (CBS). This has been partly due to the introduction of tax incentives. Finally, around 32% of women whose partner works on the land and who are under 40 go out to work. Various surveys have shown that rural women are a major force in increasing the amenity of the countryside. Women often have a different and innovative approach to developing rural areas. They are particularly likely to be involved in activities that strengthen the economic base and reconcile the different (and allegedly mutually incompatible) functions of the countryside.

### 1 (b) Legislative measures

The Self-Employed Persons (Incapacity for Work) Act (WAZ) became law on 1 January 1998 (see also chapter 9). One of its provisions is an income scheme during pregnancy for self-employed women and women who work in their husband's business. This therefore includes women farmers and farmers' wives. They are entitled to benefit for 16 weeks in connection with pregnancy and confinement. The amount of the benefit depends on the income (or notional income) they received in the past 5 years, but is subject to a maximum of the statutory minimum wage. This gives women farmers and farmers' wives some financial scope for hiring replacement staff during pregnancy and confinement.

### LEVEL 2: TOWARDS DIVERSITY

The authorities have subsidised (or co-subsidised) various initiatives intended to help more women in rural areas to find work in their own district. For example, teleworking centres have been set up in Gelderland and Noord-Brabant. Women - particularly returnee's - are trained from a single centre to perform secretarial and clerical work for various firms throughout the Netherlands. The Daily Routine Committee is also taking express account of life in the countryside and the specific problems that the combination of activities in different areas of life entail for country people (see chapter 8). In recent years the authorities have also tried to increase the proportion of women in both the advisory committees and employee participation bodies of the Ministry of Agriculture, Nature Management and Fisheries and the boards of voluntary organisations. They have pointed out that it is important to have a diverse membership of these boards. 6 of

the 15 members of the Countryside Council (a government advisory board set up in 1997) are women. However, it is necessary to remain alert when new committees and consultative bodies are established.

The authorities also provide financial support for projects undertaken by voluntary organisations to train and coach women to be board members. This is having some success. For example, the proportion of women in the agricultural and horticultural organisation LTO-Nederland rose from 3% in 1998 to an average of 10% in 1995, although the number of female members remained constant at 7%. In view of the importance of increasing the number of women board members, three further projects were started by voluntary organisations (including organisations of rural women) in 1997.

LEVEL 3: STRATEGY FOR CULTURAL CHANGE

Rural women play a very important role in developing the countryside. This is particularly true of agriculture, where the contribution made by women is essential to the development of a lasting, strong and competitive industry. Women are sensitive to social trends, for example the need to produce in an environmentally-friendly way, to take account of animal welfare and to communicate with consumers. The Minister of Agriculture, Nature Management and Fisheries has stressed the role of women in the policy document *LNV-Emancipation Policy to 2000.* In his public speaking engagements the Minister makes special mention of the important role played by women in changing thinking within the farming community. In doing so he has helped to improve the image of rural women and to secure better treatment for them, for example when they apply for bank loans. But rural women have also recently featured more prominently in the plans of policy-makers and decision-makers. The authorities are now subsidising three organisations of rural women because of the role they can play in regenerating the countryside. These organisations have developed a method that enables the inhabitants (men and women alike) of a particular area to act together in identifying and effectively tackling local problems. Rural women in the province of Flevoland are presently carrying out a pilot project.

## CHAPTER 12 Article 16: Personal and family rights

LEVEL 1: POSITION AND LEGISLATIVE MEASURES

### 1 (a) Position

As part of its '*Anders geregeld*' (Arranged differently') operation in 1977 the Netherlands government listed all provisions of Dutch law that distinguish between men and women and between married and single people. The final report on this operation was published in November 1991. This showed that by this time only a few provisions of family law and the law of persons still made a distinction between men and women. These provisions too have since been altered by amendments to the law.

### 1 (b) Legislative measures

Major amendments to family law will shortly come into effect in the Netherlands. They will mean that other forms of cohabitation besides marital relationships will be recognised in family law. The main changes to have taken place in the period under review have been in the following fields:
* registered partnership
* authority over children
* law of names
* intercountry adoption law
* law of parentage.

*Registered partnership*

During the Fourth UN World Conference on Women the Netherlands advocated recognition of sexual and reproductive rights from the perspective of women and girls and on the basis of their needs. Sexual rights are expressly taken to include the prohibition of discrimination on the ground of sexual orientation. The legislation on registered partnership that took effect in the Netherlands on 1 January 1998 is in keeping with such recognition. The new legislation has been prompted not by international trends or conventions but by developments in Dutch society.

Registered partnership is equivalent to marriage and has for the most part the same consequences as marriage. It is intended for two people of the same sex, who cannot marry, and for two people of opposite sexes who do not wish to marry. It differs from marriage mainly in that where the parties have children the registered partnership does not in itself - unlike marriage - create a relationship with children. The term marriage in the UN Women's Convention and the European Convention on Human Rights is used exclusively to mean a contract between a man and a woman.

*Authority over children*

The bill on parental authority over minor children referred to in the first report to CEDAW has now become law. Under the old legislation only legal parents could jointly exercise authority over their child or children. Since 1 January 1998 it has been possible for a parent and a non-parent (regardless of his or her sex) to share authority. Joint authority becomes vested in a parent and his or her partner by virtue of a court decision made at their joint request (new article 253t, paragraphs 1, 2 and 3, Book 1, Civil Code). This joint authority is deemed to be parental authority (article 245, paragraph 5, Book 1, Civil Code). The parent's partner has an obligation to maintain the child as long as the joint authority lasts.

From 1 January 1998 onwards, the joint authority that parents have during their marriage continues in principle after dissolution of the marriage by divorce. However, either one parent or both parents may at any time apply to the courts to have parental authority vested in just one of them.

*Law of names*

The law of names has undergone a major change. Children born in wedlock automatically took the name of their father until 1 January 1998. Since then, however, it has been possible to choose between the surnames of the father and mother. This applies to all children who by law have two parents whose names can be chosen. They include all children who have a family law relationship with their parents as a result of acknowledgement or adoption and children born during a marriage. The surnames of all children in a family must be the same. The choice made by the parents is provisional in that a child may decide on reaching the age of majority to change the surname that it obtained under the new law or the transitional provisions to the name of the other parent.

If no choice is made, a child born in wedlock takes the name of the father and a child born out of wedlock the name of the mother. When the legislation was being drafted the question of what action should be taken if no choice is made was discussed at length. At one point it was suggested that lots should be drawn. Although drawing lots would be entirely neutral, it was thought inappropriate to decide the name of a child by lot. Ultimately, it was decided that a child born in wedlock should take the name of its father if no choice is made.

A married woman or a formerly married woman is entitled to use her husband's surname instead of her maiden name or to place her husband's surname before her maiden name (article 9, Book 1, Civil Code). In future, a married man or formerly married man will have the same right. In addition, the name of the spouse may be added after the person's own name. The new article 9 will also apply to registered partners.

*Intercountry adoption law*

The Netherlands signed The Hague Convention on Intercountry Adoption in 1993 and will probably ratify it in 1998. The Convention has been drawn up to protect the interests of children. Intercountry adoption is permitted only if there is "no suitable place in the country of origin". Many requirements must be fulfilled before a child is handed over to another country. The consequences of adoption are, after all, radical and final. Adoption gives rise to ties of parentage between the adoptive parents and the adopted child, and the ties (legal and otherwise) with the natural parents are often completely broken.

*Law of parentage*

A new law of parentage will take effect on 1 April 1998. This includes a number of changes designed to modernise family law. The most important changes in relation to the Convention are summarised below.

Under article 34, Book 1, Civil Code pregnant widows were not permitted to remarry immediately in certain circumstances. This provision has been dropped in the new law of parentage that takes effect on 1 April 1998. This removes an inequality since under existing law men could remarry immediately after the death of their wife.

The terms 'legitimate' (born in wedlock), 'illegitimate' (born out of wedlock) and 'natural child' are also dropped from 1 April 1998 onwards. They are replaced by the expressions 'having/not having a family law relationship with the child'. Unlike the situation at the time of the previous report, a child born within 306 days of the dissolution of the marriage (other than through death) is no longer automatically deemed to be the child of the former husband (article 199 (b), Book 1, Civil Code).

Other changes to parts of family law include the following:

*Maintenance proceedings*

If the mother of a child born out of wedlock wishes to claim maintenance from its natural father, she may apply for an order for maintenance for the child (new article 394, Book 1, Civil Code). The burden of proof rests on the mother initially. If she can make out a prima facie case that the defendant is the father of her child, for example because she had sexual relations with him during the period of conception, the burden shifts and the defendant then has to refute this. A blood test or DNA test may also be a way of finally settling the paternity issue. If the husband refuses to submit to a test, the court may draw whatever conclusions it considers appropriate from this.

*Judicial determination of paternity*

The amendment to the law of parentage means that it is now possible for women and children to apply to the courts for an order determining paternity (new article 207, Book 1, Civil Code). A judicial determination of paternity can be regarded as the ultimate remedy whereby a mother and child can establish a family law relationship between the child and its natural father. The mother may bring an action within five years of the birth of the child. There is no time limit for an action by the child. Once paternity has been established, a family law relationship comes into existence between the child and the man concerned. At this point the man becomes subject to all the consequences of legal paternity.

*Denial of paternity*

Under existing law a mother can dispute the paternity of a child only if it was born within 306 days of the dissolution of her marriage. Under the new law of parentage which takes effect on 1 April 1998, a mother is entitled to apply to the courts at any time within a year of her child's birth for a declaratory order that her denial of the paternity arising from the marriage is justified (new article 200, Book 1, Civil Code). The period for denial of paternity by the father has been extended to one year after he learns that he is probably not the biological father. Another new provision is that a child may deny paternity arising from its mother's marriage once it discovers that its legal father is probably not its biological father. Such an application must be made within three years of the date on which it learns of this. If the child was aware of this while it was a minor, the period for making the application is extended until three years after it reaches its majority (new article 200, Book 1, Civil Code). Under the new law of parentage, the father, mother and child have in principle the same opportunities to deny paternity arising from the marriage.

*Adoption of minors in the Netherlands*

Some changes to adoption law will be made when the new law of parentage takes effect on 1 April 1998 (new article 228, Book 1, Civil Code). Only married couples may adopt under the law as it stands, but in the near future adoption in the Netherlands will also become possible either for one person alone or for two people together who are not married to each other but can prove that they have lived together for at least three years. Such couples may be of either the same sex or opposite sexes.

At the same time, the position of the original parents in the event of adoption has also been strengthened. Under the law as it stood, an adoption could not proceed if either parent objected to the adoption. However, if the application for adoption was repeated after two years, the court had the discretion to disregard any further objection. Under the new legislation, the court no longer has the same discretion. There are now only a few cases in which the courts may disregard an objection, for example where there is total - or almost total - lack of family ties or where the child has been abused or seriously neglected.

## LEVEL 2: TOWARDS DIVERSITY

*Experiments with divorce mediation*

A report on a possible review of divorce procedure was published in 1996. This raised the possibility of extra-judicial divorces. The suggestion was that this should be possible only if the divorcing couple had reached agreement on the divorce and its consequences. This agreement could, for example, be reached through mediation. In such cases the involvement of a legal counsellor - either an attorney-at-law or a notary - should be compulsory. The State Secretary for Justice decided in July 1997 that an experiment with divorce mediation could take place in 1998. One of the aims of the experiment will be to examine how the children's interests can best be represented, how inequalities between the divorcing couple can be eliminated and how the divorce mediation will work in practice.

## CHAPTER 13 Final remarks

### Conclusion: the significance of the Convention in the Netherlands

This second report to CEDAW shows that measures that help to implement the UN Women's Convention are being taken throughout central government in the Netherlands. The first two chapters of this report explained that the obligations resulting from the Convention would be examined at three levels of policy. The purpose of the measures at the first level is to obtain equal treatment for men and women before the law and in public life. Measures at the second level are intended to ensure that the 'de jure equality before the law is translated into 'de facto' equality in practice. The aim of these policy measures is to improve the position of women and at the same time to secure recognition of diversity as an enrichment of society. Measures at the third level are designed to bring about a change of attitude in society towards the role of men and women and what is regarded as 'masculine' and 'feminine'.

The division of policy into three levels has served wherever possible as the framework for this report. What brief conclusions can now be drawn on this basis about the progress made by the Netherlands in implementing the Convention? The measures at the first level, which are aimed at achieving the formal equality of men and women, have been virtually completed in the Netherlands. Even at the time of the previous report, the Netherlands was well advanced in this respect. In the last few years, the authorities have continued to develop and perfect the legislation on equal treatment and have removed any remaining inequalities in legislation as and when they became apparent. In the future, it will mainly be a matter of achieving equal treatment in practice too. This will be accomplished on the basis both of the legislation and accompanying case law and of the supporting policy.

As the report shows, the Dutch authorities are now directing most of their efforts towards the second level of policy. They are investing heavily in measures that can help to ensure that men and women have equal opportunities in practice too. The increase in the number of women going out to work and their equal participation in education at all levels are clear evidence that this policy is actually bearing fruit. The Netherlands government will continue the measures at this level in the future. The small proportion of men performing unpaid care and the occupational segregation of men and women show that in this respect the process of achieving equality is not yet 'complete'. Through this policy the authorities are promoting the development of an emancipated society in which each individual has the opportunity to participate in different areas of life (paid work, unpaid care and political and social life). In such a society differences between people no longer constitute a problem; instead, diversity is regarded as an enrichment of society.

The third level of policy is also essential to the development of an emancipated society. This involves support for a change of culture in which people's thinking and behaviour are influenced by the realisation that diversity is an enrichment of

society and that individuals have the right to combine activities in different areas of life. This process of cultural change will be accompanied by the disappearance of traditional but now outmoded views and perceptions about 'femininity' and 'masculinity'. The authorities can facilitate these changes by commissioning and developing instruments that reveal these entrenched attitudes and by developing, supporting and demonstrating alternatives. It is essential in this connection to continue to ensure that policy-makers inside and outside government acquire the necessary expertise.

This report to CEDAW shows that policy at this third level is still very much in the process of evolution. In recent years the authorities have started to develop instruments and alternatives and have made greater progress in some fields than in others. Equally, it is apparent that it is not always clear what action should be taken in particular fields. Needless to say, the Dutch authorities will therefore continue to invest in this third level of policy in the future.

**Publicising the Convention**

The UN Women's Convention does more than just create obligations for the authorities. It also provides a framework for reviewing legislation, policy and the implementation of policy. It is therefore essential that all those involved in taking political, administrative, judicial and social decisions should be familiar with the Convention.

Mention has made throughout this report of the action taken in the past to publicise the UN Women's Convention. In brief, the following measures have been taken:

* The first report by the Netherlands to CEDAW was sent to the Upper and Lower Houses of Parliament and to interested parties for their information in November 1992. Both Houses of Parliament were also informed of the CEDAW's reaction when it considered the report in January 1994.
* A collection of articles on the Women's Convention was published in October 1994 and subsequently discussed at a symposium in November 1994.[41]
* In the summer of 1996 the Minister of Social Affairs and Employment, acting in his capacity of Co-ordinating Minister for Emancipation Policy, forwarded to the two Houses of Parliament the results of two surveys commissioned by him.[42]

---

[41] A.W. Heringa, J. Hes and E. Lijnzaad, '*Het Vrouwenverdrag: een beeld van een verdrag ...*', VUGA, 1994.
J. Dierx et al., Report of the workshops during the symposium *'Handen en voeten aan het Vrouwenverdrag'*, University of Limburg, 4 November 1994. In: Nemesis, tijdschrift over vrouwen en recht, volume 11 (1995), no. 1 (January/February), pp. 19-22.

[42] N. Holtrust, A. Hendriks and D. Bauduin (eds.), *De betekenis van artikel 12 Vrouwenverdrag in Nederland: gezondheid als recht* (The meaning of article 12 of the Women's Convention in the Netherlands: health as a right), VUGA, 1996.

