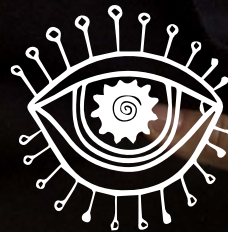


Children's rights in the Netherlands



2015-2020

Kinderrechten
Collectief

FIFTH NGO REPORT OF THE DUTCH NGO
COALITION FOR CHILDREN'S RIGHTS TO THE
UN COMMITTEE ON THE RIGHTS OF THE CHILD

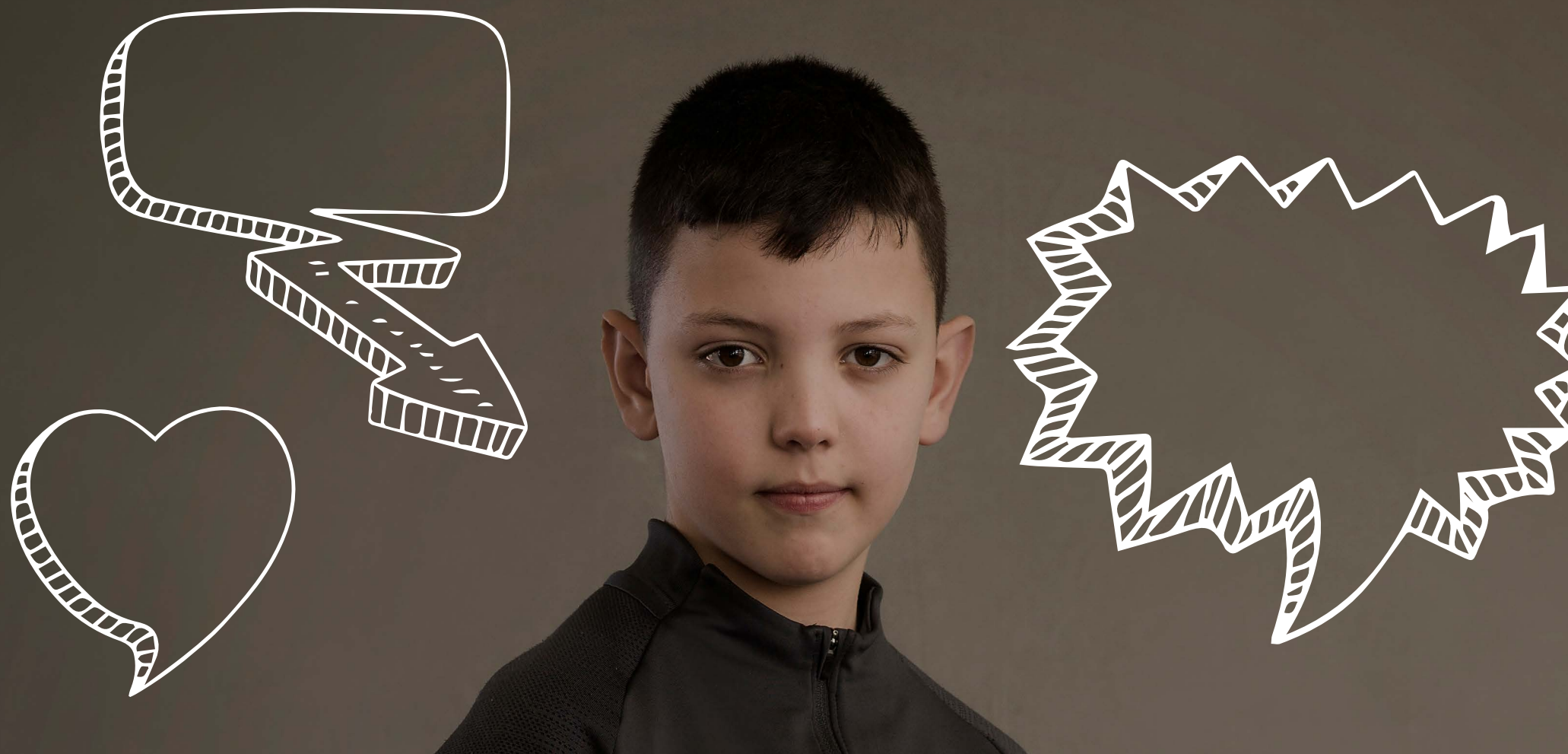


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FOREWORD



The Dutch NGO Coalition for Children's Rights has reported on children's rights in the Netherlands with input from other NGOs since the ratification of the International Convention on the Rights of the Child by the Netherlands in 1995.

This is the fifth report to the UN Committee on the Rights of the Child. It covers the period 2015 - 2020. The years 2020 and 2021 have been overshadowed by the COVID-19 virus: it has had an unprecedented impact on everyone, not least children.

In this report, numerous experts and NGOs describe the circumstances in which children grow up and to what extent their rights are observed in the Netherlands. It includes children living in the Caribbean Netherlands: the three special municipalities of Bonaire, St Eustatius and Saba. The large number of contributions underlines the urgency of several issues, which have escalated partly due to the COVID-19 pandemic.

We assume that this urgency will be reflected in the recommendations the UN Committee on the Rights of the Child's will formulate based on, among others, this report. And that these recommendations give the Dutch government an unmistakable mandate to act. The Coalition for Children's Rights will monitor and spur the follow-up.

The Coalition for Children's Rights is particularly grateful to all the experts and organisations who contributed to this report. Thanks to their participation, it provides a clear and complete picture of compliance with children's rights in the Netherlands.

Huri Sahin
Chair of the Dutch NGO Coalition
for Children's Rights





METHODOLOGY

This report on children's rights is the result of consultation by the Dutch NGO Coalition for Children's Rights with other NGOs, young and adult experts and professionals. They have formulated their views on each theme in response to the UN Committee on the Rights of the Child's questions.

Many of the concerns in this report stem from the decentralisation of government tasks – particularly youth care – to municipalities in 2015. The Coalition for Children's Rights notes that the priority of the parties involved in this decentralisation has not always been the upholding of the United Nations Convention on the Rights of the Child (hereinafter referred to as the UNCRC). The COVID-19 pandemic and the lockdown's impact on children and young people have made the shortcomings in current youth policy painfully clear. The long-term consequences of the COVID-19 measures on children and young people are as yet impossible to foresee and are not included in this report.

This report includes feedback from the Caribbean Netherlands: the special municipalities of the islands of Bonaire, St Eustatius and Saba (hereinafter the BES islands); it is given separately where necessary.

The Caribbean Netherlands' legislation, policies and circumstances often differ from those of the European part of the Netherlands. Excluded from this report are the independent countries of the Kingdom of the Netherlands – Aruba, Curaçao and Sint Maarten. However, the Coalition for Children's Rights stresses that in June 2015, the UN Committee on the Rights of the Child indicated that the entire Kingdom of the Netherlands is party to the UNCRC and that the rights should be guaranteed throughout the Kingdom. The Dutch government is not currently honouring this.

For this NGO report, consultation and coordination took place with the Netherlands Institute for Human Rights, the Ombudsman for Children and COC Netherlands. The Coalition for Children's Rights endorses the concerns identified by these organisations. The Dutch National Youth Council (NJR), member of the Coalition for Children's Rights, is providing the UN committee with a separate response from children and young people to the Dutch State report.

NEW DEVELOPMENTS

The Dutch government is working to improve children's wellbeing so that they can grow up in safe surroundings and reach their full potential. 2020 was mainly marked by the impact of the COVID-19 pandemic on children. Positive consequences of the COVID-19 crisis include more focus on young people's participation in society and on children's mental health. Equal opportunities are now more firmly on the agenda. Discrimination and racism are receiving more attention in the Netherlands thanks to the Black Lives Matter movement. And several reports conclude that the effects of the 2015 decentralisation of youth care are not all positive; government officials now partly acknowledge this fact.

COVID-19 pandemic magnifies underlying issues

Measures to prevent the spread of the COVID-19 virus have significantly impacted the lives of children, cognitively, physically, socially and mentally.¹ Safe at Home, a hotline for victims of domestic violence and child abuse, received more urgent calls.² A study by Leiden University reported an estimated 40,000 cases of child abuse during the first lockdown, a much higher number than usually.³

COVID-19's economic impact is still unclear, but the number of children living in poverty is expected to rise. School closures brought to light

discrepancies between pupils in terms of access to devices and other materials, parental support and the approach of different schools. The closures confirm the importance of school for children's social and emotional development.⁴ Loneliness, eating disorders, depression and anxiety all increased among teenagers.⁵ The crisis in youth mental health care grew more acute.⁶ The closure of schools affected all aspects of children's development and increased the number of vulnerable children. As early as May 2020, UNICEF concluded that it is not sufficiently clear whether and how children's best interests were considered during decision-making around the COVID-19 measures.⁷ Evaluations of the measures should include the extent to which children's best interests and the importance of education were weighed in the decision-making process.

The COVID-19 crisis has magnified underlying issues and demanded a lot from young people mentally. The state has announced it is setting up a Delta Plan Youth to help restore children's hope for the future. Implementing the Delta Plan Youth requires an integrated medium- to long-term approach supported by numerous implementing organisations and children themselves.

- 1 Netherlands Youth Institute (NJI) (2021) *Overview of research into the effects of the COVID-19 period on children, young people and families* and *The Social and Economic Council of the Netherlands (SER) (2021) Advice Youth Think Tank COVID-19 Crisis. And now... action!*
- 2 Ministry of Health, Welfare and Sport (2021) *Stijging van acute meldingen bij Veilig Thuis*
- 3 Leiden University (2021) *Kindermishandeling tijdens de eerste lockdown*
- 4 Bol, T. (2020) *Sociale ongelijkheid in thuischoling tijdens de COVID-19-crisis* and Smeets, R., Ter Weel, B. & Zwetsloot, J. (2020) *Ongelijk gebruik van online-leermiddelen tijdens de lockdown.*
- 5 UMC Hospital, Amsterdam (2020) *COVID-19maatregelen maken jongeren angstiger en somberder*
- 6 Health and Youth Care Inspectorate (IGJ) (2021) *Onvoldoende hulp voor jongeren met ernstige psychische problemen*
- 7 UNICEF Netherlands (2020) *COVID-19crisis en kinderen en jongeren in Nederland, een inventarisatie*

Many of the concerns that the Coalition for Children's Rights expressed in the Input to the List of Issues (2019) are still current and have been exacerbated by the pandemic. Concerns include increased inequality caused by poverty as described above and (distance) learning due to the closure of schools. The quality and accessibility of the latter have been called into question.⁸

Growing impact of decentralisation on access to care

Potentially important steps were taken to bring synergies and coherence to the youth care system with the decentralisation of the Youth Act and the Appropriate Education Act. Municipalities are now responsible for domains such as youth employment, youth care, tackling child abuse, (sexual) exploitation and human trafficking. However, decentralisation has also created undesirable market forces, which have led to staff shortages in the care sector, loss of expertise, etc.

Insufficient focus on prevention

Too often, a problem-oriented approach is taken in youth care. There is insufficient investment in preventive policies, such as support for schools and universal services.

In 2018, a National Prevention Agreement was introduced, aimed at reducing childhood alcohol consumption, smoking and obesity. Another cause for concern is the disproportionate number of children with a migrant background or mild intellectual disability in the criminal justice system and in detention.⁹

Children living with long-term insecure immigration status

Asylum procedures rarely take children's rights into account. For instance, children can be placed in detention, shelters are not child-friendly and children may have an insecure immigration status for a very long time. Thousands of children still live in Greek refugee camps. In response to Greece's request to relocate 2,500 vulnerable children without parents across Europe, the Netherlands eventually took in two.

Participation

Children's participation in society is receiving more attention but is not yet adequately structured. Nor is it always meaningful or effective. Climate change, for example, does not appear in this report because the UN Committee on the Rights of the Child did not include questions on this issue, even though children say they are very concerned about it.¹⁰ Understanding how youth participation works is a prerequisite for structured safeguarding of policy and practice.

This NGO report demonstrates that children's interests and rights are rarely given primary importance. Their circumstances, feelings and experiences are not sufficiently taken into account.

⁸ Inspectorate of Education (2020) *Distance learning during COVID-19: Third data collection*, and Inspectorate of Education report (2020) *Education during COVID-19: concerns about the new school year*

⁹ Netherlands Institute for the Study of Crime and Law Enforcement (NSCR) (2020) *LVB-jongeren in de versnelde strafprocedure: knelpunten en risico's*

¹⁰ UNICEF Netherlands (2020) *Unicef-jongeren advies #MijnNieuweWereld*



A GENERAL IMPLEMENTATION MEASURES



RESERVATIONS AND LAW

Reservations

The reservations to articles 26, 37 sub c and 40 of the UNCRC are still in force and the government does not intend to withdraw them.

Because of this, it is still possible that:

- 16 and 17 years old can be tried according to adult criminal law;
- the right to a lawyer (free of charge) for minors can be restricted¹¹;
- children are not (personally) entitled to social security rights, which hinders improving the situation of children living in poverty.¹²

Article 26

Due to the reservation, the benefits of social securities the Dutch can rely on are not available

to children. Despite various reports from the Ombudsman for Children, there is no progress in revising the reservation.¹³ Because of this reservation, the Netherlands deprives children of their individual right to social security.

Certain groups of children are excluded from social security, including children of an 'unofficial' single parent (when due to the circumstances, their parent still legally has a partner (because of which they cannot claim one-parent benefits and also do not (yet) receive alimony)), homeless children or families, or children whose parents are being cut back on their benefits or allowances.

The recent child care benefits affair, in which approximately 26.000 parents became victims of false suspicions of fraud, painfully revealed that the argument that "in the Netherlands, every child benefits from payments to their parents" does not

hold.¹⁴ The same goes for the state's explanation that in individual cases of urgent need children can nevertheless claim social security¹⁵; in practice this is not the case.¹⁶

Optional Protocol

The Netherlands has not yet ratified the third Optional Protocol to the UNCRC on a communications procedure (UN Doc A/C.3/66/L.66). As a result, Dutch children cannot appeal to the UN.

Recommendations:

- **Withdraw the reservations to articles 26, 37 sub c and 40 of the UN Children's Rights Convention.**
- **Ratify the third Optional Protocol to the UN Children's Rights Convention on a communications procedure.**

New legislation

In the Netherlands, the Comprehensive Assessment Framework ('Integraal AfwegingsKader') is an important instrument for comparing new legislation to international treaties and weighing their consequences for society. The Netherlands has been working on improving the "consequences for society" part since 2019. At the moment, it is not clear how the possible consequences of new legislation and policy for children are examined and taken into consideration.¹⁷ The Netherlands is currently developing a 'generation test'. It would be good if, while making new legislation, policy and budgeting plans, the impact on the right and interests of the child is taken into account.

COORDINATION AND DECENTRALISATION

On October 10th, 2010, the Kingdom of the Netherlands split into four separate countries: the Netherlands, Aruba, Curaçao and Sint Maarten. The islands of Aruba, Curaçao and Sint Maarten are – just

like the Netherlands – independent countries within the Kingdom of the Netherlands. The countries within the Kingdom are individually responsible for the implementation of the UNCRC in their country.

Intercountry Taskforce Children's Rights

The Intercountry Taskforce Children's Rights sets shared priorities, however the countries within the Kingdom develop separate work plans. The taskforce does not have the mandate or the authority to coordinate all activities in relation to the implementation of the UNCRC in the four participating countries. Each country is individually responsible for allocating the financial, technical and human resources required for the action plans. It is unclear what the benefits from earlier plans will be. The new plans (2019-2023) lack (sufficient) monitoring and evaluation frameworks.

Recommendations:

- **Follow up on recommendation 9 of the UN Committee on the Rights of the Child from 2015 on Kingdom-wide action plans to promote and protect children's rights.**
- **Grant the Intercountry Taskforce Children's Rights a clear mandate and set common, measurable goals for all four countries, including the three special municipalities.**
- **Perform a baseline measurement and set up a monitoring system to measure and monitor the progress in achieving the goals and assisted action plans.**
- **Invest in technical and financial capacity for monitoring and evaluation systems and connect them to existing data registration systems.**

Equal access to protection and services: consequences of decentralisation

The Netherlands

Since 2015, municipalities are responsible for youth care, work and income and social care for the long-term sick. Transferring youth care to municipalities has given them extra tasks; such as responsibility for

¹¹ Defence for Children Belgium (2019) *My lawyer, my rights – Manual for policymakers*

¹² Defence for Children & Save the Children (2019) *Kansen voor kinderen: een postcode-tombola*
Leiden University (2020) *Koen Caminada en Arco Timmermans over kinderarmoede in het NRC*
One world (2018) *Nederland heeft (relatief) veel arme kinderen*

¹³ Ombudsman for Children (2017) *Alle kinderen kansrijk. Het verbeteren van de ontwikkelingskansen van kinderen in armoede; Netherlands' Ombudsman for children (2017) Nederlandse kinderen ontkoppeld.*

¹⁴ Government of the Netherlands (2020) *Gecombineerde vijfde en zesde periodieke Nederlandse rapportage over het Verdrag inzake de Rechten van het Kind.*

¹⁵ Ibid.

¹⁶ Verwey-Jonker Institute (in press) *Onderzoek naar Nederlandse voorbehoud op artikel 26 IVRK*

¹⁷ Expertise centre Legislation and Legal Affairs (2020) *Integraal afwegingskader voor beleid en regelgeving. 7.1 Gevolgen voor burgers*

youth care (secure youth care, youth mental health care, youth MID, forensic care, child protection services and juvenile rehabilitation), poverty policy, parenting support and prevention.¹⁸ Municipalities and joint ventures of schoolboards are both obliged to describe how they are intending to organise youth care and inclusive education.

Almost one in eight children receives some form of care, protection or rehabilitation. The first evaluation of the Youth Act shows that it is not easy for all children, young people and parents to obtain the youth care they need and there are still long waiting lists. Differences in organisation and quality between municipalities are large. Highly specialised youth care is not accessible to everyone in all municipalities. Contrary to the applicable rules and children’s rights, children are placed in secure youth care, because there are no spots in residential youth care available.

Youth care lacks management and central coordination. This also applies to foster care, youth mental health care, tackling domestic violence, child abuse and sexual exploitation, counselling homeless children and care for children with disabilities (also see chapters D, E, F, G, K) in the European Netherlands and on the BES islands. Aftercare is inadequate: the number of homeless young persons is increasing rapidly, about 60 percent of whom have a history in youth care.¹⁹

Municipalities are also still insufficiently able to establish the link between youth care and other domains, such as debt counseling, education or the Social Support Act.²⁰

In March 2021, the government agreed to a legislative proposal to make cooperation on regional level obligatory between municipalities. This should improve the availability of specialist youth care. However, the proposal does not take account of the consequences of the COVID-19 measures for

youth care. The state will have to provide substantial (financial) resources to catch up with the backlogs that worsened during the COVID-19 crisis quick and effectively.

The state is also taking steps through the Action Program “Care for Youth” and aims to strengthen local teams, reduce administrative burden and learn from complex cases.²¹

Recommendation:

- **Provide every child access to timely, appropriate and high-quality care and prevention, even if municipalities do not do so.**

BES islands

Shelter for victims

The BES islands lack proper shelter and specialised care for victims of domestic violence. On the islands, it is difficult to organise shelter in which victims cannot be found by perpetrators.

Youth care

The government does not conduct annual inspections to improve the quality of youth care, which is therefore insufficiently guaranteed.²²

Education

The quality of education has improved in a general sense. However, learning outcomes for Dutch, Papiamentu, English and arithmetic are not yet measured based on context specific and objective result standards. Schools are not evaluated based on their capacity to support students in achieving certain learning outcomes.²³

Financial resources

The combination of a transformation, increasing use of care and cutbacks is a difficult task for municipalities that leads to major problems in many places. Municipalities deal with severe financial shortages on youth care. Some municipalities therefore introduce a waiting period, other try to reduce costs or cut back on prevention.

In 2019, municipalities spent 1,6 – 1,8 billion euros more on youth care than they received from the central government. The cutbacks that accompanied the decentralisation however also stand in the way of the intended renewal of the youth care system. Reinforcing basic facilities and prevention should lead to less reliance on specialised care and a decrease of the amount of supervision orders and out-of-home placements. The increased financial pressure and complex management of the system have deteriorated the quality of care.²⁴ Municipalities use different cost prices, sometimes lower than the actual cost price. (Local) governments search for the cheapest ways to provide care. These competitive forces in (youth) care do not necessarily lead to adequate care.

Various youth institutions are collapsing or on the verge of bankruptcy.²⁵ The reason for this are budget cuts of 15% on the youth care budget after the decentralisation, a shortage in staff and low rates. As a result, the treatment of children in desperate need of stability is interrupted, follow-up treatment is scarce and a plan for the future is often lacking. Many children stay in places not suitable to their care needs.²⁶ Too little has been invested in sufficient staff, additional training, peer review and innovation. Research shows that the decentralisation of youth care can contribute to better quality, however it does not lead to cost savings within the Youth Act.²⁷

Combined treatment of children and parents at the same time is hard or even impossible to arrange due to separate financing flows (for parents via healthcare insurers and for children via municipalities). Moreover, the principle of residence applies to youth mental health care, which means that, when mothers temporarily live elsewhere with their children (for example in a women’s shelter), the application and intake have to be done again.

