

Children's Rights and the Environment in and related to the Netherlands

Additional submission to the UN Committee on the Rights of the Child by the Dutch NGO Coalition on the Children's Rights, in relation to the State Party Review of the Netherlands.

October 5, 2021

1. Introduction

May 2021, the Dutch NGO Coalition on Children's Rights submitted the *Written inputs to the State Report* to the UN Committee on the Rights of the Child (UNCRC).¹ The report only touched upon the consequences of climate change and environmental pollution on children's rights, despite the theme being one of the major concerns among Dutch children and youth. During the 89th pre-session the Dutch NGO Coalition expressed the wish to discuss this in more detail with Committee members. This resulted in this additional submission and the subsequent meeting on 8 October 2021.

Below we outline the impact of climate change and environmental pollution on children's rights with regard to the environment, and children's civil and participation rights. The Dutch NGO Coalition suggests questions and recommendations to the Netherlands government, for the UNCRC to take into account for the state party review early 2022. More broadly, this submission can contribute towards the discussions around the upcoming General Comment 26 on Children's Rights and the Environment.

2. Concerns raised in the Written input to the State Report

In its report of May 2021, the Dutch NGO Coalition on Children's Rights expressed concerns about:

- **Business and children's rights.** The Netherlands has chosen to not (yet) apply binding rules for human rights due diligence to companies, but instead aims to stimulate companies via sectoral covenants to apply the UN and OECD standards. Evaluations and publications from 2020 show that this policy is not effective; only a small number of companies apply these standards sufficiently. Regardless of many alarming news reports regarding the circumstances of children's rights and the environment specifically in the oil and soy industries, the Dutch government has not changed this policy.
- **Optional Protocol III.** As a root cause and hurdle to accessing children's rights, the NGO Coalition shared that children affected by environmental damage such as air pollution do not have the possibility to file a complaint at the UN, as the Third Facultative Protocol on a Communications Procedure is yet to be ratified.
- **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. The Clean Air Agreement 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.

¹ Dutch NGO Coalition on Children's Rights, 2021, [Written inputs to state report the Netherlands 'Children's rights in the Netherlands 2015-2020'](#).

Recommendations:

- Follow up on the 2015 recommendations 23 a – d of the UNCRC on the impact of the corporate sector on children’s rights 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.
- Ratify the third Optional Protocol to the Convention on the Rights of the Child on a communications procedure.
- Integrate children’s rights into environmental policy, paying specific attention to air pollution reduction in line with WHO standards.

Below, the Dutch NGO Coalition outlines in detail its concerns, questions and recommendations.

3. Healthy Environment

There are major concerns with regards to **the air quality** in the Netherlands. Medical journal The Lancet published in September 2019 that for one in five children with asthma in the Netherlands, the air pollution is a cause.² This is the highest number in the entire of Europe. The research also indicates that this air pollution is mostly caused by nitrogen dioxide from vehicles. Other research³ found that air pollution is unequally affecting children: those with higher socio-economic status are in schools that filter better and provide a better air quality, while many of the schools in high concentration areas with bad or no filters, are schools populated by children with lower socio-economic status.

In Groningen, Northern-Netherlands, **earthquakes are caused by gas extraction**. Children in these areas are especially suffering in their physical health and mental wellbeing, because of the stress they endure and the stress they see their parents enduring, whilst none of the affected are adequately compensated.⁴ No human rights based assessment or approach is in place, only a ‘standard’ environmental impact assessment is conducted. The government does not act when human rights and children’s rights violations are predicted to happen or materialize.

Both the abovementioned concerns about children’s right to a healthy environment can be attributed to the activities of businesses and inaction from the Netherlands’ government.

² Achakulwisut, Brauer, Hystad & Anenberg (2019), [Global, national, and urban burdens of paediatric asthma incidence attributable to ambient NO2 pollution: estimates from global datasets](#), In: *The Lancet Planetary Health*, Volume 3, Issue 4, April 2019, pages e155-e156; and Dutch News, 10-09-2019, [Netherlands has most asthmatic children in Europe: report](#)

³ Emma L. Meelker, Marieke Rotman, Evert de Vos, 04-03-2021, *Leerlingen in kwetsbare wijken ademen vuilere lucht in*, In: [One World](#) en *Niet Fris*, In: [De Groene Amsterdammer](#).