* In September 1996 the Clara Wichmann Institute published a brochure co-financed by the Department for the Co-ordination of Emancipation Policy (DCE) and a bibliography of the UN Women's Convention intended mainly for intermediaries.
* In February 1997 the Ministry of Justice and the Clara Wichmann Institute held a workshop on the Women's Convention for members of the judiciary.
* The report of the Groenman Committee has been published.
* The report of a conference on the observance of the UN Women's Convention (held at the University of Nijmegen on 17 October 1997) and the government's reaction to the Groenman report have also been distributed.
* Many of the publications listed above contain the full text of the Convention (in English or Dutch).

The following new measures are being taken to publicise the Convention:

* The 22 General Recommendations of CEDAW are being translated into Dutch.
* The Dutch text of the Convention and the General Recommendations of CEDAW are to be published in a brochure designed to reach a broader public.
* The Ministry of Social Affairs and Employment is studying ways of using its Internet site to provide on-line access to documents concerning the Women's Convention that have already been published.

In its policy document *Beijing: Women and Future* the government has already indicated that a government centre for co-ordination and information regarding the equal treatment of men and women could be of real assistance in the preparation of the national report on the Women's Convention. The centre could gather all information on the equal treatment legislation, provisions of the criminal law prohibiting discrimination, EU legislation, the European Convention on Human Rights and UN and ILO Conventions, including the case law on them. The Groenman Committee has endorsed this idea in its recommendations. The conference held to discuss the report of the Groenman Committee also revealed that there is a definite need for an information structure of this kind.

As the emancipation policy is increasingly becoming part of mainstream policy, there is a danger that it will become fragmented and unclear. That is why preparations are also being made for the introduction of a monitoring instrument designed to provide basic information about the progress of the emancipation process. Furthermore, there is still a need for a system that can generate relevant information about particular developments relating to the equal treatment of men and women. The expertise in this field is currently scattered among various ministries and semi-government bodies such as the Equal Treatment

J. Hes and C. van Vleuten, *Het Vrouwenverdrag in de Nederlandse rechtsorde* (The Women's Convention in the Dutch legal order) VUGA, 1996.

Commission, university institutes and expertise centres such as the Clara Wichmann Institute and the Dutch Lawyers Committee for Human Rights. The government will examine whether it is desirable and, if so, practicable to improve the dissemination of information, possibly through the Internet, by means of co-operation between the organisations concerned.

*The third report to CEDAW*

The information about the UN Women's Convention obtained in the course of discharging the national reporting obligation initiated by the Lower House of Parliament has clearly been of assistance in preparing the present report to CEDAW. It has revealed in particular the significance that can and should be attributed to the Convention in the Dutch legal order and in social and political developments in the Netherlands. Dutch emancipation policy too would benefit from greater emphasis on the review framework provided by the Convention.

A matter that does require consideration is the interaction between the national report to parliament and the international report to CEDAW. According to the notes on the Kalsbeek-Jasperse amendment that introduced the national reporting obligation, the period for the report to parliament was chosen in such a way that it would always precede the report to CEDAW by one year. This would give the two Houses of Parliament the opportunity to exert some influence on the report to CEDAW. Mindful of the wishes of the Lower House, the authorities did not complete the second CEDAW report - which was originally scheduled for 1996 - until the autumn of 1998, after the government's response to the national report had been debated in the Lower House. Since the periods for submitting reports to CEDAW cannot be extended - they are fixed in the Convention and CEDAW has no authority to grant an exemption from the reporting duty - the government has decided to bring the reports to CEDAW back on schedule by making preparations for the third report to be submitted on time.

## Annex 1

### Illustration of the connection between the three levels of policy by reference to General Recommendation 18 on the position of disabled women

In this recommendation CEDAW requests more information on the position of disabled women, in particular the extent to which they have equal access to education, employment, health services and social security, and on special measures that have been taken to ensure that they can participate in all areas of social and cultural life. Recommendation 18 therefore cuts right across the Convention since it deals with all aspects of the position of disabled women. It is therefore a good example to use in illustrating the connection between the three levels of policy and the articles of the Convention.

LEVEL 1: POSITION AND LEGISLATIVE MEASURES

**1 (a) Position**

Some 13% of Dutch women - i.e. some 850.000 people (of whom 56% are under the age of 65) - have a handicap or serious handicap. Even after a correction is made for age, the majority of people with a physical handicap are women (CBS / NIMAWO). Residential homes for the physically disabled have roughly equal numbers of male and female occupants. Fewer women than men have a mental handicap (6.6 per thousand compared with 8.7 per thousand) (Maas, 1988).

**1 (b) Legislative measures**

Surveys have revealed frequent discrimination against the disabled. Women are over-represented among the disabled and have a greater chance of becoming completely incapacitated for work (Hendriks 1997). The aim of the Netherlands government is to introduce legislation in the short term (step by step) to prohibit discrimination against the disabled.

LEVEL 2: TOWARDS DIVERSITY

Prompted by information from the field, the authorities have become increasingly aware that the needs of disabled women are not the same as those of their male counterparts. It was this realisation which led the government to decide to subsidise an emancipation project undertaken by the Dutch Council for the Disabled, a voluntary organisation, between 1990 and 1994. This has now been followed by a 2-year project of the non-governmental organisation *Vrouwen Alliantie* to improve the position of disabled women. The aim of the project is twofold: not only to improve the position of disabled women in paid and unpaid work (see also chapter 9) but also to ensure that the policy of women's organisations affiliated to *Vrouwen Alliantie* takes account of disabled women. In 1996 the Dutch Council for the Disabled established the 'Women in management' project as a sequel to its emancipation project (see also chapter 5). The ultimate aim of this project is to increase the number of women on the boards of the affiliated organisations.

The rights of disabled women were first recognised in government policy in 1991. An important finding at that time was that little was known about disabled women. Various surveys were then conducted to remedy this shortcoming. A survey in 1993[43] revealed among other things that disabled women were much worse off than disabled men in terms of participation in the labour market (see also article 11) and participation in education, particularly vocational education (see also article 10). The 1995 report "Position of women and minorities in sheltered employment" showed that disabled women and people from ethnic minorities were worse off than disabled men of Dutch origin. Disabled women in sheltered employment were at a disadvantage in terms of placement, qualifications and grading. The recommendations made on the basis of this report were taken into account in the central negotiations on pay and terms of employment for people in sheltered employment.

Sexual violence is directed mainly against women (see also chapter 3). Disabled women are particularly vulnerable. Various activities funded by the Ministry of Health, Welfare and Sport and designed to combat the sexual abuse of the disabled have been carried out since 1991.

LEVEL 3: STRATEGY FOR CULTURAL CHANGE

In recent years government policy has paid increasing attention to the position of disabled women, partly as a result of the efforts of organisations representing these women. The recognition that diversity enriches society has paved the way for disabled women to be accorded a place in policy. Nowadays policy focuses on what they can do rather than on what they cannot do. The activities carried out by the authorities or with the financial support of the authorities were discussed at level 2 above. The cultural change necessary for this purpose was initiated by people in the field. Those working with disabled became increasingly aware that the needs of disabled women are sometimes different from those of their male counterparts. This led to the establishment of separate projects, which were discussed at level 2 above. In addition to these specific activities, policy has focused increasingly on society's perception of disabled women. The Emancipation Council made recommendations on "Perception, gender and handicap" to the Netherlands government in February 1997. The government published its reaction to these recommendations in September 1997. The main conclusion was that the government will continue to provide financial support (as part of overall policy on the disabled) in 1998 and subsequent years for measures to influence society's perception of disabled women. An example of the type of project that receives financial support is the project undertaken by the Dutch Council for the Disabled in 1996 with a view to advising teachers and schools advisors on themes of importance to disabled girls.

[43] Gorter and Winants, *Gehandicapt en vrouw* (Disabled and a woman), The Hague, 1993.

## Annex 2

### The organizations forming the emancipation support structure

This annex contains more detailed information on the organisations that form the emancipation support structure described in outline in chapter 2.

*E-quality*

The organisation set up on 1 January 1998 under the working name E-quality is the result of a merger between four emancipation expertise centres, each of which formerly received a separate government subsidy. The merged organisations are Arachne (Women's Consultancy on Government Policy), the Women and Labour Institute, the Women's Exchange Programme International (WEP International), and AISA. It is important to consider AISA at rather greater length. This project is intended to support emancipation support for black, immigrant and refugee women. As such, it represents an important development not previously reported to CEDAW. Between April 1994 and 1 January 1998 AISA received a subsidy of a quarter of a million guilders a year from the Co-ordinating Minister for Emancipation Policy. Through AISA, various national organisations representing minorities have worked together for the following purposes:

* to develop ideas on the position and emancipation of black, immigrant and refugee women;
* to devise ways of conveying these ideas effectively to government authorities and voluntary organisations;
* to create conditions in which black, immigrant and refugee women can actively benefit from government policy and trends in Dutch society.

At the end of the project the knowledge and information acquired by AISA was transferred to E-quality, which will operate from the twin perspectives of gender and ethnicity. An evaluation has shown that AISA succeeded in providing the support needed by black, immigrant and refugee women and bridging the gap between the authorities and the leadership of the black, immigrant and refugee women's movement. The project has improved society's perception of black, immigrant and refugee women and succeeded in conveying a different image of them.

E-quality has a substantially larger subsidy than the combined amount formerly received by the merged organisations. The increase comes from the funds of the now defunct Emancipation Council. This is enabling E-qaulity to act as a nationally and internationally-oriented expertise centre. Its role will be to innovate, identify, inform and advise in a variety of fields such as the redistribution of paid work, unpaid care and income, the use of know-how and information technology, the redistribution of power and influence, integration and perceptions in a multicultural society, and international issues. E-qaulity is in close touch with the women's movement and concentrates both on government authorities and voluntary organisations and on trade and industry. In the next few years its annual subsidy will rise from 3.7 million to 4.6 million guilders.

*Toplink*

Toplink was founded in 1995 and aims to help ensure that women are proportionately represented on boards, committees and councils. It has a database of expert women who can be nominated to fill vacancies on the boards of voluntary organisations, government advisory councils and supervisory boards of companies. Toplink will receive an annual subsidy of 0.4 million guilders in 1998 and 1999.

*The International Information Centre and Archives for the Women's Movement (IIAV)*

The Netherlands has a unique centre for the provision of information on the position of women. The IIAV has a library, a documentation unit and archives containing documents on the position of women and women's studies. The Centre also serves an important international role. Over the next few years it will receive an annual subsidy of some 2.4 million guilders from the Co-ordinating Minister for Emancipation Policy.

*The Vrouwen Alliantie (VA)*

This umbrella organisation was created in 1993 as the result of a merger of two other organisations, one concerned with economic autonomy for women and the other with the redistribution of paid and unpaid work. The VA has a very large number of affiliated organisations, including the women's secretariat of the Federation of Netherlands Trade Unions (FNV), rural women's organisations, TIYE International and the National Women's Council. It receives an annual subsidy of about half a million guilders from the Co-ordinating Minister for Emancipation Policy.

*The Clara Wichmann Institute (CWI)*

The CWI is the central institute in the Netherlands for issues connected with women and the law. It receives an annual subsidy of about 0.9 million guilders from the Minister of Justice.

*Opportunity in Business Campaign*

The Opportunity in Business Campaign is intended to spur industry to make better use of female talent. More information about this can be found in chapter 9. The campaign receives a total annual subsidy of 1 million guilders from the Minister for Economic Affairs and the Co-ordinating Minister for Emancipation Policy. After three years the organisation will continue its activities independently on the basis of its own income.

ANNEX TO THE SECOND REPORT OF THE NETHERLANDS TO THE UN COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

# HEALTH AS A WOMAN'S RIGHT

## The Application of Article 12 of the Women's Convention in the Netherlands

Nora Holtrust
Mieke te Vaarwerk

*Summary of an in depth exploratory study into the meaning of Article 12 for the Netherlands*

Utrecht, November 1996

TABLE OF CONTENTS

## 1 INTRODUCTION

The Netherlands has been a party to the UN Convention on the Elimination of All Forms of Discrimination against Women, referred to here as the 'Women's Convention', since 1991. The Women's Convention was accepted by the UN General Assembly in 1979 and became effective in 1981.[1]

The objective of the Convention is to abolish the subordination of women in relationship to men. The Women's Convention contains general articles such as a definition of discrimination as well as articles about such subjects as health. Also important is the article about the necessity to break down stereotypical concepts concerning women (and men). The Convention actually covers the entire public and private domain which a woman can traverse throughout her life. During the Lower House's deliberations on the act sanctioning the Women's Convention, the Co-ordinating Minister for Emancipation Policy promised that the Parliament would receive a report about the implementation of the Convention in the Netherlands every four years.[2] This commitment comes in addition to the obligation of the States Parties to report the measures they have taken to implement the provisions of this Convention. This report must be submitted to the UN Committee on the Elimination of Discrimination Against Women (CEDAW) one year following ratification and then once every four years. The first Dutch report appeared at the close of 1992 and was submitted to the CEDAW the next year.[3]

In a related move, the Ministry of Social Affairs and Employment, Co-ordinating Minister of Emancipation Policy, decided to have regular in-depth studies carried out into the implementation of the Convention according to sub-areas. Such a study is also intended to advance the discussion of this topic in broader circles.

In light of this, on 17 November 1994, the Ministry of Social Affairs and Employment commissioned an exploratory study to be carried out into the meaning for the Netherlands of Article 12 of the Women's Convention. This article of the Convention charges the countries to take all appropriate measures to eliminate discrimination against women in the field of health care. A report of this study appeared under the title, '*De betekenis van artikel 12 Vrouwenverdrag voor Nederland: gezondheid als recht*' (the meaning for the Netherlands of Article 12 of the Women's Convention: health as a right).[4] The present text is a summary of the report.[5]

*Background*

Starting from the first years of what is known as 'the second wave of feminism', the women's health movement was already requesting attention for another approach to women's health and health care for women. Due to the efforts of the women's health

---

[1] New York, 19 December 1979, Bulletin of Treaties. 1980, 146.

[2] Article 3, Approval Procedure, Bulletin of Acts, Orders and Decrees, 1991, 355.

[3] *Report of the Committee on the Elimination of Discrimination against Women*, 13th Session, General Assembly 49, Session Supplement No. 38 (A/49/38), p. 60.

[4] Holtrust, Hendriks, Bauduin (ed.) (1996). For authors and other persons involved, see Appendix 1.

[5] This abbreviated version emphasizes other points, which means the text here differs somewhat from the original.

movement, people started reconsidering the connection between the social context in which women live and their health.[6]

Remarkably, some gender-related differences in sickness and health have remained long unnoticed, whilst a number of health problems are disproportionately more prevalent among women than among men (and *vice versa*). Such differences cannot automatically be traced back to biological factors. Also requiring consideration are the emotional, socio-economic and political factors that affect the life and health of women.[7] In short, health issues involve a complex of topics. The question arises as to whether standard health care pays sufficient attention to gender-specific aspects of health.

The objective of this study is to help give exposure to the Women's Convention and to increase the practical meaning of the convention for both health policy and the development of law. To accomplish this aim, it is necessary to translate the Netherlands' obligations under the convention from abstract terms applicable to international law into legal and policy-making terms usable at a national level. The Women's Convention can gain in significance when connections are made between, on the one hand, the legal discourse into the meaning of the various obligations under the convention and, on the other, the national discussion about how women will be affected by the Netherlands' various forms of government policy, including its emancipation policy.[8] This concept has been an important idea throughout this study into the meaning of Article 12 of the Women's Convention for the Netherlands.

The formulation of the problem is divided into two clusters of questions:

- What obligations does Article 12 of the Women's Convention entail?

- What does the Women's Convention mean for the Netherlands?

- To what degree do women (and men) have a right to health (and health care)?

- What added value does Article 12 of the Women's Convention have for the Dutch legal system in comparison to the Constitution and international conventions?

- What value does Article 12 of the Women's Convention have from a relative standpoint, especially from that of comparative law. How are other Western countries meeting their obligation of reporting to the CEDAW with regard to Article 12 of the CEDW?

- What is the health status of women in the Netherlands?

