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International Handbook on Diversity Management at Work

Country Perspectives on Diversity and Equal Treatment

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9 Laws, policies and practices of diversity management in the Netherlands

Inge Bleijenbergh, Marloes van Engen and Ashley Terlouw

Introduction

Workplace diversity is definitely a hot issue in current Dutch public debate. As a small country by the sea, the Netherlands has a long history of trade and immigration. Today, about 20 per cent of the population are immigrants, who come from both Western and non-Western countries. Workplace diversity, with regard to ethnical background, is the most pressing issue in the Dutch public diversity debate, and reference is often made to the freedom that immigrants should or should not have to act in the workplace according to their own cultural or religious beliefs. The issue of gender is another topic that is also intensively debated. In spite of the international image of the Netherlands as having a progressive and tolerant culture, the labour market position of women in the Netherlands is rather weak. Only a small minority of Dutch women are economically independent of their husbands, and there are very few women who fill top positions in for-profit and non-profit organizations in the Netherlands. Since the Dutch population is steadily ageing, Dutch organizations are increasingly feeling the need to develop the labour potential of immigrants and women. The ageing of the population has also created another diversity issue in the public debate, namely the public pension age. Many workers already retire from work before the age of 65, but the government has just decided, due to the economic crisis, to raise the retirement age to 67, in order to ensure that the public pension system can be afforded. Furthermore, the issue of sexual preference is discussed in regard to workplace diversity. Discrimination on the basis of sexual preference is prohibited, but religious organizations, such as schools, still claim the right to dismiss teachers who are openly homosexual.

In this chapter we shall first present the facts and figures that represent the current Dutch situation in regard to diversity at work. In the second section, we discuss Dutch equal treatment legislation. In the third section the public debate regarding diversity is explained. The fourth section discusses workplace practices on diversity. In the conclusion, we elaborate on the Dutch situation, and we discuss the most important problems and challenges related to workplace diversity.

Facts and figures

Migration

The Netherlands, as a trading nation, has a history of receiving immigrants. In previous centuries the immigrants were mainly of European descent. In the second half of the twentieth century, immigrants arrived from the former Dutch colonies in the Caribbean and South-East Asia, followed by migrant labourers from the Mediterranean countries, and subsequently refugees from all over the world. The current Dutch population consists of

16.41 million people, of whom 1.45 million are Western immigrants (Europe, the USA, Oceania, Indonesia and Japan),¹ and 1.77 million are non-Western immigrants (Africa, other parts of Asia, Latin America and Turkey). The largest groups of immigrants are of Turkish descent (373 000) followed by Surinamese immigrants (336 000), Moroccan immigrants (335 000) and immigrants from the Netherlands Antilles/Aruba (132 000). Of the non-Western immigrants, 1.02 million are first-generation immigrants and 750 000 are of the second generation, which means that they were born in the Netherlands and that they had at least one immigrant parent (Statistics Netherlands [CBS], 2008a.)

After the Second World War, the Dutch immigrants formed a heterogeneous group, which came to the Netherlands possessing a wide variety of backgrounds, during different periods and for different reasons. The first group of immigrants were repatriates of the Dutch East Indies. Immigrants from mixed Dutch–Indonesian descent returned or came to the Netherlands between 1949 and 1958 (Schaafsma, 2006). At the end of the war for independence in the Moluccas, the former soldiers of the Dutch colonial army and their relatives settled in the Netherlands. The second group of immigrants were from other Dutch colonies in the Caribbean, including Suriname and the Netherlands Antilles. These immigrants came mainly to receive further education or to escape the political and economic instability in their home countries (Schaafsma, 2006).

The third group of immigrants consisted of ‘guest workers’ in the 1960s and 1970s. Employers, confronted with a tight labour market, invited low-skilled labourers, mainly from Morocco and Turkey, to come to the Netherlands. Policy-makers assumed that the guest workers would return to their home countries after several years had passed. However, most of these immigrants decided to stay, and via the legal right to family reunion, they invited their families from their home countries to come and join them. Since the 1980s, the main immigration flow from Morocco and Turkey has consisted of marriage partners from their countries of origin. In the 1980s and 1990s, political refugees from a large number of countries composed the fourth group of immigrants. In the 1980s and 1990s, about half of the refugees were given a residence permit, but since the year 2000 immigration policies have become increasingly restrictive and now the Netherlands has one of Europe’s most stringent immigration policies. A considerable number of refugees who were not granted a residence permit went into hiding in order to remain in the Netherlands, and they have become illegal immigrants.²

The labour market position of most migrants is problematic. The participation rate is the lowest among Moroccan–Dutch (50 per cent) and Turkish–Dutch (51 per cent) and the unemployment rates are the highest among Moroccan–Dutch (11 per cent) and Antillean–Dutch (10 per cent) (Statistics Netherlands, 2008a; see Table 9.1). There are several possible explanations for the lower labour market position of migrant groups.

Table 9.1 Labour participation of migrant groups in 2007

	Turkish– Dutch	Moroccan– Dutch	Surinamese– Dutch	Antillean– Dutch	Dutch
Unemployment rate	9	11	8	10	4
Participation rate	51	50	63	59	68

Source: Statistics Netherlands (2008a).

First of all, the educational level of most migrants groups is considerably lower. Almost 13 per cent of the migrants (and 17 per cent of the non-Western migrants) have only received primary education compared to 7.4 per cent of the native Dutch population (Statistics Netherlands, 2008b). The level of education of migrant groups is steadily increasing. On average, the lower education level explains part of the lower participation rates of migrant groups. If one looks at the participation rates that correspond to the level of education, the differences between migrants and native Dutch groups appear to be the lowest for the highly educated (Statistics Netherlands, 2008c). Nevertheless, discrimination by employers is also part of the explanation. Kruisbergen and Veld (2002) showed that 24 per cent of employers were reluctant to hire migrants. An experimental study showed that the Moroccan applicants for an apprenticeship, with the same personal résumé as native Dutch applicants, were 30 per cent less likely to be invited to a job interview (Groen Links, 2006). Moreover, certain groups of migrants earn less than the native Dutch do. This is true when the comparison is corrected for personal characteristics such as education. The Antillean–Dutch citizens and the Moroccan–Dutch earn on average 5 per cent less than the native Dutch, whereas the Surinamese–Dutch earn on average 10 per cent less (Van der Vliet, 2005).