⁴ De Kinderombudsman, 2018, [Rondetafelgesprek over de mentale versterking van Groningen](#) and Rijksuniversiteit Groningen (RUG), Jonx en UMCG, 2019, [Kinderen over ernstige aardbevingsproblematiek: onveiligheid en wantrouwen](#).

Recommendations:

- Conduct a human rights assessment as part of environmental impact assessment and take along children's rights; and
- Provide compensation and support for children in Groningen affected by the earth quakes.

Suggestion for question to the government:

- What measures does the government take to avoid climate change unequally affecting children, preventing larger inequalities between children?
- What measures does the government take to govern the licensing, setting-up, operation, security and supervision of the activities that may cause air pollution and how does it make it compulsory for all those concerned to take practical measures to ensure the effective protection of the citizens, including children, against air pollution?⁵

4. Dutch environmental and climate policy

The **Climate Act** determines by what percentage The Netherlands must reduce CO2 emissions by 2030. To achieve this goal, the government, companies and civil society have concluded a **Climate Agreement**. Part of the Climate Agreement is the **Regional Energy Strategy (RES)**⁶ in which 30 energy regions in the Netherlands will investigate where and how best sustainable electricity on land (wind and solar) can be generated. The Climate Act also establishes that the government must draw up a **Climate Plan**. The first Climate Plan applies to the period between 2021 and 2030.

The Dutch Climate Agreement references children only in relation to education, stating that the next generations should learn from an early age about climate and the environment. They are not recognized as active rights holders and contributors. The National Climate Plan (2021-2030) does not reference children and young people, let alone that their rights are considered explicitly.

In January 2020, the **Clean Air Agreement**⁷ was agreed between the central government, provinces and municipalities to ensure cleaner air. Children are recognized as a group with higher sensitivity to the negative effects of air pollution. In 2021, municipal health services (GGD Nederland), National Institute for Public Health and the Environment (RIVM), municipalities, provinces and central government, with health organizations, work on an advise to tackle the negative health effects for highly sensitive groups.⁸

⁵ See ECtHR on air pollution in Georgia: Jugheli and others versus Georgia nr. 38342/05, 13 July 2017.

⁶ Website of the RES, in English: <https://regionale-energiestrategie.nl/english/default.aspx>

⁷ Clean Air Agreement, see website, in Dutch: <https://www.schoneluchtakkoord.nl/>

⁸ Implementation Agenda Clean Air Agreement, in Dutch: <https://www.schoneluchtakkoord.nl/thema/hoochst-blootgestelde-gebieden-gevoelige-groepen/uitvoeringsagenda-sla-hoochst-blootgestelde/>

Recommendation:

- Put children and children's rights at the heart of climate and environmental policies.

Suggestion for question to the government:

- How does the government ensure a child rights lens is applied to climate change and environmental policies?
- What actions does the government plan to take for children as follow up to the advisory report on the negative health effects of air pollution for highly sensitive groups (including children)?

5. Business and children's rights to the environment

The adverse impacts to the environment in the Netherlands are largely caused by business activities and weak regulation, implementation and enforcement by the government.

Royal Dutch Shell. The Hague District Court has ordered the Royal Dutch Shell group in May this year to reduce its CO2 emissions by net 45% in 2030, compared to 2019 levels, through the Shell group's corporate policy.⁹ The judicial ruling however has not led to any changes in government policy. The responsible secretary of state for Climate has promised a 'deep analysis' into the consequences of this verdict after the summer of 2021, but no such analyses has been published or presented to the House of Representatives.¹⁰