- What was the health status of women compared to that of men during the years 1991-1995, and which factors explain gender-specific differences in health?

---

[6] Meeuwesen, *et al* (1991). Van Delft (1991). Bakker, Claesen, *et al* (1993). Meinen, *et al* (ed.) (1994).

[7] See, among others, *Report of the Fourth World Conference on Women*, Beijing, September 1995, Par. 89 *et seq*.

[8] Lower House Proceedings, 1993-1994, 18 950 (R 1281), no. 14

- What is the quality of health care for women, including such factors as the accessibility of care?

- What implications do these questions have for health (and health care) policy with regard to Article 12 of the Women's Convention?

*Restrictions*

The present text focuses on the second cluster of questions: a study into the health of women and the practice of health care in the Netherlands. Curative health care, prevention, professional care and informal care are included in this description. Considering the broad scope of this terrain, it was necessary to impose some restrictions. Only the major areas of care within standard somatic and mental health care are described. The subject of this evaluation touches on the criticism of women's health care. Women's health care itself, however, was not a subject of the study. What was investigated was how *standard* health care takes women into account and handles them.

Of the three selected topics added to the original study, only those dealing with sexual abuse and financial control of health care are included in the present text. For the topic entitled 'Medical care during pregnancy and childbirth', we refer the reader to the thesis written by the author in question.[9]

Before describing the practice of health care, we will discuss the relevance for the Netherlands of obligations contained in international conventions and the place of the Women's Convention as a part of them. Finally, we will provide a general description of the Women's Convention itself.

[9] Monster (1995)

## 2 THE MEANING OF ARTICLE 12 OF THE WOMEN'S CONVENTION

### 2.1 International conventions

The Women's Convention is an international treaty aimed at strengthening the legal status of women throughout the world. The Vienna Convention on the Law of Treaties (1969) charges countries to carry out conventions in good faith. The constitutional law of the country itself, however, regulates the way in which a country will meet its obligations.[10] In the Netherlands, a citizen can invoke a convention even if that convention has not been (or is not yet) converted into national law. What is important, though, is whether an article of the convention has direct applicability.

*Direct applicability* means that a Dutch citizen can derive rights directly from an article, in contrast to convention articles that apply to countries.[11] In the Netherlands, it is not the legislator but a judge who decides whether an article of a convention is directly applicable.[12] A judge can also declare an article of a convention to be applicable when there is no direct applicability but the legislator has failed to adjust the law in line with the relevant convention.[13]

The Women's Convention includes human rights that govern the most fundamental rights in the relationship between a government and the population.[14] The vast majority of conventions concern either natural or civil rights, or basic social rights. The distinction still drawn between natural and social human rights is currently seen as being largely outdated.[15] According to the 1993 UN Human Rights Conference of Vienna, human rights should be seen as indivisible from and mutually dependent on each other.[16]

Initially, human rights were seen mainly as rights that individuals have in relationship to their government. Nowadays, more attention is being given to the unequal balance of power between individuals themselves, so that human rights can also apply to relationships between members of the population. In this case, one speaks of the *horizontal effect* of human rights.[17]

### 2.2 The elimination of discrimination and the principle of equality

According to the title and the preamble of the Women's Convention, the elimination of all types of discrimination against women forms the main objective of the Convention.

---

[10] The bye-laws and guidelines of the European Union that are directly applicable to all countries of Europe form an exception to this.

[11] See also Alkema (1995).

[12] For the *travaux préparatoires*, see Rehof (1993) and the parliamentary treatment of the Approval Procedure, Lower House Proceedings, 1984-85, 18 950 (R 1281).

[13] Lijnzaad (1991). Alkema, Zaaijer (1994).

[14] The terms "fundamental rights" and "human rights" are used interchangeably; Alkema (1995).

[15] Gerbranda, Kroes (1991). Alkema (1995).

[16] *Final report, Vienna World Human Rights Conference*, 1993, par. 5

[17] Verhey (1992).

Discrimination is not, by definition, the opposite of equal treatment for women and men.[18] The discriminatory aspect of a method of treatment is not to be found in whether or not the treatment differs but in the effects of the treatment. Discrimination exists whenever a person or group arrives at or remains in a position of deprivation whilst this person or group cannot avoid the treatment by stripping him/her/itself of the characteristic in question (e.g. gender).

Discrimination can be classified as *direct* or *indirect discrimination.* An example of direct discrimination is when women are refused the right to register as persons seeking housing whilst men, in contrast, are given this right.[19] Making distinctions on the basis of sex (or skin colour, etc.) results in direct discrimination.

Indirect discrimination exists if it is not obvious that people are being discriminated against. This would occur when the measure being taken appears to be sexually neutral. For example, when an employer is seeking people who are at least 1.80 metres tall, this would seem at first glance to be sexually neutral. Due to the height requirement, however, women have less chance to be hired for the position. If there is a good reason for the requirement, the employer has what is known as an *objective ground for justification.* This situation alone permits differentiation when indirect discrimination exists.

The Women's Convention is aimed at eliminating both direct and indirect discrimination.[20] This can be inferred from some parts of the Women's Convention, such as Article 2, which states that governments should condemn all forms of discrimination against women.[21] It can also be inferred from Article 1 of the Women's Convention, the article which provides the definition of discrimination.

In addition to rejecting discrimination, the Women's Convention also cites the principle of the equality of men and women.[22] The principle of equality is often described as the equal treatment of equal cases and the unequal treatment of unequal cases according to the degree to which the cases differ from one another. But equal cases, in the sense of identical cases, do not exist. Equality of people exists only when certain differences are left aside as being irrelevant.

In order to discuss the equality or inequality of people, a point of reference should be chosen for defining equality or inequality. It must be realized, however, that choosing a point of reference can introduce new problems. Suppose we select treatment X as the best treatment for arthritis. Everyone with arthritis is now considered eligible for treatment X. Due to choosing a point of reference, a certain group - people with arthritis - are singled out as a group different from other cases. One of the problems with the principle of equality is that men are often taken as its standard.[23] In doing so, there is insufficient recognition of the fact that 'the man as standard' is not always favourable for women and/or that biological differences between men and women involve more than the possibility of becoming pregnant. The conclusion that treatment X is the best treatment for arthritis can only be made after

[18] Burkens (1982). See also Gerbranda, Kroes (1994). Otherwise, Wenthold (1990).
[19] See: Heringa (1994).
[20] Burrows (1985). Van Maarseveen (1985). Brünott (1986). Wadstein (1988).
[21] Alkema, Zaaijer (1994).
[22] Alkema (1995).
[23] Schaapman (1995).

treatment X is studied for both men and women. The effectiveness of medications or methods of treatment can be different when applied to women than when applied to men because of other socio-economic and/or biological factors.[24]

In legal literature, a distinction is drawn between *formal* and *substantive* equality. Formal equality is taken to mean equality before the law, that is, the legislation as such is the only factor considered. Substantive equality includes considering differences in positions (and positions of power) for the purpose of achieving real equality. The drafters of the Convention had in mind both the attainment of formal and substantive equality.[25]

## 2.3 The added value provided by the Women's Convention

After World War II, human rights slowly but surely took its place in the spotlight. In most human rights conventions, reference was made to the equal rights of men and women. Article 26 of the International Convention on Civil and Political Rights states, for example, that *all individuals* are equal before the law and can claim equal protection under the law. This article has had direct applicability since 1979 and has even been used to declare that a basic human right from the International Covenant on Economic, Social and Cultural Rights (ICESCR) applies equally to women and men.[26] European law also has various convention articles that deal with equality. The most well-known are Article 119 of the EC Treaty and Article 14 of the ECHR. These convention articles, too, are often employed by the court.

Since so many international and European human rights treaties already contain the principle of equality, does the Women's Convention actually add anything to them? Research answers this question in the affirmative.[27] The Women's Convention addresses itself specifically to problems faced by women.[28] The Women's Convention is so widely based that it covers practically all areas of a woman's life. The general human rights treaties cover either natural rights or social human rights. What makes the Women's Convention unique is that all these *human rights* can now be found in *a single convention* in such a way that these rights reinforce one another.

The Women's Convention also breaks down the distinction, still often made in jurisprudence, between the *public and private spheres*, something that provides an extra dimension to improving the rights of women. Furthermore, the Women's Convention allows room for a *horizontal effect, which is decidedly significant since women are often discriminated against* in the private sphere.[29] Due to the distinction which is still often made between public and private law, the fact that it is precisely in the private sphere where women experience discrimination is still not receiving sufficient attention. In fact, the convention covers every area, even when a subject is not named explicitly. Sexual abuse, for example, is not

---

[24] Wieringa, Weel (1994). Lagro-Jansen (1995).

[25] This is apparent from Articles 1,3,4,5 and 11, paragraph 2 of the ICEDW. See also Alkema, Zaaijer (1994).

[26] Vz. ARRS, 10 May 1979, *NJCM Bulletin* 19-7 (1979) and HR, 7 May 1993, *NJCM Bulletin* 18-6 (1993) with annotation A,.W. Heringa. Heringa (1994).

[27] Wadstein (1988). Dallmeyer (1993). Cook (1994).

[28] Tomaševski (1988).

[29] Romany (1994). Loenen (1994).

mentioned as such in the convention but can indeed be challenged on the basis of the Women's Convention.[30] Also important is Article 5 in which the States Parties are called upon to introduce a change in norms for the purpose of breaking down stereotypical role patterns and customs.

## 2.4 Health as a right

There are different ways to formulate the right to health.[31] Health care is a broader concept than medical care. The term 'health care' is used to indicate the entire system of intramural and extramural health care including professional activities as well as administrative and financial controls.[32] This study discusses a *right to health* which is in accordance with international literature instead of the term '*right to health care*' which is the term most usually used in the Netherlands.[33]

To date, little attention has been given in the Netherlands to the constitutionally established right to health and the repercussions that this right has for the system of health care.[34] The discussion over the precise meaning of the right to health is still in its early stages, both nationally and internationally, and this applies even more so to the gender-specific aspects of this right.

Article 22, paragraph 1 of the Constitution has been formulated as an assignment for the government.[35] Concerning international law, Article 12 of the ICESCR is important because this article has served as a basis for Article 12 of the Women's Convention.[36] Most international conventions appear to go further than the Constitution because they award the citizen an individual right to health. International provisions usually indicate clearly (or more clearly) what efforts the government has to make to protect and promote public health. These obligations go further than establishing a high-quality, easily accessible system of health care; they also encompass the influencing of health care determinants.

Both Article 22 of the Constitution and Article 12 of the ICESCR are equally *difficult to enforce in court*. When these kinds of provisions are brought before the court, the court will honour such an appeal only in exceptional cases. The court tends to allow the state a generous amount of discretionary power, something apparent from the fact, among others, that the court only *marginally reviews* basic civil rights. The increasing attention to economic, social and cultural rights could, nonetheless, lead to these rights being increasingly directly applicable.[37]

It is difficult to state the exact contents of the right to health. This is primarily because the right to health is a basic human right, something that initially carries with it an *instruction*

30 Heringa (1995).
31 Sommerville (1993). Cook (1993).
32 Leenen (1991).
33 WHO (1993). Toma_evski (1995). Leary (1994). Leenen (1994). Hendriks (1994)
34 See also Lower House Proceedings, 1994-1995, 24 126, nos. 1-2, p. 18.
35 Akkermans, Koekoek (1992), Gevers (1994).
36 Sullivan (1995b).
37 Coomans, *et al* (ed.) (1994).

*norm* for the government to implement certain initiatives. What is unclear are the actual obligations of the government and the degree to which the government is expected to work toward achieving the desired result.

Both Article 22 of the Constitution and Article 12 of the ICESCR mention the obligation of the state to take measures. These measures should not only encompass the initiating of *legislation* but also the pursuing of policy in the concerned terrains and those adjoining terrains. *Preventive* health care also falls within the range of these provisions. Article 12 of the ICESCR explicitly mentions prevention, whilst Article 22 of the Constitution generally assumes that prevention falls under the heading of promotion.

Article 12 of the ICESCR mentions concrete steps that the government should take to realize the right to health. Article 12 of the ICESCR further determines that the state should begin taking these measures immediately.[38]

Article 22 of the Constitution concludes that *reducing the level of care* could cause problems.[39] It is assumed that the 'promotion' mentioned in Article 22 of the Constitution should cover everyone, *without distinctions* being made between individuals (compare Article 1 of the Constitution). As for Article 12 of the ICESCR, the connection with the *principle of equality* is made through Article 2, paragraph 2 of the ICESCR. Hence, it can be argued that the government is obliged, pursuant to both the Constitution and the ICESCR, to give a great deal of prominence to the prevention of discrimination and the promotion of equality between the sexes when implementing obligations that are contained in the right to health.

By inference, it could be argued that Article 22 of the Constitution and Article 12 of the ICESCR place the following obligations on the government:

a. To take measures, including the initiation of legislation, the pursuing of an integrated policy, and the managing of institutions.

b. To use the influencing of health care determinants to promote preventive and curative health care on both the individual and collective levels.

c. To make an immediate start on taking and implementing such policy measures.

d. To create a prohibition with regard to the reduction in the level of provisions unless a justification can be produced for doing so. The reduction of provisions may not be made at the disproportionate expense of the rights and interests of vulnerable population groups.

e. To take measures that should be aimed at everyone with no distinctions between individuals. In other words, measures that take gender-specific characteristics into account so that discrimination is prevented.

## 2.5 The goal of the Women's Convention

The most important goal of the Women's Convention is the elimination of discrimination against women. This is also expressed in Article 12, paragraph 1, which points to the obligation 'to take appropriate measures to eliminate discrimination against women in the field of health care'.[40]

---

38 Sullivan (1995b).

39 Gerbranda, Kroes (1991).

40 See for more details: Heringa, Hes, Lijnzaad, *et al* (ed.) (1994).

Article 2 of the Women's Convention contains a general norm for the activities of the States Parties and for this reason is also called *the heart* of the Women's Convention.[41] As a result of Article 2, the States Parties are summoned to eliminate *all* forms of discrimination against women by the use of appropriate means. Briefly, Article 2 of the Women's Convention is focused on the goal of the convention: the elimination of discrimination against women. Article 12 of the Women's Convention indicates the means, including legislation, for achieving this goal.

Article 3 of the Women's Convention goes a step further and charges states to take measures aimed at the complete *development* and *advancement* of women for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men. Good health increases the opportunities for development and advancement and can therefore be considered as a means to something else. Good health is also a goal in itself. Equal accessibility to health care for women is of vital importance in their struggle against discrimination and in the expansion of equal opportunities for women.

Article 4 focuses on two different issues: on the one hand, *preferential treatment* and, on the other, the protection of *maternity*. The goal of a preferential measure is to hasten the actual equality of men and women. It is not the intention of this convention article, therefore, to encourage or maintain protective provisions for women that are based on a stereotypical approach to them, and the measures may only be of a temporary nature. The second part of the article, however, does permit protective provisions, but these provisions should be specifically directed toward protecting maternity, 'maternity' being understood in a limited sense.

Finally, Article 5 of the Women's Convention is the last '*general heading*' article of the Convention before the specific articles involving single subjects are discussed. The goal of this article is to bring about the elimination of customs and prejudices that are based on the superiority of one of the sexes. To achieve this, governments should take all appropriate measures.

Customs and prejudices that assume the inferiority of women should change, because a stereotypical approach to the sexes hinders women in their development and can therefore have negative effects on their health. Furthermore, what also occurs in health care itself, and partially in response to stereotyping, is that the patterns of expectation involving women as well as the approach to women are not the same as those for men.

The contents of the provisions from the Women's Convention may not detract from obligations arising from other conventions, assuming these hasten the goal proposed in the Women's Convention.[42]

### 2.6 The three types of obligations

Article 12, paragraph 1 of the Women's Convention reads as follows:

---

[41] Alkema, Zaaijer (1994).

[42] See Article 23 of the ICEDW.