Gender diversity

The labour market participation rate of women in the Netherlands was 57 per cent in 2007, whereas the participation rate of men was 75 per cent. It is worth noting that the Netherlands has the highest number of part-time workers in the EU: 69 per cent of Dutch women work part time versus 16 per cent of Dutch men. As a consequence, the percentage of economically independent women is relatively low at 43 per cent. Economic independence is defined as earning an income above the level of Dutch public assistance (Merens and Hermans, 2009). Most women depend on the income of a partner in addition to their own earnings.

The number of women placed in management positions in the Netherlands is relatively low. Although 26 per cent of managers in the for-profit sector are women, women comprise only 7 per cent of the top positions in business (Merens and Hermans, 2009). Nearly half of these women on boards, namely 49 per cent, are of foreign descent (of the executive board members 2 per cent are female, of whom 83 per cent are non-Dutch; Lückerath-Rovers, 2008). In the non-profit sector the figures are comparably low: in Dutch universities only 11 per cent of full professors are female (van den Brink, 2009).³

Not only are women underrepresented in higher and top positions, they earn considerably less than men. According to the European Foundation of Living and Working Conditions (2007, p. 26), with a gender wage gap of 20 per cent the Netherlands is among the group of countries with the highest gender wage gap in Europe. The labour market position of migrant women is on average worse than that of native Dutch women. In particular, Turkish and Moroccan women have a low participation rate of 27 per cent in comparison to the 59 per cent of native Dutch women. However, Caribbean women, of both Surinamese and Antillean/Aruban descent, have a participation rate of 61 per cent, which is higher than the participation rate of native Dutch women.

There are several explanations for the lower labour market position of women in the Netherlands in comparison with men. One can be found in the historically strong motherhood ideology in the Netherlands (van Engen et al., 2009). In the second half

Table 9.2 Labour participation of men and women with children (0–17) in 2007

	Primary school	Lower level	Middle level	Higher level	Total
Women	20	37	66	81	58
Men	41	60	88	96	87

Source: Merens and Hermans (2009).

of the twentieth century, married women were institutionally and culturally supported to stay at home. Until 1990, childcare facilities were nearly absent in the Netherlands (Bleijenbergh et al., 2006). Although the percentage of children (0–3 years) in day care increased from 13 per cent in 1996 to 25 per cent in 2006, still a majority of the Dutch population believe that mothers of young children should ideally not work more than three days a week (Merens and Hermans, 2009, pp. 132, 141). It is in particular women who possess a lower level of education who are more sensitive towards the motherhood ideology. As illustrated in Table 9.2, of all the women who have children aged between 0 and 17, 37 per cent of those with a low level of education are participating actively in the labour market, compared to 81 per cent of women who have a high level of education (ibid., p. 87).

Disability

The inability to perform paid employment is a problem for about 16 per cent of the labour force (those between 15 and 64 years old). This means that about 1.7 million people have reported that they have had difficulty trying to enter or to perform paid employment because of being chronically ill or disabled. Nearly 40 per cent of the chronically ill or disabled are in paid employment, which is far below the Dutch average of 65 per cent (Statistics Netherlands, 2007). The percentage of those ill or disabled who have an open-ended contract is similar to the average for the total Dutch population, but a considerably higher percentage of people with chronic illness or disabilities are self-employed. It appears that self-employment provides better opportunities for performing tasks that are more suited to the physical abilities of such people. Women are overrepresented among the disabled and chronically ill, since 54 per cent of the disabled are women. Furthermore, the low educated are overrepresented, since nearly half of the people with chronic illness or disabilities are low educated, compared to 33 per cent of the total population. The majority of people who have a chronic illness or a disability are older: 58 per cent of this group is over 45 years old compared to 40 per cent of the total labour force (Statistics Netherlands, 2007, pp. 12–15). The average income received by disabled people in employment is 9 per cent below the average income of people without a chronic illness or disability.

Equal treatment legislation

Equal treatment legislation will be discussed in two steps, the historical development and the current situation. The focus will be on equal treatment legislation with regard to labour, but in addition, attention will be paid to other provisions made in the labour legislation that are relevant for the position of groups that have a weak labour market position.

Equal treatment is a basic principle of Dutch law. Since 1983, under the influence of international treaties, the prohibition of discrimination has been clearly outlined in Article 1 of the Dutch Constitution. Art. 1 is formulated as follows: 'All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever shall not be permitted.' Discrimination on the grounds of nationality, sexual orientation, disability/chronic illness and age is not explicitly forbidden, but the prohibition of discrimination on these grounds is covered by: 'or on any other grounds whatsoever'. The prohibition is aimed at the vertical relation between government and citizens: to prevent discrimination by government. With regard to horizontal relations (to prevent discrimination between citizens), Art. 1 is implemented in the Equal Treatment Act (ETA) and other equal treatment legislation.

As the discussion of the Dutch figures makes clear, formal equality (equality before the law) does not necessarily result in procedural equality (equal bargaining/negotiation position in procedure) and material equality (equal outcomes, results). Legislation is nevertheless important for the recognition and confirmation of rights and obligations, and the possibility of starting a lawsuit. The Netherlands has many equal treatment provisions. However, observance is left mainly to individuals and it is dependent on the nature of their complaints. Since victims of discrimination are often not in the best position to complain, this is a noteworthy omission (Havinga, 2002). Dutch equal treatment legislation is highly influenced by European Directives, and the importance of these Directives has increased. Since the first evaluation was made of the ETA in 1999, the Dutch government has had the intention to integrate all Dutch equal treatment acts and provisions into one Integration Act (Equal Treatment Commission, 2005). At present, in 2009, this Act is still being developed.