In the Youth Act, municipalities have been designated as leader in general youth policy. In addition, according to the Explanatory Memorandum to the Youth Act, municipalities are responsible for a ‘positive youth policy’. The central government leaves it to the 355 municipalities whether or not to support youth organisations financially. ‘Basic’ facilities for children and young people, such as community work or community centres, are often the first to be cut down. Municipal budgets for the youth largely go to youth care, while the direct, daily living environment with accessible youth and play facilities are essential for the healthy development of children and young people.

Recommendations:

- **Establish national quality requirements for youth care and estimate the resources required for this.**
- **Abolish market forces in youth care, prevent open residencies and closed institutions from making high profits and focus on concrete goals.**
- **Make combined treatment for families affected by domestic violence and child abuse possible through one single comprehensive funding system.**
- **Make a positive youth policy a permanent part of municipal budgets.**

DATA COLLECTION

Data collection with regard to children and their well-being is incomplete and unsuitable. The mental health of children is not adequately pictured: locally and nationally representative figures about the occurrence, course and consequences of psychological problems and disorders are lacking.²⁸ There are also insufficient data on preventive facilities for children and it is unclear how many

18 NJI (2018) *Jeugdwet*

19 Council for Public Health and Society (2020) *Herstel begint bij een huis. Dakloosheid voorkomen en verminderen*

20 NJI (2018) *Realiseren ambities Jeugdwet vraagt extra inspanning*

21 Zorg voor de Jeugd (seen on 01-04-2021) *Lerende expertteams*

22 UNICEF (2020) *Situatieanalyse van kinderen en jongeren in Caribisch Nederland*.

23 Ibid.

24 Branches Gespecialiseerde Zorg (2020) *9-puntenplan Branches Gespecialiseerde Zorg voor Jeugd*

25 Government of the Netherlands (2020) *Rapport Early Warning System Jeugdhulp*

Ombudsman for Children (2020) *Belangen van kinderen voorop? Onderzoek naar de besluitvormingsprocessen rond de sluiting van De Hoenderloo Groep.*

Voor de Jeugd (2020) *Vermijdbare administratieve lasten*.

26 Bruning, M. (2020) *Ars Aequi 20200450*

27 Andersson Elffson Felix (2020) *Stelsel in groei. Een onderzoek naar de financiële tekorten in de jeugdzorg*

28 Kleinjan, M. (2018) *De onderste steen boven: over de verborgen zorgen van de jeugd. Oratie; Universiteit Utrecht*

children live on the streets or perform child labour. Several parties collect data about children in the Netherlands, but these are not shared enough. The parties involved do not represent all children, and the available data are insufficiently used.

Data are also collected through sample surveys²⁹ and registrations. In their research ‘Beleidsinformatie Jeugd’ (youth policy information), Statistics Netherlands (CBS) for example collects data about the use of youth care on an individual level and thereby provides policy information on youth care, child protection services and juvenile rehabilitation. The registration is virtually comprehensive, however not all children are included, because not all (youth) care providers share their client data. Moreover, within the current CBS youth registration it is impossible to find out which children receive ‘psychological care’.

The use of youth care, and certainly child protection, often also involves child abuse. Safe at Home-organisations were founded in 2015 and have set up a new registration system. By implementing a nationwide action protocol and a nationally uniform key register, the first steps have been taken towards a nationwide registration system.

The Child Care and Protection Board records data about clients both during the report and the investigation, and at the conclusion. In addition, youth health care (JGZ) keeps records of children containing data on risks and care about their mental and physical health. These data are only used by JGZ itself.

Most of the time, the various parties do not collect data in the same way. They partly collect different data and use various definitions or classifications. In addition, there is a general concern about coverage. Data about children are stored by using their citizen service number (BSN). In 2018, the Association of Netherlands Municipalities (VNG) and the Central Agency for the Reception of Asylum Seekers (COA) reported³⁰ that about a third of the children staying

in a COA-location do not have a BSN. Foreign children (temporarily) staying in the Netherlands also do not have a BSN. These children are therefore not in the picture.

In the Caribbean Netherlands, data collection is endangered due to capacity problems and the supplying authorities are usually not or not properly connected to the Dutch system.

The data that actually are collected often remain unused. Richer and more meaningful local policy data can be obtained, for example on to what extent children about whom a report has been filed to Safe at Home organisations end up in youth care. It is also possible to look at the history, care utilisation or observations within the JGZ of reports on children that have ended up in the child protection chain. This knowledge is not only relevant to policy; it is also important for improving the relevance and quality of professional actions within the organisations concerned.

So far, data are not really used as such. Professionals and organisations often refer to privacy legislation, more specifically the General Data Protection Regulation (GDPR). Many authorities are reluctant to share their data out of unfamiliarity with the GDPR and therefore fear of violating it. It is however quite possible to link personal data with the micro data service of the CBS under a pseudonym. The CBS complies with the GDPR and the privacy provisions in the Statistics Netherlands Act.³¹

Recommendations:

- **Register the amount of measures to restrict a person’s freedom that are imposed as a result of the waiting lists and periods with regard to the transfer from secure to open youth care.**
- **Use the technical and legal possibilities to generate better information about children through better coordination and connection of existing registrations. Use this to improve the quality of youth policy and youth professionals.**

29 For example: the youth health care monitor of the GGD-GHOR (the Joint Health Services and medical assistance in accidents and disasters) or the victim monitor of the Bureau of the National Rapporteur.

30 Association of Netherlands Municipalities (VNG) (2018) *Notitie Ontbreken BSN kinderen in een COA Locatie*

31 Statistics Netherlands Act (2019).

DISSEMINATION AND AWARENESS

Training of professionals

Since 2019, the Domestic Violence and Child Abuse (Improved Mandatory Reporting Code) Decree (including a ‘child check’) has been in force.³² The amount of requests for advice has since then increased by 24 percent and the amount of reports by 20 percent.³³ Sustainable implementation of this Reporting Code requires trained designated professionals (AF’s). They can train and support their colleagues in identifying, reporting and conducting interviews. Not every sector has a comprehensive network of AF’s.³⁴ The evaluation of the Reporting Code shows that children feel insufficiently involved in their care provision.³⁵ The position, involvement and rights of children when using the Reporting Code and help in case of child abuse should be better organised.

Recommendations:

- **Provide for a comprehensive network of dedicated post holders in every sector and field standards for professionals.**
- **Lower the age for mandatory speaking with and informing children from twelve to eight years and use an adapted form of conversation for children aged four years and over. This is in line with the regulations on hearing children by the police or a judge.**
- **Hear all children, also those above the age of twelve, in a child-friendly room.**

Children’s rights in the curriculum

Only thirty percent of children indicate that their primary and/or secondary school pays (or has paid) attention to children’s rights.³⁶ Nonetheless,

more than half of them say they have a need for information on the subject. Least known are ‘the right to be heard’ and ‘the right to privacy’.

In 2020, the House of Representatives adopted a legislative proposal that aims to improve civic education in schools.³⁷ In this proposal, the assignment for schools is described as less non-obligatory than in the current legislation and more attention is paid to children’s and human rights. If the Senate agrees, this law will come into force in the 2021-2022 school year.

In addition, a curriculum reform plan of primary and secondary education is in force, which emphasizes the importance of students having knowledge on their children’s and human rights. Moreover, these rights have to be the starting point for all actions at and by the school. An academic curriculum committee assessed the reform plan and stated that although it contains good proposals, improvement is also still needed, in particular on the parts that cover children’s and human rights education. This plan will only continue with a new government.³⁸ It is essential that children’s and human rights hold the same important position in the continuation of this plan.

The implementation of the law requires strengthening the knowledge and skills of teachers themselves and within the teacher-training course. Other adults also need children’s and human rights education, such as politicians and policy officials, administrators at regional and local level and other professionals working with/for children. More knowledge about children’s rights for professionals will also positively influence the safeguarding and quality of youth participation.

32 *Domestic Violence and Child Abuse (Obligatory Reporting Code) Decree (2017)*

Government of the Netherlands (2018) *Basisdocument. Het afwegingskader in de Meldcode Huiselijk Geweld en Kindermishandeling.*

33 Government of the Netherlands (2018) *Violence does not have a place in the home. Tackling domestic violence and child abuse*

34 Knapp Advisory Services (2020) *Verkennd onderzoek aandachtsfunctionarissen Meldcode eindrapport*

35 The Netherlands Organisation for Health Research and Development (ZonMw) (2020) *Evaluatie Wet verplichte meldcode huiselijk geweld en kindermishandeling*

36 TwinQ (2021) *Basisonderzoek kinderrechten (to be requested at UNICEF Netherlands)*

37 Legislative proposal (2019) *Verduidelijking van de burgerschapsopdracht aan scholen in het funderend onderwijs*

38 House of Representatives (12-02-2021) *Besluitenlijst procedurevergadering OCW. (agendapunt 18)*

Recommendations:

- **Make children's and human rights obligatory in education.**
- **Train teachers and provide sufficient resources to apply the new law and curriculum.**

National campaign against domestic violence and child abuse

The evaluation of the 2019 public campaign 'A safe home, that's what you stand up for' shows that the objective to 'take earlier action' was not met.³⁹ Due to uncertainty and fear, citizens only take action when they are absolutely sure that violence takes place. With a new campaign called 'It does not stop until you do something' (2019-2021), the government tries to break through the uncertainty about how to respond, with among other things a supporting website called 'I suspect domestic violence'. This is good thing, however it is not enough. More efforts could be made to encourage self-help or reporting yourself as a victim or perpetrator. A nationwide telephone line or chat option available 24/7 and campaigns aimed at children and young people are required.

Recommendations:

- **Make it possible for victims and perpetrators to ask for low-threshold help that is available 24/7.**
- **Run campaigns aimed at children, for example at school, to encourage them to report.**

CHILDREN'S RIGHTS AND THE CORPORATE SECTOR

Companies have a responsibility to respect human rights. The Netherlands has chosen not to impose binding rules on companies to this end, but to encourage them via sector agreements to

comply with UN and OECD standards. Evaluations and publications of 2019 and 2020 show that this policy is insufficiently effective⁴⁰: the sector agreements have failed to produce the intended result⁴¹ and only a part of the companies endorse the OECD guidelines.⁴² Despite many reports on this malpractice, the Netherlands did not want to make interim changes to its policy.⁴³ Alarming reports on the negative impact of oil extraction⁴⁴ and soy production⁴⁵ on children's rights and the environment, in which Dutch companies and banks are also involved, did not cause The Netherlands to meet her duty of care in accordance with the UN Guiding Principles (UNGP's).

The Netherlands offers children insufficient protection against the impact of environmental pollution on their health by companies, as required by the Framework Principles on Human Rights and the Environment and the International Covenant on Civil and Political Rights.⁴⁶ It also does not offer children who are affected by (air) pollution and climate change a chance to appeal to the UN Committee on the Rights of the Child, because the third Optional Protocol is yet to be ratified. (Also see p. 13)

It is positive that the Netherlands now takes criminal sanctions against sectors with regard to sharing, hosting and not removing footage of child sexual abuse. (Also see chapter J)

The Netherlands however fails to deal severely with sectors that play a facilitating role in sexual exploitation (travel agencies, hotels) and thus fails to take responsibility for the protection of children.

Recommendations:

- **Follow up on the 2015 recommendations 23 a – d of the UN Committee on the Rights of the Child on the impact of the corporate sector on children's right and provide a regulatory framework in which all companies and financial organisations are bound by their obligations under the UNGP's and OECD guidelines. In doing so, ensure the need to protect children's rights, given their vulnerable position;**
- **Implement the Framework Principles on Human Rights and the Environment and the International Covenant on Civil and Political Rights.**

39 Kantar (2019) *Geweld in huiselijke kring (T03) Kindermishandeling Eindrapportage campagne-effectonderzoek*

40 IOB (2019) *Mind the governance gap, map the chain.*

41 KIT Royal Tropical Institute (2020) *Evaluation of the Dutch RBC Agreements 2014-2020. Are voluntary multi-stakeholder approaches to responsible business conduct effective?*

42 EY (2020) *Monitoringproject onderschrijving OESO-richtlijnen en UNGP's*

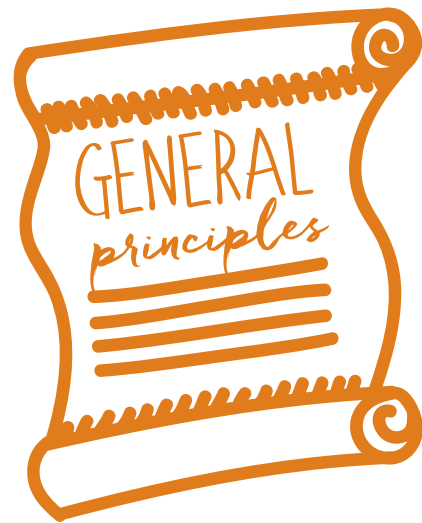
43 MVO Platform (2020) *23 voorbeelden van mensenrechtenschendingen en milieuschade door bedrijven op de Nederlandse markt*

44 PNAS (2019) *Effect of oil spills on infant mortality in Nigeria.*

45 Amazon Watch (2019) *Complicity in Destruction II.*

46 CCPR/G/CG/36 (2019), par. 62

B GENERAL PRINCIPLES



NON-DISCRIMINATION

Equal access to facilities

The decentralisation has created differences between municipalities when offering facilities. A lack of knowledge within the municipality creates a mismatch between the care supply and the demand for care from municipalities. Not all local teams have, for example, specialist mental health care knowledge and the expertise needed to be able to make a proper assessment of the problem. This leads to late, premature or 'wrong' referrals.

Municipalities also differ in the concrete details of their poverty policy, the determination of the low-income threshold and the provision of facilities for children. As a result, a child's place of residence determines their chances. Decentralisation seems to have created tension between the position of the central government and that of local governments. Municipalities want the freedom and therefore the responsibility to pursue their own policy, however to combat poverty effectively, active involvement of the central government is needed and that is where the shoe pinches. The fact is however that proactive

action at national level is insufficient. With this state of affairs, equal access to facilities for children living in poverty is made impossible and a child's zip code determines his or her chances.⁴⁷

The Netherlands ratified the UN Convention on the Rights of Persons with Disabilities in 2016, with the exception of the Caribbean Netherlands. Compulsory education in the Caribbean Netherlands ensures that children with a disability can exercise their right to education. There are no schools for primary or secondary education. Although schools aim to provide education for every child, through facilities that include children with a disability as much as possible, it is difficult to include children with severe disabilities. The problem appears to be most pressing on Bonaire, with some, but still limited, facilities.

Recommendations:

- **Provide equal access to care and social services for all children.**
- **Guarantee access to inclusive education for all children in the Caribbean Netherlands.**

⁴⁷ Defence for Children and Save the Children (2019) *Kansen voor kinderen: een postcodebolsa?*

Child-friendly reporting of discrimination

Discrimination can be reported to municipal hotlines, the police and NGO's. There is no distinction between the reporting process for adults or minors. Children do not or barely report to the police or reporting centres.⁴⁸ They do seem to report to the Child Helpline, but they do not register discrimination and racism separately.⁴⁹ Most reports are on education.⁵⁰ One in six students report discrimination. 83 percent of pupils or students with an experience related to discrimination has never reported this.⁵¹ In 2019, more than 2.000 LGBTIs reported (to the police) about discrimination or violence. On average, this leads to less than ten convictions a year.⁵² It is unknown how many minors complain or report.

Recommendations:

- **Register age in complaints and reports for more insight into the extent of discrimination against children.**
- **Make reporting to hotlines child-friendly and accessible.**
- **Educate children so they know what constitutes racism and discrimination and where to report it.**

Discrimination

Little is known about discrimination and racism against children, partly because little is reported and registered. Children experience discrimination

in education, leisure, online, on the streets, in youth care and in the juvenile criminal law system.⁵³

In 2013, eight percent of all students and children of school age had an experience with discrimination in education. This increased to fifteen percent in 2018.⁵⁴ Three percent of all students and pupils dropped out of their education as a result of discrimination.

More than half of the LGB children and children with a migration background experience discrimination at school.⁵⁵ For example, eight percent has dealt with threats and violence and twelve percent has been bullied or verbally abused. This percentage is twice as high among LGB children and children with a disability.⁵⁶

Children with a disability sometimes have to attend special education or do not attend any education, because regular education is not sufficiently accessible to them.⁵⁷ Children with a migration background are overrepresented in special education in the Netherlands.⁵⁸

Children with a migration background are more likely to face discrimination in admission, to obtain a lower secondary school advice from their teacher, influenced by bias,⁵⁹ and face discrimination in.⁶⁰

Multilingual children experience discrimination because of the native language they speak.⁶¹ Very

⁴⁸ Dutch NGO Coalition on Children's Rights and Rutu Foundation (2020) *Expert meeting and discussion paper Kinderrechten en Racisme*

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ The Netherlands Institute for Social Research (SCP) (2020) *Ervaren discriminatie in Nederland II*

⁵² COC Nederland (17-05-2019) *Ook Kamer wil meer maatregelen tegen geweld*
COC Nederland (24-04-2020) *Weer meer meldingen van LHBTI-discriminatie*

⁵³ See footnote 48

⁵⁴ See footnote 51

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ ITS/Radboud University Nijmegen (2014) *Leerlingverzuim in beeld. Een studie naar de cijfers en registratie van absoluut en relatief verzuim*

In 1school (2016) *Schendingen Recht op Inclusief Onderwijs.*

Ieder(in) (2018) *Zwartboek: Ouders aan het woord. Jouw kind heeft een beperking, waar loop je tegen aan?*

⁵⁸ ECRI (2019) *Report on The Netherlands, Fifth Monitoring Cycle* and Statistic Netherlands (CBS)

⁵⁹ SCP (2020) *Ervaren discriminatie in Nederland II*

⁶⁰ CBS (2018) and Kennisplatform Integratie en Samenleving (2016), *MBO en de stagemarkt, wat is de rol van discriminatie?*

⁶¹ Rutu Foundation (2020) *Alternative Report to the UN Committee on Racial Discrimination on Language Based Exclusion. Punishment and Discrimination in Dutch Education*

few teachers are able to teach in multilingual classes.⁶² Foreign languages are ignored, banned (for example in school regulations) and using it is punished.⁶³ This is almost never reported, there is only one case known that was taken to court.⁶⁴

The content of educational materials often contains stereotypical images. For example, history books regularly contain racist and colonial stereotypes.⁶⁵ The images and texts in Dutch and mathematics textbooks reflect traditional gender roles and include fewer female characters.⁶⁶ In addition, characters of non-Western origin often have a lower social status and LGBTI characters are missing from the teaching material.⁶⁷ Racism and discrimination also occurs between students and against students by teachers.⁶⁸

Minors with a non-Western migration background are confronted with ethnic profiling by the police.⁶⁹ They are more than three times as likely to be registered as a suspect.⁷⁰ The chance of a HALT settlement is however much lower for young people with a non-Western background. The chance of ending up in juvenile detention is more than six times higher for minors with a non-Western migration background than for their native Dutch

peer. For young people of Antillean and Moroccan background, it is even more than ten times higher.⁷¹

There are also signs that the behaviour of young people in youth care is assessed and treated according to Western standards and discrimination is often seen as an exception.⁷² In 2019, the House of Representatives passed a motion in which the government was asked to investigate whether the police could appoint discrimination investigators. The government refuses such an investigation.⁷³ A motion to make discrimination a mandatory subject at the Police Academy is also not implemented by the government.⁷⁴ A National Coordinator for Discrimination and Racism will be appointed as of 2021.

Recommendations:

- **Investigate discrimination against (groups of) children and young people, for example by the new National Coordinator for Discrimination and Racism.**
- **Appoint specialised discrimination investigators.**

⁶² National Center for Expertise in Curriculum Development (SLO), *Multilingualism in primary and secondary education. A state of affairs and curricular recommendations*, 2018, pg. 5

⁶³ <https://www.rutufoundation.org/wp-content/uploads/2020/03/Rutu-Foundation-Alternative-Report-to-CERD-on-Netherlands-27-March-2020-final-report.pdf>, and <http://www.defenceforchildren.nl/actueel/blog/carrie-van-der-kroon/helemaal-jezelf-mogen-zijn-op-school-een-kinderrecht/> and Amsterdam District Court, 30 October 2013, para. 3.3 ECLI:NL:RBAMS:2013:8224.

⁶⁴ Court of Amsterdam, 30 October 2013, par. 3.3 ECLI:NL:RBAMS:2013:8224.

⁶⁵ Het Parool (19-05-2018) *Onderzoek naar racistisch lesmateriaal op basisscholen*

⁶⁶ De Volkskrant (13-11-2019) *'Kees bouwt een schuurtje' of 'Annemarie bakt een taart': het wemelt in Nederlandse schoolboeken nog van stereotypen*

⁶⁷ Ibid.

