

Submission on behalf of the Netherlands Platform on Human Rights Education to the Committee on Economic, Social and Cultural Rights, regarding the 4th and 5th report on the implementation of the ICESCR submitted by the Netherlands, September 2010

This submission serves to supplement and critically annotate the information provided by the States Party concerning the implementation of art. 13(1) ICESCR, that includes the following aims of education: State Parties “agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace”. The specific legal obligations concerning this article are set out the General Comment on art. 13: States parties are required to ensure that curricula, for all levels of the educational system, are directed to the objectives identified in article 13 (1). They are also obliged to establish and maintain a transparent and effective system which monitors whether or not education is, in fact, directed to the educational objectives set out in article 13 (1).

Believing that, in order for the Committee to fully assess the degree to which the Netherlands has met this specific legal obligation, and complied with earlier UN recommendations, more information is needed than is provided by the government, this submission discusses:

1. *The lack of human rights education in Dutch education*
2. *The ability of the government to address this issue*
3. *The degree to which the Netherlands has fulfilled the agreements made under the first phase of the World Programme on Human Rights Education*
4. *The State Party submission*
5. *Recommendations concerning primary and secondary education*
6. *Recommendations for strengthening human rights education in general*

1. *The lack of human rights education in Dutch education*

Human rights education, in the Netherlands, is not compulsory in most stages of primary and secondary education. It is not mentioned in the general instructional objectives (*kerndoelen*) in the Law on Primary Education¹, and only in passing in the Law on Secondary Education². The legal obligation to stimulate active citizenship and social integration, as included in the abovementioned laws, is defined as “a sense of community” and does not – in contrast to what the State Party submission suggests – demand that schools pay attention to democratic citizenship and human rights education. Instead, it offers schools the choice in emphasizing social competences,

openness towards society, basic values and the rule of the law, and the school as a place to practice citizenship.³ Similarly, the exam programs and core curricula of topics like civic education, geography and history at the various levels of education include no mention of human rights.⁴ The same applies, in general terms, to most of the textbooks used in these courses. A discussion of the Second World War, for instance, will not include reference to the Universal Declaration of Human Rights.⁵ This lack of formal attention seems to relate to a lack of knowledge about human rights, and a lack of acceptance of the rights of others. The comparative international civics and civic education study, in 2010, found the civic competencies of Dutch schoolchildren – for instance their understanding of the political system – to be lower than that of other European peers.⁶ Where it came to the (lack of) acceptance of the rights of immigrants the Dutch children, together with the Flemish, take on an extremely low position. Additionally, the willingness to actively contribute to society is lower than in the surrounding countries. These findings correspond with other research on the knowledge and acceptance of human rights in the Netherlands. The 2009 eurobarometer, for instance, found the Netherlands to be one of the European countries where children were least aware of the existence of the Convention on the Rights of the Child.⁷

How can this be? The general explanation heard from teachers, human rights ngo's and policy-makers alike is that human rights education is voluntary in the Netherlands. Whilst there are many ngo's (partially funded by the government) that employ activities in this field, the knowledge, skills and attitudes that come with human rights education are not included in the formal curriculum, nor are they part of the output monitored by the education inspectorate.

2. The ability of the Netherlands government to address this issue

In its submission, the government states that it “expects the education sector to live up to its own responsibility towards society, deciding for itself how teaching should be organized and structured”. This vision seems to be based upon a particular reading of art. 23 of the Dutch Constitution that enshrines the freedom of education.⁸

The Platform does not agree with this interpretation. The government sets general instructional objectives, is responsible for exam programs as well as the legislation governing the monitoring of, for instance, civic education. In 2010, for instance, it expressed its intention to include attention for sexual assertiveness and sexual diversity in the general instructional objectives of primary and secondary education.⁹ Given its ability to do this, there is not reason why State Party could not comply with its specific legal obligation to ensure and monitor whether educational curricula are directed towards “the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace”. The legal argumentation is even more difficult to follow given the direct applicability of treaty obligations under the Dutch constitution (art. 94), often confirmed in judicial decisions.¹⁰

The line set out by the government in its report is also not in line with its wider policies, and with demands made in this field by parliament, advisory bodies and civil society. For one, the government has repeatedly stated that it would like to initiate a dialogue with civil society on human rights education.¹¹ This dialogue, as we will see later, has however not yet been initiated. In policy documents, the government emphasizes the importance of fundamental values and the rule of law, and the role of education in underlining this importance.¹² This stance is also taken by a great number of advisory bodies to the government. In addition, parliament has, in a number of motions, requested more structural attention for human rights education.¹³ Finally, the Education Inspectorate, under the constitutional obligation to submit a yearly report on education in the Netherlands, over the past years has – in increasingly strong terms – expressed concern about the lack of attention for democratic citizenship and for cultural diversity in the context of civic education, and the “patchwork” character of its implementation. It has asked the government to provide clearer guidelines, sample materials and monitoring mechanisms to ensure structural attention for democratic citizenship.¹⁴

In conclusion, the Dutch government seems to have both the legislative means and the necessary societal and political support to comply with its obligations under – amongst others – art. 13(1) ICESCR.