The legislator has not yet regulated all of the situations in which equal treatment rights might conflict with each other. As will be made clear in the following sections, these are the type of situations that attract the most media attention nowadays. For example, the right of equal treatment with regard to religion can conflict with the right of equal treatment concerning sexual preference if a Christian school does not want to appoint a homosexual teacher. Likewise, the right of equal treatment on the basis of religion conflicts with the right of equal treatment on the basis of gender when a company does not want to hire a Muslim man who refuses to shake hands with women. Furthermore, the legislator has not regulated all of the situations in which constitutional rights might pose a conflict. This could lead to problems, for example if the constitutional right of equal treatment conflicts with the constitutional freedoms of education, religion or association.

Historical development

Dutch equal treatment legislation is still in its infancy. Until 1957, married women were even not able to undertake legally binding actions (concluding contracts) by themselves. The first Dutch equality legislation on race and gender followed international developments. The Dutch Criminal Code of 1971 contained the first legal instruments against discrimination, but only with regard to race, after having been inspired by the UN treaty against racial discrimination.⁴ Subsequently, the implementation of EC Directives on the equal treatment of men and women resulted in the first Dutch Equal Treatment

Act, namely, The Equal Pay Act of 1975. Gradually, the scope of anti-discrimination legislation widened from equal payment for men and women to equal treatment of men and women in any area related to work: recruitment, terms and conditions of employment and dismissal, namely, the Act on Equal Treatment of Men and Women (*Wet Gelijke Behandeling Mannen en Vrouwen*).⁵ In 1994 the Equal Treatment Act came into effect.⁶ This extended the scope of equal treatment law from gender to other areas. From that moment on, discrimination on the grounds of race, religion, nationality, political opinion, hetero- and homosexual preference and marital status was also explicitly prohibited. Of course this did not mean that discrimination had ended; it is not even certain that discrimination has diminished, but it offered victims the possibility to start a legal procedure or to request an opinion from the Equal Treatment Commission (ETC). Powers, activity and outcomes of the ETC will be mentioned later in this chapter.

The Equal Treatment Act applies to all aspects of employment and profession, in the supply of goods and services. Since 1996, unequal treatment on grounds of part-time or full-time employment has been prohibited as well.⁷ Since 2002, under the influence of European legislation, discrimination on the basis of a temporary labour contract has also been prohibited.⁸ Further extension took place in 2003 with the Equal Treatment Act in regard to handicaps and chronic illness⁹ and in 2004 with the Equal Treatment Act with regard to age, thus prohibiting age discrimination.¹⁰ Apart from the equal treatment legislation as such, labour legislation contains provisions that aim at empowering those groups that are weakly represented on the labour market. These provisions refer mainly to women and ethnic minorities. Between 1994 and 2004, the legislator tried to encourage the participation of migrants in the Dutch labour market by creating special legislation. This special legislation, the first Employment Equity Act (*Wet Bevordering Evenredige Arbeidsdeelname Allochtonen, WetBAA*) dates from 1994, and included the obligation for employers who had more than 35 employees to register the ethnicity of employees (although the employees had to grant their permission for this).¹¹ The employees had to fill in a registration form (self-declaration) and, depending on their place of birth and the place of birth of their parents, they were registered as autochthonous (Dutch origin) or allochthonous (non-Dutch origin). In addition, employers had to issue a public report on the results, and a policy plan to increase the number of workers having a migrant background, including target figures.

Employers were highly resistant to this legislation, which in their opinion would mainly result in reams of administrative obligations. Since the legislators had not attached any sanctions to non-compliance with the legislation, in practice it produced very few results. The law had an extremely limited compliance rate; only 20 per cent of the employers who were obliged to register actually did so (Jonkers, 2003). Moreover, although the Employment Equity Act allowed preferential treatment on the basis of gender and race in specific situations, affirmative action as an instrument for promoting the labour participation of migrants in the labour market became controversial. On the one hand, this was caused by the increasingly strict conditions imposed by the EU Court of Justice in Luxembourg on cases concerning affirmative action that were aimed at gender equality. A backward position of the group, subject to the preferential treatment, had to be proved and to be related to the jobs available. Preferential treatment in application procedures is only allowed if the candidates are equally suited to the task. Preferential treatment should be in proportion to the goal, and serve as an adequate and

effective means for ending or diminishing the backlash. Besides, it must be transparent for all potential candidates that a policy of preferential treatment has been chosen in regard to the jobs in question. These criteria were, according to the Dutch ETC, also applicable in cases concerning policy or preferential treatment in regard to ethnic minorities. On the other hand, a detrimental societal climate towards affirmative action lessens the political support for implementation (Rodrigues, 2007).

Following an evaluation of this legislation, the second Employment Equity Act (Wet SAMEN, which literally means the Act on Stimulating Labour Participation of Ethnic Minorities) was introduced in 1998. This time, the employers' organizations were closely involved in the evaluation of the former legislation and the drafting of this new law. In this second Equal Opportunity Act, the administrative burden for the employer was considerably reduced, but non-compliance had not yet been sanctioned. This law ceased to exist in 2004. The evaluation revealed that there was too much resistance from the employers' side; employers felt that the law produced too few results (Rodrigues, 2007).

It is hard to say if the situation of ethnic minorities has improved as a result of this legislation. The unemployment rates of ethnic minorities diminished in the period of the Wet BAA and especially in the period of the Wet SAMEN (Jonkers, 2003, p. 246). However, this might also have been caused by the economic progress that took place during this period. After 2004, government policy on migrants' labour market participation shifted from legislation to self-regulation. The employment position of non-Western migrants is supported by means of covenants, which are ambassador networks supported by facilitative organizations and collective labour agreements.