⁶⁸ AT5 (21-03-2021) *Docent Calandlyceum op non-actief na uitspraak over "klote-Marokkaantjes"* and Dutch NGO Coalition for Children's Rights and Rutu Foundation (2020) *Expert meeting en discussiepaper Kinderrechten en Racisme*

⁶⁹ The Control Alt Delete organisation uses the following definition of ethnic profiling: "the police's use of criteria or considerations regarding 'race', color, ethnicity, nationality, language and religion in investigation and law enforcement even though there is no objective justification for it".

⁷⁰ Boon, A., Van Dorp, M. & De Boer, S. (2018) *Oververtegenwoordiging van jongeren met een migratieachtergrond in de strafrechtketen' in Tijdschrift voor Criminologie*.

⁷¹ Ibid.

⁷² Expex (30-06-2020) *Black lives matter ook in de jeugdzorg*

⁷³ COC Nederland (02-08-2019) *Nog geen discriminatierechercheurs bij de politie*

⁷⁴ COC Nederland (09-04-2020) *Wéér geen extra politietiemaatregelen voor veiligheid LHBTI's*

- **Provide sufficient knowledge about discrimination and racism among various professionals and in vocational training, including educational staff, police, youth care and at discrimination hotlines. Make discrimination and racism a mandatory part of teacher training and at the Police Academy.**
- **Provide schools with tools to implement inclusive language policy and remove teaching materials with discriminatory and racist content.**
- **Improve the core objectives with regard to sexual diversity and take steps to structurally embed gender and gender diversity.**

Recommendation:

- **Consider the rights and best interests of the child at the earliest possible moment in the development and decision-making on legislation, policy and budgeting and report on this.**

RESPECT FOR THE CHILD'S VIEWS

Expressing views

The Youth Act states that the child's views have to be heard and given due weight in procedures that impact their life. However, the first evaluation of the Youth Act shows that this does not relieve the attention it needs.⁷⁶

In the last couple of years, more attention has been paid to participation in family law cases and juvenile law.⁷⁷ Minors aged twelve and older have the right to be heard in family and juvenile procedures and article 809 of the Code of Civil Procedure specifies that children under the age of twelve can be heard when they are mature enough. Even if a divorce is handled without a hearing before a judge, a child can express its preferences through a letter that has to be included in the divorce procedure. In practice, courts hardly ever use this option.⁷⁸ Minors in secure youth care are always heard, regardless of their age.

In legislation, participation of children is fragmented and complex.⁷⁹ Because children are often not well informed, they are less able to use their legal possibilities.⁸⁰

BEST INTERESTS OF THE CHILD

Besides the developments in for example the municipality of Amsterdam that came up with a 'children's rights scan' and a couple of municipalities in the Netherlands that are committed to being a 'City of Children's rights', there is no clear mechanism to check in advance and provide insight into whether or not new legislation or policy is in line with children's rights. (Also see page 58.) The decision-making regarding the measures that have been put in place to control the COVID-19 virus shows that it is insufficiently clear if and how the best interests of the child play a role. In February 2021, the government itself stated that the weighing of interest has not been sufficiently transparent.⁷⁵ One year after the decision-making, they will ask the three planning offices for an update on what the intended measures mean to children. It is still unclear whether the child's best interests are a primary consideration and weighed sufficiently. In 2019, a "generation test" was announced, but it is not yet introduced. Consultation rounds do take place. It is important that this generation test puts the interests and rights of the child first and that children's views are given due importance.

⁷⁵ Letter to the House of Representatives (23-02-2021) *Stand van zakenbrief COVID-19*

⁷⁶ ZonMw (2018) *Eerste Evaluatie Jeugdwet 2018*.

⁷⁷ M.R. Bruning et al. (2020) *Kind in proces: van communicatie naar effectieve participatie*.

⁷⁸ Ibid.. Chapter 2

⁷⁹ Bruning, M.R. & Bolscher, K.G.A. *Juridische analyse van de procespositie en het hoorrecht van minderjarigen in*: M.R. Bruning e.a., *Kind in proces: van communicatie naar effectieve participatie*

⁸⁰ See footnote 77. Chapter 4

Recommendations:

- Develop and apply a professional standard for child-friendly interviews in court.
- Facilitate research into the experience of children (and their parents/family) in procedures and on how to communicate with them best.⁸¹

Participation of children and young people

There is no legal obligation to involve children in policy-making. However, support for youth participation at national and local level has grown and more financial resources are available. The amount of youth councils in hospitals and care/welfare institutions has increased and/or they are receiving extra support.⁸² Despite the growth in the number of youth councils and Gender and Sexuality Alliance (GSA) groups, to enshrine youth participation in education does not seem possible.⁸³ Within science, children have become more involved in research in recent years.⁸⁴

More research is necessary into ways to assess whether youth participation within a government institution or organisation is meaningful. There is an intention to involve children, however in practice this leaves much to be desired. Youth participation is often once only and depends on that one enthusiastic employee. In addition, children are often not taken seriously or only involved at the end of the procedure. Moreover, participating children seldom receive feedback, so they do not see their input in practice.

Recommendations:

- Facilitate a baseline measurement for youth participation and draw up measures based on this.
- Embed meaningful participation of children in legislation, policy and practice and ensure proper guidance.

Provide information and training to professionals

Policy makers and professionals acknowledge that youth participation is important, however the transition to meaningful participation⁸⁵ is often lacking. More attention is paid to experiential expertise⁸⁶ and there are several tools and training options developed for professionals and policy makers who want to shape youth participation.⁸⁷ Still adults often lack the knowledge and skills to hear and involve children and to let them take part in decision-making.⁸⁸ They often do not know how to reach children of specific groups and how to involve them long-term.

Recommendation:

- Inform and train policy makers and professionals, so that they have sufficient knowledge and skills on youth participation.

⁸¹ Dynamics of Youth (15-03-2021) *Waar hoor ik thuis? Kinderen met meer dan één thuissituatie*.

⁸² For example: *JeugdWelzijnsBeraad* and Kind en Ziekenhuis (2012) *Kinderparticipatie in het ziekenhuis. Een praktische introductie*

⁸³ *GSA Netwerk Nederland* and Stichting Alexander (2018) *Participatie van jongeren in het onderwijs, vanzelfsprekend toch?!*

⁸⁴ ZonMw (15-5-2021) *Jongerenparticipatie in onderzoek* and F. van Schelven et al. (2019). *"We Know What We Are Talking about": Experiences of Young People with a Chronic Condition Involved in a Participatory Youth Panel and Their Perceived Impact*

⁸⁵ Also see: *NJR 6 succesfactoren in het werken met jongeren* and CHOICE for Youth and Sexuality, *The Flower of Participation*

⁸⁶ Kennisplein de Ervaringsdeskundige: *Scholing ervaringsdeskundigheid*.

⁸⁷ ZonMw (2017) *Jongerenparticipatie in onderzoek* NJI, NJR, *Speaking Minds*, JongPIT and Stichting Alexander

⁸⁸ Dutch NGO Coalition for Children's Rights (2019) *Input to the LOIPR of the UN Committee on the Rights of the Child: issue 7*



CIVIL RIGHTS AND LIBERTIES



STATELESSNESS AND NATIONALITY

In December 2020, the parliament filed legislative proposals regarding the recording procedure for statelessness⁸⁹, which will be discussed after the elections in March 2021. In one of these proposals, the Dutch Nationality Act is amended so that children without legal residence can opt for Dutch citizenship if they have been in The Netherlands stateless since they were born. However, this is only possible after ten years, instead of three years for children who are stateless with a legal residence and on the condition that they have a “stable primary residence”.⁹⁰ In the Explanatory Memorandum, a “stable residence” is explained: the child’s parents have to provide their full cooperation with regard to the migration procedures and repatriation. This

requirement loses sight of the child’s independent interests and makes children responsible for their parent’s behaviour. The proposed amendment of the Dutch Nationality Act does therefore not comply with article 7 of the UNCRC, the principles of non-discrimination and the best interests of the child (articles 2 and 3), nor does it take into account the previous recommendations of the UN Committee on the Rights of the Child.⁹¹

Meanwhile, several municipalities are trying to determine nationality or statelessness more accurately.⁹² The current situation however still allows stateless children born in the Kingdom to obtain Dutch citizenship after at least three years through the so-called “Option procedure”. Thus, in practice, nothing has changed (yet). In addition, children are not always registered as stateless, but as “nationality unknown”, so that, even in the case

⁸⁹ Legislative proposal *Wet vaststellingsprocedure staatloosheid* and legislative proposal *Wijziging van de Rijkswet op het Nederlanderschap en de Paspoortwet alsmede intrekking van voorbeholden bij het Verdrag betreffende de status van staatlozen in verband met de vaststelling van staatloosheid*.

⁹⁰ Article 1B of the legislative proposal.

⁹¹ CRC/C/NDL/CO/4 paras. 32-3.

⁹² Dagblad Trouw (08-06-2019) *Gemeenten willen niet langer wachten op wetgeving en gaan mensen zonder paspoort zelf helpen*.



of legal residence, they cannot claim the Option procedure.⁹³ The UN Human Rights Committee considers this a violation of the child’s right to a nationality.⁹⁴

The CBS’ figures and the state report⁹⁵ make no distinction between children who are stateless and children with an unknown nationality, which contributes to the invisibility of this problem.

Recommendations:

- **Give all stateless children born in the Kingdom access to Dutch citizenship, without conditions and regardless of their residence status.**⁹⁶

⁹³ For example, see the municipality of Eindhoven’s numbers on statelessness, nationality unknown and persons born in the Netherlands

⁹⁴ OHCHR (29-12-2020) *The Netherlands violated child’s right to acquire a nationality*

⁹⁵ Government of the Netherlands (05-11-2020) III. *Statistical information and data*

⁹⁶ Institute on statelessness and inclusion (2021) *Childhood statelessness in the Netherlands*

VIOLENCE AGAINST CHILDREN



VIOLENCE AGAINST CHILDREN

Child abuse rates have not decreased, despite the 'Violence Does not Have a Place in the Home programme' and increased monitoring. Every year, an estimated 90,000 to 127,000 children are victims of child abuse⁹⁷ and around 2,500 children are victims of sexual abuse. Safe at Home (a domestic violence and child abuse hotline) changed the way it provides data to the CBS in 2019, which means that the number of reports, investigations and recommendations is not comparable to previous years.

Support by youth care organisations is often delayed. Victims of child abuse are made to wait far too long for help. (See also pages 13-14) Vulnerable children and their families end up on waiting lists for Safe at Home, the neighbourhood care team, the

Child Care and Protection Board, youth protection and youth rehabilitation institutions, and specialised assistance. In 2019, the Health and Youth Care Inspectorate (IGJ) and the Inspectorate of Justice and Security⁹⁸ raised major concerns about youth care provision. These concerns are echoed in two studies of the entire youth healthcare system.⁹⁹

A longitudinal study of families who registered with Safe at Home shows that violence in the families surveyed appeared to decrease.¹⁰⁰ However, the researchers found that more than half of the families surveyed still experienced serious or frequent violence. Moreover, 60% of children did not yet feel supported, seen, heard or helped.

Temporary domestic exclusion orders in the event of intimate partner violence have been used less since 2013. That is mainly due to a lack of knowledge among professionals about domestic exclusion

orders, a lack of resources, and a lack of a common vision on domestic exclusion orders.¹⁰¹ A temporary domestic exclusion order could be an additional tool in the event of (suspected) child abuse.

Since the measures against the COVID-19 virus were imposed, all the indications are that there has been an increase in violence against children and online sexual abuse.¹⁰² Families with children who already seemed vulnerable appear particularly at risk.

Recommendations:

- Provide victims of domestic violence and child abuse with appropriate care in a timely manner.
- Extend the use of temporary domestic exclusion orders to (suspected) child abuse cases and improve expertise about them among professionals.

Complaints procedure youth care

On the positive side, children (and their (foster) parents) in youth care and mental health care now have independent access to a confidential counsellor at all times. However, unlike children under a supervision order (OTS), these children cannot appeal decisions made about them. The introduction of the Youth Act ended the annual review of guardianship orders by the Child Protection Board.¹⁰³ The minister should quickly honour the commitment made in June 2020 to investigate whether dispute settlement procedures could be made available to children under guardianship.¹⁰⁴

In 2019, it came to light that there had been an increase in reports of inadequate, severely delayed

or careless handling of complaints.¹⁰⁵ The state has announced that it will improve handling of complaints and disciplinary action, in part to prevent the accumulation of complaints procedures.¹⁰⁶

Minors aged 12 and above cannot independently initiate legal (appeals) proceedings. A group of researchers led by Leiden University¹⁰⁷ recommended that children from the age of twelve be given access to the courts under guidance from professionals. The government has indicated that it will not act on this advice.¹⁰⁸

Recommendation:

- Strengthen the legal status of (foster) children in youth care and mental health care.

Violence in residential youth and foster care

The De Winter Committee investigated violence in residential youth and foster care. The committee has indicated that its recommendations have not yet been followed up sufficiently. Its recommendations included implementing proactive and independent supervision, limiting the number of children per residential unit, investing more in well-trained staff, providing high-quality care and treatment, and ensuring stays are as short as possible.¹⁰⁹ The Minister of Health, Welfare and Sport, and the Minister for Legal Protection point to action plans for secured residential youth care. But it is precisely the secured residential youth care institutions that are under enormous (financial) pressure.

At the end of 2019, the IGJ and the Inspectorate of Justice and Security found that work in the youth

97 TNO & Leiden University (2018) *Nationale Prevalentiestudie Mishandeling van kinderen en jeugdigen* en and ITS & Radboud Universiteit Nijmegen (2017) *Scholierenonderzoek Kindermishandeling 2016*

98 IGJ (2019) Rapport en Signalement: *Kwetsbare kinderen onvoldoende beschermd*

99 Verwey-Jonker Institute (2014) *Doorbreken geweldspatroon vraagt gespecialiseerde hulp* and Verwey-Jonker Institute (2020) *Wat als het geweld niet stopt?*

100 Verwey-Jonker Institute (2020) *Kwestie van lange adem. kan huiselijk geweld en kindermishandeling echt stoppen?*

101 Verwey-Jonker Institute (2020) *Ups en downs tijdelijk huisverbod binnen de G4. Verklaringen voor dalende aantal tijdelijk huisverboden in de G4 en inzichten voor de toekomst*

102 The Child Helpline saw an increase in calls about domestic violence, and charity; Fier reported a 40% increase in unique users of their chat function for victims of child abuse and sexual violence. In fact, the number of requests for help about child abuse and sexual exploitation doubled. The number of reports of online child abuse during lockdown rose worldwide, including in the Netherlands. Research by Leiden University estimated that there were more victims of child abuse during the first lockdown in 2020. Defence for Children reported that there has been a global increase in online sexual abuse now that both child abusers and children spend more time at home and online.

103 Ombudsman for Children (8-11-2018) *Brief: Uitkomsten verkenning besluitvorming binnen de voogdijmaatregel*

104 Letter to the House of Representatives (17-06-2020) *Voortgangsbrieven jeugd*

105 Youth Care Advisory and Complaints Office (AKJ) (2020) *Jaarverslag 2019*

106 Letter to the House of Representatives (20-03-2020) *Perspectief voor de jeugd*

107 Bruning, M.R. et al. (2020) *Kind in proces: van communicatie naar effectieve participatie*

108 kst-33836-59 (17-12-2020) *Beleidsreactie op verschillende WQDC-onderzoeken naar familierechtelijke onderwerpen*

109 NRC (11-06-2020) *Overheid doet te weinig voor veiliger jeugdzorg* and Experts consulted during consultations – see Annex 1

care sector was undervalued (both financially and in terms of prestige) despite its importance and complexity. About 20% of staff leave every year. Scarcity and market forces create situations in which, for example, municipalities recruit youth care staff to provide their local neighbourhood teams with expertise. (See also pages 14-15.)

Recommendation:

- **Follow up the recommendations of the De Winter Committee on combatting violence in residential youth and foster care.**

An end to corporal punishment on the BES islands

The lack of a comprehensive and clear legal framework is a structural bottleneck in tackling domestic violence and child abuse. The responsibilities and rights of different actors in the child protection system, and support for victims of domestic violence, are not regulated by law. The Legal Guidelines BES (2019) do not provide sufficient direction to caregivers in the youth care system. It relies on the so-called 'child check', an inadequate check for professionals meant to help them assess risks for the children of their clients with physical or mental health concerns. It is also unclear on how to treat children who witness domestic violence.

A legally regulated Reporting Code and optional use of temporary domestic exclusion orders are enshrined in the legislation of the European Netherlands but are not part of the law in the Caribbean Netherlands. In addition, the Istanbul Convention is yet to be ratified in the Caribbean Netherlands. (It has been ratified in the other parts of the Dutch Kingdom.) A clear and comprehensive legal framework contributes to the protection of children in crisis situations, like the COVID-19 pandemic.¹¹⁰

A legislative proposal for the BES to combat and prevent mental or physical violence and all other humiliating acts against children is being

prepared.¹¹¹ To be effective, any change in law and policies must go hand in hand with awareness campaigns and parenting support programmes so that it is broadly accepted by society.¹¹²

Recommendation:

- **Introduce clear legislation on the prohibition of corporal punishment and other violence against children, a Reporting Code, temporary domestic exclusion orders and monitoring.**
- **Ratify the Istanbul Convention in the Caribbean Netherlands.**

Guidelines, official procedures and referral instructions

Official guidelines, procedures and referral instructions should help care professionals act responsibly and carefully. In reality, they often lead to a checklist mentality and do not focus on protecting children's rights. However, municipalities and other care providers cannot justify expenditure on young people unless they comply with regulatory requirements (Pages 14-15). The regulatory burden often leaves insufficient time and space for people to do their jobs properly, let alone for additional training. High staff turnover is another obstacle to professionalisation.

Sometimes guidelines are not followed because third parties lack time. For instance, in the 'Handle with Care' project, teachers are meant to be notified by the police if a pupil is experiencing domestic violence.¹¹³ The teachers could then provide the pupil with immediate support. In practice, however, the police do not have enough time to notify them.

Recommendations:

- **Reduce the regulatory burden on professionals so that there is time for professionalisation.**

Prevention, protection, rehabilitation and reintegration programmes

Municipalities indicate that they have limited insight into the scope of their prevention policies and into

the groups at increased risk of child abuse.¹¹⁴ Many municipalities do not have a policy on teaching children about violence within schools.

It has emerged that half of the country's safety regions are not tackling the prevention, signalling and combatting of (online) sexual violence.¹¹⁵ Timely and targeted support could be offered if data-informed prevention measures were adopted (also see pages 15-16.) Debate is needed on how to do so in an ethical and pedagogically sound manner.

Sixty eight percent of families where child abuse occurs have complex multiple problems, such as poverty, unemployment, addiction or parents with childhood traumas. Recovery and treatment are most effective if parent(s) and child are treated at the same time.¹¹⁶ This requires a multidisciplinary, often long-term, approach: a so-called MDA++ . All 26 safety regions are developing MDA++ approaches, though only two regions are developing them in the form of a physical facility. Separate child centres (*Barnahuses*) are being developed in many European countries through the EU-funded PROMISE project. There are none in the Netherlands.

The involvement of children in their treatment processes is not yet sufficiently enshrined in the guidelines. An informal mentor from the child's network is a promising approach in youth support. Known as JIMs, mentors support young people and advise parents and professionals. Young people in youth care who work with a mentor of their own choice indicate that they feel supported and heard by this person.¹¹⁷

Recommendations:

- **Continue to invest in the prevention of child abuse and (online) sexual violence and monitor progress annually.**
- **Ensure the MDA++ approach is child-centred through its methodology and child-friendly approach.**
- **Give every young person in youth care a mentor (JIM) and train professionals in how to work with natural mentors and the network around the family.**

LGBTI children

The 2020 action plan against anti-LGBTI violence lacks effective new measures to protect children. Discrimination based on gender characteristics or gender identity and expression are not yet explicitly prohibited in all the non-discrimination articles of the Criminal Code.

Recent research into child abuse shows that trans-gender children are twice as likely to be victims of abuse than cisgender children.¹¹⁸ Safe at Home indicates that it is not in contact with any transgender children,¹¹⁹ which implies that abuse of these children is going unreported.

The discrepancy between the research data and the number of cases reported should be further investigated. Healthcare professionals, teachers and others who play a role in identifying and reporting child abuse need to be more aware of the risks transgender and gender diverse children face from abuse and domestic violence.