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

The first phrase of Article 12, paragraph 1 states the obligations for States Parties as based, broadly speaking, on Article 12: the taking of all appropriate measures to eliminate discrimination against women in the field of health care services. The second phrase of Article 12, paragraph 1 indicates the goal that these measures should achieve: 'in order to ensure, on a basis of equality of men and women, access to health care services, ...' Considering the broadly formulated obligation inherent in the first phrase (the elimination of discrimination in the field of health care), it is plausible that the instruction norm in the second phrase also extends to the entire terrain of health care and not just medical care in the narrow sense of the word.[43] With regard to the supplement concerning 'care services including those related to family planning' from the second phrase of Article 12, paragraph 1, the writers of the convention have not provided further details.

Next, we read this in the second paragraph of Article 12:

Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure women receive appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

The second paragraph of Article 12 stipulates that the states should make sufficient facilities available in relationship to pregnancy and childbirth. This forms an exception (actually a supplement) to the injunction concerning the officially equal treatment of men and women in the field of health care as stated in the first paragraph. This paragraph can be explained as a recognition of the aspiration for substantive equality, in which gender and other differences between persons and groups of persons are taken into account in a positive manner. However, by formulating the second paragraph as an exception ('notwithstanding') to the principle of equality, the writers of the convention intended to prevent the possibility that such facilities could be sacrificed to a formal interpretation of the ban on discrimination.[44]

What concrete obligations for the States Parties are now arising from these convention provisions?[45]

To understand a convention properly, it is helpful to classify the government's obligations which will arise from a human rights convention. One commonly used set of classifications is that suggested by the Norwegian human rights expert Eide: respecting, protecting and realizing.[46] The obligations arising from the Women's Convention can also be divided into three different kinds:

1. shall ensure/accord/grant the right;
2. undertake to;

---

[43] Van den Brink, Hendriks (1994).
[44] Van den Brink, Hendriks (1994).
[45] Coomans (1992).
[46] Eide (1987).

3. shall take all appropriate measures, in order to ensure.

Considering the compulsory nature of the terminology in the provisions of the first and second type, judicial assessment of these obligations should not provide any problems.[47] Obligations from the first category, 'to ensure' certain rights, contain clearly verifiable and enforceable obligations.[48] For the same reason, the obligations of the second type, which are associated with 'undertaking', appear to be legally enforceable. The obligations of the third type ('taking appropriate measures') are less compulsory. Added to the taking of appropriate measures, the phrase 'in order to ensure', is an obligation of the first type. From this, it could be concluded that states cannot delay taking action but actually need to begin taking measures.

*Article 12, paragraph 1*

Article 12, paragraph 1 contains an obligation of the third type: states 'take all appropriate measures (...) in order to ensure', on a basis of equality of men and women, access to health care services. The emphasis here seems to be on *equal* access and not on *access* as such. When a certain group of persons lays claim to government-financed or subsidized care, the principle of equality implies that others with similar needs for care can also lay claim to that form of care unless making a distinction based on reasonable and objective criteria can be justified.

Article 12, paragraph 1 of the Women's Convention appears to contain more than an arbitrary prohibition when establishing care claims. The states appear to be entitled to less discretionary authority than the open-ended wording of this provision suggests. From the *travaux préparatoires*, it can be gathered that it is possible to make a distinction between the first and second phrases in Article 12, paragraph 1. The phrase, 'the taking of appropriate measures', falls under the third category and is thus only marginally assessable, but 'in order to ensure' falls under the first category, and this means that complete assessment is, in principle, perfectly possible.[49] Women who do not have 'on a basis of equality of men and women, access to health care services' can thus appeal to the court, although it will still be difficult to assess the 'appropriateness' of the measures taken.

The government's obligation to strive for equal accessibility to health care must be understood in the substantive sense. States Parties cannot rid themselves of their obligations by adducing that their non-combating of a certain health problem is not discriminatory because the problem arises only in women.[50]

Article 12, paragraph 1 allows little leeway for the reduction of acquired care claims. The government should take groups in a deprived position into consideration and ensure their care claims already acquired remain guaranteed in the future. When making economic cuts affecting women's health care, for example, the know-how and experience surrounding this care should first be transferred to the standard packet of health care.

---

[47] Flinterman (1995).

[48] Byrnes, Connors (1994).

[49] Hes, *et al* (1996).

[50] An example of the need for substantive equality can be found in the group of women in detention; see Wolleswinkel (1995), p. 183-184. Van der Maas (1994).

When the government believes a reduction in the level of women's care claims is inevitable, the burden of proof for this rests with the government.

The term '*appropriate measures*' from Article 12, paragraph 1 of the Women's Convention can also be viewed in connection with Articles 2 and 3 of the Women's Convention discussed in the previous paragraph. The Women's Convention not only makes the initiating and modifying of laws and legislation obligatory, but also implies the obligation to take measures (or a combination of measures).[51] According to the ICESCR Committee, the concept of appropriate measures means that governments are counted upon to start taking measures immediately for realizing the obligation in question.[52] In short, the discretionary authority of governments to realize this convention obligation at their own pace and according to their own opinions is less great than is assumed.

*Article 12, paragraph 2*

The second paragraph of Article 12 states that governments should 'ensure' provisions associated with pregnancy and childbirth. This obligation, classified under the first category, is therefore the most concrete obligation that can rest on a government by virtue of a convention. A government can shirk its responsibilities for this obligation only under exceptional circumstances. Unlike paragraph 1, paragraph 2 does not assume 'equal access', but the 'ensuring' of concrete care claims, which should be offered without cost if necessary. What must be considered here are not only the usual provisions, such as information and guidance, but also specific facilities, such as birth control clinics. Hence, Article 12, paragraph 2 goes further than merely prohibiting discrimination, since it obliges governments emphatically and unconditionally to provide facilities associated with pregnancy and childbirth.[53]

The guarantee of these forms of care can be threatened in all kinds of ways. A shortage of care being offered can result in long waiting lists. Inadequate quality of services can mean that women will have to pay for other care themselves, etc. This raises the question as to which claims, exactly, can those asking for help derive from the term 'ensure'. This question can be answered in two ways: one based on a minimalist perspective and the other on a maximalist perspective.[54]

A minimalist view considers the ensuring of care claims in which the legal position of women is *not reduced*. To this end, neither direct nor indirect discrimination is permitted when establishing care claims. Nor may a levelling-down policy be pursued with regard to women. Such a policy means working to achieve formal equality of men and women without taking into account the fact that formal equality (in this case) actually results in the deterioration of the position of women. Minimum standards will also have to be reviewed continually, whilst not allowing the core contents of the obligation to be affected.

A maximalist view considers *ensuring* care claims in such a way that there would be leeway

---

[51] Compare: Alkema, Zaaijer (1994).

[52] Limburg Principles, UN Doc. E/CN.4/1987/17; General Comment No. 3 (1990), UN Doc. E/1991/23, E/C.12/1990/8, p. 83-87.

[53] Sullivan (1995b), p. 378.

[54] Hes, *et al* (1996).

for new care claims that would contribute to realizing substantive equality between women and men. Hence, such a policy would be directed toward improving the actual position of women.

## 2.7 Implementation

In past years, the United Nations has organized several important conferences about topical issues that are important for women all over the world. Such conferences are good occasions for clarifying the meaning of human rights - rights which also include the provisions from the Women's Convention.

It can be gathered from the discussions and final reports from recent world conferences that increasingly more value is being placed on the suppression of sexual abuse and the removal of other customs and practices that directly or indirectly form a threat to realizing women's rights to health. Detailed discussions at various world and women's conferences have addressed the link between sexual inequality, women's poorer health, and the inadequate health care for women. One of the documents in which the results of these discussions can be found is the final report from the Fourth World Conference on Women in Beijing.[55] After listing many problems, this document adopts the following goal:

*Increase women's access throughout the life cycle to appropriate, affordable and quality health care, information and related services.*[56]

Unlike other international conventions, the Women's Convention does not have any individual complaint handling procedure.[57] What the Women's Convention does have, however, is a periodic reporting obligation for states. The ensuing reports are studied by the CEDAW. The value of the Women's Convention can be increased as a result of vigorous implementation. Among other factors, this implementation depends on the way in which the CEDAW realizes its surveillance task.

Since 1986, the CEDAW has started issuing General Recommendations that intend to encourage an unequivocal interpretation of the convention. Value is being increasingly placed on these Recommendations.[58] The CEDAW wishes to obtain as much *information itemized according to gender* as possible, as well as information about the health of women and the health care they receive. This assumes that the government is pursuing a policy which actually makes this information available. To the extent that information reveals discrimination against women, the government is deemed responsible for abolishing the situation of deprivation in a gender-sensitive manner.

There is (still) no General Recommendation from the CEDAW that expands on Article 12.[59] Nevertheless, several Recommendations such as the ones that address the subject of sexual

---

[55] Platform for Action, 1995, § 3, paras. 41-44.

[56] Strategic objective C.1. Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995, A/Conf.177/20, p. 41.

[57] For a concept protocol for a complaint handling procedure, see Flinterman (1995).

[58] Byrnes (1991c), p. 345.

[59] According to Cook (1995), this is in progress.

abuse relate indirectly to Article 12. Other subjects addressed by recent Recommendations are AIDS, and the situation of women with a handicap.[60]
Chapter five of the study discusses the reports submitted to the CEDAW from four Western countries. This summary addresses only the 1992 report from the Netherlands, a bulky report including only three paragraphs related to Article 12.[61] The first two paragraphs address special women's health care projects and the policy concerning sexual abuse. For the rest, Article two of the Women's Convention already paid extensive attention to sexual abuse. The third paragraph provides a report about Article 12, paragraph 2 of the Women's Convention. It states here that medical assistance for pregnancy and childbirth fall under health insurance, whilst specialized psychosocial assistance relating to pregnancy and single parenthood is available free of charge.

In reaction to the government report, a parallel report appeared that was entitled 'Equal rights and opportunities policy in the Netherlands: Showpiece or slowcoach?'[62] This report points out that health care provisions in the Netherlands are equally accessible for men and women in a formal sense, but that this does not mean that women can make use of these provisions in the same way or are treated in the same way in practice. According to the parallel report, there is often a lack of communication between the doctor/care provider and the female patient, especially in cases involving black or migrant women. This report also points out the increasing medicalization surrounding, in particular, matters related especially to women. It also points out that several diseases can be indicated for which female patients are treated in a different way to male patients without an objective justification for doing so. Diseases for which this can be demonstrated are heart diseases, AIDS and pulmonary diseases. Another comment concerns the steadily increasing economic cuts being carried out. These cuts have supposedly resulted in the closing or forced merging of several women's health care projects (also mentioned in the government's report) which had been started in the 1980's.

The Dutch report was well received by the CEDAW, but the part describing Article 12 was called vague and insufficiently detailed. It is obvious that the CEDAW made a thorough study of the parallel report. What is desired is not only to describe women's formal right for access to health care but also to address women's *actual access* to health care.

## 2.8 Conclusion

The Dutch government has been bound to the obligations of the Women's Convention since 1991. If the government fails to meet its obligations or does not make enough effort in this direction, the Netherlands will have committed a breach of contract, with an appeal to the court being one possibility for redress. Granting such an appeal is linked to answering the question of whether the invoked convention article is directly applicable. The answer depends partially on the kind of obligations contained in the provision in question: ensuring/guaranteeing, undertaking, or the taking of appropriate measures (in order to ensure).

---

[60] See Recommendations 12 (1989), 14 (1990), 18 (1991) and 19 (1992).

[61] International Agreement on the Elimination of all forms of Discrimination against Women, New York, 1979; First Netherlands Report of the UN Committee for the Elimination of Discrimination against Women, November 1992.

[62] Lesquillier, Van Houwelingen (ed.) (1993).

Article 12 of the Women's Convention includes various obligations. Until now, the question of the direct applicability of this convention article - or its individual paragraphs - has not been answered in court. Apart from the question as to what kind of obligation is allowed, the court can also declare the government at fault if implementation of a provision takes too long. Moreover, the contents of the provisions in the Women's Convention may not impair obligations resulting from other conventions, assuming they hasten the goal proposed in the Women's Convention (Article 23 of the Women's Convention). Aside from an appeal to the court by individuals or groups, another possibility to consider is making use of the CEDAW's surveillance role in watching over the implementation of the Women's Convention.

The Women's Convention forbids direct and indirect discrimination and charges states to take appropriate measures that contribute to the realization of substantive equality between women and men. The Women's Convention covers a broad terrain including both natural rights and social human rights. By including both kinds of rights in a single document, the indivisible and complementary character of each kind of right is emphasized. The Women's Convention also provides an added dimension to the rights of women because no clear-cut distinction is made between the rights of women in the public and private spheres. The goal of Article 12 of the Women's Convention is to realize women's equal accessibility to health care (paragraph 1) and the right to specific forms of care and advice surrounding pregnancy and childbirth (paragraph 2). Article 12 of the Women's Convention can be seen as a gender-specific elaboration of Article 12 of the ICESCR and is also related to the provisions in Article 22 of the Dutch Constitution. This point of view is demonstrated by the fact that the Women's Convention charges the States Parties to ensure they will consider the following:

- female health complaints and problems, including sexual abuse, and the appropriate related questions and communication methods;
- the socio-economic position of women;
- the possible care obligations of women for others.

The added value of Article 12 of the Women's Convention as opposed to Article 12 of the ICESCR and Article 22 of the Constitution is particularly obvious from the fact that this provision obliges governments to be aware of the vulnerable position of women when creating legislation and formulating policy. Furthermore, the states should challenge the stereotypes and prejudices that still exist. If necessary, consideration must be extended in this matter to differences among women. Special attention should be given to women in a vulnerable position. These women include those who are either being threatened with deprivation or are being denied access to health care, for example, older women, alien and illegal alien women, and women with a chronic disease or handicap.

Article 12 of the Women's Convention encompasses the entire organization of physical and mental health care, and not just the narrower field of 'medical care'. Included are all forms of preventive and curative health care, nursing and other care (home care, care in institutions etc.). The efforts expected of the government concern, in any case, concrete steps toward realizing equal rights in the area of access to health care in the broad sense of the term. Legislation alone is not enough. Depending on a certain policy terrain, other measures may also be expected of the government, such as efforts in the area of preventive health care, the elimination and prevention of sexual abuse, and the emancipation of health care.

A deterioration in the available care which disproportionately affects women (or certain categories of women) cannot be justified only by pointing to a deterioration in the economic situation. The burden of proof in this case always rests with the government. In each case, measures that are suspected of causing mainly negative effects on women's access to health care will have to undergo an emancipation impact assessment. Consideration can then also be given to the possibility of taking other compensating measures.

The ultimate goal of Article 12 of the Women's Convention is for women to be able to realize their right to health in real terms. This requires a proper evaluation of the significance of gender-related differences in health, and a critical examination of the quality of health care.

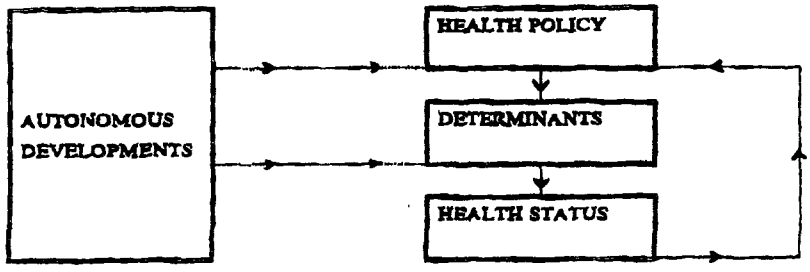
## 3 FROM LEGAL STANDARD TO PRACTICAL APPLICATION

To be able to determine whether the Netherlands is satisfying its obligations as contained in Article 12 of the Women's Convention, the legal concept of 'gender discrimination' must be translated into observable phenomena. For that purpose, the concept of gender discrimination is related to prevailing concepts in health care. Because Article 12 is also intended to cover the right to health *care* as an extension of the right to health, we will be employing two theoretical lines of approach. We will first describe these conceptual frameworks and create a link between them and the concept of gender discrimination. Next to be discussed will be the design of the practical research.