With regard to gender equality, there are also other laws than equal treatment legislation which are relevant, mainly in Book 7 of the Dutch Civil Code and in the Law on Civil Servants (Ambtenarenwet). This legislation refers to the rights of married women and of mothers in employment. The first step was the abolition in 1971 of the provision that obliged governmental organizations to dismiss female public servants when they became pregnant. Important later improvements gave the right to breastfeed at work in the Law on Working Hours, the right to 16 weeks' paid pregnancy leave in the Health Law and the right to 26 weeks' (unpaid) parental leave for half of the working time (since 1997). The right to parental leave is also a right for fathers and for foster parents. In 2001, legislation to support care for dependants became integrated in 'Act on Work and Care', which is called in Dutch the 'Wet Arbeid en Zorg'.¹²

Present-day legislation

At present, the main Dutch equal treatment legislation is the Equal Treatment Act of 1994. In this Act only discrimination on specific grounds is prohibited. For example, unequal treatment on the basis of wealth, titles, education and length thereof is not prohibited. The 1980 Act on Equal Treatment in regard to men and women is still relevant in situations of gender discrimination, because it prevails over the general Equal Treatment Act of 1999 as far as gender discrimination is concerned. Since the differences with the ETA provisions on gender are minimal, this has had few consequences.

The equal treatment legislation is not only restricted to specific grounds (as described above); it also only covers specific fields, mainly labour, goods and services. The most important field is labour. Dutch equal treatment legislation protects against discrimination in employment relations and this should be interpreted very broadly. Various

kinds of labour relations fall within the scope of the protection, for instance, voluntary work, self-employed professionals (dentists, architects, doctors, lawyers, solicitors and tax advisers) and vocational education and training. Unequal treatment is forbidden in any area that is related to paid work, from job advertisement to the actual employment contract. This includes salary, holidays and promotion, training and professional education, dismissal, application and working conditions. The law does not only address employers; it also addresses all those involved in labour relations and in the framing of working conditions. Thus temporary agency work, such as trade unions and employers' confederations, also fall within the scope of equal treatment legislation. An exception is made for those organizations that have been founded on religious, ideological or political principles. For example, schools with a religious denomination are allowed to refuse teachers who openly express their homosexuality if this is not in accordance with their denomination.

The second important field in which equal treatment legislation applies is the offering or permitting of access to goods and services by professionals and public services. This might involve institutions working in the fields of housing, social services, healthcare, cultural affairs and education. Unequal treatment is also forbidden in concluding, implementing or terminating agreements or contracts with regard to goods and services, and in providing information on those matters and in giving career orientation and advice about educational or career opportunities.

With regard to the grounds of disability or chronic illness and age, up until March 2009 the prohibition of discrimination was restricted to employment, including vocational training. This legislation is meant to be extended to the other fields, especially the field of goods and services provision. As of 15 March 2009, the scope of coverage of the Act on Equal Treatment on the Grounds of Disability and Chronic Illness (WGBH/CZ) has been extended to the field of housing. Refusing to rent or sell housing to people with disabilities or chronic illnesses is prohibited. As of 1 August 2009, the law's coverage will be expanded to primary and secondary education (Staatsblad, 2009, p. 101).¹³

With regard to age, prohibition of discrimination is still restricted to employment and professional education. With regard to the grounds based on race, discrimination has also been forbidden – as a result of the European Directive against Race and Ethnic Discrimination¹⁴ – in social protection, including social security and social advantages since 2004. This means that a branch of the public sector, besides the field of employment, now falls under the Equal Opportunity Commission's activities.¹⁵

Supervision on how closely these Acts are adhered to is a task for both the Dutch Courts and the Equal Treatment Commission (ETC). The ETC was established by the Dutch government in 1994. It is an independent, professional organization. People can ask the ETC questions about Dutch equal treatment law or ask the ETC to give an opinion in specific cases. Each time the ETC receives a request for an opinion, it investigates whether the equal treatment law has been violated. In some respects, the ETC is similar to a court. However, an important difference is that the opinions of the ETC are not binding. Moreover, the ETC searches for information independently, whereas the courts depend mainly on evidence that lawyers put forward. Other differences are that filing a complaint with the ETC is free of charge and that a lawyer is not required. The ETC does not have to wait for petitions to be filed either. It is also entitled to investigate on its own initiative in specific areas where systematic or persistent patterns of discrimi-

nation are suspected. The ETC cannot inflict fines on employers or impose settlements on either party.

Public debate and policy

In the present Dutch public debate on diversity at work, the most prominent themes are those of gender, ethnicity (related to religion) and homosexuality. Chronic illness and disabilities were debated in the 1980s, and this resulted in public cuts in disability insurances. The ageing population raises the question of whether the public pension system, which is under pressure because of the economic crisis, can continue to pay out. But the biggest public controversies surround the tension between constitutional rights regarding religion (equal treatment with regard to religion, freedom of religion and freedom of education) and the right to equal treatment on the basis of gender and sexual preference. For example, in the public debate Islamic immigrants are criticized for subordinating women and discriminating against homosexuals. A question frequently raised is whether public officials should be allowed to wear a headscarf and whether this is a symbol that represents a belief in an inferior position of women. The same question arises with regard to officials who refuse to shake hands with colleagues of the opposite sex on the basis of their religious conviction, as this can also be interpreted as a lack of respect or even as discrimination against women.