Intersex children are medicalised and pathologised, sometimes while they are still in the womb. When an intersex child is born, doctors frequently try to predict the child's future gender and control the outcome of this prediction through medically unnecessary and irreversible surgeries, hormone treatments, and other normalising and

¹¹⁰ UNICEF Netherlands (2020) *Situatieanalyse van kinderen en jongeren in Caribisch Nederland Netherlands*

¹¹¹ Internet consultation (2020) *Afzien geweld in opvoeding BW BES*

¹¹² UNICEF Netherlands (2020) *Situatieanalyse van kinderen en jongeren in Caribisch Nederland*

¹¹³ Augéo Foundation (2020) *Handle with Care final report.*

¹¹⁴ Ombudsman for Children and NJI (2017) *De gemeentelijke inzet voor preventie van kindermishandeling*

¹¹⁵ National Rapporteur (2018) *Slachtoffermonitor seksueel geweld tegen kinderen 2016* and National Rapporteur (2020) *Slachtoffermonitor mensenhandel 2015-2019*

¹¹⁶ Verwey-Jonker Institute (2020) *Kwestie van lange adem. Kan huiselijk geweld en kindermishandeling echt stoppen?*

¹¹⁷ JIM Foundation.

¹¹⁸ SCP (2018) *LHBT monitor.*

¹¹⁹ Shared by TNN in a meeting with Safe at Home, June 2019.

psychological treatments. This is done without the free and fully informed consent of the child itself, at an age when it is not old enough to give such consent.¹²⁰

This 'predict and control' method is a violation of the right to self-determination, physical integrity and the right to enjoy the highest achievable standard of physical and mental health. These treatments are experimental and are not followed up in the long term. A number of potential negative side effects have been identified.¹²¹ The government has indicated that decisions on these treatments will be left to doctors and parents.¹²² Doctors who perform these treatments indicate that they will continue to do so.¹²³

Recommendations:

- **Develop and implement policies to ensure that there is a ban on subjecting intersex children to non-consensual, unnecessary medical treatments.**
- **Facilitate research into child abuse and domestic violence against transgender and gender-diverse children.**

¹²⁰ Wolffenbuttel K. P. (2015) Disorders of sex development: *méér dan alleen een andere naam* Tijdschrift voor Urologie.

¹²¹ Dreger A., Feder E. C., Tamar-Mattis A. (2012) *Prenatal dexamethasone for congenital adrenal hyperplasia* Journal of Bioethical Inquiry.

Wallenstein L., Zimmermann M., Sandberg M. T., Gezelius A., Nordenström A., Tatja J., et al. (2016) *Sex-dimorphic effects of prenatal treatment with dexamethasone* Journal of Clinical Endocrinology & Metabolism.

Dangle P. P., Lee A., Chaudrey R., Schneck F. X. (2017) *Surgical Complications Following Early Genitourinary Reconstructive Surgery for Congenital Adrenal Hyperplasia—Interim Analysis at 6 Years* Urology.

Cimador M., Vallasciani S., Manzoni G., Rigamonti W., De Grazia E., Castagnetti M. (2013) *Failed hypospadias in paediatric patients* Nature Reviews Urology, volume 10.

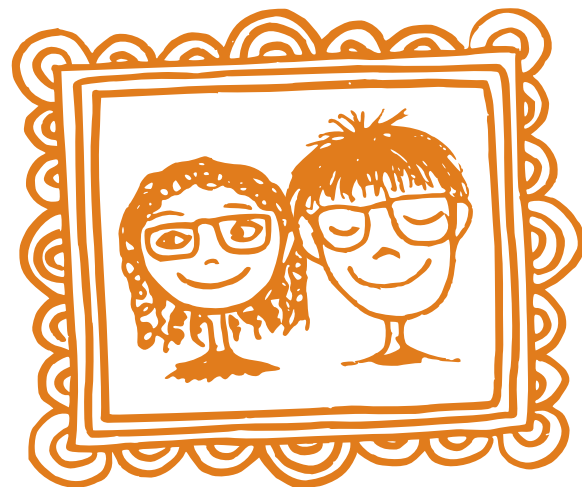
Dokter E. M. J., Goosen E. E. C., Zanden L. F. M. van der, Kortmann B. B. M., Gier R. P. E. de, Roeleveld N., Feitz W. F. J., Rooija I. A. L. M. van (2019) *Level of agreement on postoperative complications after one-stage hypospadias correction comparing medical records and parent reports* Journal of Pediatric Surgery.

¹²² Following the recommendations by the Committee against Torture [CAT/C/NLD.CO/7](#) questions were asked by members of the House of Representatives:
ah-tk-20182019-1422 (05-02-2019) [Vragen en antwoorden over de aanbevelingen van het VN Comité tegen Foltering voor betere bescherming van intersekse](#)
ah-tk-20182019-2281 (15-04-2019) [Vragen en antwoorden over de aanbevelingen van het VN Comité tegen Foltering voor betere bescherming van intersekse](#)

¹²³ Cyberpoli (15-03-2021) [We opereren alleen een kind met DSD als het hele team, samen met ouders en kind, besloten heeft dat we daar goed aan doen](#)



FAMILY AND ALTERNATIVE CARE



Child protection

The government did not do enough to protect children who were seriously threatened in their development, according to two inspections (2019).¹²⁴ The significant increase in the number of urgent child protection measures is particularly appalling. There were about 650 provisional supervision orders by the middle of 2017, but by the beginning of 2019 this figure had risen to around 780.¹²⁵ Although two official committees (Samson and De Winter) made recommendations in response to past abuse and violence against children in youth care, only the sector seems to be seeking to make changes.¹²⁶ At the same time, the majority of new youth care providers do not appear to meet the basic requirements during inspection visits.¹²⁷

Despite government action plans, concerns about alternative forms of care remain.

Recommendations:

- **Take responsibility for protecting children whose development is seriously threatened.**
- **Ensure that all new youth care providers meet basic requirements.**

Foster care and family homes

The number of young people in foster care grew from 18,486 in 2018 to 19,042 in 2019¹²⁸. They were cared for by a total of 16,717 families.¹²⁹ There was still a shortfall in foster families: 471 young people were waiting for foster care at the end of 2019, an increase of 85% on 2018.¹³⁰ Some 2,386

foster parents quit in 2019. In a survey of 542 of these foster parents, just over half (52%) said that they quit because of undesirable circumstances such as problems with the care system.¹³¹ It is a small consolation that the outflow of foster parents was smaller than the influx.¹³² It is unclear what the Foster Care action plan has yielded to date. It remains difficult to protect children's rights in foster care. This should be improved.¹³³

The number of residential care homes has increased significantly: from 389 in 2011, to 937 in 2018.¹³⁴ On the one hand, this is positive, but on the other, it is risky because quality parameters for residential care are not yet binding.¹³⁵

Recommendations:

- **Invest in working with foster parents and residential care, and in ensuring they offer high-quality care.**
- **Take measures to improve the rights of children in foster care.**

Secured youth care

There has been a slight downward trend in secured

residential youth care placements since 2018, but there were still 1,680 placements in 2019.¹³⁶ Even more shocking is the huge number of emergency placements that year. The six-monthly figures for 2020 confirm this trend: more than two-thirds of the young people involved are placed in secure institutions as a matter of urgency.¹³⁷ The number of transfers is also cause for concern. Some 232 young people – 14% of cases – were transferred from one secured residential youth care facility to another in 2019, against a government target of less than 5%.¹³⁸

Court rulings¹³⁹ indicate that there is a shortage of secure places and that this is leading to long waiting lists.¹⁴⁰ Insight into waiting lists for youth care and youth mental health care is lacking because the data are not registered centrally. Statements also show that there is a shortage of youth protectors¹⁴¹ and appropriate care. The implementation system is failing.¹⁴² The question is whether eight centres of expertise (for complex youth assistance) contribute sufficiently to the solution, given the financial problems of municipalities, youth care organisations and certified institutions.¹⁴³ The

¹²⁴ IGJ (2019) *Kwetsbare kinderen onvoldoende beschermd*

IGJ and J&V (2019) *Signalement jeugdbeschermingsketen in gevaar*

IGJ (2020) *Voortgangsrapportage kwetsbare kinderen onvoldoende beschermd*

¹²⁵ Netherlands Court of Audit (20-05-2020) *Acute jeugdbescherming is gegarandeerd*

¹²⁶ Youth Care The Netherlands (2019) *Puntenmanifest naar een jeugdzorg die beter beschermt*

¹²⁷ IGJ (2020) *Jaarbeeld 2019* 80% voldoet niet aan de basiseisen bij eerste inspectiebezoek. Twee derde voldoet na zes weken bij een volgend bezoek nog steeds niet aan de eisen

¹²⁸ Netherlands Foster Care *Factsheet Pleegzorg 2018* en *Factsheet Pleegzorg 2019*

¹²⁹ Source: Youth Care The Netherlands, personal correspondence.

¹³⁰ *Factsheet Pleegzorg 2019* No mediation has been started yet for the 85%. Some 45% of the young people are waiting for part-time foster care. Some 30% of the young people on the waiting lists are 12 years or over: 70% are under the age of 12.

¹³¹ NJI, Youth Care The Netherlands and the Dutch Association for Foster Families (2019) *Waarom stoppen pleegouders? Onderzoek naar omstandigheden, begeleiding en hoe pleegouders behouden kunnen worden*

¹³² Source: Youth Care The Netherlands, personal correspondence. Those who quit were 1,323 foster parents fostering children from within their community and 1,063 state-certified caregivers. Some 2,778 new foster parents were accepted in 2019 and the overall number of foster parents increased that year.

¹³³ Defence for Children (2020) *Samenplaatsing van broers en zussen bij uithuisplaatsing: een gunst of een kinderrecht?* and Zon, K.A.M. van der (2020) *Proefschrift: Pleegrechten voor kinderen*

¹³⁴ NJI (2021) *Gezinshuis*

¹³⁵ Leiden University of Applied Sciences and NJI (2019) *Kwaliteitscriteria gezinshuizen*

¹³⁶ Youth Care The Netherlands *Plaatsing en uitstroom gegevens JeugdzorgPlus 2019*

¹³⁷ Ibid.

¹³⁸ Letter to the House of Representatives (25-03-2019) *Actieplan best passende zorg voor kwetsbare jongeren*

The data show that the percentage hardly fluctuates from year to year: 12% in 2016, 15% in 2017, 13% in 2018 and 14% in 2019.

¹³⁹ Rulings include: Court of Rotterdam (3 February 2020) (ECLI:NL:RBROT:2020:1184), Court of Rotterdam (24 January 2020) (ECLI:NL:RBROT:2020:842), Court of Rotterdam (7 February 2020) (ECLI:NL:RBROT:2020:1337), Court of Appeal Arnhem-Leeuwarden (27 February 2020) (ECLI:NL:GHARL:2020:1751), Court of Noord-Holland (9 July 2020) (ECLI:NL:RBNHO:2020:5789).

¹⁴⁰ Kruijff M.P. *Legitimiteit en rechtswaarborgen bij gesloten plaatsingen van kinderen*

¹⁴¹ Rulings include: Court of Zeeland-West-Brabant (14 October 2019) (ECLI:NL:RBZWB:2019:5976), (26 November 2019) (ECLI:NL:RBZWB:2019:5970), (2 October 2019) (ECLI:NL:RBZWB:2019:4616).

¹⁴² Bruning, M.R. *Zorg om de jeugdzorg: kinderrechtters aan zet?*

¹⁴³ Letter to the House of Representatives (07-06-2020) *Stand van zaken expertisecentra jeugdhulp*

COVID-19 pandemic and long waiting lists¹⁴⁴ have had disastrous consequences for young people who need psychological help. The IGJ observes: 'Several youth care providers perceive an aggravation of the underlying issues in youth mental health care, youth care and parenting assistance. They see an increase in suicidal behaviour and eating disorders. In addition, there is growing pressure on staff in youth care (...)'¹⁴⁵

Recommendations:

- **Reduce the number of (emergency) out-of-home placements in secured institutions by addressing inflows and outflows.**
- **Register waiting lists and times centrally and transparently.**

Juvenile justice system

The above puts in doubt the possible suspension of pre-trial detention of juvenile suspects. Relevant data for this have not been made public, but we do know that 72% of the 1,321 children in juvenile justice facilities in 2019 were in pre-trial detention, and that they were held there for an average of 47 days.¹⁴⁶ It is unclear whether inadequate transfer of cases to civil proceedings is to blame. The rapid development of small-scale facilities is fundamental to improve the flow of cases from criminal law to the civil law procedures.¹⁴⁷

Recommendation:

- **Invest in small-scale (specialist) care so that cases can be transferred from criminal to civil proceedings.**

Transition to living independently

A study shows that young people in secured residential youth care are insufficiently prepared for independent life.¹⁴⁸ At the same time, the number of homeless young adults increased to 12,600 in 2018, more than three times as many as in 2009.¹⁴⁹ This includes young people who can no longer depend on youth care because they have reached the age of 18.¹⁵⁰ Youth care should be extended if necessary.¹⁵¹

Recommendation:

- **Start preparing for the phase after youth care well ahead of time.**

Funding and management of youth care

The initiatives and financial resources needed to solve this problem are lacking. Small-scale schemes are more expensive than working with large groups. The (semi-)public sector must be willing to pay for these care costs and invest more to improve the system, reduce caseloads and find innovative solutions. The youth care system urgently needs a clear new vision. The minister's ultimate responsibility and its content and scope, including guarantees to treat all children equally, should be clear to everyone concerned. The best interests of the child must be at the core of any regulation. How to structurally involve children, parents and professionals in the development of the new care system should also be decided. Finally, investments should be made in (the training of) staff and in effective child-oriented treatment methodologies.

Recommendations:

- **Invest in youth care: in staff, in quality and in innovation.**

- **Invest in helping families, specifically in the prevention of out-of-home placements.**
- **Make the best interests of the child leading, not financial interests.**

Foster care on the BES islands

Out-of-home placements to foster homes are difficult to arrange on St Eustatius and Saba. Families appear less willing to become foster parents because the islands are so small. In the rare cases that children must be removed from their homes, they are placed in residential care homes on Bonaire or in the Netherlands.

Recommendation:

- **Look at innovative solutions for children who need care.**

¹⁴⁴ IGJ and Inspectorate of Justice and Safety (2019) *Signalement Kwetsbare kinderen onvoldoende beschermd.*

Jeugdbeschermingsketen in gevaar

¹⁴⁵ IGJ (20-01-2021) *Zorgsignalen tijdens COVID-19crisis*

¹⁴⁶ Research and Documentation Centre (WODC) of the Dutch Ministry of Justice and Security, CBS and the Council for the Judiciary (2020) *Criminaliteit en rechtshandhaving 2019*

¹⁴⁷ ZonMw (20-01-2020) *Factoren en overwegingen die een rol spelen bij plaatsing van jongeren met delict gedrag in een JeugdzorgPlus-instelling of JJI*

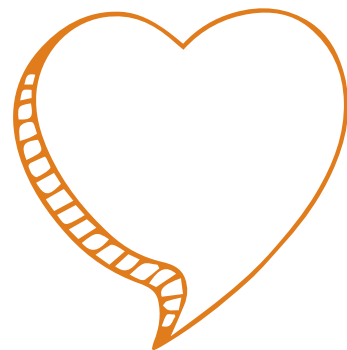
¹⁴⁸ Hanzon, C., en Veluw, N. van (2019) *Leren van herhaald beroep in de JeugdzorgPlus*

¹⁴⁹ For 18- to 30-year-olds. Council for Public Health and Society Herstel begint met een huis. *Dakloosheid voorkomen en verminderen*

¹⁵⁰ Impuls and IVO (2015) *Dakloze mensen in de vier grote steden: veranderingen in 2.5 jaar*

¹⁵¹ Council for Public Health and Society (2020) *Herstel begint met een huis. Dakloosheid voorkomen en verminderen*

CHILDREN WITH DISABILITIES



Inclusive education

The current two-track system of mainstream and special education does not meet international standards of inclusive education.¹⁵² Dutch laws and regulations are based on a divided system. There is no clear definition of inclusive education, let alone concrete objectives and a plan to achieve them. The central government aims to provide more inclusive – as opposed to fully inclusive – education in the next 15 years.¹⁵³ Fully inclusive education has been rejected on practical grounds.¹⁵⁴

Recommendation:

- **Realise an inclusive education system.**
- **Define inclusion and formulate objectives for education in national laws and regulations.**

Increase in exemptions from the Compulsory Education Act

There is a significant shortfall in places for pupils who need special education. The Compulsory Education Act stipulates that if a child is unfit for admission to school on physical or psychological grounds, an exemption from compulsory education can be granted. The law does not explain what constitutes 'unfit'.¹⁵⁵ The number of exemptions under Article 5(a) of the Compulsory Education Act has grown explosively in recent decades: from 1,747 exemptions in 2006 to 6,022 in 2019,¹⁵⁶ an increase of 35%.¹⁵⁷ Since 2015, regional school boards have had a financial interest in granting exemptions from compulsory education: school partnerships do not have to bear the development and support costs for a child of compulsory school age after she/

¹⁵² Veldman, T. (2019) *Vijf jaar passend onderwijs: een kinderrechtenperspectief in: Tijdschrift voor Jeugdrecht*, issue 3. and Schoonheim, I. (2016) *Waarom een tweesporenbeleid niet spoort met het recht op onderwijs in: Handicap & Recht*, issue 1.

¹⁵³ Letter Government of the Netherlands (2020) *Beleidsnota: Evaluatie en Verbeteraanpak Passend Onderwijs* The report by the Kingdom of the Netherlands to the UN Committee on the Rights of the Child (2020) also mentions 'more inclusive education', p. 7.

¹⁵⁴ Ibid.. Par. 9.3 "[...] On the other hand, most parties are realistic and realise we are not there yet, and that the ideal scenario of all pupils in one school never could or should be fully realised. [...]"

¹⁵⁵ Article 5 sub a of the Compulsory Education Act 1969.

¹⁵⁶ *Rapportage leerplichtwet G-gemeenten, schooljaar 2018-2019*.

¹⁵⁷ AutiPassend Onderwijs Foundation, Utrecht (15-03-2021) *Thuiszitters: vrijstellingen 5a sinds 2002*

he has been exempted.¹⁵⁸ Once exempted, these often teachable children no longer have access to education.

An amendment to the Compulsory Education Act has been drafted seeking to limit the grounds for exemptions. It aims to protect the legal right to learn and to ensure children with the potential to develop can access education.¹⁵⁹ Of course, such an amendment can only be called successful if sufficient financial resources are allocated to make it feasible.

Recommendation:

- **Realise an inclusive education system and allocate sufficient financial resources in accordance with international conventions.**

Access to care

Youth care and support for children with complex lifelong needs and their families are fragmented across numerous laws and regulations (see pages 13-14). Multiple entities can offer support to disabled children and their parents: local neighbourhood teams, general practitioners, (special) childcare facilities, educational bodies and early intervention teams. Finding these different forms of care and support has become a maze for many parents because of decentralisation. Accessing them is often slower than necessary.¹⁶⁰

The central government has worked with care entities to develop a comprehensive assessment framework.¹⁶¹ It is designed to ensure that these children's needs are recognised faster when they access care, and that parents play a pivotal

role in their development. An assessment's recommendations should lead to easier access to and early deployment of integrated support.

Recommendation:

- **Ensure that the comprehensive assessment framework is implemented by municipalities and other access points to care and support.**

Personal care budget

Children with (developmental) disabilities and/or chronic illnesses face numerous obstacles when applying for help through the Youth Act.¹⁶² Many municipalities discourage the use of personal health budgets (PGBs)¹⁶³; or the budgets have shrunk so much that the required specialised help cannot be purchased. This frequently leads to unsuitable help being offered. For example, this applies to children with a combination of a mild intellectual disability and behavioural problems with or without an autism spectrum disorder (complex lifelong needs). These cases require comprehensive, integrated life care plans, but they can hardly get off the ground due to the current short-term thinking around care and support. There are municipalities where the professionals do not acknowledge this issue.

A family's own (financial) resources increasingly play a role when requests for help from youth care are assessed. This makes it very difficult to access appropriate care, particularly care at home. The exact cut-off is unclear, which can escalate situations. Some municipalities discourage the use of (expensive) mental health care and refer families to local neighbourhood teams, which do not always have the right expertise available in-house.

¹⁵⁸ Defence for Children (2019) *Passend Onderwijs langs de lat van het Europees Sociaal Handvest*

¹⁵⁹ *Explanatory Memorandum to the draft law of the Parliamentary Member Van Meenen amending the Criminal Code with regard to the Primary Education Act, the Caribbean Netherlands Primary Education Act, the Secondary Education Act, the Caribbean Netherlands Secondary Education Act, the Compulsory Education Act 1969 and the Caribbean Netherlands Compulsory Education Act to maintain the right to learn.*

¹⁶⁰ Significant (2019) *Levenslange en levensvrede zorg- en ondersteuningsvragen van jeugdigen en jongvolwassenen, rapportage met knelpunten en oplossingsrichtingen*

¹⁶¹ Letter to the House of Representatives (10-02-2021) *Toegang voor jeugd met een levenslange en levensbrede hulpvraag. Routes naar een integrale afweging*

¹⁶² Significant (2019) *Levenslange en levensvrede zorg- en ondersteuningsvragen van jeugdigen en jongvolwassenen, rapportage met knelpunten en oplossingsrichtingen* and Alliance for the UN Convention on the rights of persons with disabilities (2019) *Schaduwrapportage Verdrag inzake de rechten van personen met een handicap in Nederland*

¹⁶³ Youth Transition Authority (TAJ) (2016) *Derde jaarrapportage. Zorgen voor de jeugd*

In practice, care and support tend to be awarded based on short-term, recovery-based indications and decisions. Care is withdrawn as soon as the child seems to be doing better, even though she or he is doing better thanks to the care. Being able to scale care and support up or down is essential for children who need long-term or lifelong help, but this is made impossible by meagre indications and the discouragement of personal health budgets.