### 3.1 The relationship between gender discrimination and health

The assumption is made, when speaking of 'right to health' and discrimination, that the government can, by external intervention, affect the health status of women and men. Figure 1 illustrates how governmental influence can be represented. This diagram was taken from the Public Health Status and Forecasts document (PHSF).[63]

**Figure 1**
**The effect of health policy on public health**




Source: Ruwaard, Kramers (1993)

According to this model, health policy is the best instrument for influencing public health. Health policy, however, does not affect the health status of the population directly; instead, it acts on the *determinants* of health. Examples of determinants of health include a person's life-style, the physical or social environment, and biological factors. Even health care itself can be conceived as a determinant of health: preventive care can encourage health and prevent health problems, whilst curative care attempts to remedy existing disorders. Several determinants of health, such as the quality of the environment or working conditions, fall outside the sphere of health policy. The government can influence these determinants only by means of facet policy. Some determinants, such as inherited tendencies, can scarcely if at all be affected by external means. Finally, determinants of health and health itself are affected by autonomous developments that take place outside of the public health sphere. These include developments in the technological, socio-economic and socio-cultural fields.

[63] The reason for preparing the PHSF, commissioned by the Ministry of Health, Welfare and Sport, was to evaluate current health policy and to prepare new policy. The PHSF is a collection of recent studies into the health status of the Dutch population. The PHSF was prepared by the RIVM (National Institute of Public Health and the Environment) in cooperation with other institutes in the fields of health and health care research.

In summary, we can state that public health can be influenced only in part by health policy. This implies that gender-related differences in health are not simply the expression of gender discrimination. Gender-related differences in health are only *unacceptable* when they involve health problems that are reasonably *avoidable*. This exists, for example, when certain determinants of health resulting from government policy (or a lack thereof) are less accessible for women than for men, or when the quality of care for women is not as good. Only cases of unacceptably poorer health of women do we interpret as indications of gender discrimination. Also unacceptable is insufficient consideration of existing differences between women and men, whereby the effects of a gender neutral health policy would be disadvantageous for women (substantive discrimination).

### 3.2 The relationship between gender discrimination and the quality of care

In societies enjoying high-quality facilities, the availability of medical care is not the only yardstick for measuring gender discrimination; here, *quality* of care provides a much finer gauge. By emphasizing the quality of care, we join an important debate on health care that has been acknowledged in legislation development up to the highest levels.[64]

The 'quality of care' concept has undergone various changes over time. In the first national-level discussions about this topic (the 'Leidschendam Conferences'), quality was described as *'the degree to which a product's, process's or service's combination of properties satisfies the requirements placed on it, the requirements being based on the functional objective'.* Building on these discussions and on the policy documents of the National Advisory Council for Public Health (NRV)[65], the government indicated in its Policy Document on the Quality of Care[66] those aspects which generally relate to the quality of care provided. This policy document lists four aspects of quality: ensuring genuinely appropriate care, effectiveness ('the proper level of care'), efficiency (reasonable cost/effectiveness ratio), and client-centredness (handling the recipient of care as an individual, willingness to provide information, respect for independence, and readiness to be accountable). These aspects of quality are employed in the Care Institutions (Quality) Act. For that matter, this act defines qualitatively good care as 'appropriate care'.

The government realizes that care providers, insurance companies and patients/consumers can weight these aspects of quality differently; for this reason it allows these parties leeway in interpreting the aspects in more detail. Women's health care, in its advice and discussion papers related to policy documents, especially points out the importance of properly ensuring

---

[64] Legislation involving quality includes the following: The Medical Treatment Contracts Act, 1994 Bulletin of Acts, Orders and Decrees, 838 (introduced as of 1 April 1995); The Care Institutions (Quality) Act, 1996 Bulletin of Acts, Orders and Decrees, 80; The Individual Health Care Professions Act (BIG), 1993 Bulletin of Acts, Orders and Decrees, 655 (currently being introduced in phases); The Clients' Right of Complaint (Care Sector) Act, 1995 Bulletin of Acts, Orders and Decrees, 308 (introduced as of 1 August 1995); and The Participation (Clients of Care Institutions) Act, 1996 Bulletin of Acts, Orders and Decrees, 204 (introduced as of 1 June 1996).

[65] NRV (1986, 1990).

[66] Lower House Proceedings, 1990-1991, 22 113, no. 2, p. 4-5.

the appropriate care for women, in which not only the content of the care but also the mechanism for providing care should be explicitly in line with client-centredness as related to female patients/consumers.[67] Since the concept of quality allows room for a gender-specific interpretation, problems or differences in quality associated with gender differences would appear to be useful indicators for charting gender discrimination. Because the concept of gender discrimination relates to treating women unfairly *in relation to men*, a comparative standpoint is used to describe quality of care.[68] The quality aspects considered are the ensuring of appropriate care, and client-centredness.

*Ensuring appropriate care*

The concept 'need for care' has several dimensions, which can be defined as *expressed need, normative need* and *felt need.*[69] 'Expressed need' equates the need for care with the actual medical consumption. This offers little possibility for checking whether the care women receive meets their needs. 'Normative need' equates the need for care with the (objectively established) health status. This assumes that everyone with the same diagnosis has the same need for care. The last dimension of the need for care, 'the felt need', is based on the subjective need for care. The subjective need for care depends on such factors as the possibility of obtaining support within the environment, the tendency of people to solve their own problems and the prospects for receiving professional help. As yet, there is no proper way to measure subjective need.[70]

We rely here on normative need. In this concept we include not only disorders but also the limitations related to the health status as well as the more subjective perception of health - providing it is objectively measured. The appropriateness of the care received is shown by the relationship between expressed need and normative need. If we compare this relationship for women to that for men, we get a picture of gender-specific differences in the tailoring of the supply to the need.

*Filters*

Ensuring the appropriateness of the received care is not a one-time activity. In practical situations, this ensuring takes place at various times in the course of treating or caring for a patient: when visiting the general practitioner or specialist, when deciding on the use of medicines or medical devices, or when making a decision for admission. When describing this sequence, we rely on the *filter model* provided by Goldberg and Huxley (fig. 2). The concept behind this model is that only some people with health problems will pass on to higher levels because access to care is repeatedly filtered. Examples of filters include the tendency of persons to consult their general practitioner about a disorder (part of illness behaviour), the degree to which the general practitioner detects the health problem, the diagnosis proposed, referral, or admission. The more permeable the filters, the faster patients advance through the care process and the further they penetrate to the higher levels of care. Goldberg and Huxley developed the model for mental health care, but it is also applicable to somatic health care. The original model is displayed as follows:

---

[67] Vos, Franssen, *et al* (1992). Metis (1992). Netherlands Association for Outpatient Mental Health Care (NVAGG) (1992 1994a, 1994b). Medical Inspectorate of Mental Health (GHIGV) (1993).

[68] Where possible, differences between women are presented as well.

[69] Bradshaw (1972). Verhaak (1995). Franchimont and Bijl (1995).

[70] Franchimont and Bijl (1995).

**Figure 2**
**Filter model as created by Goldberg and Huxley (1992)**

Level 1: psychological problems in the population
*Filter 1: illness behaviour*
Level 2: persons with psychological complaints visiting general practitioners
*Filter 2: recognition/identification by the general practitioner*
Level 3: patients with recognized psychological disorders visiting general practitioners
*Filter 3: general practitioner's referral behaviour in relationship to the availability of specialized care*
Level 4: patients receiving outpatient mental health care
*Filter 4: decision to admit*
Level 5: patients with psychological disorders receiving care as inpatients at mental health institutions

In general, it is not possible to determine exactly what the ideal permeability is. As the permeability decreases, the risk of inadequate treatment increases; with a high degree of permeability, an excess of treatment or unnecessary medical consumption can occur. For this reason, we approach the question of tailoring the provision of the care to fit the need by looking at gender-related *differences* in the permeability of the filters, as based on the initial differences in health. Gender-related differences that develop, increase or decrease at a certain time in the course of care constitute a reason for a more detailed exploration for different types of gender discrimination.

### 3.3 The design of the research

The main questions to be answered by this study can be expressed as follows:
1. Is the health status of women in the Netherlands (unacceptably) poorer than that of men?
2. Are there gender-related differences in the *quality of care* concerning
a. ensuring appropriate care: the access to the various levels of care and the more specific content of the care; and/or
b. client-centredness?

To answer these questions, use was made mainly of Dutch publications in the field of the population's health status and the use of care in the Netherlands. Sources included the periodic reports from the major Dutch suppliers of information in this area, such as the National Institute of Public Health and the Environment (RIVM), the Central Bureau for Statistics (CBS), the Social and Cultural Planning Board (SCP), the Health Care Information Centre (SIG) and the Admission Register for Inpatient Mental Health Care (PIGG), as well as reports from national umbrella and patient organizations. Incidental to this study, we also performed a secondary analysis on the original data files. Furthermore, Dutch research publications were consulted as well. These publications were assembled by means of our literature search at the Netherlands Institute of Primary Health Care (Nivel), and the Netherlands Institute for Mental Health (NcGv).[71] As a 'safety net' to catch any missed

[71] Since 1 September 1996, absorbed into the Trimbos Institute.

themes, we consulted literature reviews in the international literature by means of the Medline and Psychlit computerized file systems. Publications consulted covered the period 1991 to 1995. In some cases, the information included in them was from an earlier date.

# 4 GENDER-RELATED DIFFERENCES IN HEALTH

As illustrated by Goldberg and Huxley's filter model, other and more varied health problems are presented at the beginning of the sequence of care than just those presented during the consulting hours of general practitioners or specialists. At the beginning of the sequence of care, no external filtering has yet taken place, and all health problems - at least the symptoms or disorders that people observe on their own - are still visible.[72] We next describe gender-related differences in health at the level of the general population. Important here is the question as to whether the health status of women in the Netherlands is (unacceptably) poorer than that of men.

Health status was charted as based on the following indicators: the prevalence of disorders, long-term limitations or handicaps, multiple morbidity, absence through illness and disability, perceived health, psycho social problems, and healthy life expectancy. We drained information from the 1980-1990 Health Survey produced by the Central Bureau for Statistics (CBS), and from the National Study on Disease and Treatments Occurring in General Practice produced by the Nivel, as well as from publications based on these studies.[73] Additionally, we made use of results from health surveys conducted by municipal health authorities (GGD)[74], the Amsterdam Zuid-Oost Filter Study[75], and the National Study into Differences in Health Based on Socio-economic Level.[76] Supplementary information was obtained from the 1993 Policy Document on Public Health[77] and publications of the Steering Group for Future Scenarios in Health Care.[78] Some sources are limited due to the fact that the data was gathered by making use of patients registered with a general practitioner. This means that uninsured persons, illegal aliens, refugees, homeless persons and those with extreme drug addiction problems are under-represented. Immigrants and people living in institutions are also generally under-represented in epidemiological research.

## 4.1 Comparing the health status of women and men

Gender-related differences in health can best be characterized by the saying, 'Women get sick; men die'. Compared with men, women have a longer life expectancy (80.1 versus 73.8 years) but suffer more illness. Almost all the extra years of life that women have are spent in a state of ill health. Women also spend more time in institutions due to illness. In an absolute sense, women spend more years of their lives in ill health (20 versus 13.5 years) and spend more of their lives in an unhealthy condition (25% versus 19%).

The remaining health indicators show that women experience not only more illness but also different kinds of illnesses than men do. Disorders of younger persons which affect chiefly women include urinary tract infections, thyroid disorders, migraine and - naturally - health problems surrounding pregnancy, menstruation or the menopause. In general, women also

---

72 Gijsbers van Wijk (1996).

73 Foets and Sixma (1991), De Bakker, Claessens, *et al* (1992), Verhaak (1995).

74 Vermande, Bijl (1995).

75 Van Limbeek, Wouters, *et al* (1994).

76 Mackenbach (1994).

77 Ruwaard, Kramers (ed.) (1993).

78 STG (1991).

report more psychological complaints than men. Of the population group with psychological problems, between 50% and 63% are women. When asked about their perceived health ('What is your general state of health?'), more than 20% of the women and over 16% of the men answered 'moderate' to 'poor'. Measured by a questionnaire (questions concerning perceived health or VOEG-score), the gender-related difference in perceived health is somewhat greater. Women more often suffer from fatigue, especially those who are engaged in mentally draining work and also have small children. Working women have more absence due to illness than men, even after discounting absence due to pregnancy or childbirth. Women, however, are sick for shorter periods of time and are less often declared disabled (10% versus 15%). There are indications that women who are about to be declared disabled more often retreat 'quietly' from the job market. Women are more often declared disabled on psychological grounds than men are. Once unemployed, women have clearly fewer opportunities than men for reentering the job market.

As women age, their greater suffering from illness is due chiefly to the higher prevalence of chronic and geriatric disorders such as joint deterioration, back problems and hip fractures, high blood pressure and equilibrium problems.[79] Multiple diagnoses (multiple morbidity) and long-term limitations or handicaps are also more prevalent in women. Furthermore, the nature of the limitations for women and men is different. Women experience predominantly limitations in movement (standing, walking, sitting down, standing up, and arm and hand functions) and a reduced ability to see, thus hindering them in their everyday activities. They also suffer more frequently from problems associated with urinary incontinence and bowel movements. Men suffer more frequently from reduced endurance, hardness of hearing, and speech problems.

In conclusion, we can state that women in the Netherlands, in spite of their longer life expectancy, experience both more health problems than men, as well as different kinds of problems.

### 4.2 Are gender-related differences in the burden of illness avoidable?

Assuming that the gender-related differences in health found in the study are not the result of methodological artifacts, the question arises as to how the differences can be explained: must health problems in the female population be attributed to (avoidably) poorer opportunities for health?

The less favourable health status of women is largely directly attributable to the fact that women are reaching advanced ages in greater numbers than men. At present, there is insufficient insight into the determinants of the most prevalent chronic disorders and geriatric illnesses. Assuming the current level of knowledge, it would seem impossible to avoid such differences in health or to attribute them to a faulty health policy. By establishing the National Committee for Chronically Ill People (NCCZ) and publishing the policy report on chronic diseases, the government is evincing a directed effort in the direction of increasing knowledge in this field. For the future too, it seems desirable to continue a focused effort in this field.

[79] As far as causes of death are concerned, lung cancer and CNSLD are *less* significant for women than men.

Health problems in the female population cannot, however, be entirely attributed to the greater number of elderly (and extremely elderly) persons in the female population. The differences emerging at age 15 approximately, which almost all health indicators reveal, leads one to suspect that sex, or *gender*, plays a direct or indirect role. Pregnancy, menstruation or the menopause cannot sufficiently explain the differences in health between the sexes, at least as far as perceived health and the prevalence of psychological complaints are concerned.[80] Women's higher complaint scores as shown in the epidemiological survey appear to be more strongly linked to a greater confrontation with day-to-day complaints. In turn, the daily experiencing of complaints is affected by mood, attention to physical changes, and the tendency to see physical sensations as a sign of illness.[81] Finally, it also appears that the social position of women is partially responsible for their poorer health status. Women, more frequently than men, live under conditions that are considered to have a negative effect on health.[82] These conditions involve such circumstances as having a low level of education, a low income, a lack of work, a lack of one or more fixed roles, and being a single parent. By correcting such living conditions, gender-related differences involving psychosocial issues disappear entirely, whilst gender-related differences involving psychological problems are partially removed. The differences in perceived health change even more radically: under equal living conditions, women experience *fewer* health problems than men.[83] The unequal division between paid and unpaid work does not appear to benefit a woman's health status either. It is particularly the pressure to provide informal care for others, whether or not in combination with household work and work outside the home, that often puts a heavy burden on a woman's physical and mental condition.[84] Relatively little information is yet available with regard to the causes of more absence due to illness among women. Still unclear is how much of a role is played by unfavourable working conditions, a lack of career perspective, and the responsibility for informal care. Women's reduced reentering the labour market contributes to the fact that they become unduly subject to work disabilities. All in all, we can argue that women, due to the living conditions in which they find themselves, are more intensively exposed to determinants of ill health. With an adequate government policy, living conditions that endanger the health of women can be improved considerably. Women will then have a better chance of being healthy.