Public debate on migrants

Since the mid-1990s, Dutch policies have placed increasing emphasis on the duties of immigrants. For instance, new immigrants, whether guest workers, marriage partners, dependants or political refugees, have to pass a citizenship exam as a condition for being granted a residence permit. In the new millennium, migration has become a dominant theme in Dutch public debate. This has partly been caused by global developments such as 9/11 and its aftermath, and partly by national incidents such as two political murders and some controversial films. In May 2002 Dutch society was shocked by the murder of Pim Fortuyn, the party leader of a right-wing political party, by an environmental activist. Fortuyn's main political arguments had been directed against the threats that Islam poses to the liberal values of Dutch society. The murder resulted in a rise of hostilities towards left-wing political parties for their assumed tolerance towards immigrants (van Donselaar and Rodrigues, 2004, p. 18). Two years later, a second political murder further propelled the debate in the direction of intolerance. In November 2004 a Dutch Moroccan Muslim extremist murdered filmmaker Theo Van Gogh, who had been very outspoken in the media, describing Islamic culture as backward. At the time of his murder, Van Gogh was preparing a movie on the suppression of Muslim women by Muslim men, together with Ayaan Hirsi Ali, a female member of parliament for the liberal People's Party for Freedom and Democracy (VVD). The murder resulted in an intensification of public debate on the tension between freedom of religion and freedom of expression. Since the murder came at a moment when political support for the government was at a historic low, politicians rapidly adopted a firmer tone when speaking about immigrants (van Donselaar and Rodrigues, 2006, p. 139). Hirsi Ali had to go into hiding after doubts were expressed about whether she had been honest about her background when applying for asylum in the Netherlands. In 2006 she resigned from the Dutch parliament and left for the USA.

Geert Wilders, leader of the right-wing Party for Freedom, was one of the politicians who filled the political gap left by Fortuyn's murder. In 2008 Wilders released a political film, *Fitna*, which charges that Islam is a threat to Western society. In the period before its release, the film caused widespread media attention and protest among the international Muslim community. The Dutch Prime Minister Jan Peter Balkenende publicly distanced himself from the content of the film and Dutch Muslim organizations reacted calmly. Initially, the Dutch Public Prosecutor decided not to prosecute Wilders for discrimination and incitement to hatred, despite reports from diverse human rights organizations. However, in 2009 the Amsterdam Appellate Court prosecuted Wilders for discrimination. The focus was on the offensive nature of the assertions he had made in the media, in which he likened Islam to Nazism (Hof Amsterdam, 2009).

At the same time the political parties in the middle of the political spectrum, the Christian Democrats and the Social Democrats, have increasingly adopted a negative stance towards immigrants. In the media, representatives of immigrant groups complain about being treated as a homogeneous rather than a heterogeneous group. Muslim women who wear headscarves complain about being discriminated against in the labour market.

Public debate on gender relations

Dutch policies aimed at achieving gender equality were introduced in the 1980s. EU equality directives introduced gender equality legislation into the labour market and social security matters. The ratification of the UN Charter on the Elimination of All Forms of Discrimination against Women in 1991 has broadened the coverage of anti-discrimination legislation to include politics, schooling, healthcare and bodily integrity. The Dutch government must report to the United Nations on its progress in the field of gender equality every four years (Heringa et al., 1994).

The three main issues covered by Dutch gender policy are the participation of women in the labour market, the position of migrant women, and the elimination of violence against women (Ministerie van Onderwijs, Cultuur en Wetenschap, 2008). Because our focus here is on diversity in the labour market, we discuss the first two issues in more detail. Since the majority of Dutch women work part time, women receive encouragement for working longer hours, for example in the form of tax advantages. Initiatives to increase the number of women in leadership positions have included voluntary agreements between managers in the for-profit and non-profit sectors. The Dutch government has pledged to have 25 per cent of its leadership positions filled by women in 2011 (Ministerie van Onderwijs, Cultuur en Wetenschap, 2008, p. 34). In addition, childcare facilities have been extended to make it easier for women and men to combine work and family life. Migrant women in particular have been the target of support measures aimed at increasing their participation in society, such as integration courses (*inburgeringstrajecten*), which teach Dutch language and general knowledge of Dutch society, and provide orientation on labour market participation.

The Dutch public debate on gender equality is less extreme than the debate on migration. The general tenor of the debate is that gender inequality is more of a problem among migrant groups than among the indigenous Dutch population (Merens and Hermans, 2009, p. 16). As discussed earlier, the debate focuses on the wearing of

headscarves by Muslim women and the weaker labour market position of women of Moroccan and Turkish descent. The general tendency is to allow the wearing of headscarves at work, but not for public functions that require a uniform, such as police officers (although the ETC, 2008, advised differently). Another discussion refers to the freedom that religious groups have to ignore Dutch gender norms. A Dutch imam who refused to shake hands with a female secretary of state sparked off hostile debates. His refusal was inspired by his religious beliefs, but in the Dutch context refusing to shake hands is considered very impolite. The general feeling expressed in the media is that in professional situations migrants should behave as the native Dutch do; in this respect, equal treatment of women is considered more important than freedom of religion. The Dutch Equal Treatment Commission, however, expressed a different opinion, arguing that, in the cases concerned, the prohibition of discrimination on religious grounds had been violated (Equal Treatment Commission, see <http://www.cgb.nl>).

Another issue that is debated publicly is the use of quotas for women in leadership positions. Although Dutch public policy supports an increase in the number of women in leadership positions in both the for-profit and non-profit sector, the implementation of these policies is controversial. In the public arena affirmative action initiatives towards women are often interpreted as discrimination against men.

Public debate on homosexuality

Acceptance of homosexuality is seen by many as an achievement of Dutch culture. The Netherlands was the first country to introduce same-sex marriage (in 2001). Prominent politicians including the late Minister of the Interior Ien Dales (Dutch Labour Party, died in office in 1994), the late Pim Fortuyn (founder of the right-wing LPF Party, murdered in 2001) and Boris Dittrich (D66, Social-Liberal Party leader up to 2004) were all open about their homosexuality and championed equal rights for this group. As argued, in the recent public debates Islam is seen as the main threat to the tolerant attitude of the Dutch towards homosexuals, although orthodox Christians also openly disapprove of or even condemn homosexuals. Dutch public policy regarding homosexuality is directed at increasing public acceptance and tolerance by extending financial support to grass-roots organizations and at eliminating violence against homosexuals (Ministerie van Onderwijs, Cultuur en Wetenschap, 2007). There are no specific policies directed towards improving the position of homosexuals in the workplace.