Tata Steel. The pollution and associated risk to local children's' health caused by Tata Steel, and its predecessors are a big concern. A report published by public health institute RIVM in August 2021, shows that the dust in the IJmond area contained extremely high concentrations of hazardous PAHs and heavy metals.¹¹ The report has led to parliamentary majority demanding the state's assistance for a transition to cleaner production.¹² Part of the pollution is caused with Tata Steel acting within its permits conditions, which calls for stricter emission standards if the State want to mitigate/eliminate negative impact on children's health. Local children protested against Tata Steel, concerned about their health & wellbeing.¹³

New permits. Despite the discharge of the carcinogenic pfoa into the surface water by chemical company Chemours, the state is extending permits. Also new permits are handed out for gas drilling in the UN World Heritage Site The Wadden Sea risking the area to sink and emitting more CO2 and even risking this unique area to be severely harmed and disappear.

⁹ Netherlands Council for the Judiciary, 26-05-2021, [Royal Dutch Shell must reduce CO2 emissions](#)

¹⁰ Context of these statements can be found in the Minister's address to parliament; 14 July 2021 "[Beantwoording Kamervragen GL over Uitspraak Rechter Shell](#)".

¹¹ RIVM, 09-03-2021, [Dust in IJmond contains many PAHs and metals](#);

¹² "[Beantwoording Kamervragen GL over Uitspraak Rechter Shell](#)", 14 July 2021

¹³ Youth News Broadcast, 02-09-2021, [Onderzoek: Stof bij staalfabriek is slecht voor kinderen](#)

Latest UPR. Following its latest UPR recommendations the Dutch government confirmed “The Netherlands is committed to preventing involvement of any Dutch companies in human rights abuses”. It also stated that “under certain circumstances, Dutch companies can be held liable in civil or criminal proceedings for extraterritorial human rights abuse. In response to a thorough analysis of how our judicial system measures up to the Guiding Principles for Business and Human Rights (GPBHR), a number of measures have been taken to strengthen access to remedy. However, it remains primarily the duty of the host State to protect its citizens from human rights abuse by domestic as well as transnational companies.”¹⁴

Urgenda. The Climate Case is a lawsuit against the Dutch State about reducing greenhouse gas emissions in 2020 by 25% compared to 1990. This case was brought by Urgenda together with almost 900 co-plaintiffs in 2013. In 2015, the Hague District Court has ruled that the State must take more action to reduce the greenhouse gas emissions in the Netherlands.¹⁵ It is still uncertain whether the State will be able to comply with the *verdict* to lower its emission with 25% in 2020.¹⁶ If we will see proof the target has been met over the year 2020, it's due to the Covid-19 crisis (which brings along less activities and emissions) and not to actions of the government: The first months of 2021 already showed an increase of 11% above the 2020 value, hence the government failing the targets it has to reach, according to a Supreme Court ruling.¹⁷

Corporate Human Rights due diligence. Internationally, from the Netherlands both the State and the private sector impact the environment and global warming negatively. Climate change causes profound injustices and inequality globally. The 33 most vulnerable countries whose children suffer most from the consequences of climate change produce less than 10 percent of all polluting emissions.¹⁸ The Netherlands is a large producer of these emissions.¹⁹ Additionally, it has many companies operating in foreign countries as well. This means the Dutch government is also responsible for the damage it creates internationally. Research shows that children in many low- and middle income countries bear the worst brunt of the changing climate.²⁰ This will be compounded for some children – particularly those exposed to multiple hazards; those living through conflict; those most profoundly impacted by COVID-19; and those experiencing inequality and discrimination on the basis of gender, disability, indigeneity, displacement or other, often intersecting factors.