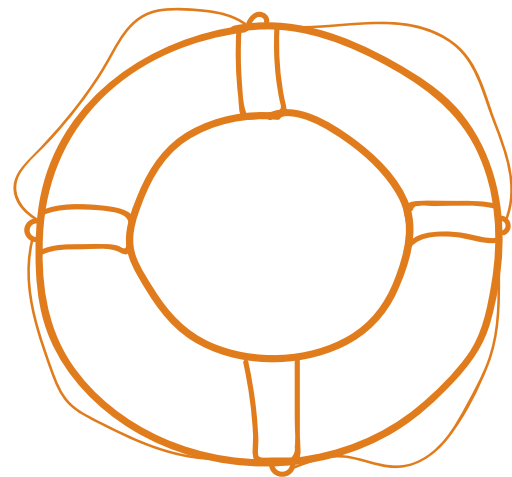
To provide appropriate care without delay, municipalities and local neighbourhood teams must be able to guarantee the availability of the right expertise, acknowledge the issues, and be sensitive to long-term or lifelong needs and how best to meet them. Adequate training in personal health budgets should be available to both consultants and budget holders, and these budgets should be sufficiently high to purchase quality care and support.

Recommendations:

- **Focus on the child's needs and make it possible to provide respite care, guidance and informal care more often.**
- **Ensure consultants and budget holders or their representatives are well equipped to manage personal health budgets and that these budgets are high enough to purchase quality care.**
- **Give families access to independent coaches to support them when applying for appropriate care and education.**



HEALTH AND WELFARE



HEALTH AND HEALTHCARE SERVICES

Infant mortality

The number of babies born alive who die before their first birthday declined significantly from 2000.¹⁶⁴ After 2015, the decline stagnated and 75% of perinatal mortality occurred among premature babies.¹⁶⁵ Underlying reasons are the lifestyle of expectant mothers, particularly obesity and overweight.¹⁶⁶ However, social factors also have an impact, such as low literacy, language barriers and poverty. Moreover, there is an increase in perinatal mortality among non-Western women (from Syria, Afghanistan and Iraq). Research into pregnancy outcomes shows that the perinatal mortality rate among children of asylum seekers is seven times higher than among those with Dutch mothers.¹⁶⁷ Underlying factors are language barriers, lack of

access to (pre- and postnatal) care, and expectant mothers' trauma. An adequate registration system for infant mortality rates is currently in place, but it does not record underlying factors such as obesity, smoking and migration background.

Recommendations:

- **Focus on healthy lifestyle and (psycho-)social issues among (pregnant) women.**
- **Provide appropriate pre- and postnatal care in asylum seekers' centres.**
- **Establish a national detection unit to ensure early identification of risk groups.**

Overweight

Eleven percent of children from the age of four are overweight and 2.1% are obese.¹⁶⁸ The rates differ between age groups, but have not declined in the past few years. Overweight, particularly obesity,

may have serious short- and long-term effects on the physical and mental health of children.

The World Health Organization (WHO)¹⁶⁹ gives concrete recommendations to combat overweight, such as promoting the consumption of healthy products by sugar-taxing sugary drinks, banning advertising of unhealthy foods to children, serving healthy meals at schools and making health, diet and exercise part of the school curriculum. The National Prevention Agreement is a first step. However, the National Institute for Public Health and the Environment (RIVM) states that additional measures are required to meet national targets with regard to reducing overweight.¹⁷⁰

Recommendations:

- **Create an environment that stimulates children and (expectant) parents to eat a healthy diet and exercise more, through price measures, product improvements, and subsidies on healthy food in schools, sports and exercise.**
- **Ban the advertising of unhealthy products to children, and selling them in and close to schools, playing fields and other sports facilities.**
- **Promote more attention to lifestyle in education for care and welfare professionals to ensure a central focus on health promotion and protection.**
- **Reimburse all components of the Young People at a Healthy Weight-programme, to make sure that overweight and obese children receive the best possible support and care.**

Healthcare for all

Standard youth healthcare insurance policies are available for all children in the Netherlands, but this care is not always accessible.¹⁷¹ In 50% of asylum seekers' centres, children use mental healthcare services. Forty-five per cent of asylum seekers are satisfied with access to physical healthcare.¹⁷²

Experts believe that many mental health issues are not identified and that asylum-seeking children do not receive the care they need.¹⁷³ Treatment may not start or may be interrupted multiple times because people are required to move frequently during the asylum procedure.

Recommendations:

- **Formulate guidelines for children's healthcare, without any distinction between children with and without a residence permit.¹⁷⁴**
- **Support and train staff at the Central Agency for the Reception of Asylum Seekers (COA) to create safe living environments and identify mental health issues.**

Air pollution

The Netherlands is a European frontrunner in terms of air pollution. This has a negative impact on children's health: one in five children suffers from asthma due to air pollution, the highest rate in Europe.¹⁷⁵ Prenatal exposure to air pollution is associated with increased risk of mental disorders in children. In 2017, the court forced the state to make changes to the National Air Quality Cooperation Programme (NSL); it was insufficient and the state did not provide with a plan which warrants compliance with the binding emissions limits. The Clean Air Agreement (SLA) came into force in 2020. It merely states that the government is 'working towards the WHO guideline values for nitrogen dioxide and particulate matter in 2030', rather than using the values as mandatory standards today.

In the Urgenda case, the Supreme Court ruled that the state must cut its greenhouse gas emissions by 25% in 2020, compared to 1990.¹⁷⁶ The Netherlands acknowledges the European Convention on Human Rights.¹⁷⁷ However, the government has not taken a human rights or children's rights centred approach to current environmental regulations, or ensured

164 CBS (2020) *Zuigelingensterfte sinds 2000 sterk gedaald*

165 Perined (2019) *Sterfte naar zwangerschapsduur 2018*

166 National Institute for Public Health and the Environment (RIVM) (2020) *Beter Weten: Een Beter Begin. Samen sneller naar een betere zorg rond zwangerschap*

167 Verschuuren et al. (2020) *Pregnancy outcomes in asylum seekers in the North of the Netherlands: a retrospective documentary analysis*

168 RIVM (2021) *Leefstijl monitor. Gezond gewicht*

169 World Health Organization (WHO) (2016) *Report of the commission on ending childhood obesity*

170 RIVM (2018) *Quickscan mogelijke impact Nationaal Preventieakkoord*

171 Dutch Council for Refugees (VWN) (2020) *Standpunt medische zorg*

172 Werkgroep Kind in azc (2018) *Leefomstandigheden van kinderen in asielzoekerscentra en gezinslocaties*

173 Vrij Nederland (14-05-2020) *Waarom asielzoekers minder psychische zorg krijgen dan andere Nederlanders*

174 Ombudsman for Children (2019) *Waar geen wil is, is geen weg*

175 Medisch Contact (2019) *Een op de vijf kinderen heeft astma door stikstofdioxide*

176 Urgenda (2019) *Klimaatzaak tegen de staat*

177 Judgment of the European Court of Human Rights, in the case of Jugheli and others v. Georgia (31 July 2017)

the regulations are aligned with these rights. Not even after the Human Rights Committee's explicit recommendations regarding the obligations of the private sector.¹⁷⁸

Despite repeated calls by young people from over 150 countries around the world to recognise the fundamental right to a clean and healthy environment, the state maintains that the current statutory responsibilities suffice.¹⁷⁹

Recommendations:

- **Integrate children's rights into environmental policy, paying specific attention to air pollution reduction in line with WHO standards.**
- **Implement the General Comments of the UN Committee on the Rights of the Child, the outcome of the Universal Periodic Review, and the advice of the UN Committee on the Rights of the Child, the UN Committee on Economic, Social and Cultural Rights, and the UN Human Rights Committee with regard to human and children's rights and the environment.**
- **Prevent violations by companies of children's rights with regard to the environment through legislation and regulation, licensing and enforcement.**

MENTAL HEALTH

Access to mental healthcare

More than one in five young people face serious mental issues before their 20th birthday.¹⁸⁰ There is increased awareness of mental health, the

experiences of young people with these issues are given more weight, and anti-stigmatisation campaigns are being run.¹⁸¹ Young people can now access care more easily thanks to (online) platforms which offer support and information.¹⁸² However, these platforms are often hard to find.

The healthcare rights of many children are not met because of ever-longer waiting lists. Long waits exacerbate their problems and necessitate higher levels of care.¹⁸³ The IGJ observes that the COVID-19 crisis has increased and exacerbated existing challenges in the care for young people with mental health problems.¹⁸⁴

Only 1% of the Action Plan 'Care for Youth' budget is used for prevention, even though a preventative approach helps avoid the development or aggravation of problems, as well as reduce waiting lists (see page 14).¹⁸⁵

It is hard for children with more complex problems to find appropriate care. As a result, they often find themselves in a vicious circle of registration, waiting, diagnosis, rejection and referral.¹⁸⁶ In addition, services are rarely culture-sensitive.¹⁸⁷ Support for families with multiple and complex problems frequently fails because a whole picture of the family situation is not available. Since not all issues are dealt with, treatment and care will only have a short-term effect.¹⁸⁸ That is why integrated youth care is required.¹⁸⁹

Data about the mental health of children are insufficiently available (see pages 15-16), fragmented, and cannot be adequately compared,

which is why appropriate and coherent care for this group of children is not guaranteed.¹⁹⁰

Recommendations:

- **Reduce waiting lists by investing more in specialist youth mental healthcare.**
- **Ensure that (online) platforms offering children support and information are easy to find and accessible, and promote them.**
- **Allocate more money to prevention in the Action Plan 'Care for Youth'.**
- **Provide integrated youth care which takes a whole-family approach, and focus on specialist knowledge within local neighbourhood teams.**
- **Pay attention to social emotional development and skills at school.**

Depression and suicide

Thirty of the 81 youths who committed suicide in 2017 had not been seen by any care workers.¹⁹¹ The investment in different (national) projects and campaigns to prevent suicide¹⁹² is insufficiently effective. Accurate national data about the prevalence, development and consequences of mental disorders in (vulnerable) children are lacking.

One in four children in secondary education feels stressed due to homework or school in general.¹⁹³ Although there is more attention for the need to empower young people to deal with 'normal' stressful experiences and situations, comprehensive and goal-oriented preventative care budgets are not made available. Neither the central government nor local governments are taking the lead, and the many short-term projects result in fragmentation.

COVID-19 measures have led to increased prevalence of feelings of depression and loneliness

among children, particularly if they live in unsafe home environments or are otherwise vulnerable.¹⁹⁴ Youth mental healthcare, youth care and parenting support have observed an increase in eating disorders and suicidal behaviour. At the same time, youth care workers are under increased pressure, for example, because schools are closed.¹⁹⁵ The 113 Suicide Prevention helpline has observed a 'huge rise' in the number of calls, particularly from children. The Ombudsman for Children¹⁹⁶ and the (Young People Thinktank COVID-19 Crisis)¹⁹⁷ observed a decline in wellbeing among vulnerable children, and called for better access to youth care.

Recommendations:

- **Ensure a good understanding of the target groups and their issues to be able to effectively increase resilience and reduce mental problems in children.**
- **Use a clear set of terms and unambiguous assessment tools to assess how policy affects the mental wellbeing of children.**
- **Ensure that prevention budgets are goal-oriented and use them for a wide range of interventions, and avoid project fragmentation.**
- **Improve access to youth care for children who have developed mental health issues due to COVID-19 crisis policy.**

Isolation of children in psychiatric care

The legal position of children staying in mainstream, open (mental health care) residencies is unclear. Although freedom-restricting measures are not allowed except in the case of emergencies, they are now often seen as part of the treatment or internal house rules. However, a uniform definition is lacking. At the same time, open residencies do not monitor cases in which freedom is restricted.¹⁹⁸ Complaint

178 In CCPR/C/GC/36 (par. 62)

179 NRC (21-04-2021) *Erken schoon en gezond milieu als een grondrecht*

180 Carlier et al. (2012) Development and validation of the 48-item Symptom Questionnaire (SQ-48) in patients with depressive, anxiety and somatoform disorders, *Psychiatry research*, 200(2)

181 Kenniscentrum Kinder- en Jeugdpsychiatrie (2021) *Dossier Destigmatisering van kinderen en jongeren*

182 For example, Brainwiki ; @ease

183 NJI (2017) *Wachttijden Jeugd-ggz zijn te lang*; Lijm de zorg (2020) *Manifest voor een betere Jeugdzorg en GGZ*

184 IGJ (2021) *Factsheet: onvoldoende tijdige en juiste hulp voor jongeren met ernstige psychische problemen*

185 Voor de Jeugd (2020) *Vierde voortgangsrapportage Actieprogramma Zorg voor de Jeugd.*

186 113 Suicide Prevention & Amsterdam UMC (2019) *Onderzoek Jongeren en Suicide*

187 Kennisplatform Integratie & Samenleving (2019) *De rol van etniciteit in het handelen van professionals basiszorg jeugd-ggz*; ExPex (2020) *Black Lives Matter, ook in de jeugdzorg*

188 Kenniscentrum Kinder- en Jeugdpsychiatrie *Gezinnen met meervoudige en complexe problemen* NJI, *Gezinnen met meervoudige en complexe problemen*

189 Kenniscentrum Kinder- en Jeugdpsychiatrie (2020) *Platform integrale specialistische jeugdhulp*

190 Kenniscentrum Kinder- en Jeugdpsychiatrie (2019) *Psychische gezondheid van de jeugd in beeld: Position Paper*; Nivel (2019) *De jeugd-ggz na de Jeugdwet: een onderzoek naar knelpunten en kansen*

191 113 Suicide Prevention & Amsterdam UMC (2019) *Onderzoek Jongeren en Suicide*

192 For example, Movisie (2018) *Movisie aan de slag met suicide-preventie onder LHBT-jongeren* and *Rondom Jong*

193 Kleinjan et al. (2020) *Geluk onder druk? Resultaten van onderzoek naar mentaal welbevinden van jongeren in Nederland* and Utrecht University (2018) HBSC 2017. *Gezondheid en welzijn van jongeren in Nederland*

194 NJI (2020) *Schep ruimte voor een leven met én na COVID-19*

195 IGJ (2021) *Zorgsignalen tijdens COVID-19crisis - 20 januari*

196 Ombudsman for Children (2020) *Als je het ons vraagt – Thuis in 2020*

197 Jongeren Denktank COVID-19crisis (2021) *En nu...daden!*

198 Defence for Children (2019) *Uithuisgeplaatst. En dan?*

commissions of youth care organisations have a different status to the Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ)¹⁹⁹, and uniformity of approach by different complaint commissions is not safeguarded, even though many children are relocated to different institutions.

An assessment of practices regarding the reduction of freedom-restricting measures in closed facilities has been conducted.²⁰⁰ Restriction of freedom is often used, sometimes unintentionally.²⁰¹ Isolation methods and incidence rates vary considerably between different closed institutions.²⁰² A change in culture is required to reduce isolation in secured residential youth care.²⁰³ Legal protection for children through legislation and regulation is still lacking in this framework. A legislative proposal to improve the legal position of children in freedom-restricted settings has been criticised by several (social) organisations.²⁰⁴ It is a matter of concern that children with multiple problems or specific problems (for example, PTSD or anorexia) are not placed in an appropriate setting and therefore have to face freedom-restricting measures because suitable treatment is not available.²⁰⁵

Recommendations:

- **Invest more in specialist care to ensure appropriate care for children.**

- **Reduce the use of freedom-restricting measures.**
- **Record the use of freedom-restricting measures nationwide using standard terms.**
- **Improve and clarify the legal position of children in open residencies and closed institutions.**

Diagnosis and overmedication

It is unknown whether the number of children diagnosed with and treated for ADHD or other behavioural problems has increased or decreased, because data are not recorded centrally. The publication of the Health Council of the Netherlands' report²⁰⁶ in 2014 was not followed up by a study into the underlying causes of a possible increase in ADHD and ADD among children. At the same time, existing guidelines²⁰⁷ are followed insufficiently. However, medicine use rates in the Netherlands reveal that the number of 6- to 15-year-olds who use methylphenidate has declined since 2014.²⁰⁸

Recommendations

- **Apply the existing guidelines and make sure local neighbourhood teams, Youth and Family Centres, and schools have the necessary expertise. Incorporate the guidelines in education of healthcare workers.**
- **Run a campaign to destigmatise mentally vulnerable children and to increase recognition of risk factors in the development of behavioural problems.**

199 These youth care providers are not accountable to the Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ) in case of complaints, as opposed to those in secured youth care.

200 IGJ (2019) *Factsheet Terugdringen vrijheidsbeperkende maatregelen*; Defence for Children (2019) *Uithuisgeplaatst. En dan?*

201 IGJ (18-06-2020) *Aandacht en ambities leiden tot minder vrijheidsbeperkende maatregelen in jeugd-ggz en behandelcentra*

202 Academische Werkplaats Risicojeugd (2020) Eindrapport etappe 2, *"Ik laat je niet alleen". Een gezamenlijk onderzoeksproject naar het verminderen van gedwongen afzonderen in JeugdzorgPlus.*

203 Ibid.

204 Defence for Children (15-09-2020) *Kinderrechtelijke visie nodig in wetsvoorstel gesloten jeugdinstellingen* and Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ) (02-10-2020) *RSJ-advies Wetsvoorstel Rechtspositie gesloten jeugdinstellingen* and AKJ (16-09-2020) *Reactie AKJ op wetsvoorstel rechtspositie gesloten jeugdinstellingen*

205 Sociale Vraagstukken (17-10-2019) *Seksueel misbruikte meisjes horen niet in een gesloten instelling* and Hart van Nederland (24-11-2019) Misbruikslachtoffer Stephanie (16) *zwaar in problemen na verkeerde diagnose*
Letter to the House of Representatives (21-02-21) *Antwoord op vragen van de leden Westerveld en Van den Berge over kinderen die seksueel zijn misbruikt en onvoldoende hulp krijgen*

206 Health Council of the Netherlands (2014) *ADHD: medicatie en maatschappij*

207 Existing guidelines are: GGZ zorgstandaard ADHD (2019), Nederlands Huisartsen Genootschap ADHD bij kinderen (2014), Nederlands Centrum Jeugdgezondheid - Richtlijn ADHD (NCJ) (2015), Richtlijn Oppositionele stoornis (ODD) en gedragsstoornis (CD) bij kinderen en jongeren (2013), Richtlijn ADHD voor jeugdhulp en jeugdbescherming (2016)

208 Pharmaceutisch Weekblad, vol. 154, nr. 5 (25-01-2019) *Sterkere daling aantal jonge gebruikers methylfenidaat*

ADOLESCENT HEALTH

Sexual health

A 2017 study²⁰⁹ shows that the sexual and reproductive health of youths in the Netherlands is generally good. Although only a small number of girls experience an unwanted pregnancy or abortion, having an abortion continues to be taboo. While the number of young persons facing unacceptable sexual behaviour has declined slightly, it remains a matter of concern. The number of reports of online sexual violence seems to have risen during the COVID-19 crisis.²¹⁰ Two percent of boys and 11% of girls have been forced to perform sexual acts at least once. Experiencing sexual violence makes children vulnerable: one in twelve boys and one in five girls who have faced sexual violence will have a similar experience with someone else later in life (revictimisation).²¹¹

Recommendations:

- **Launch a 'National Action Plan on Sexual Violence' with a clear focus on prevention.**
- **Remain committed to the prevention of unplanned pregnancies. Implement a follow-up of the 'Stimuleringsregeling Gezonde Relaties & Seksualiteit' (Incentive Programme Healthy Relations & Sexuality).**

Sex education

Knowledge about sexuality, reproduction and sexually transmitted diseases (STDs) is limited in some respects and has declined compared to 2012. Nearly everyone receives some sort of information about sexuality at school, but according to young people this is mainly about contraception, reproduction and STDs/HIV. The majority of young people state that they did not receive any information, or only very little, about unacceptable sexual behaviour, sexual diversity, enjoyable sex, and sex in the (social) media. Young people rate the information about sexuality

they receive at school rather poorly (5.8 out of 10).²¹²

The right to information is crucial to ensure that the issues regarding children's sexual and reproductive health are further improved.

Recommendations:

- **Ensure a continuous sex education curriculum is developed, from primary school to the end of secondary education.**
- **Formulate specific guidelines for schools to make sure that every child receives good-quality sex education which pays attention to unacceptable sexual behaviour, sexual diversity and enjoyable sex.**
- **Incorporate sex education in teacher training.**

Substance use

The rates of schoolchildren who have ever used tobacco, alcohol or cannabis have remained unchanged since 2015. The integrated approach to prevent substance use has come under increasing pressure because it has to compete with other social topics and because of the growing pressure on the education system generally. A standard package of prevention activities for schools and care services is available, but has not yet been implemented everywhere.