In the public debate, however, homosexuality in the workplace is a topic for discussion. The tension between the right to equal treatment on the basis of religion and on the basis of sexual preference is very prominent at present, and presents a challenge to marriage officials and teachers in particular. Since the introduction of same-sex marriage, some Protestant marriage officials with conservative beliefs have claimed the right to refuse to officiate at such ceremonies. The initial advice of the Dutch Equal Treatment Commission was that municipalities should allow individual officials to refrain from officiating if they wished, since there are enough marriage officials available who are prepared to marry same-sex couples (ETC, 2002). Recently, however, refusal to conduct same-sex marriage ceremonies has become prohibited (ETC, 2008). Another example is that of the boards of a number of conservative Protestant schools that have claimed the right to refuse to employ or to dismiss schoolteachers who are openly homosexual. However, the Dutch Equal Treatment Commission argues that boards are not allowed

to refuse to employ homosexual teachers on the grounds of their sexual preference (ETC, 1999).

In summary, the tone of the public debate in the Netherlands has become less tolerant towards immigrants. Gender equality has become an issue linked to migrant women rather than to native Dutch women. Migrants are increasingly being required to participate in integration courses where they learn the Dutch language and about the values promoted by Dutch society. Basic social rights such as the right to social assistance and public health insurance are provided only on condition that migrants perform these citizenship duties. Diversity policies to support the participation of migrants and women in the labour market combine legal anti-discrimination arrangements with voluntary agreements between employers and employees. Dutch policies aimed at making it easier to combine work and family life are an exception to this rule. They make use of social services such as childcare facilities and (paid) parental leave to support the participation of young parents in the labour market. Policies regarding homosexuality consist mainly of legal prohibition of discrimination.

Organizational practices

In this section we will discuss the extent to which equal treatment regulations and the public debate on diversity are reflected in the practices of organizations. We start with a general overview of human resources initiatives by organizations, and then go on to discuss some diversity practices in more detail. We shall argue that organizations steer a course between special treatment of groups with a specific identity (target groups) and 'valuing differences' practices that show appreciation of differences between individuals (without reference to specific identities).

Research performed in 2005 shows that most Dutch organizations do not have any kind of diversity policy. However, initiatives directed at individual differences (a focus on individual qualities, needs and work–family initiatives) are much more common than initiatives directed at target groups (e.g. women, migrants, the elderly, people with disabilities). De Vries et al. (2005) carried out a telephone survey among CEOs or HR directors of a representative sample of 500 Dutch organizations. Initiatives that address individual differences proved to be very common in the organizations. Nearly all organizations reported that they focused on individual qualities (94 per cent), while 81 per cent said they focused on individual needs, and work–family initiatives had been taken by 71 per cent. Of all target group initiatives, targeting older workers' employability was the one most often adopted by the organizations (33 per cent), followed by initiatives targeted at advancement of women (31 per cent), and actions to prevent turnover of people with disabilities. Initiatives for hiring people from ethnic minorities were mentioned by 15 per cent and initiatives for hiring people with disabilities by 13 per cent of the organizations surveyed. Thirteen per cent of the organizations had practices in place to enhance the advancement of migrants within the organization. With regard to diversity initiatives directed at migrants, similar findings were found in a study among 500 small and medium-sized businesses (Ait Moha et al., 2008). This study showed that 29 per cent of the companies had implemented diversity initiatives in their hiring practices. The initiatives ranged from active selection procedures for hiring migrants (18 per cent), equal treatment procedures (18 per cent), advertisements in which migrant groups are explicitly invited to apply for job openings (16 per cent), and searching for migrants through specific networks.

In general, non-profit organizations and larger organizations are much more active in carrying out diversity initiatives compared to for-profit organizations and smaller organizations (De Vries et al., 2005). De Vries et al. also studied whether the presence of initiatives was related to the representation of target groups in the organization (only cross-sectional data were available, so no causal inferences can be made). The correlation between initiatives and the representation of target groups in the organizations was highest for initiatives concerning migrants (0.42 for hiring, 0.40 for promotion) and for initiatives concerning the advancement of women (0.27). In contrast to the dominant perspective in both equality policies and in the public debate, initiatives that combined gender and ethnic background were rare. For example, in organizations that had initiated practices to promote the entry of migrant groups into the organization, only 7 per cent also had initiatives supporting the advancement of women within the organization. This suggests that organizational practices aimed at integrating the multiple dimensions of diversity are rare.

Although governmental institutions have the best record of implementing diversity practices (De Vries et al., 2005), there is still no coherent, integral perspective guiding diversity initiatives in governmental departments (Henderikse et al., 2007). Although most governmental departments have developed some initiatives on diversity, these are often short-term projects and seem to be characterized by amateurism and fragmentation (ibid.). Henderikse et al. (2007) conclude that while some efforts to improve the representation of target groups (women, migrants, elderly workers) have been partially successful, diversity practices are not anchored in the core HR practices and in public policies of these departments. The current Dutch government, however, has intensified its efforts to implement a diversity programme in all governmental departments. Target figures concerning the number of women, migrants and elderly workers have been set for each department. Moreover, the government has made the department heads responsible for delivering these targets (VNG and FORUM, 2009). Interestingly, the registration procedure for migrant groups, which was abandoned in 2004 (see above, Wet SAMEN), has been reinstated in government departments, enabling changes in the representation of different identity groups to be measured. In summary, both governmental and for-profit organizations have made efforts to deal with diversity. In the following sections we present some examples of common practices concerning migration and gender in Dutch organizations.

Practices directed at migrant groups

Scholars in diversity management have outlined three general reasons for organizations to implement diversity programmes: (1) ideological reasons (corporate responsibility for challenging discrimination, providing equal opportunities and having a workforce that is representative of the general population); (2) legal reasons (legal obligations and public sector procedures); and (3) 'business case' arguments (the need to recruit talent, open new markets, support creativity and innovation, and reduce conflict and misunderstandings; Kottke and Agars, 2003). As we shall show in our discussion of diversity initiatives on migration, all three reasons underlie the practices of Dutch organizations.