Since May 2021, no new developments on the front of corporate accountability have occurred due to the lack of any progress in the forming of a new government, and failure to live up to made promises. On October 1st, the outgoing government told the parliament the building blocks of mandatory human rights

¹⁴ UPR Recommendations – See: [The Dutch Response to UPR 2021 on GPBHR, pp 4-5](#)

¹⁵ <https://www.urgenda.nl/en/themas/climate-case/climate-case-explained/>

¹⁶ <https://nos.nl/artikel/2396294-co2-uitstoot-25-procent-gedaald-urgenda-vonnis-mogelijk-toch-gehaald>

¹⁷ <https://www.nrc.nl/nieuws/2021/09/15/klimaatwinst-van-coronacrisis-alweer-verdwenen-kabinet-zal-extra-maatregelen-moeten-nemen-a4058344>

¹⁸ UNICEF, 2021, *The climate crisis is a child rights crisis: Introducing the Children's Climate Risk Index* (page 5)

¹⁹ Statistics Netherlands, 15-03-2021, for more information see <https://www.cbs.nl/en-gb/news/2021/10/greenhouse-gas-emissions-8-percent-down-in-2020> and <https://www.cbs.nl/en-gb/society/nature-and-environment/green-growth/environmental-efficiency/indicatoren/carbon-footprint>

²⁰ Save the Children International, 2021, [Born into the climate crisis](#).

due diligence legislation are (again) postponed²¹, even though the promise for a decision whether to opt for national or EU law was first set for last summer.²² This is unfortunate, because this is a missed opportunity to avoid environmental damage caused by Dutch companies in their international supply chains. The duty of care arising from the UNFCCC and UN Guiding Principles on Business and Human Rights (amongst others) should be translated into national law. Since May 2021, no new developments on the front of corporate accountability have occurred due to the lack of any progress in the forming of a new government. This is unfortunate, because this is a missed opportunity to avoid environmental damage caused by Dutch companies in their international supply chains. The duty of care arising from the United Nations Framework Convention on Climate (UNFCCC) and UN Guiding Principles on Business and Human Rights (amongst others) should be translated into national law. The Netherlands confirmed it is its duty to protect its citizens from corporate human rights violations and environmental damages. This statement is in line with human rights law, but should be put into practice as well.

Recommendations:

- Create clear boundaries regarding business impact on human rights linked to environmental issues in the Netherlands, like climate change and air, water & soil pollution in general, but also on the extraction of natural resources, like the gas exploration by NAM in Groningen.
- Confirm to know and accept the duty to ensure that these companies comply with human rights standards.
- Implement clear and long-term children's rights based targets and goals in domestic law to ensure accountability regarding human rights violations and environmental damage resulting from companies in the Netherlands or abroad from overseas operations of companies registered or HQ in The Netherlands.
- Take urgent and appropriate measures to ensure the Paris targets and the Urgenda Supreme Court targets are met.

Suggestion for questions to the government:

- What specific action did the government take following latest UPR to ensure children are protected against human rights abuses by domestic as well as transnational companies, specifically in relation to climate change, air pollution and water quality?
- What action did the government take to ensure the Paris Climate Agreement and Urgenda Supreme Court targets were met? And Why are the targets not met?
- How does the government ensure that children's rights to a healthy environment are guaranteed in its international value chain? What measures are taken?

²¹ Government Letter, 01-10-2021, [SER-advies inzake bouwstenen IMVO-wetgeving](#).

The "building blocks" are meant to prepare the State for implementation of national or European mandatory human rights due diligence (mHRDD) law.

²² Letter from the Minister, 03-04-2020, [Corporate Social Responsibility](#)

6. Civic and Participation Rights of Children

Children in the Netherlands indicate that climate is amongst their biggest worries.²³ The Dutch NGO Coalition assesses that children's civic and participation rights specifically with regards to the environment, are far from guaranteed in practice in the Netherlands.

School strikes. In February 2019, over 10.000 children and young people in the Netherlands took part in large school strikes in The Hague, to urge the government to take more action. The children and young people demanded a faster transition from fossil fuels to renewable energies, that industries should pay more for their polluting activities, that the consumption of meat would be discouraged and the prices for vegetables would be lowered. Officially, in the Netherlands, students are not allowed to strike as this is seen as playing truant. A number of secondary schools have explicitly granted their permission to students to strike. Sometimes, their teachers and/or parents supported it. There was however also a lot of (and harsh) criticism in the media about these students. The Minister of Education, responded positively to students wanting to protest against climate change, but opposed to absenteeism and stated in the media that 'Saturday would be a great day to strike'. Thousands of students however still showed up at the strike on the 7th of February, a weekday.²⁴

This case illustrates how children's civic and participation rights, specifically their right to association, is discouraged and even restricted. The government seems to have little awareness that children have these rights really. Moreover, their participation rights are made dependent on adults permission and support in the Netherlands.