Problematic substance use among young people is often an indication of challenges in other areas (learning disabilities, early school leaving, bullying, trauma, family problems, etc.). An estimated 75,000 young persons experience problematic substance use, but fewer than 10% access (addiction) care. Young persons with addiction issues are hard to reach and providing them with adequate care is complicated. The number of young people with complex problems seeking treatment has risen. Causes are failure to identify problematic use early on, decentralisation of youth care, and lack of appropriate institutions due to closure. Within the

209 Rutgers & Soa Aids Nederland (2017) *Seks onder je 25e*

210 Rutgers & Soa Aids Nederland (2021) *Seksuele gezondheid van jongeren in Nederland tijdens de COVID-19crisis* and Fier (2020) *Forse stijging aantal slachtoffers van kindermishandeling en seksueel geweld op chat tijdens COVID-19*

211 CBS (2020) *Prevalentiemonitor HGSG 2020*

212 Seksuelelevorming.nl (8-10-2019) Onderzoek Rutgers: *"Gewoon, het taboe eraf halen" Meer seksuele vorming nodig op middelbare scholen*

current care system, making youth addiction care cost-effective appears to be a challenge for many institutions.

The 'Young People Thinktank COVID-19 Crisis' has identified an increase in the use of narcotics²¹³ among young people. Reasons include boredom or the desire to escape from their circumstances. Although exact numbers are lacking, care professionals are seriously concerned.

Recommendations:

- **Implement the existing standard package of prevention activities in schools and care services.**
- **Focus on the identification of problematic substance use and adequate referral to youth addiction treatment.**

Problematic gaming

Gaming is the second most frequent reason (after cannabis) for young persons to enrol in addiction care.²¹⁴ Exact figures about problematic gaming among youths in care are not available, but these young people may be at high risk of problematic gaming. More attention should be paid to family dynamics related to screen use, dealing with sensitivity to loss of control/gaming rewards, early school leaving, and engagement with school, peers, and the situation at home.

About 2.5% of schoolchildren meet the criteria for problematic gaming.²¹⁵ At-risk gamers were five times as likely to have physical and mental health problems than their peers.²¹⁶ These rates have not changed since 2017.

Government prevention work includes prevention via websites and programmes in schools.²¹⁷ The latter focus on teachers rather than pupils. Addiction care offers treatment.

However, there are no recognised and evidence-based interventions available which focus on problematic gaming behaviour. Further research is needed, for example to learn whether interventions developed for other risky behaviours are also effective for dealing with problematic gaming.

The video gaming industry and other parties are developing prevention initiatives themselves, but these are not usually aligned with existing knowledge. A national approach which makes an aligned, integrated and step-by-step range of evidence-based and -tested programmes widely available, would be preferable.

Recommendation:

- **Develop a national approach to prevent problematic gaming.**

STANDARDS OF LIVING

Poverty reduction

The Netherlands has formulated 'four child poverty reduction ambitions'²¹⁸, but is insufficiently committed to tackling the structural causes of poverty. Municipalities are responsible for facilitating 'participation'. The central government is primarily responsible for ensuring sufficient income. Within the Dutch benefit system – crucial for the livelihoods of many households – poor people (with a job) need the state's income supplements to make ends meet. The system is not transparent and hard to access. Families run the risk of being forced to pay back benefits if they (slightly) increase their income and/or are scared to use the arrangements.²¹⁹ The recent Dutch childcare benefits affair²²⁰, which resulted in poverty and social exclusion for thousands of families, necessitates the revision and

supervision of the entire benefit system. Revision should take place interdepartmentally rather than fragmented across different ministries.

With regard to facilitating 'participation', municipalities are insufficiently committed to implementing an integrated poverty reduction policy.²²¹ Poverty reduction policies differ greatly between municipalities, so the support children receive depends on where they live. Furthermore, private care organisations provide support on top of the care municipalities offer, which indicates that children need more support than the municipalities are actually offering. Moreover, not every municipality involves children in the formulation of poverty policies.²²² In particular, children from vulnerable groups are excluded.²²³

The government recently set a target²²⁴ for reducing the number of children living in poverty by 50%.²²⁵ The main focus is on increasing incomes through promoting employment for parents, but this is not always realistic.²²⁶ Even before the COVID-19 crisis, it emerged that over 40% of children living in poverty had working parents.²²⁷ Besides, this strategy still denies the right of the child to a sufficient standard of living, which has already been restricted by the Dutch reservation to article 26 of the UN Children's Rights Convention.²²⁸ Moreover, research shows that, if the current government policy continues to be implemented, poverty will increase by 25% in the coming years on top of the impact of the COVID-19 crisis.²²⁹

Recommendations:

- **Ensure that the revision of the benefit system is interdepartmental.**
- **Commit to an integrated (municipal) poverty reduction policy and involve children.**
- **Guarantee a sufficient standard of living by developing and monitoring a structural approach to combatting poverty among children at central government level.**

Guaranteed minimum income in the Caribbean Netherlands

In 2019, the state determined guidelines for guaranteed minimum incomes in the Caribbean Netherlands.²³⁰ However, it is still unclear how many children are living in poverty. The data for 2020 are incomplete. For a number of children living on the BES islands (Bonaire, St Eustatius and Saba), it is impossible to determine whether or not they are living below subsistence level.²³¹

Furthermore, little is known about the negative impacts of poverty, for example, with regard to health, education, standard of living, and protection of children in households with incomes below subsistence level. This information is required to set poverty reduction targets and monitor policy impact, among other things.

213 Jongeren Denktank COVID-19crisis (2021) *En nu... daden!*

214 These figures are outcomes of retrospective research to clients who were enrolled in care at Brijder-Jeugd between 1 January 2017 and 30 September 2018.

215 Trimbos Institute (2020) *Jeugd en riskant gedrag 2019 Kerngegevens uit het Peilstationsonderzoek Scholieren*

216 Van Rooij, A.J., Dalinghaus, N., & Van den Eijnden, R.J.J.M. (2019) *(On)gezond gamegedrag van Nederlandse jongeren*

217 For example, Gameninfo.nl, *Gamen Infolijn and Helder op School*

218 Parliamentary Papers I, 2018-2019, 35 000 XV, nr. D

219 IBO (2020) *Toeslagen deelonderzoek 2. Eenvoud of maatwerk: Alternatieven voor het bestaande toeslagenstelsel*

220 Parliamentary Committee of Inquiry into Childcare Benefit (2020), *Ongekend onrecht*.

221 Ombudsman for Children (2017) *Alle kinderen kansrijk. Het verbeteren van de ontwikkelingskansen van kinderen in armoede*

222 Defence for Children & Save the Children (2019) *Kansen voor kinderen: een postcodetombola?*

Ombudsman for Children Rotterdam (2021) *Wie wat waar? Onder de loep: gemeentelijke regelingen voor kinderen in armoede*

223 University College Cork, Queens University Belfast & Save the Children (2020) *The right of children to participate in public decision-making processes, London*

224 The percentage of children growing up in poverty is to be reduced from 9.2% in 2015 to 4.6% in 2030.

225 Letter to the Senate (09-04-2020) *Nadere uitwerking ambities kinderarmoede*

226 Sam& (2020) *Altijd op een richeltje lopen*

227 SCP (2019) *Armoede in Kaart 2019*

228 UN Children's Rights Convention (CRC), article 27: Children's right to a sufficient standard of living; CRC, Article 26: Children's right to social security

229 Netherlands Bureau for Economic Policy Analysis (CBP) and SCP (2020), *Kansrijk armoedebeleid*

230 Letter to the House of Representatives (27-06-2019) *Kamerbrief voortgangsrapportage ijkpunt bestaanszekerheid Caribisch Nederland*

231 CBS (2020) *Caribisch NL: inkomen tot ijkpunt voor sociaal minimum*

Recommendations:

- **Make quantitative and qualitative data available about the negative impacts of poverty-related policies.**
- **Set clear poverty reduction targets for children living in poverty and structurally assess the effectiveness and impact of poverty-related policy.**

Homeless minors

Access to shelter falls under the Social Support Act 2015 (Wmo). People are eligible for shelter if they have a specific care need. Homelessness for economic reasons alone is not covered by this law, so affected families are not eligible for shelter. The government sees these families as self-reliant. However, not all families manage to find accommodation themselves because of the housing shortage and high rents.²³² Some municipalities find creative ways to help families with children find shelter, but a standard policy is lacking. There are no measures taken to prevent homelessness.²³³

A relatively new group are repatriates: Dutch people returning to the Netherlands from abroad who become homeless. This group does not fall under the Social Support Act 2015 either.²³⁴ If municipalities do not offer shelter to homeless families, these families must arrange housing via their own network. However, they do not always have a network, or their network is exhausted. If the family ends up living on the streets or if this scenario seems likely, they may be threatened with out-of-home placement of their children or this might actually occur. Even though the family's care need under the Social Support Act 2015 was not recognised, now it is suddenly seen as having multiple problems necessitating out-of-home placement of the children. For many families, the situation is impossible to solve, and this practice leads to violations of international and European human and children's rights.²³⁵ Those families who

are given access to shelter often stay there for longer than ideal, which is harmful for the children's development. It is difficult to leave a shelter and move to independent accommodation, due to the housing shortage.

Recommendations

- **Create a separate shelter regulation for families who are homeless for economic reasons or abolish the self-reliance criteria.**
- **Create a national distribution point for repatriates with children in need of housing.**
- **Prohibit out-of-home placement of children based on economic homelessness.**
- **Create more opportunities for families to leave shelters by solving the housing shortage and ensure the availability of enough child-friendly accommodation.**

²³² National Ombudsman (05-06-2020) *Nationale ombudsman en Kinderombudsman: vasthouden regie kabinet op dak- en thuislozenproblematiek nu essentieel* and (29-03-2019) *Steeds verder van huis: zeven obstakels waar zelfredzame adreslozen tegenaan lopen*

²³³ Council of Public Health & Society (2020) *Herstel begint met een huis en de reactie van de minister hierop*

²³⁴ Bureau HHM (2020) *Zelfredzame remigranten gezinnen en de reactie van de minister hierop*

²³⁵ Ombudsman for Children (2020) *Ongehoord! De onzichtbaarheid van kinderen bij huisvestingsproblemen* and Ombudsman for Children (2020) *Handreiking het beste besluit voor het kind bij huisvestingsproblemen*



EDUCATION AND LEISURE



EDUCATION

The Appropriate Education Act

The Appropriate Education Act (2014) has not led to an increase in the number of children with disabilities in the mainstream education system.²³⁶ In 2018, the number of children in special education was back to 2014 levels.²³⁷ In 2019, it increased further²³⁸ and waiting lists for special education were created.²³⁹ Municipalities have been cutting back on extra support at school for children with disabilities since the introduction of the act.²⁴⁰ There has also been an accelerated outflow from secondary special education of young people aged sixteen and

over,²⁴¹ mainly due to financial factors.²⁴² School partnerships and school boards have growing reserves of funds earmarked for additional support for children.²⁴³

The evaluation report of the Appropriate Education Act states that it is not possible to determine whether pupils receive more and better-tailored help.²⁴⁴ Nor is it clear whether the budget for appropriate education is being used effectively.²⁴⁵ As a system, appropriate education does not seem able to offer tailor-made and equal opportunities to pupils, including gifted children, so that they can develop optimally.

²³⁶ Defence for Children (2019) *Passend Onderwijs langs de lat van het Europees Sociaal Handvest*

²³⁷ Inspectorate of Education (2019) *De Staat van het Onderwijs 2019* and Dutch NGO Coalition for Children's Rights (2019) *Input to LOIPR of the UN Committee on the Rights of the Child*

²³⁸ Inspectorate of Education (2020) *De Staat van het Onderwijs 2019*

²³⁹ NRC (25-10-2019) *De toestroom van leerlingen in het speciaal onderwijs is zo groot dat er lange wachtlijsten zijn ontstaan en klassen overvol zijn*

²⁴⁰ Alliance UN Disability Convention (2019) *Schaduwrapportage Verdrag inzake de rechten van personen met een handicap in Nederland*

²⁴¹ Down Syndrome Foundation (2018) *Special Overgang van Onderwijs naar Werk, Down + Up: winter 2018*, No. 124.

²⁴² Ibid.

²⁴³ General Union of Educational Personnel (AOB) (07-10-2020) *Samenwerkingsverbanden hebben €184 miljoen te veel op de plank* and Inspectorate of Education (21 January 2021) *Besturen moeten bovenmatige reserves nu echt aan onderwijs besteden*

²⁴⁴ Nationaal Regieorgaan Onderwijsonderzoek (2020) *Evaluatie passend onderwijs: eindrapport*, p. 17.

²⁴⁵ Ibid, p. 18.

Recommendation:

- **Implement an inclusive education system.**

Decentralisation

Decentralisation increased the autonomy of boards, schools, school partnerships and municipalities. This has created opportunities for customisation, but also led to differences in offer.²⁴⁶ What constitutes quality education, and basic and additional support, varies due to decentralisation.²⁴⁷ This makes it difficult for the central government to gain insight into the state of the overall education system.²⁴⁸ Decentralisation and discretionary power have locally led to inequality in children's development opportunities.²⁴⁹

Recommendation:

- **Guarantee equal development opportunities for all children.**

Chronic absenteeism

One of the goals of the Appropriate Education Act (2014) and the Chronic Absenteeism Pact (2016) was to reduce the number of chronic absentees.²⁵⁰ However, the number of official chronic absentees is yet to drop.²⁵¹ In fact, it increased from 3,254 in the 2013-2014 school year to 4,790 in 2018-2019.²⁵² A complete picture of the number of chronic absentees is lacking. For example, children may still be enrolled at school, even if they do not actually attend. It is worrying that many children do not get the help they need and therefore are not being educated.

²⁴⁶ Inspection of Education (2020) *De Staat van het Onderwijs 2020*, p. 57.

²⁴⁷ Ibid.

²⁴⁸ Ibid.

²⁴⁹ Nationaal Regieorgaan Onderwijsonderzoek (2020) *Evaluation of appropriate education: final report*, p. 29.

²⁵⁰ *Parliamentary Papers II*, 2019/20, 26 695, No. 130, p. 1.

²⁵¹ Inspectorate of Education (2020) *De Staat van het Onderwijs 2020*, p. 28.

²⁵² Ibid.

²⁵³ *The Foundation for Certification of Home-Schooling* was founded to monitor standards.

²⁵⁴ Dutch political parties VVD, CDA, D66 and ChristenUnie (2017) *Vertrouwen in de toekomst: regeerakkoord 2017-2021*, p. 11.

²⁵⁵ Internet consultation (2020) *on the Legislative Proposal on Exemption from Compulsory Education on the Grounds of Objections based on Religion or Conviction to the Curriculum*.

²⁵⁶ School and Safety Foundation (SSV) (2020) *School Safety Act*.

Recommendations:

- **Put the right to education and the best interests of the child at the heart of the system.**
- **Enshrine the right to learn in the law and realise an inclusive education system.**

Home-schooling

Home-schooling is only permitted in the Netherlands with an exemption from compulsory education, but standards are not monitored by the government.²⁵³ In 2017, the coalition agreement stipulated that home-schooling was to be included in the law and had to meet certain requirements.²⁵⁴ The legislative proposal on Exemption from the Compulsory Education Act on the Grounds of Objections based on Religion or Conviction was published in June 2020.²⁵⁵ It seeks to amend the Education Inspection Act in order to monitor home-schooling standards. However, children's rights principles are insufficiently protected by the current legislative proposal and there are concerns about how to implement the supervision of home-schooling.

Recommendation:

- **Implement oversight of home-schooling standards so that home-schooled children are not disadvantaged compared to children who attend school.**

Bullying

The Safety at School Act came into force in 2015. Schools should be a socially safe environment and must develop policies aimed at preventing violence including bullying and dealing with incidents.²⁵⁶ The Inspectorate of Education has checked whether schools properly meet their responsibilities for the

social safety of pupils since 2016. Seventy-seven percent of primary schools had a satisfactory safety policy in 2019. One in 10 pupils suffered from (persistent) bullying and feelings of insecurity in primary school. In secondary education, this figure was 5%.²⁵⁷ Research into school and friendship among children (with disabilities) indicates that many schools do not implement their policies properly.²⁵⁸ There are indications that schools deny access to children with disabilities on the grounds that they will be bullied.²⁵⁹ There is no data on bullying of children of colour and/or LGBTI children with disabilities. It is plausible that these children face more, and possibly more serious forms of, bullying. The government could do more to prevent (online) bullying and stimulate an inclusive social (school) environment to ensure that the Safety at School Act is fully implemented. In addition, it is important that pupils are heard about the implementation of anti-bullying policies.

Recommendation:

- **Implement the Safety at School Act through better prevention of (online) bullying and by stimulating an inclusive social (school) environment.**

Preschool education

It is not clear whether needy children have access to preschool education. This is because municipalities decide for themselves which toddlers belong to the target group.²⁶⁰ Toddlers without a residence permit, particularly those living in asylum centres with their parents, do not always have access to preschool.²⁶¹ Research shows that more than 40%

of municipalities with a facility run by the Central Agency for the Reception of Asylum Seekers (COA), do not offer preschool education for toddlers.²⁶²

Recommendation:

- **Ensure that all children who need it have access to preschool education.**

LEISURE AND RECREATION

Play areas

A growing number of local authorities aims to improve (in)formal public play areas. However, the housing shortage puts pressure on non-built-up spaces (such as public squares, green spaces and play areas) in existing neighbourhoods.²⁶³ The development of new residential areas is often in the hands of project developers. Play areas are not a priority or are limited to a few locations without a play policy due to gentrification, high land prices in urban areas and demand for housing.²⁶⁴ In fact, play areas are especially important for children living in vulnerable situations in neighbourhoods where dwellings are small and public spaces are limited. The central government does not set quantitative or qualitative standards for play areas in the residential environment.²⁶⁵

²⁵⁷ Inspectorate of Education (2020), *De Staat van het Onderwijs 2020*

²⁵⁸ Ieder(in), Landelijk Platform Psychische Gezondheid, Patiëntenfederatie Nederland (2018) *School en vriendschappen*

²⁵⁹ Het Gehandicapte Kind (2021) *Rapportage Steunpunt Onderwijs 2021*

²⁶⁰ Inspectorate of Education (2020) *De Staat van het Onderwijs 2020*

²⁶¹ Under Development Opportunities through Quality and Education Act (the OKE Act), Dutch municipalities are tasked with creating sufficient facilities for children at risk of delayed development in the Dutch language, but they can decide whether toddlers in asylum centres fall within this target group. Education Council (2017) *Vluchtelingen en onderwijs: naar een efficiëntere organisatie, betere toegankelijkheid en hogere kwaliteit*

²⁶² Sardes, Oberon, KBA Nijmegen (2021) *Voorschoolse educatie voor peuters in de asielopvang*

²⁶³ Dutch Ministry of Interior and Kingdom Relations (2020) Staat van de woningmarkt. *Jaarrapportage 2020* and Karsten, L. and Felder, N. (2016) *De nieuwe generatie stadskinderen. Ruimte maken voor opgroeien*. Rotterdam: Nai/010 uitgevers

²⁶⁴ Haier, F. (2017) *Werk maken van spelen, oproep voor speelbeleid*.

²⁶⁵ Lucassen, J.M.H., Singh, A.S., Heijnen, E., Slot-Heijs, J.J., Mulierinstituut, (2020) *Buitenspelen 2020: een verkenning van het beleid in Nederland en Europa*

Recommendations:

- **Establish qualitative and quantitative standards for play areas during development decisions and spatial planning processes.**
- **Stimulate the creation of an interdisciplinary policy on play beyond sport, ensuring space, accessibility, and social safety for all age groups.**

Participation in the design of public spaces

Children use public spaces differently than adults. Therefore, they should be actively involved in the vision and policy phases of public spaces.²⁶⁶ They do normally participate in the planning and design of play areas, but this is done on an ad-hoc basis and is not structurally embedded in policy processes. Their opinions are usually sought once per project and are non-binding.²⁶⁷ Municipal officials lack knowledge of how to involve children in the design of public spaces. (See page 23.)

A new Environment and Planning Act is to be introduced in 2022.²⁶⁸ Although the focus is on citizens' participation, it is unclear how children's interests and voices will be taken into account.²⁶⁹

Recommendations:

- **Ensure the new Environment and Planning Act meets the objectives of the UN Children's Rights Convention.**
- **Train policymakers to ensure the best interest of the child in all their activities.**

Free play

Children spend more and more time on structured activities (at school, childcare facilities and clubs), instead of exploring on their own. Growing pressure on (academic) performance pushes play into the background. During a survey of parents, 15% indicated that their child never plays outside.²⁷⁰ Play is often used as a tool to achieve something, such as educational outcomes, behavioural change or better health.²⁷¹

Outdoor play areas are often last on the list of priorities financially and spatially during the construction of schools and child centres. The current standard for outdoor space in these settings is 3m² per child.²⁷² That is not enough for a rich playing experience; children are forced to take turns to go outside and can only do so for limited periods of time.