We start with the Dutch police organization, which has been actively involved in diversity programmes for many years. The diversity programmes that the police use are supported by ideological arguments, namely that equal representation of migrant groups

within the police force would support the legitimacy of the police in Dutch society (LECD, 2009). In the past, however, practices that facilitated the hiring of officers with a migrant background by adapting standards for candidates of these groups have been devastating for the status of migrants within the police (Houdijk et al., 1997). These programmes have now been replaced by initiatives to fill possible skill gaps (e.g. in Dutch language skills) or to support adaptation (e.g. by implementing 'buddy projects' in which new police recruits are matched with an experienced police officer). Equal representation of migrant groups is still a strategic goal of the police, but no longer through affirmative discrimination means. Furthermore, the police force states that it aims to dissolve discrimination within the organization and to prevent unwanted turnover. Apart from these ideological arguments for supporting diversity initiatives, the police force uses legal arguments, explicitly aiming to set an example by observing the Equal Treatment Act. In 2007, the Minister of the Interior at the time, Guusje Ter Horst, who is responsible for the police force, decided that 50 per cent of the leadership vacancies in the regional police force and at least 30 per cent of the vacancies for top management positions within the national police corps should be filled by women or migrants (Ter Horst, 2007). In spring 2009, Ter Horst twice postponed the appointment of a white male to a high management position as thus far the police had failed to appoint more women and migrants to positions of leadership. This postponement is at odds with the current Dutch Equal Treatment Act and EC anti-discrimination directives, which do not allow preferential treatment, and consequently has met resistance within the police organization. Finally, the Dutch police organization also uses business-case arguments for supporting diversity initiatives. It argues that it needs expertise on migration issues, particularly since migrant groups are overrepresented in the crime statistics. Moreover, future labour shortages need to be prevented by attracting employees from new groups (LECD, 2009). Thus the practices of the Dutch police organization over the years show that diversity initiatives have been implemented on the basis of ideological, legal and business-case arguments.

Business-case arguments are perhaps even more salient in the justifications offered by for-profit organizations for implementing diversity initiatives. By attracting employees from migrant groups in the vicinity, organizations in the banking sector (e.g. Rabobank Group, 2007) and retail sector (Albert Heijn, 2009) hope to attract new customer markets. Research shows that initiatives supported by 'access and legitimacy' arguments (Luijters, 2008; Ely and Thomas, 2001) tend to result in feelings of alienation by minorities. In these initiatives, migrants are valued for what they are (potential customers) rather than for who they are (groups with a specific identity). This perspective differs from a perspective of 'learning and integration' (Ely and Thomas, 2001), in which the organizations' main argument for diversity initiatives is to support rethinking the organization's core business and core processes with the aim of introducing innovations in the company. An example of this perspective can be seen in initiatives that have been taken by Philips, the Dutch multinational that produces consumer 'lifestyle' electronics, healthcare and lighting. In recent years Philips has restructured the company from an organization that consisted of separate divisions providing lifelong careers into an integrated organization in which people from different functional, national and continental backgrounds rotate regularly. Philips believes that this helps to create synergy, creativity and innovative ideas (van den Berg, 2009). Part of the multinational's strategy is also to actively search for and support female talent, as women are the major decision-makers

for consumer product purchases. Moreover, Philips actively searches for talent among the upcoming economies, particularly Brazil, Russia, India and China. It should be noted that these diversity initiatives are tailored towards the higher-level employees.

It can be argued that large multinational corporations such as Shell, Philips and Unilever are at the forefront of implementing diversity initiatives just because of their status. Multinational organizations are, for instance, confronted with strong equal opportunity legislation in the USA. Moreover, public procurement in the USA is conditional on evidence of diversity initiatives in the organizations. The majority of for-profit organizations in the Netherlands, however, use mainly 'discrimination and fairness' arguments, striving for the prevention of unequal treatment of employees in their processes of hiring, reward and promotion. A strong belief that 'in our organization all employees are equal' is characteristic of this perspective. As the facts and figures presented earlier in this chapter show, material equality in labour participation, income and division of power between migrant groups and the native Dutch population, and between men and women, is still a long way off.

In addition to fulfilling legal obligations, diversity initiatives are also spread via informal networks. With regard to initiatives and the arguments used to support them, organizations show 'mimicking behaviour' (Paauwe and Boselie, 2003). Corporate diversity officers are part of formal and informal networks and frequently adapt the 'best practices' they have learned from each other. This is furthered by the presence of organizations for the enhancement of diversity such as the government-sponsored E-Quality, Dutch Network of Diversity Management, FORUM Institute for Multicultural Development, Opportunity in Bedrijf, 'Talent naar de Top' (literally 'Talent to the Top') and the Ambassador networks.

Practices directed at gender equality

In addition to the initiatives directed at migrant groups, a considerable number of Dutch organizations have taken initiatives aimed at improving the position of women in their organizations. These include mentoring programmes, women's development programmes and professional networks for women. There are (and have been) a number of ambassador networks active in the Netherlands, where prominent figures from profit and non-profit organizations have put a personal effort into increasing the number of women in top positions. According to a recent evaluation of Dutch Ambassador networks, these networks are effective in so far as they have succeeded in putting the issue on the agenda (Henderikse et al., 2006). Ambassadors are less positive about the actual rise in the number of women in the top layers of organizations. Since 2008, collaboration between governmental departments, labour unions, employers' organizations and companies has resulted in a taskforce that invites organizations to sign a 'Talent to the Top Charter'. In this charter, organizations make a unilateral commitment to increasing the number of women in their top management layers and to implementing the practices needed to reach this goal. The results of these initiatives will subsequently be monitored by the Minister of Education, Culture and Science (Talent naar de Top, 2009).