Children as Environmental Rights Defenders. Both the Human Rights Council and the UNCRC acknowledge children as human rights defenders and environmental rights defenders. Human Rights Council Resolution A/HRC/40/L.22/Rev.1, which bears in mind the Declaration on Human Rights defenders, calls upon governments 'to ensure a safe and empowering context for initiatives organized by young people and children to defend human rights relating to the environment'.²⁵ Children have the right to stand up for their right to a healthy and sustainable environment.

Formal participation of youth. Participation of youth (not children) is formalized in a number of processes within the Netherlands' government. Children below the age of 18 years are not included.

²³ UNICEF Netherlands, 2020, [Youth Advice Report: #Mynewworld](#)

²⁴ For news on the Climate March see:

<https://nos.nl/artikel/2268893-dit-moeten-we-ook-doen-na-belgie-ook-klimaatmars-in-nederland> and <https://www.npo3fm.nl/nieuws/3fm/9c36fc9f-2c4b-4afa-9819-fdb891ad09d3/youth-for-climate-spijbelen-voor-een-betere-wereld>

²⁵ See A/HRC/40/L.22/Rev.1 from the [OHCHR](#): 40th Session

<https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session40/Pages/a>

Dutch Climate Agreement and participation. The National Action Plan includes a modality for participation of citizens in the Regional Energy Strategies (RES). There, a stakeholder group for young people has been formed: JongRES (YoungRES).²⁶ Children below 1You8 are not part of this.

Environment and Planning Act and participation. Child participation is not included in other new laws like the Environment and Planning Act (Omgevingswet).²⁷ The expectation is that the Act will take effect in 2021. Children and youth are not involved for examples in planning a new airport.

UN Youth representatives. The Netherlands has a UN Youth Representative (YR) programme, including a Youth Representative on Sustainable Development. These YR's are usually 18+ and visit schools to be able to represent children and young people from the Netherlands at the (inter)national stage. The YR's are part of the official Dutch delegation at international events. They also have regular bilateral contact with policy makers at the Ministry of Foreign Affairs. While collaboration and contact is well, they feel the engagement remains superficial in their opinion. YR's are often not granted speaking time at conferences, are invited to give input on policy documents, and YR's are more seen as external stakeholders rather than integrated partners in policy development. The YR's are able to get support on topics that are in line with the government's position (e.g. on gender and women's rights), but there is not much room for meaningful support of YR's when topics that they put on the table (also based on what they hear from children and young people in schools), are not in line with the existing priorities.

Advisory Opinion initiative. The World Youth for Climate Justice²⁸, a global campaign by youth to take climate change and human rights to the International Court of Justice, asks for an Advisory Opinion of the ICJ on the responsibilities of governments in relation to climate change. This initiative seeks the support from governments in the General Assembly and is being spearheaded by two YR's from the Netherlands. It's the central focus of their mandate. The Ministry of Foreign Affairs has however not been receptive to the work of the YR's in the past two years. They are not being included in meetings and emails discussing the Dutch position on the Advisory Opinion. Neither is there any support for capacity-building (no lobby or negotiation trainings) that could further the UNYRs work without formally endorsing the AO.

Recommendations:

- Ensure participation of children in policy processes related to climate change and the environment.
- Guarantee the civic rights children have to associate and provide support in their environmental rights defense.
- Support the environmental defense of young people by supporting the Advisory Opinion initiative.

²⁶ Dutch website of Jong RES: <https://jongres.nl/>

²⁷ Government of the Netherlands, [Revision of Environment and Planning Laws](#)

²⁸ Website of World's Youth for Climate Justice: www.wy4cj.org

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Suggestion for questions to the government:

- How are civic and participation rights of children, particularly their right to association, guaranteed with regards to the environment?
- What does the government do to support children in their environmental rights defense?

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