---

[80] De Bakker, Claessens, *et al* (1992).

[81] Gijsbers van Wijk (1995) (1996).

[82] Vereijken and Bauduin (1992), Mackenbach and Van de Mheen (1994), De Bakker, Claessens, *et al* (1992), Verhaak (1995).

[83] De Bakker, Claessens, *et al* (1992).

[84] Duijnstee, *et al* (1994), Meinen, *et al* (1994), Bensing and Schreurs (1995).

# 5 GENDER-RELATED DIFFERENCES IN THE QUALITY OF CARE

## 5.1 Preventive health care

Preventive health care is composed of promoting and protecting public health as well as preventing disorders. In the literature, a distinction is often made between primary and secondary prevention. Primary prevention is aimed at the actual prevention of diseases, e.g. by vaccination. Secondary prevention concerns early detection of diseases and disorders. Examples of secondary prevention are the screenings for breast and cervical cancers. Preventive interventions can occur in the form of collective programmes and within the framework of individual care.

For assessing the quality of preventive care, the measures applied are different in some respects to those used for assessing curative care, at least when tailoring the provision of care to fit the demand.[85] Preventive care is, by definition, offered on an unsolicited basis to people who, in principle, are in good health. The criterium for providing preventive care is not a person's current health status but the risk for a disorder in the future. Secondly, individual interests are not always of first importance; a collective interest is also being served with preventive care. Individual and collective interests can be at odds with each other.

*The legal framework*
The legal framework for preventive health care is formed by the Public Health (Preventive Measures) Act (WCPV), the Control of Infectious Diseases and Investigation of Causes of Disease Act (WBI) and the Population Screening Act (WBO).[86]

The WBI[87] dates back to 1928 and applies to the infectious diseases designated by an Order in Council. The WCPV became effective on 1 January 1989.[88] This piece of legislation places the responsibility for collective prevention on local government, giving it a great amount of freedom to further define this task.[89] In 1992, the government adopted an Order in Council directing how local administrators are supposed to conduct their tasks in the field of controlling TB, sexually transmitted diseases and AIDS.[90] The proposed WBO is aimed

[85] Generally accepted criteria are as follows: screening programs must be directed toward a major health problem of importance to many within the population; and only disorders in which the natural course is known and which have a relatively long period without symptoms will be considered for preventive investigation. Furthermore, there must be a suitable test for identifying those having the disorder. Such a test must be easy to apply, must be acceptable to the public, and may involve only a small percentage of erroneous test results. Another requirement is that acceptable treatment exists for those who are shown to have the disorder. Finally, the costs of testing the population have to be reasonable in relation to the benefits. (Wilson and Jungner, 1968)

[86] The WBO takes the place of the Population Screening for Tuberculosis Act (Bulletin of Acts, Orders and Decrees, 1951, 288).

[87] Bulletin of Acts, Orders and Decrees, 1928, 265.

[88] Bulletin of Acts, Orders and Decrees, 1990, 300.

[89] Article 2, paragraph 1 of the WCPV.

[90] Bulletin of Acts, Orders and Decrees, 1992, 569.

particularly at the *quality* of preventive health care.[91] The WBO is intended to protect the general population from screenings which are of inferior quality. Screenings that use ionizing radiation, as well as those testing for cancer and other serious diseases and disorders for which no treatment or prevention is possible yet, may not be conducted without permission (Section 2, paragraph 1 of the WBO).[92] The Minister of Health, Welfare and Sport may also place other screenings on the list of those falling under the permit obligation. Section 7 of the WBO states that a permit must be denied if (1) the testing is not scientifically valid or (2) does not agree with the legal rules for medical treatment, or (3) the usefulness of the screening does not offset the risks to health for the persons to be screened (Section 7, paragraph 1 of the WBO). A permit can also be denied if (4) the testing does not promote the interests of public health (Section 7, paragraph 2 of the WBO). The Health Council of the Netherlands, which has to start assessing the requests for permits, believes that when introducing screening programmes, a reliable system for monitoring quality must also be provided.[93]

*Care received*

For women, there is a significantly greater supply of preventive care available than for men. In addition to programmes for both men and women, such as the ones for preventing heart and vascular diseases or skin cancer, there are several programmes exclusively for women. Examples include the screenings for breast and cervical cancers as well as interventions aimed at preventing hip fractures, osteoporosis and post-menopause complaints. Programmes exclusively for men are not available.[94] Part of the preventive care for women concerns pregnant women. This care includes the prevention or diagnosing of congenital Rubeola (German measles), congenital virus infections, the use of DES in anamnesis, Hepatitis B, sickle-cell disease/thalassaemia, lues, unsafe sexual behaviour, smoking, alcohol abuse, anaemia, toxoplasmosis, pregnancy-related hypertension, as well as the detecting of Down's syndrome and neural tube defects in the foetus. Finally, there are preventive interventions aimed at women wishing to become pregnant. These usually involve early detection of increased risk of inherited disorders or other disorders transferred from mother to child. Some of these disorders involve the same ones mentioned under preventive care for pregnant women. A 'newcomer' in this category is the advice for all women wishing to become pregnant to take folic acid as a preventive measure against neural tube defects in the foetus. Increasingly, the pre-conceptual phase is being seen as an important period for preventive intervention.

*Ensuring appropriate care*

It is difficult to determine how well the availability of preventive care corresponds to the individual and collective needs of women. In general, it can be said that this preventive care is part of the reason why women have achieved major health benefits and have experienced an improvement in their quality of life. In the minds of most people, prevention of disorders is preferable to curing disorders which have already appeared. Several disorders which used to be fatal for women are now either entirely controlled or better under control. The screening for breast cancer, for example, can prevent 630 deaths a year. Women who would have died if

---

[91] Bulletin of Acts, Orders and Decrees, 1992, 611.

[92] This is pending an implementation measure. On 21 February 1995, the National Health Council established a WBO Committee that will give advice about providing permits.

[93] Van Veen, Rigter (1995).

[94] The possibility of screening for prostate cancer, however, was studied.

they had not participated in the programme now live an average of 15 years longer, the majority of these years being of 'good quality'. Women with cervical cancer have a survival rate of 80% in cases of early detection and treatment. Because of preventive care, the chance of bearing healthy children has increased - something else which benefits women's welfare. In this light, the shifting from prenatal diagnosis to pre-conceptual testing can be assessed as positive.

The extent of the availability of preventive care, however, also has its negative aspects. A continual confrontation with preventive care throughout our lives can cause unnecessary anxiety about our own health and can lead to unnecessary medical consumption and to the medicalization of normal life processes. Once available, not using a possibly useful intervention often requires having a better reason than that needed for carrying out a possibly unnecessary treatment.[95] The growing availability of pre-conceptual and prenatal preventive testing can be accompanied by women feeling 'pressured' into making preventive decisions based on the view that 'not deciding is another way of deciding'. The radical decisions and moral dilemmas that can arise from this situation are not insignificant and can form a considerable psychological burden. In addition to increased individual responsibility, the risk of social pressure on women to undergo preventive testing is also increasing. The literature dealing with preventive care points to the dangers of eugenic derailment as well as to pre-conceptual and prenatal testing based on economic reasons.[96]

In general, the disorders to which most preventive care is extended are neither the most prevalent nor the most disabling disorders among women. For chronic disorders such as migraine, rheumatoid arthritis or senility, there are still no preventive measures available, chiefly because there is not yet sufficient insight into the determinants of these disorders.

*Client-centredness*

Prior to the introduction of the Population Screening Act (WBO), the Health Council of the Netherlands spoke out, in a test case, on the degree to which the screening programme for breast cancer satisfied the proposed requirements for quality, including those concerning handling the patient as an individual. The then current programme satisfied the proposed requirements concerning the relationship of benefits and risks to the results in the previous period. The educating of participating women and the handling of medical data and complaints were, however, not optimal.[97] Other studies show that 70% of the participating women find the testing somewhat painful.[98] Furthermore, it appears that 40% of all participants are 'a little' to 'very' concerned about the test results. An equally large group thinks they are kept waiting too long for the results. Women who find that they have cancer which has reached the stage where it cannot be treated experience the worst side effects of participating in the programme. The fact that their condition is diagnosed an average of four years earlier is accompanied by considerable psychological suffering and higher medical consumption.

The degree to which other screening programmes satisfy the quality requirements concerning participants being handled as individuals, informed consent and similar aspects, is unknown

[95] Schaapveld, Hirasing, Gunning-Schepers (1993).

[96] Van Wijnen (1995).

[97] National Health Council: Population Screening Act Committee (1995).

[98] Scaf-Klomp, *et al* (1995).

to us. The way in which preventive testing is offered as a part of individual doctor-patient relationships is almost completely impossible to ascertain.

## 5.2 Health care provided by general practitioners

*Care received*
In Dutch health care, the general practitioner, as a gatekeeper and a figure of trust, has more influence on health and the access to further care than any other provider of health services.[99] The general practitioner is also frequently the first to be consulted by the patient for psychological and interpersonal problems. Women visit the general practitioner more often than men: 58% of all consults are for female patients. Every year, 80% of women and 69% of men consult their general practitioners at least once. Women visit a general practitioner on an average of 4.3 times every year with men visiting 3.1 times a year on average.[100] It is particularly in the age category of 15 to 45 that women visit the general practitioner more often than men. The care consumed by female illegal aliens, refugees, uninsured persons, homeless, and drifting drug addicts is less than that received by regular general practitioner patients. Accurate data about this, however, is not available.

Gender-related differences in diagnosed disorders (level 3 of the filter model) can be provided only for specific disorders or groups of disorders. Acute physical complaints originate more often from women (on average, 57% women).[101] For eight of the ten most commonly mentioned diagnoses of physical disorders, women are in the majority (on average, 60% women). Consults associated with psychological or interpersonal problems also more commonly involve female than male patients (63% women for psychological problems, and 59% for interpersonal problems). According to general practitioners, almost half of *all* consults involve a psycho social or psychosomatic problem.

Besides health complaints, women in particular also visit the general practitioner for other reasons, such as contraception-related matters or to have a Pap smear taken. Two-thirds of Dutch women between the ages of 15 and 25, and 42% of women between 25 and 35, take contraceptive pills and for this reason visit their general practitioners at least twice a year to pick up prescriptions.[102] Consults for administrative reasons are also made most often by women (63% women). After correcting for such contact purposes, the representation by women in general medical practices drops from 58% to 55%. In conclusion, we can state that women in the Netherlands make considerably more use of medical care provided by general practitioners than men do.

*Ensuring appropriate care*
Assuming the same gender-based ratio for health problems in the population as a whole, we would expect an equal proportion of women represented at the higher levels of care. If the gender-based ratio *shifts* over the course of the levels of care, this means that there are

[99] The general practitioner fulfils this function to a lesser degree for privately insured patients than for those insured under the Dutch National Health Service.

[100] Central Bureau for Statistics (1992).

[101] Strictly speaking, this does not concern diagnosed disorders but reasons for contact noted by the general practitioner.

[102] Central Bureau for Statistics (1992).

gender-related differences in the permeability of one or more filters. In such a case, the appropriateness of the care, that is the match between care received (expressed need) and care needed (normative need), is different for men than for women. The filters involved in primary health care are the patient's illness behaviour (which includes the tendency to consult the general practitioner when experiencing complaints), the degree to which the general practitioner properly recognizes disorders, and the general practitioner's referrals to secondary health care. The interpretation of the filter model shows the gender-based ratios for three health indicators: acute physical complaints, perceived health, and psychological problems (Table 1). The gender-based ratio is reflected in the percentage of women. Reading from top to bottom, we obtain a picture of the degree to which the gender-based ratio shifts over three levels of care.[103]

**Table 1**

**Interpreting the filter model in terms of acute complaints, perceived health, and psycho-social problems.**

| | acute complaints % women | perceived health % women | psycho social problems % women |
|---|---|---|---|
| Level 1: population | 60 | 56 | 52 |
| Filter 1: illness behaviour | | | |
| Level 2: Visitors to general practitioner | 57 | 58 | 55 |
| Filter 2: recognition | | | |
| Level 3: diagnosed patients | - | - | 61 |
| Filter 3: referral | 53[104] | 53[105] | 50[106] |

Reading from top to bottom, the shift in the man-woman ratio per health problem is seen. In general, the shift is not large. The pattern varies, however, according to the type of health problem. Women visit their doctors somewhat less readily with an acute complaint than men do, and are proportionately less readily referred to a specialist. When women perceive a decline in their own health, they consult their general practitioner a little more often than men do. This has little effect, however, on referrals. Proportionately speaking, more women who

[103] Empty cells develop either because data is unavailable or because health problems at the various levels of care are given different names, with the result that they are no longer comparable.

[104] This gender-based ratio concerns the total number of referrals from the first level of care.

[105] *Idem.* This gender-based ratio concerns the total number of referrals from the first level of care.

[106] Referrals to the RIAGGs.

do not feel well remain in primary health care than men. The experiencing of psychosocial problems, finally, is more often a reason for women to visit the general practitioner than it is for men. Consequently, the gender-based ratio becomes even more biased because the general practitioner disproportionately labels the complaints of women as being 'psychological'. The diagnosis of the general practitioner is not translated, however, into referrals to mental health care. Women who, according to the general practitioner, have psychological problems are less often referred than men are.

All in all, the impression develops that the representation of women as *high-level consumers* requires the making of subtle distinctions: the higher gross rates of care consumed can be explained by the prevalence of physical disorders and psychological problems in the female population, their higher age, and consults in connection with contraception, pregnancy and the menopause. In addition, women visit general practitioners more often because women *remain* longer in primary health care. In turn, this is because women are more often told to come back and are referred to specialists less often than men. Studies that explain medical consumption usually leave out one or more of these factors. This is why the effect of women's illness behaviour on visits to the general practitioner is overestimated.

*Client-centredness*
The great majority of female patients treated by general practitioners are satisfied with what the general practitioner offers. When it comes to medical treatment and being handled as an individual, however, women experience harmful effects from the stereotypical ideas that they supposedly *unnecessarily* consume medical care and that their complaints supposedly have a psychological explanation. A stereotypical 'female' presentation of symptoms (narrative, emotional) seems to lessen the chances of receiving physical testing or a somatic diagnosis.[107] Women are frequently told to come back and are less often referred. Not surprisingly, the major complaint of female patients is that they feel they are not taken seriously.

Communication problems are linked with the sex of the doctor and are most prevalent in the female patient/male doctor combination. Most patients having a preference as to the gender of their general practitioner choose one of the same sex. These patients are considerably more satisfied with the care they are offered than those unable to follow their preferences. Female patients are less likely to be able to realize their wish for a female general practitioner than male patients are able to realize their wish for a male doctor. Due to the shortage of female doctors, only half the women - as opposed to almost all the men - have a general practitioner of the desired sex.

## 5.3 Treatment by medical specialists

*Care received*
Somatic treatment in secondary health care focused on recovery and improvement (cure) is provided predominantly by medical specialists. Women make somewhat more use of specialist care than men. Every year, 42% of women and 37% of men make at least one visit to a medical specialist.[108] In total, a little over half of all outpatient consults are made by women. The most common reasons among women for visiting a medical specialist are eye

[107] Meeuwesen (1988, 1994). Bensing (1991). Van Alphen (1994).
[108] Central Bureau for Statistics (1992).

problems, skin disorders and complications due to pregnancy. The number of hospital admissions for women is also somewhat higher, but after subtracting the admissions for childbirth, the gender-based ratio is almost equal (51% women).[109] About as many women as men are treated on an outpatient basis (51%). The number of treatments carried out on an outpatient basis has risen sharply in recent years, especially for minor interventions to the ear, nose and throat, for C&Ds and for the administration of chemotherapy.