The importance of play is not explicitly mentioned in (national) policy documents.²⁷³ It is frequently advised that (more) play activities should be organised and supervised by professionals. The standard time periods advised for exercise by the Health Council of the Netherlands are often filled by adults with quantifiable organised sports and games activities. Even though children move and develop significantly during free outdoor play.²⁷⁴ Organised activities are sometimes perceived as better than unaccompanied play.²⁷⁵ New curricula for primary and secondary education are currently developed.²⁷⁶ They should include a clear vision of play, broader

²⁶⁶ Expertmeeting *Child in the City*, Rotterdam, 2018 and *Participeren kun je leren! Maar dan voor kinderen*. Banninga, L.M. Saxion Polytechnics, Deventer, 2019.

²⁶⁷ Expertmeeting *Child in the City conference*, Rotterdam, 2018.

²⁶⁸ Letter to the House of Representatives (2020) *Inwerkingtreding Omgevingswet*

²⁶⁹ Informatiepunt Leefomgeving (15-03-2021) *Aan de slag met de omgevingswet* and OBB Engineering Consultants (2020) *Van Omgevingswet naar Omgevingspret: Een stappenplan om kinderen niet te vergeten in de Omgevingswet*.

²⁷⁰ Jantje Beton and Kantar Public (2019) *Onderzoek Buiten Spelen*

²⁷¹ Nicolopoulou, A. (2010) *The Alarming Disappearance of Play from Early Childhood Education Human Development*. Sardes (2020) *Ontwikkelingen in de kwaliteit van de Nederlandse kinderopvang, peuteropvang, buitenschoolse opvang en gastouderopvang 2017-2019*

²⁷² VNG (03-11-2020) *Ontwikkelingen onderwijshuisvesting en wijziging VNG Model Verordening voorzieningen huisvesting onderwijs*

²⁷³ UNCRC, *General comment 17*

²⁷⁴ Health Council of the Netherlands(2017) *Beweegrichtlijnen 2017*

²⁷⁵ Utrecht University / Sardes (2020) *Developments in the quality of Dutch childcare, preschool, after-school care and childminder care 2017-2019*.

²⁷⁶ *Curriculum.nu*.

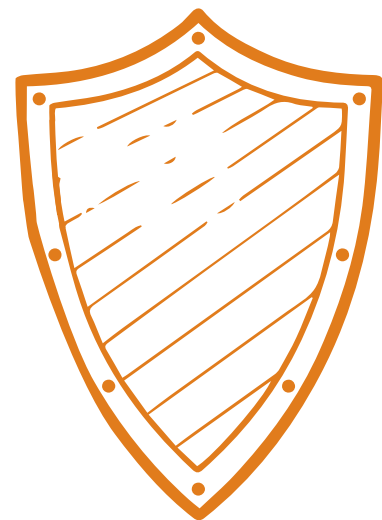
than learning-through-play, with a good balance of (un)structured time, and of formal, non-formal and informal learning.

Recommendations:

- Develop a national vision of play, where there is room for all forms of play with explicit space and time for the kind of free play that children decide for themselves.
- Train professionals who work with children in the importance of play and how to support it.



SPECIAL PROTECTION MEASURES



ASYLUM-SEEKING, REFUGEE AND MIGRANT CHILDREN

Best interests of the child

The Dutch Aliens Act does not include any formal criteria for determining the best interests of the child, and these interests are not systematically taken into account.²⁷⁷ Meanwhile, decisions taken by the Immigration and Naturalisation Service (IND) insufficiently reveal how the best interests of the child are being assessed. It is claimed that the best interests of the child have been researched, but it is unknown how this was done and what factors were taken into consideration. The state report does not contain any clarification of the 'interpretative statement' to article 22 of the UNCRC, as promised on page 4 of the report.

To determine the best interests of the child, a thorough assessment of the child's situation is required, based on the ruling concerning repatriation of the Court of Justice of the European Union (CJEU)²⁷⁸ with regard to cases of Unaccompanied Minor Foreign Nationals (UMFNs). This includes the child's age, physical and mental health, and stay in a foster family. The Court concluded that a decision about repatriation of UMFNs cannot be taken if there is no adequate care available in the country of origin.

Recommendations:

- **Incorporate the best interests of the child into immigration law through the current private member's bill.**²⁷⁹
- **Revise the policy on UMFNs, ensuring a clear focus on the best interests of the child.**

²⁷⁷ United Nations High Commissioner for Refugees (UNHCR) (2019) *In de eerste plaats een kind*

²⁷⁸ CJEU (14-01-2021) *Judgement in case C-441/19*

²⁷⁹ Legislative proposal of the House of Representatives *Verankeren belang kind in procedure tot verkrijgen van een verblijfsvergunning* and Defence for Children (26-06-2019) *Wetsvoorstel belang van het kind moet zwaarder wegen in vreemdelingenwet* and UNICEF the Netherlands (10-09-2018) *Het belang van het kind moet voorop staan in asiel- en vreemdelingenbeleid*

Separation from parents and child detention

Children are usually not separated from their parents during asylum and return procedures. However, it is a matter of concern that separated deportation is possible under the law, and actually takes place in exceptional cases.²⁸⁰ It is also worrying that the government detains families with children and UMFNs as part of asylum and return procedures.²⁸¹ Children are detained relatively often and for too long, as acknowledged by the Secretary of State.²⁸² In 2019, a total of 190 children were placed in immigration detention²⁸³ prior to (forced) return and 10 children in border detention.²⁸⁴ In 2019, 30 UMFNs were detained for 16 days on average, while the maximum legal period is 14 days. Some were detained for as long as 82 days. Families with children were detained for 10 days on average, and, at the beginning of 2020, one family was detained for as long as nine weeks.²⁸⁵

Recommendation:

- **Do not evict children separately from their parents, look for other options rather than detention, and do not extend the detention period for families with children.**²⁸⁶

Family reunification

Requirements to prove family relationships and identity are often unrealistic.²⁸⁷ The IND sometimes rejects applications without offering alternatives such as DNA testing or interviewing, while this should not be a reason for rejection according to the European Family Reunification Directive.²⁸⁸ In addition, waiting times are long and the number of family reunification permissions has dropped significantly.²⁸⁹

Recommendation:

- **Introduce realistic burden of proof requirements and do not reject applications without offering alternatives such as DNA testing or interviewing.**²⁹⁰

Information

It is not standard procedure to involve children in families in meetings with authorities and lawyers.²⁹¹ Furthermore, parents do not get help when informing their children. Also due to long waiting times at the IND, UMFNs have access to a lawyer only a few weeks or days before their asylum application procedure starts, following an age assessment²⁹² which is not evidence-based²⁹³ or multidisciplinary, and does not take into account

²⁸⁰ Martin Vegter, legal Advisor on Children's Rights and Migration, Defence for Children

²⁸¹ The Netherlands has two forms of migration detention: border detention and immigration detention for return purposes. It is illegal to detain children at the border, but immigration detention for return purposes is permitted.

²⁸² kst-19637-2473 (22-02-2019) *Alleenstaande minderjarige asielzoekers*

²⁸³ The family facility comprises chalets with child-friendly spaces, but it is closed. *See*

²⁸⁴ Custodial Institutions Agency (DJI), delivered on 21 August 2020 by Directorate-General for Migration of the Ministry of Justice and Security. The numbers have been rounded off to the nearest 10.

²⁸⁵ Data cited in this paragraph are taken from statistics of the DJI that were sent to UNICEF the Netherlands by the Repatriation and Departure Service (DT&V), in October 2019.

²⁸⁶ kst-33199-34 (12-05-2020) *Lijst van vragen en antwoorden over de Beleidsdoorlichting van het begrotingsartikel 37.3 "De Terugkeer van Vreemdelingen" van het Ministerie van Justitie en Veiligheid*

²⁸⁷ WODC (2018) *Factsheet 'Unaccompanied minor asylum seekers in the Netherlands: choice or chance?'*

²⁸⁸ Lodder, G.G., & Klaassen, M.A.K. (2020) *Kroniek gezinshereniging 2018-2019* in Asiel & Migrantenrecht nr 1, pp. 16-17

²⁸⁹ WODC (2018) *Factsheet 'Unaccompanied minor asylum seekers in the Netherlands: choice or chance?'*

kst-19637-2543 (18-11-2019) *Terugbrengen doorlooptijden asielaanvragen en stand van zaken dwangsommen*

²⁹⁰ Lodder, G.G., & Klaassen, M.A.K. (2020) *Kroniek gezinshereniging 2018-2019* in Asiel & Migrantenrecht nr 1, pp. 16-17

²⁹¹ UNICEF the Netherlands (2019) *Child-sensitive return. Upholding the best interests of refugee and migrant children in return decisions and processes in the Netherlands*

²⁹² An age assessment is conducted in case of doubt about the age of alleged minors.

²⁹³ Keunen et al. (2013) *Age assessment of unaccompanied minor asylum seekers in the Netherlands: Radiological examination of the medial clavicular epiphysis*

the cultural background and development²⁹⁴ of UMFNs.²⁹⁵

Recommendations:

- Offer child-specific support during asylum and return procedures. To this end, formulate policy with children’s rights experts for unaccompanied and accompanied children.²⁹⁶
- Offer child-friendly information appropriate to the child’s age and abilities during asylum and return procedures.

Access to basic services

The COA, TeamUp, Time4You and Stichting de Vrolijkheid organise activities in asylum seekers’ centres on a weekly basis, to strengthen children’s social-emotional skills and help them cope with traumas.²⁹⁷ However, access to such sports activities and games varies across locations²⁹⁸ which means too little attention is paid to children’s social-emotional development and the impact of the traumatic experiences many of the children have faced, is ignored.²⁹⁹ Children are legally obliged to go to school as soon as they enter the Netherlands³⁰⁰, but they rarely have immediate access to education.

Recommendations:

- Organise sports activities and games in all asylum seekers’ centres.
- Ensure that children have immediate and adequate access to regular education.
- Ensure continuous attention to children’s social-emotional development.

294 UNHCR (2009) *Guidelines on International Protection No. 8 on Child Asylum Claims*, para.7

Save the Children (2012) *Position Paper on Age Assessment in the Context of Separated Children in Europe*

295 Stephanie Rap, Assistant Professor of Children’s Rights, Department of Child Law, Leiden University

De Groene Amsterdammer (22-01-2020) *Geboortedatum onbekend*

296 UNICEF Netherlands (2019) *Child-sensitive return. Upholding the best interests of refugee and migrant children in return decisions and processes in the Netherlands*

297 Website Central Agency for the Reception of Asylum Seekers (COA) Website TeamUp Website Time4You Website Stichting de Vrolijkheid

298 Werkgroep Kind in azc (2018) *Leefomstandigheden van kinderen in asielzoekerscentra en gezinslocaties*

299 Association of Health Funds (SGF) & Market Response (2020) *De plek voor sociaal emotionele vaardigheden in het onderwijs*

300 Education Council (2017) *Vluchtelingen en onderwijs*

301 Government of the Netherlands (10-09-2020) *Nederland biedt Grieken overname van 100 minderjarigen en gezinsleden aan*

302 Government of the Netherlands (19-01-2021) *100 kwetsbare vluchtelingen vanuit Griekenland in Nederland*

303 Experts of Dutch Council for Refugees (VWN)

304 UNICEF Netherlands (2019) *Child-sensitive return. Upholding the best interests of refugee and migrant children in return decisions and processes in the Netherlands*

UNACCOMPANIED MINOR FOREIGN NATIONALS

UMFNs without parents

After a fire destroyed migrant camp Moria on the island of Lesbos at the beginning of September 2020, the Secretary of State decided to relocate 50 UMFNs and 50 children with families to the Netherlands. This number was subtracted from UNHCR’s annual resettlement target of 500 refugees.³⁰¹ As late as January 2021, the Secretary of State announced that 100 refugees had been relocated with their families. Of them only two were UMFNs, because no other UMFNs aged under 15 were available in Greece.³⁰²

The upper age limit of 14 conflicts with the definition of a child and the prohibition of discrimination in the UNCRC.

UMFNs without parents or those whose parents cannot be found, can apply for admission based on article 8 of the European Convention on Human Rights. However the requirements with regard to the burden of proof to assess dependency relationships between, for example, the UMFN and her/his foster parents, are very stringent, which is why admission is hardly ever granted on these grounds.³⁰³

The assessment of care in the case of family reunification after return is very limited³⁰⁴: The child being taken in by fourth-degree relatives is automatically considered adequate, unless

proven otherwise during the asylum application procedure. Carrying out inadequate family tracing and assessment goes against article 6 of the UNCRC, which asserts that the state should guarantee the development of children in the best possible way.³⁰⁵ Distinction by age is not allowed during an investigation into adequate care in the country of origin, and the best interests of the child must come first.³⁰⁶

Recommendations:

- Develop a solidarity mechanism within the EU without any restrictive criteria for relocation of vulnerable refugee children to the Netherlands.
- Re-evaluate the UMFNs policy with regard to burden of proof requirements to assess dependency relationships in the framework of article 8 of the European Convention on Human Rights.
- Ensure family tracing and care assessment for possible return are thorough and documented.

Missing children

Two investigations into child disappearances from protected shelters and regular asylum shelters commissioned by the Secretary of State demonstrate that the police and the Child Care and Protection Board do not usually consider such disappearances urgent, even if there are signs of human trafficking.³⁰⁷ Nidos, a Dutch guardianship agency, is concerned about children disappearing underground. Currently, human trafficking is not accepted as child-specific ground in asylum application procedures. In addition to the new cooperation agreements on missing persons (of March 2020), no distinction should be made between minors with or without a residency status in order to protect children against human trafficking. The focus should be on prevention, by offering culture-sensitive care, including human trafficking as a child-specific ground for prosecution

305 Defence for Children (2016) *Durable Solutions for Separated Children in Europe, National Report: The Netherlands*

306 CJEU (14-01-2021) *Judgement in case C-441/19*

307 Between 2015 and 2019, 96 Vietnamese children went missing from Dutch protected shelters. Letter to the House of Representatives (23-03-2020) *Conclusies 2 onderzoeken naar vertrek met onbekende bestemming van (Vietnamese) amv’s* Argos (25-03-2020) *Staatssecretaris doet of verdwenen Vietnamese amv’ers zijn gaan backpacken* Argos (23-01-2021) *De laatste reis van Quyen en Hieu*

in asylum procedures and reducing the burden of proof for the no-fault policy.

Recommendation:

- Do not make a distinction between children based on residency status when handling disappearances; accept human trafficking as child-specific grounds in asylum procedures.

No-fault policy

The burden of proof requirements for a no-fault residency permit are very strict. Very few no-fault permits are granted, so a huge number of children have no hope of acquiring a residency permit. Besides the fact that only a very small number of permits have been granted in the past few years, only children below the age of 15 are eligible for a no-fault permit. This upper age limit is not justified in the policy.

Recommendation:

- Reduce the burden of proof requirements in the no-fault policy.

Family reunification without delay

The Secretary of State did not keep her promise to rule on 15,000 asylum applications in 2020. Seven thousand cases were postponed until 2021, resulting in waiting times of over two years. As a result, maximum statutory decision periods for family reunifications are being exceeded.

Recommendation:

- Commit to eliminating backlogs and make more IND staff available for handling both asylum and family reunification applications.

CHILD LABOUR

Labour by minors in the Netherlands

Poor working conditions for young people are often in the news lately, for example, with regard to working hours, flexible contracts, underpayment and unpaid overtime in supermarkets. Other worrying matters are child vloggers and children in the agricultural sector.³⁰⁸

Recommendation:

- Investigate children’s terms of employment and working conditions, so that targeted action can be taken.³⁰⁹

Labour by minors in international supply chains

The state’s responsibility to combat child labour in supply chains requires additional regulation in the form of a general administrative measure to accompany the Child Labour Due Diligence Law (WZK). The government has not yet sent a proposal to Parliament. Clearly, a sense of urgency and insight into the scale of the problem are lacking. That is why most companies do not yet feel (legally) obliged to combat child labour in their supply chains. The launch of the Fund for Combatting Child Labour (FBK) is a positive development. However, it has mainly instigated relatively small projects and tends to be used by companies already committed to sustainable entrepreneurship. Apart from the FBK and information provision, the government has not taken responsibility in other ways, such as through

human rights policy³¹⁰, its own purchasing policy, agenda-setting during trade missions, or by playing an active part in sector covenants.

Recommendation:

- Implement the Child Labour Due Diligence Law and take responsibility to combat child labour in other ways.

SALE, TRAFFICKING AND ABDUCTION

Approach to combat human trafficking

Several groups of children are victims of human trafficking but are invisible to care institutions and the police. They include refugee children in the Netherlands, but also children born here may become victims of different types of human trafficking, such as sexual exploitation and criminal exploitation (forced criminal behaviour or begging).³¹¹ Compared to 8% in 2019, an estimated one-third of all human trafficking victims were minors.³¹² Of the minor victims with a known exploitation form, about 85 percent are victims of sexual exploitation.³¹³

In 2018, the government programme ‘Samen tegen Mensenhandel’ (‘Combatting Human Trafficking Together’)³¹⁴ was launched. This programme focuses on all forms of human trafficking of children

308 Collection of news articles 2015 – 2018:

[Feiten over werkende jongeren in Nederland](#)

[Supermarkten lappen regels jonge werknemers aan hun laars](#)

[Jonge supermarktmédewerkers klagen over onderbetaling en overwerk](#)

309 Inspectorate of Social Affairs and Employment (SZW) (19-02-2020) [Veel overtredingen bij maaltijdbezorgers](#)

310 With regard to child labour, the 2019 human rights report only refers to the Fund for Combatting Child Labour (FBK) and the Child Labour Due Diligence Law, but there is no reference whatsoever to the *Dutch efforts regarding foreign human rights policy about eradicating child labour or holding other states accountable for eliminating child labour*.

311 National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2020) [Human Trafficking Victims Monitoring Report 2015-2019](#)
National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2019) [Factsheet Human Trafficking Offenders Monitoring Report 2013-2017](#)

312 Ibid: [Human Trafficking Victims Monitoring Report](#)

313 Ibid.

314 Commissie Azough (2014) [Hun verleden is niet hun toekomst](#)

and adults and on the different layers of approach: prevention, protection, prosecution. Subjects that received less attention in 2018 were now put on the agenda, such as criminal exploitation of children, an approach to online sexual exploitation and an approach to tackle customers. The Secretary of State has also stated that she will adopt the recommendation of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (hereinafter: the National Rapporteur) to create an impact monitor.³¹⁵ No proposals have been presented as yet.

The approach to combat human trafficking is fragmented, there is still lack of coordination on local, regional and national levels, and too little attention is being paid to prevention.³¹⁶ Municipalities are however obliged to develop an approach to tackle human trafficking by 2022. In 2019, only 145 of the targeted 190 human trafficking suspects were actually prosecuted (compared to 311 in 2012). At the moment there is debate about the target number that should be set for suspects to be identified by the Public Prosecution Service on a yearly basis.³¹⁷ The National Rapporteur’s most recent offender monitor reveals a significant increase in the number of young sexual exploitation offenders: one-third is below the age of 23. An approach focusing on prevention is required.³¹⁸

Recommendations:

- Develop an effective preventative approach focusing on young offenders of sexual exploitation.

315 kst-28638-179 (2020) [Beleidsreactie Slachtoffermonitor 2014-2018](#)

316 National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2020) [Human Trafficking Victims Monitoring Report 2015-2019](#)

317 ah-tk-20192020-3051 (08-06-2020) [Antwoord op vragen van het lid Van der Graaf over de bestrijding van mensenhandel](#)

318 National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2019) [Factsheet Human Trafficking Offenders Monitoring Report 2013-2017](#)

319 NRC (13-01-2020) [2.500 Jonge alleenstaande asielzoekers verdwenen](#); ah-tk-20192020-1730 (14-02-2020) [2.500 jonge alleenstaande asielzoekers verdwenen](#)

320 Argos (25-03-2020) [Staatssecretaris doet of verdwenen Vietnamese amv’ers zijn gaan backpacken](#)

321 Expertise Centre for Human Trafficking and Human Smuggling (EMM) (2019) [De vermissing van Vietnamese amv’s en de relatie van Vietnamezen met mensenhandel en mensensmokkel in Nederland \(2015- 2018\)](#)

and that the police do not deal with missing persons as a matter of urgency. In a policy response, the Secretary of State argued that there is no reason to revise arrangements for protected shelters for UMFNs³²² (from which the 96 Vietnamese minors disappeared). New working practices have been agreed between Nidos, COA and the police about handling cases of missing UMFNs.

Leadership and support for the tracing of UMFNs are lacking at the European level. In 2019, the National Rapporteur underlined the importance of European-wide investigations into disappearances from protected shelters³²³, but the Secretary of State still only mandates investigation within the Netherlands. Criminal investigation into human trafficking has not taken place, despite the evidence. The police and the Public Prosecution Service have said that they will not carry out a criminal investigation because exploitation takes place in other European countries and the Netherlands is just a transit country.