Conclusion and discussion

The previous sections have shown that the prominent issues in the Dutch public debate on workplace diversity concern clashes between the constitutional right to equal

treatment on the grounds of religion, and the right to equal treatment on the grounds of gender and sexual preference, and between the constitutional right to equal treatment on the one hand and constitutional rights such as freedom of expression and freedom of religion on the other. Public feeling is sometimes at odds with the constitutional rights that are protected under the Equal Treatment Act. Islam in particular is criticized for not respecting the principle of equal treatment regarding gender and sexual orientation, whereas violations of these rights by conservative Christian individuals or institutions are seen as less problematic. Conservative Protestantism has a long tradition in the Netherlands and is considered less of a threat to Dutch culture than Islam is. During the past few decades the polemic of Dutch public debate on diversity has seen a change from a pluralist perspective in the 1980s to more of an assimilation perspective in the twenty-first century (Maussen, 2006). Especially the tolerance of religious and cultural pluralism, which the Netherlands is known for historically, is declining. To some extent these changes in debates are reflected in national and local public policy, and in organizational programmes and practices. Some, especially small, organizations claim equal treatment of all their personnel, regardless of their (gender, ethnic, sexual preference) identity. However, in contrast to the emphasis in the public arena on assimilation, large organizations in particular have tended to introduce diversity practices aimed at creating opportunities for disadvantaged groups such as women and immigrants. Diversity initiatives vary from supporting the hiring and promotion of specific disadvantaged groups, to creating networks and mentoring systems and supporting the combination of work and care. Diversity practices are often legitimized by the business-side argument that organizations can derive a benefit from diversity because it supports growth, innovation and better adaptation to a society that is becoming increasingly globalized. Changes in legislation have had some effects on the development and implementation of diversity programmes, but to a more limited extent (e.g. the Wet SAMEN, which was withdrawn after six years).

The lack of effectiveness that Dutch organizations show in addressing diversity may stem from tensions between opposing legal, political and strategic demands. This has resulted in a number of paradoxical situations. The first paradox is that whereas there is political and strategic support for affirmative action policies, both Dutch and European laws place restrictions on initiatives that might result in benefits for one particular group. An example can be found in the introduction of quotas for increasing female and migrant representation in the top layers of organizations. Organizations that have introduced quotas have not only received negative press coverage, but they have often faced criticism from the ETC (see, e.g., the example of appointing women as police deputies discussed above). The second paradox can be found in the registration of ethnic identity, the aim of which is to monitor organizations' efforts to create a more diverse workforce, on the one hand, and the social resistance that this registration has met with.

The third paradox can be seen in organizational practices that are aimed at improving the position of target groups (e.g. the introduction of training, networks and mentoring systems for target groups) and the public debates surrounding these issues. Opponents of these policies have argued that they stigmatize the target groups. Public awareness that differential treatment of groups might be needed to create equal results, however, is generally low. Finally, organizational initiatives aimed at making it easier to combine

Summary table for the Netherlands

Existence of anti-discrimination legislation	Yes
Criteria covered by anti-discrimination legislation	Religious and political conviction, race, nationality, gender, marital status, sexual orientation, permanent or temporary labour contracts, working hours, handicap and chronic illness, age
Criteria for which the reporting of quantitative data and their communication to a public administration are compulsory	Abolished in 2004
Criteria covered by 'affirmative' or 'positive' action legislation other than unemployment- or income-based	Absent
Existence of a discourse or debate about 'non-discrimination' or 'equality'	Yes
Existence of a discourse or debate about 'diversity'	Yes
Year or period when the 'discrimination' concept started to disseminate in management literature in the country	About 1990
Year or period when the diversity concept started to disseminate in management literature in the country	About 2000
Who pushed the 'diversity' agenda?	Semi-governmental and non-governmental organizations such as FORUM and E-Quality
Existence of a professional association representing diversity professionals and year of creation	No, although there are a number of national platform and knowledge organizations (Div-Netwerk, 2004, Opportunity-in-Bedrijf, 2005, E-Quality, 1998)
Existence of a professional association representing diversity scholars and year of creation	Only single university-based associations, such as Babylon (Tilburg University, 2002)

work and care, although introduced for both men and women, may actually reinforce traditional gender relations. While it is argued that these policies support women's participation in the labour market, the emphasis on women's caring role may, on the one hand, consequently hamper their position. On the other hand, the Dutch emphasis on work-life balance policies also highlights the traditionally strong cultural value attached to being able to care for children and, to a lesser extent, the elderly. Indeed, in the Netherlands, more men and women work part time than employees in any other OECD country.

Notes

1. Interestingly, Japan and Indonesia are considered Western countries. Probably the welfare level is more important as a selection criterion than the geographical position.
2. No official statistics are available on the number of illegal immigrants.
3. In the Netherlands assistant professors or associate professors are not allowed to use the title 'professor'. This figure therefore refers to 'full professors'.

4. International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, entered into force on 4 January 1969.
5. Directive 76/207 of 9 February 1976: Equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.
6. Equal Treatment Act of 2 March 1994.
7. Act of 3 July 1996, to adjust the Dutch Civil Code and the Dutch Code for Civil Servants with regard to the prohibition of discrimination of employees on the basis of working hours.
8. Act of 7 November 2002 to implement EC Directive 1999/70/EG of 28 June 1999.
9. Equal Treatment Act of 3 April 2003 with regard to the prohibition of discrimination on the basis of handicap or chronic illness.
10. Act of 17 December 2003 with regard to equal treatment at work, profession and professional education on the basis of age.
11. Act of 11 May 1994 with regard the promotion of equal participation of migrants on the labour market.
12. Act of 16 November 2001 to determine regulation on the achievement of a new equilibrium between work and care.
13. Change of the Equal Treatment Act with regard to the prohibition of discrimination on the basis of handicap or chronic illness in connection with extension to the field of education.
14. Council Directive 2000/43/EC of 29 June 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
15. This aspect of the Race Directive is implemented in Section 7a of the Dutch ETA.

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