*Ensuring appropriate care*

Although the *gross* amount of care provided by outpatient specialists is almost the same for women as for men, women are under-represented in proportion to men in almost all disorders. For treatment of heart and vascular diseases, this under-representation is even extreme. Heart and vascular diseases affect women and men in equal measure, while only one-fourth of the patients receiving coronary surgery are women. This is chiefly attributable to a lack of recognition, which causes diagnostics to remain inadequate.[110] Women are also under-represented in the treatment of arthritic disorders: in the general population, between 65% and 71% of the morbidity concerns women, in general practice this figure is between 41% and 68%, and in specialist care the figure is between 37% and 48%. The gender-based ratio also shifts for cases of diabetes mellitus: the percentage of women decreases from 59% in the general population to 37% in specialist care. For women, the filters for access to secondary health care are less permeable than for men. The fact that the *gross* amount of care provided to both sexes is equal must be fully attributable to consults and interventions associated with pregnancy or childbirth and to gynaecological treatments (especially hysterectomies and C&Ds). Causes for fewer referrals among women are not easy to trace in all cases. For some disorders, the higher average age of women may play a role. Occurring among the elderly, for example, is a form of diabetes that generally does not require care from a specialist.[111] Inadequate recognition by the general practitioner can also interfere with the referral of women. This is also the case with late-onset diabetes: in many cases, this disorder is not recognized until complications have already occurred elsewhere in the body.[112] Recognition is sometimes hindered because the symptoms are different in women or become manifest in another phase of their lives, so that women present an 'atypical' image.[113] This applies chiefly to disorders reputed to be 'male diseases', such as heart and vascular diseases.[114] Also possibly standing in the way of proper recognition is the general practitioner's reaction to the way in which women present their complaints.[115] One last explanation for the fewer referrals to specialized care could be that women themselves forego specialized treatment. For the chronic disorders that are most prevalent in the female population, specialized treatment often has little to offer, patients seeking refuge in pain control, medicines and medical devices, paramedic care and alternative forms of medicine, or learning to live with the ailment.

*Client-centredness*

---

[109] SIG Zorginformatie (1994).

[110] Rigter (1996).

[111] Ruwaard, Feskens (1993).

[112] *Idem.*

[113] Mulder, Meeter (1995). Witteman, Van der Schouw (1995).

[114] This was the reason why the Dutch Heart Foundation declared 'women and heart and vascular diseases' to be its theme for the year 1995.

[115] Brezinka (1995).

Information about how well medical specialists communicate with their patients is scarce and usually not gender-specific. Almost 90% of *all* patients assessed their contact with the specialist, as far as it concerned provision of information and professional competence, as 'good' to 'outstanding'.[116] The more patients have longer-term disorders and their psychological well-being decreases, the less they are satisfied. As far as the provision of information is concerned, patients assess the specialist in more favourable terms than they do the general practitioner (except for the information concerning risks).[117] Concerning handling the patient as an individual, however, the specialist is rated lower. About 40% of their patients, as opposed to 30% of general practitioners' patients, feel that they are not taken seriously and/or are handled as an individual in an unfriendly or deprecating manner. Other complaints are that the specialist does not offer sufficient support at difficult moments, uses incomprehensible language, and offers little opportunity to ask questions. Two-thirds of the questions and complaints received by the National Information Centre for Patients (LIP) come from women. One-third of the questions submitted concern treatment by a medical specialist. The most common complaints are about unsatisfactory communication concerning (supposed) mistakes, and the feeling of not being taken seriously.[118] Unknown to us is how much of a preference there exists among female patients to have a specialist of the same sex. Since there are few female medical specialists, being able to choose a specialist of one's own sex is less possible for women than for men.

## 5.4 Nursing and home care

'Care' is the offering of nursing and home care in an attempt to have patients recuperate or to prevent a deterioration in their condition. This care is predominantly given by relatives and close friends (informal care) and also by professional home care services. Home help and district nursing services are increasingly being offered as part of standard home care.[119] In addition, private agencies and self-employed persons are offering professional home care. If home nursing and home care are no longer sufficient, day-care or admission to a nursing home can be considered. In recent years, convalescent homes have also started to offer help to people with serious physical limitations (substitution).[120]

*Care received*

About 80% of people with a physical limitation receive some form of home care or informal care. Those receiving this care include more women than men (63% women), and women are also in the majority (58% women) among those with physical limitations who receive none of this type of care.

Over half (55%) of those with physical limitations receive *informal care*. There are indications that women receive less informal care because they are more often living alone at an older age. Among people without a partner, only one-fourth (24%) receive help from their

[116] Harteloh, Verweij (1995).

[117] Verhaak, Andela, *et al* (1995).

[118] Landelijk Informatiepunt Patiënten (1994).

[119] National Advisory Council for Public Health (1995).

[120] National Advisory Council for Public Health (1995). *College voor ziekenhuisvoorzieningen* (hospital facilities board) (1995). Te Wierik, *et al* (1994)

own network.[121] Moreover, there are indications that men without partners get more informal help because people in their surroundings have the tendency to believe that single men are less able to take care of themselves.[122]

One-third of all home care given to people with a physical limitation consists of professional care. The majority of this (60%) is standard home care; the rest is private care. Private home care has to be arranged and paid for by people themselves. Women, who are on average older and who more often belong to lower income groups, receive less private home care than other groups. On the other hand, they receive more standard home care: in the clientele younger than 65, 65% are women; of those 65 and older, 70% are women.[123]

Nursing homes for somatic disorders accommodate more women than men. Of the newly admitted patients, 65% are women; of the patients already living there, a little over 70% are women.[124] The percentage of women accommodated in convalescent homes is as high as 77%.[125] In recent decades, the ratio of men to women here has become increasingly more biased, probably due to the older ages at which people go into convalescent homes.

*Ensuring appropriate care*

The need for care experienced by people with long-term limitations depends not only on the seriousness of their limitations but also on the support offered by their social network and their own willingness to accept informal care. Younger handicapped people who are better able to manage for themselves (just as many women as men) generally do not want to be dependent on their environment and prefer to hire private services for which they pay themselves. The recently introduced individually-based budget system allows them, in principle, to do this.[126]

Older people needing care seem to have a strong preference for obtaining this from relatives and close friends. Only in cases where informal care is insufficiently available do they seek professional help. Since partners are the major source of informal care, single people - chiefly women, as it turns out - are excluded from the kind of help they desire.

In spite of encouragement by the government, the services offered by standard home care have not been able to keep up with the needs of an increasingly aging population in the last twenty years.[127] District nursing services must increasingly limit themselves to needs for intensive care, and over the last twenty years, they have accommodated 4.5% fewer people every year. This affects women and men equally because they are represented in proportion to their limitations. Home care offers more and more people steadily less and less assistance. While the number of personnel and the total hours of care offered have remained practically the same for the last twenty years, the number of clients has risen 2.6% every year. Women

---

[121] De Boer, Hessing-Wagner, *et al* (1994).

[122] Nelissen (1994).

[123] De Boer, Hessing-Wagner, *et al* (1994).

[124] Unless stated otherwise, information about nursing homes has been obtained from the SIG Nursing Home Information System (SIVIS) 1992, which processes the data from more than 80% of the nursing homes.

[125] Central Bureau for Statistics (1994).

[126] Investigating the use of the individually-based budget system is further omitted from this study.

[127] Nouws, Van Rossum, *et al* (1995).

make more use of home help than would be expected on the basis of their physical limitations. Support from the social environment also plays a role in this: with single people, this is principally help from people outside the home, and with married people it involves the willingness of the male partner to take over household duties. Private home care, after all, is less accessible for women due to their limited financial capacity.

In recent years, the number of full-time admissions to nursing homes has dropped, but there is a growing supply (14% annually) of outpatient care. As yet, there is little information about the use of this care.

*Client-centredness*

There is little information on the quality of home care from the standpoint of client-centredness. In spite of the problems in the area of informal care[128], those receiving this care see it in fairly positive terms: people having informal help available to them would much rather have this help than professional care. Furthermore, people receiving informal help are also more satisfied about the supplementary professional home care. Women, however, less often find themselves in circumstances in which they can call upon informal help.

One study among standard home care clients (predominantly women) points out that most of them are very satisfied with the person providing their care but are divided in their opinions about the home care organization.[129] Apart from the problems associated with the availability of help (waiting lists, replacements due to illness and holidays) not a single respondent knew whether or not the organization had a procedure for handling complaints.[130] The relative dissatisfaction that older single women have with standard home care is blamed mainly on their social isolation. For social contact, this group is largely referred to the time-pressured district nurse or provider of home help.[131]

In recent years, various initiatives have been taken in nursing and convalescent homes to improve their quality of care, not only in terms of improving 'supply-oriented' quality but also in terms of giving more attention to developing integrated client-centred care.[132] We have been unable to find information about gender-related differences in the perceived quality of care.

---

[128] Frequently occurring problems: the pressure on care-givers, the unilateral appeal to women to provide this care, the lack of financial compensation or other incentives, and the gaps between informal and professional care. The Emancipation Council (1993). Meinen, *et al* (ed.) (1994). De Boer, Hessing-Wagner (1994). Duijnstee, *et al* (1994). National Advisory Council for Public Health (1995). Several studies come to the same conclusion about the proportions of women and men lending informal care: women do three times as much household work and, when it comes to other forms of informal help, provide twice as much work. (Hommel, 1990, Felling, 1991, De Boer, Hessing-Wagner, 1994).

[129] Kennemer Patients' Platform (1995).

[130] Consumers' Association (1993).

[131] De Boer, Hessing-Wagner, *et al* (1994).

[132] Boeije, Casparie (1994).

## 5.5 Mental health care

The organization of mental health care in the Netherlands differs in a few points from Goldberg and Huxley's filter model: in the Netherlands, people can gain access to out-patient mental health care on their own initiative. In practice, referral by a general practitioner is an administrative matter. For accessing inpatient care, however, the general practitioner does indeed act as a 'gatekeeper'. Moreover, outpatient care can even be Bypassed. Finally, it must be said that the line between outpatient and clinical care has become blurred in recent years. In the context of care innovation, the integration of outpatient and clinical help is an attempt to improve the continuity of care.

*Care received*

The Regional Institutes for Mental Welfare (RIAGGs) supply the lion's share of all outpatient help. The RIAGG clientele has more women than men (56% women). Women also more frequently consult privately practising psychiatrists (57% women) and psychotherapists (61% women), as well as the outpatient departments within the psychiatric departments of general hospitals (PAAZs)[133] (58% women). In outpatient facilities, women are in the minority (21%) only in the Consulting Agencies for Alcohol and Drugs (CADs). In institutional facilities, the male/female ratio is biased: more women are admitted to institutions for chiefly short-term stays such as convalescent homes (83% women), psychiatric departments of general hospitals (66% women) and psychiatric departments of academic hospitals (60% women). In general psychiatric hospitals (APZs), however, the gender-based ratio is balanced (51% women). The great majority of admissions occur in APZs. Relatively few women are involved in care innovation projects for psychiatric patients: centres for daytime activities (39% women), employment rehabilitation projects (45% women), case management (45% women), communal living accommodations (23% women), and assisted living (51% women).[134]

*Ensuring appropriate care*

In interpreting the filter model for psychological problems (percentage from table) we can see that the percentage of women under care increases up to the third level of care (psychological problems diagnosed during primary health care). With access to actual mental health care facilities, the unbalanced gender-based ratio again evens out. In the client population of the RIAGGs, the CADs and the general psychiatric hospitals, the percentage of women is almost the same as the prevalence of psychological and addiction problems in the female population. This shows that women who have a psychological problem according to a general practitioner are less frequently referred to mental health care than men. One can also say that general practitioners detect a *disproportionate* number of psychological problems among women without suggesting follow-up treatment. For alien women, psychiatric hospitals are relatively inaccessible. They remain in the lower echelons of care and make more use of facilities outside the realm of mental health care.[135]

**Table 2: Interpreting the filter model in terms of psychological disturbances.**

Source: Van Limbeek, Wouters (1994)

| | % women |
|---|---|
| level 1:population | 52 |
| filter 1:illness behaviour | |

[133] Psychiatric Department of a General Hospital

[134] Wolf (1995), Van den Ham, Roovers, *et al* (1995), Zeldenrust, Van Zuthem (1996)

[135] Ten Have, *et al* (1996).

| | |
|---|---|
| level 2:visitors to general practitioner | 55 |
| filter 2:recognition | |
| level 3:diagnosed patients | 61 |
| filter 3:referral/admission | |
| level 4:out-patient mental health care | 56 |
| filter 4:admission | |
| level 5:institutional care at a mental health facility | 55 |

In the patient population of the psychiatric hospitals, one sees some conspicuous gender-related differences. Women are older, on average, at the time of admission, more often have their own family, and have a better social network. Moreover, with female patients, other problems hold a prominent place (neurotic conditions, affective psychoses), and experiences of sexual abuse - as far as is known - more frequently play a role. Certain sharply delineated groups in the male patient population are all but absent from the female one: young schizophrenics, people with addiction problems, and patients from the judicial circuit. Among female patients, those aged 25 to 45 are under-represented; they are indeed found, however, in short-term facilities providing care for less serious problems, such as PAAZs and convalescent homes. It is possible that this kind of help is better suited to their problems and household circumstances since taking care of children is difficult to combine with long-term treatment received far from home.

Both in outpatient and in clinical care, the problems of women are frequently seen as dependence and a lack of ego strength. Treatment is usually aimed at improving assertiveness and strengthening social skills (placing limits, standing up for oneself). Among men, expressing emotions and coping independently are encouraged. Programmes for filling the day reflect a traditional division of labour. The RIAGGs offer a wide range of care for women. In psychiatric hospitals, the care is limited. Gender-specific treatments are partially focused on dealing with sexual traumas. Gender-specific help for male patients scarcely exists.

*Client-centredness*

Not all the points in studies about RIAGG services make distinctions according to sex. The average RIAGG patient is reasonably satisfied with how they are handled as an individual and with their relationship to the therapist, but is less positive about the provision of information.[136] Young women and married women are more satisfied, on average, with the help they receive than are single, older women. This latter group often receives a different and less time-occupying treatment than they request.[137] We have been unable to discover whether clients are generally asked as to their preference for a male or female therapist and whether such a possible preference is accommodated. About half of the women and one-third of the men have a definite gender-related preference, usually for a female therapist.

With regard to treatment in general psychiatric hospitals, the question arises as to whether a 'general' line of services actually satisfies the specific needs of women and men, considering the gender-related differences in their problems and backgrounds. An experiment with gender-specific care showed that participating patients (both women and men) had more

[136] Kooi, Donker (1991).

[137] Van de Sande, Van Hoof *et al* (1992).

influence over their treatment and were therefore more satisfied.[138] In general, female psychiatric patients experience a lack of attention, assistance and individual meetings. Furthermore, dealings with fellow male patients not uncommonly run into problems; physical and sexual forms of intimidation are not uncommon.[139] Lesbian patients also experience the group climate as unsafe and believe that therapists do not always work hard enough to improve the interpersonal atmosphere in the ward and to encourage positive forms of interpersonal dealings.[140] The precise extent of sexual abuse caused by fellow patients is unknown to us. This is an area needing further study and a greater alertness on the part of therapists.

[138] Steketee (1995).

[139] Boomsma, Warmerdam, *et al* (1995).

[140] Gaal, Te Vaarwerk (1993).