It appears that the missing persons protocol is rarely followed in cases of Dutch under-age victims of sexual exploitation and human trafficking who go missing from youth care institutions. This leaves victims at a higher risk of falling prey to sexual exploitation or human trafficking again.³²⁴ Adequate care and shelter are lacking for this group as well and they are often placed in locked facilities.

Recommendations:

- **Formulate agreements or a protocol for cases of missing UMFNs and of Dutch children who have disappeared from youth care.**
- **Initiate an EU-wide investigation into missing UMFNs and commit to an effective EU system for tracing missing children.**

322 Letter to the House of Representatives (23-03-2020) *Conclusies 2 onderzoeken naar vertrek met onbekende bestemming van (Vietnamese) amv's*

323 National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (29-04-2019) *Onderzoek naar signalen mensenhandel bij verdwenen kinderen*

324 Defence for Children-ECPAT (2019) *Minderjarige slachtoffers van seksuele uitbuiting die weglopen uit de instelling*

325 CRC/C/NLD/CO/4, par. 59

326 It is unknown how many times adult criminal law was applied on 16 and 17 year olds in 2020. Also see page 12 Reservation.

327 Ombudsman for Children (2020) *Afkoelen in de isoleercel; Netherlands' Ombudsman for children (2020) Van bed gelicht.*

328 The Police (2016) *Landelijk reglement arrestantenzorg*

329 RSJ (2019) *Minderjarigen in een politiecel, een advies over duur, verblijf en alternatieve locaties*

330 Also see page 12 Reservation.

JUVENILE CRIMINAL LAW

Implementing previous recommendations of the Committee³²⁵

The Netherlands should be more progressive in implementing European guidelines and the recommendations of the UN Committee on the Rights of the Child. Despite the modernisation of the Code of Criminal Procedure and the implementation of the “Children’s directive” (EU Guideline 2016/800), a child-friendly procedure is still insufficiently guaranteed in juvenile criminal law. The information minor victims and suspects receive and the way in which individual assessments take place both leave much to be desired. Up until now, the government has not taken any action to end the application of adult criminal law on 16 and 17 year olds.³²⁶

Minor suspects that have to stay at the police station, are still not treated in a child-friendly way.³²⁷ The policy with regard to a special custody officer for minors is not sufficiently applied.³²⁸ The RSJ also advises³²⁹ to shorten the time children spent in a police cell to 24 hours, after which the judge decides further on their deprivation of liberty. Furthermore, the right to free legal aid only applies to minor suspects who are arrested and/or held at the police station. Minor suspects and minors below the age of twelve who are not arrested, are not entitled to free legal aid.³³⁰

The urgent request from the UN Committee on the Rights of the Child to make the juvenile criminal law procedure child-friendly by using an alternative settlement, has not been followed up. The government does not intend to provide the

penalty order, issued by a public prosecutor without judicial intervention, with the necessary safeguards. When there is no more than a 20 hour-community sentence or € 115 fine imposed, minors do not have a right to free legal aid.³³¹ The penalty order is however visible on judicial documentation. Children with a migration background and children who are slightly mentally impaired are overrepresented in juvenile criminal law and in detention.³³²

Taking a minor suspects’ DNA is possible and done on a large scale. The minister has not amended policy or law on this, even though there is a Supreme Court³³³ ruling that condemns this and the UN Human Rights Committee did too in 2017.³³⁴ The promised legislative proposal on collecting DNA from minors has not been sent to the House of Representatives. According to the government, courts already work according to the draft legislation, however due to the lack of current legislation judgments from the courts differ.³³⁵

Recommendations:

- **Guarantee a child-oriented procedure in juvenile criminal law and ensure that all minor suspects have a right to free legal aid.**
- **Make the draft legislation on DNA collection applicable law.**

The age for criminal liability

The minimum age for criminal liability is twelve years. In 2019, the police heard 448 children of twelve years old and 1,378 children of thirteen years

old. It is a matter of concern that 26 children aged twelve or thirteen were placed in a young offender institution.³³⁶ The RSJ recommends raising this age limit to 14 or 16 years old and that voluntary or forced youth care for children should be preferred over juvenile criminal law.³³⁷ The state report shows that the government does not intend to raise the age for criminal liability to 14 or 16 years, in line with General Comment no. 24 of the UN Committee on the Rights of the Child.

Recommendation:

- **Raise the age for criminal liability to 14 or 16 years old.**

Juvenile criminal law in the Caribbean Netherlands

As of August 1st, 2020, juvenile criminal law applies in the Caribbean Netherlands.³³⁸ This means that punishments and measures within the juvenile criminal law on Bonaire, St Eustatius and Saba (BES) are based on a pedagogical approach and aim to positively influence behavior. Special provisions on youth are added to the Criminal Code of the BES islands.³³⁹ The HALT settlement was reintroduced and the coordination of community service has been taken care of.³⁴⁰ The introduction of juvenile detention ensures that minors are no longer put in solitary confinement or placed among adults. The ministry however does not guarantee that juvenile prisoners are detained in a separate facility, only that children are placed in separate departments (but within the same facility as adults). In addition, there is no guarantee that minor prisoners will

331 Public Prosecution Service (2020) *Richtlijn en kader voor strafvordering jeugd en adolescenten, inclusief strafmaten Halt (2020R006)*

332 WODC (2017) *Voorlopige hechtenis van jeugdigen in uitvoering. Een exploratief kwantitatief onderzoek naar rechterlijke beslissingen en populatiekenmerken*

333 Supreme Court of the Netherlands (2020) *ECLI:NL:HR:2020:626*

334 UN Human Rights Committee 18 July 2017 (*S.L. v. The Netherlands and N.K. v. the Netherlands*)

335 DNA cases by the Court of Amsterdam Dismissal: RBAMS:2020:4209 ; RBAMS:2020:4204
Well-founded: RBAMS:2020:4201; RBAMS:2020:4202; RBAMS:2020:4210; RBAMS:2020:4206; RBAMS:2020:4212.

336 UNICEF Netherlands and Defence for Children (2021) *Kinderrechten in cijfers 2020*

337 RSJ (2017) *Verhoging strafrechtelijke minimumleeftijd in context Advies over verhoging van de strafrechtelijke minimumleeftijd en het belang van goede jeugdhulp*

338 National Office for the Caribbean Netherlands (27-07-2020) *Jeugdstrafrecht van kracht in Caribisch Nederland*

339 TK 31.568, nr. 209 and its appendix kst-31568-209 (big-868920) including the ‘Title with provisions on youth Criminal Code of the BES islands’

340 WODC (2020) *Invoering jeugdstrafrecht in Caribisch Nederland: een verkenning naar een jeugdstrafrechtmonitor*

be able to stay in contact with their parents or guardians.³⁴¹

Recommendations:

- **Ensure that children are detained in a different facility than adults.**
- **Ensure that children in detention can stay in contact with their parents or guardians.**

Meaningful participation in the criminal procedure

A positive trend can be seen with regard to juvenile restorative justice. According to the ministry, it is important that the possibility of a restorative justice method is considered in each juvenile criminal case, such as mediation.³⁴² However, the implementation of this new policy in practice is insufficient. Young suspects, victims and sentenced children receive insufficient information about restorative justice. A budget of € 300.000,- has been made available for mediation in juvenile criminal law cases. However, in too small a number of cases, a restorative justice intervention is offered or a referral to mediation is considered. Restorative conferences involving their network are not yet possible in juvenile criminal law, even though this has proven to be effective.³⁴³

Certificate of conduct

The government's reaction shows that no attention is paid to the lifelong registration of the details of minors sentenced for a sexual offence in judicial records. This can lead to (life) long difficulties with regard to whether or not a certificate of conduct (VOG) will be issued. It is important for young suspects and sentenced that their criminal data are deleted after their conviction, so that they are given a second chance to rebuild their life.

Recommendation:

- **Use the similar review periods in cases concerning minor sexual offenders as for other juvenile criminal cases.**



³⁴¹ Charles, L. (2020) *Juvenile Justice in the Caribbean Netherlands: Important considerations from a Children's Rights Perspective* in Boom Strafblad nr 1

³⁴² Policy framework *Herstelrechtvoorzieningen gedurende het strafproces (2020)*

³⁴³ Steketee et.al. (2006) *Herstelbemiddeling voor jeugdigen in Nederland*

Wolthuis, A. (2012) *Herstelrecht, een kinderrecht. Voorstellen voor integratie van herstel in het hart van het jeugdstrafrecht (diss.)*.

7 OPTIONAL PROTOCOL

Sale of Children, Child Prostitution and Child Pornography

Sexual Exploitation

An estimated 1,360 minors are sexually exploited each year. The number of reported child victims of sexual exploitation has reduced from 25% of all victims in 2015 to eight percent in 2019 while there is no indication that this problem is actually decreasing.³⁴⁴ In addition, the number of prosecutions of human trafficking cases has seen a decline for years.³⁴⁵

Law enforcement agencies do not make sufficient use of the available digital tools to proactively address and investigate child sexual exploitation. Victims of sexual violence often do not have access to appropriate support in time. Fifteen percent of identified victims of sexual violence did not receive support within six months in the years 2017 and 2018.³⁴⁶ Residential youth care is a last resort, but

of all identified child victims of sexual violence half end up in residential care of which thirteen percent in a secured provision. Improvement of family support services and youth work is needed to offer effective care and support in an early stage so that placement in a secured residential care facility becomes an exception.

Perpetrators of sexual offences are obliged to start receiving treatment and support immediately while victims often have to wait a long time to access the right type of support. Research also shows that victims of sexual exploitation often receive generic care instead of the specialist and trauma informed support that they very much need. Specialist and continued care and support services need to be developed and offered to victims of sexual violence, also after they have turned 18. If not, there is a high risk of revictimisation.³⁴⁷

344 National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2020) *Human Trafficking Victims Monitoring Report 2015-2019*

345 National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2019) *Factsheet Human Trafficking Offenders Monitoring Report 2013-2017*

346 National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2019) *Slachtoffermonitor Seksueel Geweld Tegen Kinderen 2017-2018*

347 Defence for Children (2019) *Help!, Ook Na Mijn 18de*

Recommendation:

- Offer specialised and continued care and support for victims of sexual exploitation, also after their 18th birthday.

Child sexual abuse material

The Netherlands are the biggest hoster of websites containing child sexual abuse materials in the world.³⁴⁸ Of all the material reported to the INHOPE hotlines 77% is hosted in the Netherlands.³⁴⁹

The reports of child sexual abuse materials have increased with 38 percent between 2018 and 2019. It is unclear what this increase can be ascribed to. There seems to be an increase in material that has been recorded and shared as a possible result of grooming, sextortion, manipulation and/ or threats. Combatting child sexual abuse material is a priority of the government. The state has adopted measures for a tougher approach and proposed changes to modernise the sexual offences law.³⁵⁰

However, the very much needed additional (digital) capacity for the sexual offences units of the police are lagging behind, despite the recently announced structural investment of fifteen million euros for these units.³⁵¹

Recommendation:

- Invest in digital expertise and capacity to address online child sexual exploitation proactively.

Sale of children

The sale of children as defined in article 2 and 3 of the first Optional Protocol has not been completely prohibited by law. A legislative proposal to expand the possibilities of altruistic surrogacy and the use of altruistic surrogacy abroad under certain conditions has been put to the House of Representatives. This legislative proposal brings with it risks of children being sold. Therefore a new proposal to criminalise buying children in the context of surrogacy has

been put to the House of Representatives as well.

The distinction between compensation of expenses and the sale of a child is not specified. It is therefore unclear what the difference is between commercial surrogacy and the sale of children and as such surrogacy abroad can lead to the sale of a child. In these cases enforcing the law is under pressure because this is a fait accompli and the child is genetically related to the prospective parents. Here, the law fails to have a preventative effect.

The Intercountry Adoption Commission concludes that the supervision of the government over adoption procedures is insufficient and failed to intervene when things went wrong in the past.³⁵² The commission doubts the possibility of having an adoption system without failures. It is impossible to determine whether an intercountry adoption has been properly established and used as a last resort in accordance with article 21 of the UNCRC. As such the state has decided to suspend all intercountry adoption procedures with immediate effect, per February 2021.³⁵³ The next government will have to take a stand on the future of intercountry adoptions.

Recommendation:

- Work towards putting an end to intercountry adoptions in the coming years.

348 National Center for Missing and Exploited Children

349 EOKM (2020) *Annual Report 2019 Expertisebureau Online Kindermisbruik*

350 Letter to the House of Representatives (20-11-2020) *Autoriteit kinderpornografische en terroristische content*

351 Phased roll out with 10 FTE: kst-35300-11 (19-09-2019) *Motie van lid Klaver c.s.*

Letter Government of the Netherlands (23-06-2020) *Seksuele intimidatie en geweld*

352 Commission investigation intercountry adoption (2021) *Rapport interlandelijke adoptie*

353 Government of the Netherlands (08-02-2021) *Minister Dekker schort interlandelijke adoptie per direct op*

K OPTIONAL PROTOCOL

on the involvement of children in armed conflict

Voluntary military service recruitment

The minimum age for voluntary military service recruitment is 18 years old. Minors of 17 years old can be recruited as aspiring military officers on a strictly voluntary basis. This creates the impression that, in the Netherlands, minors can be part of the military force. This is a contradictory signal to other countries in armed conflicts for which they recruit children. In their 2015 recommendations, the UN Committee on the Rights of the Child called for countries to raise the minimum age of military officers on a trial period to 18 years old and to explicitly criminalise the recruitment of minors by non-State armed groups to strengthen the protection of children worldwide.³⁵⁴ The Netherlands has yet to implement these recommendations.

Refugee status and child soldiers

Article 1F of the Geneva Convention on Refugees states that the provisions of the convention do not apply to those who committed a crime against peace, a war crime or a crime against humanity. In

2003, the Netherlands adopted a regulation on the application of article 1F for child soldiers.³⁵⁵ Children up to the age of fifteen who have committed acts as referred to in article 1F, will not be held accountable for it. Children between the ages of fifteen and eighteen who have participated in armed conflict can however be held responsible for these crimes. This provision to hold fifteen to eighteen-year-olds responsible for the acts referred to in article 1F of the Geneva Convention on Refugees is not in line with the UNCRC.³⁵⁶ The UN Committee on the Rights of the Child recommended the Netherlands to immediately apply the protection measures of article 1F to children between the ages of fifteen and eighteen years, irrespective of the crimes committed.³⁵⁷ The Netherlands has yet to follow up on this.

Extraterritorial jurisdiction

The legislation the Netherlands mentioned in answering the question of the UN Committee on the Rights of the Child does not take into account the

situation of children between the ages of fifteen and eighteen.

Arms export policy

Since 2016, NGOs have been arguing for the integration of a gender assessment in the licensing test for arms exports. This is important, because that way the impact of arms export on women, men, girls, boys and gender non-binary persons is taken into account. The current human rights assessments are mostly superficial and only conducted when a country is known for its human rights violations. In doing so, NGOs invoke the obligations for the Netherlands under the Arms Trade Treaty.³⁵⁸ Despite promises from the relevant ministries, it appears the gender lens will not be implemented. The government argues that 80 percent of Dutch export only consists of components. The government therefore assumes that the majority of Dutch arms exports have no direct link to the unsafety or violation of human and children's rights in the country of final destination.

The return of children from war zones

According to the General Intelligence and Security Service (AIVD), at least 215 children who have or can claim Dutch citizenship reside in Syria or Turkey. Less than a quarter of the minors was taken to the war zone by one or both parents, more than three quarters was born there.³⁵⁹ At least 75 children live in refugee camps in northeast Syria, where the humanitarian situation is very poor.³⁶⁰ The Dutch authorities do not repatriate citizens from war zones; return can only take place when Dutch citizens report to a Dutch embassy outside the war zone.³⁶¹ Not actively repatriating children from these camps is a violation of multiple provisions of the UNCRC, such as article 2, 3, 5, 6, 19 and 34-39, and contrary to the UN Security Council's resolution calling on Member States to facilitate the return of children from war zones.³⁶²

Recommendations:

- Follow up on recommendations 11 and 15 of the UN Committee on the Rights of the Child from 2015 regarding (a) raising the minimum age of aspiring military officers to eighteen years and (b) explicitly criminalising the recruitment of minors by non-State armed groups.
- Follow up on recommendation 19 of the UN Committee on the Rights of the Child from 2015 regarding the application of the protection measures under article 1F on children between the ages of fifteen and eighteen years old, irrespective of the crimes committed.
- Apply the gender lens to arms export and set out clearly what the consequences are for children, also if it concerns components.
- Repatriate children with a relationship to the Netherlands from Syria and protect them.

³⁵⁴ CRC/C/OPAC/NLD/CO/1

³⁵⁵ Government Gazette (11-07-2003) *Toepassing artikel 1F voor kindsoldaten*

³⁵⁶ The Dutch NGO-report 2014 on the implementation of the Optional Protocol to the UN Convention on the Rights of the Child on the involvement of children in Armed Conflict (OPAC)

³⁵⁷ CRC/C/OPAC/NLD/CO/1

³⁵⁸ UNODA, 2014,

³⁵⁹ AIVD (25-03-2021) *Uitreizigers en terugkeerders*

³⁶⁰ ah-tk-20182019-2963 (11-06-2019) *Antwoord op vragen van het lid Sjoerdsma over het bericht dat in 2017 Nederland bijstand verleende aan Nederlandse uitreizigers in Syrië.*

³⁶¹ ah-tk-20172018-655 (12-12-2017) *Antwoord op vragen van het lid Verhoeven over de terugkeer van Nederlanders uit IS-gebied.*

³⁶² UN Security Council (2018), S/RES/2427, *Children in Armed Conflict*

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Through the Coalition for Children's Rights, organisations join forces to protect the interests of the child and supervise the safeguarding of children's rights in Dutch law, policy and practice. The Coalition consists of key members Defence for Children, Kinderpostzegels, the Dutch National Youth Council, Save the Children, Terre des Hommes Netherlands and National Committee UNICEF The Netherlands, and has the Netherlands Youth Institute as their advisor. Besides its key members, the Coalition has many other partners.

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VIOLENCE AGAINST CHILDREN

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- Alles is Gezondheid
- Altrecht
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- Johannes Wier Stichting
- Justlaw
- Kenniscentrum Kinder- en Jeugdpsychiatrie
- Kenniscentrum voor Makkelijk Lerenden
- Kerk in Actie
- Kinderpostzegels
- Learning for Well-being Foundation
- LVAK Landelijke Vakgroep Aandachtsfunctionarissen Huiselijk geweld en Kindermishandeling
- Martijn Schut Advies Sociaal Domein
- Missing Chapter Foundation
- Movies that Matter
- Nationaal Fonds Kinderhulp

- Dutch National Youth Council (NJR)
- Netherlands Youth Institute
- Nederlands Juristen Comité voor de Mensenrechten (NJCM)
- Nederlandse Associatie voor de Studie van Overgewicht
- Nederlandse Vereniging voor Autisme (NVA)
- Nederlandse Vereniging voor Kindergeneeskunde (NVK)
- NNID Nederlandse organisatie voor seksdiversiteit
- OBB creatieve (speel)ruimtedenkers
- Per Saldo
- Pharos
- Plan International Nederland
- Platform Ruimte voor de Jeugd
- Help a Child
- Rutgers
- Rutu Foundation, advancing mother tongue education
- Sam& voor alle kinderen
- Samen Sterk zonder Stigma
- Save the Children
- SOS Children's Villages Netherlands
- Speaking Minds
- Stand Up For Your Rights
- Sterk Huis
- Stichting Alexander
- Stichting Halt
- Stichting JIM
- Stichting JongPIT
- Stichting Kind en Ziekenhuis
- Stichting Kinderen-Ouders-Grootouders
- Stichting Kinderrechten en Menselijke Ontwikkeling: KinderrechtenNU en het Nederlands Genootschap van Kinderburgemeesters
- Stichting LOS (Landelijk Ongedocumenteerden Steunpunt)
- Stichting MIND
- Stichting Ocan
- Stichting Open Mind
- Stichting Project FORSA
- Team-Kim
- Terre des Hommes Netherlands
- TNO Nederlandse Organisatie voor toegepast-natuurwetenschappelijk onderzoek
- Transgender Network Netherlands
- Trimbos-institute
- National Committee UNICEF The Netherlands
- University Leiden
- Valente
- Veilig Thuis
- VeiligheidNL
- Vereniging Sociale Advocatuur Nederland (VSAN)
- Vereniging van Nederlandse Jeugdrechtsadvocaten (VNJA)
- Vereniging van stichtingen Leergeld in Nederland
- Verwey-Jonker Institute
- VluchtelingenWerk Nederland
- Voedingscentrum
- VU University Amsterdam
- WO=MEN Dutch Gender Platform
- Young Amsterdam

COLOPHON

Children's rights in the Netherlands 2015 – 2020

Fifth NGO report of the Dutch NGO Coalition for Children's Rights to the UN Committee on the Rights of the Child

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The children in the pictures are not the children written about in the text.

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