# 6 SELECTED TOPICS

## 6.1 The prevention and elimination of sexual abuse

The first Dutch report of 1992 to the CEDAW did not (yet) make any connection between sexual abuse and its effects on women's health. In the meanwhile, research has shown that many health complaints can be traced to sexual abuse (or to a history of sexual abuse).[141]

Since 1991, the encouragement and protection of the health of women and girls, including the prevention and elimination of sexual abuse, have been a part of government policy.[142] This policy was already discussed in detail in the government's report of 1992 and will not be pored over in more detail in this abstract. The Policy Document on Emancipation Policy 1996 announced that new incentives to prevent and eliminate sexual abuse would be sought.[143]

Considering the requirements included in Article 12 of the Women's Convention, the effective prevention and elimination of sexual abuse demands that women have a strong legal position, both inside and outside of health care, and in both the public and the private spheres. Another requirement resulting from Article 12 of the Women's Convention is proper shelter for women experiencing sexual abuse. Within this context, the Dutch legislation policy displays some problems, of which we name the following:

- The revision of *morality legislation* has come to a halt and remains partially adapted. Important for women in particular will be the abolishment of the distinction between rape and indecent assault, with an accompanying change in punishment.[144]
- *Criminal law and the law of criminal procedure* offer limited opportunity for increasing a woman's chances to oppose sexual abuse.[145]
- *Civil law* offers more opportunities for increasing a woman's power to defend herself. Chief among these is an interim injunction proceeding in which a street ban can be demanded.[146] Further reduction of impediments to such procedures is advisable. On 1 January 1993, the limitation period for civil actions on the grounds of an unlawful act was reduced from thirty to five years. This means a serious setback for women and girls who have experienced sexual abuse.
- *Ban on brothels*. The 19th General Recommendation of the CEDAW places a direct connection between Article 6 of the Women's Convention and violence against women, especially 'violence against women and the sexual harassment and exploitation of women'. As a part of applying Article 6 of the Women's Convention and the 19th General Recommendation, it would probably be advisable to legalize prostitution as such and support its practice by independent professionals.[147]
- *Women migrants and aliens living in the Netherlands*. The position (and legal position) of migrant women with a dependent residency status, and the position (and legal position) of illegal women aliens living in the Netherlands deserve much more attention.

---

141 Heise (1994).
142 Lower House Proceedings, 1990-1991, 18 542, no. 19.
143 Lower House Proceedings, 1995-1996, 24 406, no. 1, p. 8.
144 Kool (1995b). Also see: Van der Neut, Wedzinga (1995). Schuijer (1996).
145 First Dutch report, Policy goal 2, p. 52.
146 Hes, Van Ringen (1987).
147 Haveman, Hes (1994), p. 72.

Following the issuing of the Dutch report to the CEDAW in 1992, the position of these groups of women has deteriorated in several aspects.[148] This especially concerns shelter for victims of sexual abuse. The Linking Act[149], now in preparation, even intends to exclude a woman from receiving shelter in cases of crimes of sexual abuse if she does not have a valid entitlement to temporary residence or if she is being threatened with the loss of her status if she leaves 'her' husband.[150] These curtailments are in conflict with the aims of the Women's Convention and the General Recommendations of the CEDAW.[151] A state party to this convention is obliged to make efforts to obtain information about the situation of women in their native countries. The legislative proposal currently in preparation threatens to return a considerable group of women and girls to their violent spouses and/or family members.

- The first Dutch report to the CEDAW contains the resolution to improve the help and shelter given to *victims of sexual abuse.*[152]

Until now, the changes in the field of criminal law have been aimed chiefly at being able to take action against the perpetrators of violent sexual offenses. Several changes in legislation have been specifically aimed at being better able to protect women and girls from sexual abuse. The legislative policy dealing with sheltering victims has not always been able to keep up with this. The position of the victim has been improved in some sub-areas: their procedural position, the furnishing of proof, and funds for victims. What is still lacking, however, is an all-embracing policy for victims.

Until now, health policy in this area has been aimed chiefly at consciousness-raising among providers of help, as well as making the aid given to victims a part of standard health care. As yet, concept formation about the relationship between criminal and health-related policies for victims is not fully under way.

Something which is also certainly a problem is that the RIAGGs are specialized, nationally, in the field of severe psychological difficulties. For this reason, a blockage develops between primary and secondary health care, and accumulations of problems occur at the FIOM agencies (FIOM is the abbreviation for Netherlands Federation of Centres for Unmarried Mothers and their Children) which lack the capacity to handle the numbers.[153]

### 6.2 Financial guidance in health care

In discussions about health care, the question of cost control is growing in importance. Without government intervention, health care is threatening to become impossible to afford, and this could have far-reaching effects on its accessibility in general. After all, the possibility to afford care should also be included under its accessibility.

[148] Van Walsum (1996).

[149] Linking Act (*Koppelingswet*): Aimed at excluding illegal immigrants from receiving social security. It intends linking databanks in order to have effective exchange of information on a citizen's status. Municipal administration offices (GBAs) will also be linked to the system, and they will be able to use it to verify the status of a person applying for social security benefits.

[150] Lower House Proceedings, 1994-1995, 24 233. See: Hendriks (1996).

[151] General Recommendation no. 19, Article 24 under b.

[152] First Dutch report, Policy goal 3, p. 52

[153] Van Dijk, *et al* (1996).

The government is developing policy for the purpose of distributing the scarce commodity health care as fairly as possible. Included in this policy is cost control that deals with such matters as rises in salaries, prices and premiums, as well as reducing the demand for health care.[154] An important government instrument for guiding this policy is the providing or withholding of subsidies. In this selected area, a study was made into how, in recent years, the government has used this policy instrument involving subsidies to come closer to attaining the goals in the field of health care as included in the Women's Convention. The study is limited to investigating the budgets of the Ministry of Health, Welfare and Sport and part of the Ministry of Social Affairs and Employment's budget, namely the part concerning sexual abuse. Incidental subsidies from these ministries, as well as subsidies from other ministries, such as the Ministry of Education, Science and Cultural Affairs and the Ministry of Justice, were not considered.

What were investigated were the criteria used for awarding or withholding subsidies and who was responsible for proposing the criteria applicable to subsidies for providing care to women. Should the goals of women's rights be pursued, or is the promotion of equal rights for women a condition for being considered for a government subsidy?

After investigating several years of budgets from the Ministry of Health, Welfare and Sport and the Ministry of Social Affairs and Employment and the comments regarding these budgets, it was impossible to discover which criteria were applied. Neither could questioning civil servants in the various specialized departments compensate for this lack of clarity. Those we consulted were unable to indicate precisely how criteria for subsidies were proposed and who was involved in doing so, let alone to indicate if there was regular contact with representatives from the proper care-providing agencies or with organizations serving the interests of female patients/clients.

From this investigation, however, it may not be concluded that the government is following what is known as a 'top-down' approach within the framework of providing subsidies. From the contact we had, there developed the impression that criteria for subsidies are usually proposed in consultation with potential subsidizers. This kindles the idea that criteria for subsidies are sometimes attributed to prospective subsidy recipients.

There are also situations in which project administrators can register for a subsidy, thereby making the prospects for a subsidy uncertain. Such procedures offer an effective guarantee of competition and equal opportunities among project administrators. On the other hand, in such situations, the government does not know, unless preliminary discussions with potential administrators have occurred, whether project administrators will be registering or not, and perhaps, more importantly, whether the proposals really fit the needs and wishes of members in the target group.

From the budget documents from the 1990's, it was not possible to chart the government's subsidy policy, let alone to engage in analysis or evaluation against the requirements of the Women's Convention. Particularly lacking is insight into the fit between supply and demand. The government subsidies involved are intended to support and reinforce the availability of

[154] Ankoné (1995).

care for women. The degree to which the government-subsidized projects satisfy the needs of women and the requirement of equality, non-discrimination and minimal claims included in the Women's Convention is unclear.

Considering all the differences between and within the various budget items, and the lack of insight into the criteria for subsidies, it is impossible, unfortunately, to determine the degree to which the government-administrated subsidy policy can be regarded as a guiding instrument. After investigating the budget chapters and interviewing the relevant civil servants, it is impossible, due to the lack of information, to determine whether or not the Women's Convention can be seen as an instrument for proposing criteria for subsidies.

# 7 CONCLUSIONS AND RECOMMENDATIONS

## 7.1 Conclusions about gender-related differences in health

Women suffer more from ill health and experience a different set of disorders than men. In spite of their longer life spans, the relationship between women's healthy and unhealthy years of life is not as favourable as that of men. Women have more chronic disorders, physical limitations and psychological problems. They also suffer more frequently from more than one disorder simultaneously. Based on available figures, it is not possible to answer the question concerning the causes of gender-related differences in health. The fact that more of the female population is entering the ranks of the aged plays a large part in this. Health problems resulting from this are neither completely avoidable nor attributable to a defective health policy.

This aside, women also have less *chance* of good health because, even at a younger age, they often find themselves in living conditions that are considered to have an unfavourable effect on one's health status. These conditions involve a low educational level, low incomes, lack of work, single parenthood, widowhood, lack of a permanent role, the burden of providing informal care, and exposure to sexual abuse. Due to these living conditions, women are more often exposed to 'determinants of ill health'. With an adequate government policy, women's living conditions that entail a health risk can largely be improved.

## 7.2 Conclusions about the quality of care

*Gender-related differences in ensuring appropriate care*
In this study, we equated the need for care with the objectively measured health status. Health status includes both disorders and physical limitations as well as the more subjective perception of health. The results of our study indicate that *gender* is a factor in ensuring appropriate care. Assuming that gender-related differences in health do not depend on methodological artifacts, there are differences, although small, in the access to health care for women and men. Considerably more preventive care has been developed for women than for men, most of which is of good quality and readily accessible to Dutch women. However, uninsured women and illegal aliens are often excluded from preventive care. At certain stages of life, preventive care for women may result in an accumulation of interventions. As a result, women experience not only more benefits from preventive care, but also more psychological strain. In total, women consume far more medical care for preventive purposes than men do.

In primary health care, medical consumption by men and women for *physical* complaints and disorders is proportional to the prevalence of these complaints in the female and male populations. Due to their higher average ages and their consults in connection with contraception, pregnancy and psychological problems, the gross medical consumption for women is higher in primary health care. Given the prevalence of disorders, the follow-up treatment for women has a proportionately smaller *cure* content (outpatient visits, operations, hospital admissions). With most disorders that affect both men and women, women are under-represented in specialized care. The fact that *gross* medical consumption for secondary health care is nevertheless equal must be attributed to gynaecological interventions, pregnancy check-ups and hospital deliveries. The factors responsible for the fewer referrals of

women to specialized medical care are generally not possible to determine. What is apparent, however, is that some physical disorders among women are insufficiently recognized.

When women have the same physical limitations as men, they receive *care* (home care, nursing and care in institutions) proportionately more often. This must be attributed chiefly to the relative lack of support offered by their social environment. On average, women are older and more often living alone. Since the partner is generally the most important source of informal care, women more often receive professional home care, specifically standard home help and district nursing services. Private home care is less accessible for women than for men because women have lower incomes on average. The support available from the social environment is also an important factor when admission to nursing and convalescent homes is being considered. In contrast to facilities for cure, facilities for care have not been able to keep up with the ageing of the population in recent decades. In spite of more efforts, less care is available. In the main, the ones who suffer the consequences of this are women.

Access to health care associated with *psychological* problems displays another pattern. Women consult their general practitioner for such problems more often than men. The gender-related differences are even greater because general practitioners disproportionately label complaints of women as 'psychological'. This judgement however does not lead to an equal number of referrals to mental health care: women remain in primary health care more often than men. Because people can also register with a RIAGG or privately practising psychotherapist without a doctor's referral, the use of outpatient mental health care is proportional, on balance, to the prevalence of psychological problems in the female and male populations. Women and men are also proportionately represented in institutional care, although women make more use of 'light' short-term treatment in psychiatric departments within general hospitals (PAAZs) and convalescent homes. General psychiatric hospitals display considerable gender-related differences in types of psychological disorders, age and background. Gender-specific care, however, is still in its infancy. Under the heading of care innovation, various programmes for chronic psychiatric patients have been developed in recent years. These programmes still reach relatively few female patients.

*Gender-related differences in client-centredness*

Client-centredness involves the degree to which care satisfies the needs of patients for respectful handling as an individual, information, a voice in their treatment, and autonomy. Relatively little research has been done into this aspect of quality; research with a gender-specific perspective is even scarcer. One exception is research into the general practitioner-patient relationship. This shows that *gender* is an important factor for the way in which patients are handled as individuals. Although the great majority of patients are satisfied with their relationship to their general practitioner, women sometimes have a feeling that they are not taken seriously. When consulted by women, general practitioners more often seek the causes of women's complaints in the psychological area, but then fail to follow this up with referral to a specialist. Several physical disorders are not adequately recognized in women. The way in which women present their complaints and the interpretation of them by the general practitioner are sometimes obstacles to recognition and adequate treatment. Particularly leading to reciprocal misunderstanding is the male doctor/female patient combination. Women who want a doctor of the same sex have fewer opportunities for this than men, due to a shortage of female doctors. Information about client-centredness in other care sectors (prevention, specialized medical care, the nursing and care of long-term patients, and mental health care) is too fragmentary and insufficiently correlated to gender for drawing

any general conclusions. There are, however, indications that certain forms of care are less available to older single women with a limited social network, who because of this form a vulnerable group.

### 7.3 Recommendations

Without interventions, the ratio of women's healthy to unhealthy years of life will take an even less favourable turn. At the same time, their disadvantaged status in relation to men will also deteriorate. What is required is a gender-specific policy for improving the quality of life in the last years of life. Especially deserving attention are single older women with physical limitations and a limited social network. It would be advisable to tailor policies dealing with chronic illness, the elderly and women's rights to each other. The Provisional Council for Policy on the Elderly has made proposals for doing this.

The disproportionately greater amount of suffering from illness experienced by women means that measures affecting health care have a greater impact on women than on men. These measures include shortening the duration of nursing, reducing the types of care covered by insurance, and increasing the deductible amount or introducing personal contributions. To abolish substantive inequality, compensatory measures are necessary for groups of women who are experiencing an accumulation of disadvantageous effects.

It would be desirable to continue and broaden scientific investigations into the determinants of gender-related differences in health, the possibilities for intervention, and the unwished for social consequences of gender-related differences in health. A positive step is the research programme entitled 'Determinants of Health', which the government recently initiated.

When considering risks to health, women's living conditions are in need of improvement in several respects. Of special importance, first of all, is the redistribution of unpaid labour. The Project Group for the Redistribution of Unpaid Care under the auspices of the Ministry of Social Affairs and Employment has created proposals to direct efforts for reducing the disproportionate demands being placed on women to provide informal care. Also deserving special attention is research that would have a gender-specific approach and would focus on employment-related problems, work disabilities and women reentering the labour market. Sexual abuse deserves undiminished attention, both in research and in prevention and treatment. It would be advisable in large epidemiological surveys to include questions on sexual harassment.

The access to preventive and non-acute medical care for uninsured women and female illegal aliens requires improvement. The proposed Linking Act is almost in conflict with the Women's Convention. Article 12, paragraph 2 of the Women's Convention does not permit the exclusion of women who fall within Dutch jurisdiction from receiving care related to pregnancy and childbirth.

The growing availability of preventive pre-conceptual and prenatal testing requires great caution. What must be prevented is women feeling compelled in any way to undergo preventive testing or being unable to act freely and in an informed manner where a known risk is involved. The Population Screening Act is a positive measure for monitoring the balance between the advantages to health and the unavoidable disadvantages of population

screening. Reticence is desirable with regard to allowing preventive screening that does not (or does not yet) satisfy quality criteria as stated in the Act.

In choosing a general practitioner or other doctor, women and men should both have the opportunity to select a doctor of the same sex. The government should do everything possible to eradicate the shortage of female doctors.

The incorrect and stereotypical concept that women make unnecessary use of health care is discriminating against women and should be disparaged.

There is a need for more research into the quality of care from the standpoint of client-centredness. This kind of research should be set up using a gender-specific approach.

Care innovation in the sphere of mental health should serve the needs of women more than it has done until now. The government should ensure this happens when funds are allocated for care innovation.

The development and implementation of gender-specific health care deserve continuing encouragement, especially in the general psychiatric hospitals.

For the periodic reporting to the CEDAW, there is need for a systematic registration of and accessibility to information on gender-related differences in health and the quality of care. To this end, the Ministry can request the suppliers of information to give systematic attention to gender-related differences. The Ministry can relate the assignments to be issued to the Women's Convention.

Article 12 of the Women's Convention implies that public health policy (and health care policy) must contribute to improving the (health) status of women. The burden of proof for this rests with the government. By making the Women's Convention better known, the government can take the obligations of the convention into account as early as the policy development stage. The government can investigate the gender-specific effects of proposed and existing policy by means of an emancipation impact assessment.

It is also advisable to inventory and analyse in more detail the national government's subsidy policy in the field of health care, for the purposes of formulating transparent procedures and proposing unambiguous criteria for subsidies.