3. Living up to the 1st phase of the WPHRE

The obligations of State Party under art. 13(1) have most recently taken the form of the agreement to formulate a National Plan of Action for Human Rights education. The Netherlands signed the UN Resolution A/59/525/Rev.1 and thus supported its main objectives: To promote the inclusion and practice of human rights in the primary and secondary school systems; To support the development, adoption and implementation of comprehensive, effective and sustainable national human rights education strategies in school systems, and/or the review and improvement of existing initiatives; To provide guidelines on key components of human rights education in the school system; To facilitate the provision of support to Member States by international, regional, national and local organizations; To support networking and cooperation among local, national, regional and international institutions. It also committed to undertaking the four phases of the implementation strategy: 1) An analysis of the current situation of human rights education in the school system 2) Setting priorities and developing a national implementation Strategy 3) Implementing and monitoring and 4) evaluating.

To what extent has State Party lived up to these obligations? In April 2007, it organized a networking meeting as a start to the National Plan of Action. It also stated in the UPR that it had “devised an action plan together with the relevant stakeholders to consolidate and more clearly define the place of human rights education in society”¹⁵ This was reiterated in the State report under the CRC: “The present government is drawing up an action plan on human rights education in collaboration with non-governmental organisations and other stakeholders, in order to implement a motion adopted by parliament, and as part of the UN’s World Programme for Human Rights Education. The action plan will both catalogue current activities in this area, and identify any gaps that need to be filled”.¹⁶

The Netherlands Platform on Human Rights Education still has to witness the drawing up of this action plan, as well as the intended consultation upon it. This, however, does not mean that the government has done nothing whatsoever. For one, it has supported the formulation of a stimulation plan on human rights education that seeks to explore how human rights could potentially be included in the civic education curriculum. This plan, for all its merits, is entirely voluntary: schools can sign up for a pilot program, that could lead to a – voluntary – curriculum in this field. Similarly, the government has supported a Human Rights Research project, as part of the wider initiative to set up a House of Democracy. Whilst 50 schools participated, this is only a fragment of the Dutch schools and does not ensure structural attention for human rights education.

The Action Plan asks for governmental initiative, and cooperation with – amongst others – non-governmental organizations. Over the past years, the Platform has found the willingness of the Minister of Education to consult and to cooperate to be lacking. The above-mentioned dialogue was never initiated and letters remained unanswered. As an indication, the Platform has yet to receive the governmental mid-term report on the World Program on Human Rights Education, in spite of numerous requests to be forwarded a copy.

Given the above-mentioned short-comings in the field of human rights education, the time lost in this matter is to be regretted.

4. The State Party submission

Given the above, the State Party submission gives rise to a number of questions. For one, the statement that “Since 1 February 2006 schools have been legally obliged to promote citizenship and social cohesion. The Government has commissioned guidelines to help schools in this task (*Een basis voor burgerschap*, Stichting Leerplanontwikkeling, Enschede, March 2006). The guidelines explicitly mention human rights as an integral part of citizenship education”, does not seem to be entirely accurate. Citizenship is indeed a legal requirement as of 2006, and the government has commissioned the guidelines, which have a voluntary and advisory character and are not used by all schools. In the formal regulatory framework, however, the government has refrained from connecting civic education to democratic citizenship and human rights education, explicitly opting for an operationalization that emphasis social values more than fundamental rights. It does, in short, set “attainment targets” and general objectives, but has opted not to include human rights and democratic citizenship in them.

5. Recommendations concerning primary and secondary education

The Netherlands Platform would respectfully ask the Committee to urge State Party to take the following measures:

- * Amend the general instructional objectives as added to the Law on Primary Education and the Law on Secondary Education in order to explicitly include democratic citizenship and human rights education
- * Revise the Regulation on Civic Education (*Toezichtkader Burgerschap*) in order to make attention for democratic citizenship and human rights education a compulsory element of civic education
- * Follow the recommendation of the Education Inspectorate to ensure that civic education does not become a patchwork through providing clear guidelines, and

making available sample learning materials and research on best practices in this field

* Make the effort above into the core of the Dutch Action Plan, and carry out all other elements (including consulting, setting policy priorities, implementing and monitoring)

* In doing so, respect the freedom of education that is the core of the Dutch educational system: the government has the freedom – and the obligation – to indicate *what* should be taught, but it is up to schools to decide on *how* to do this

7. *Further recommendations for strengthening human rights education*

The Netherlands, in the coming years, is in a well-placed position to strengthen attention for human rights education. For one, a bill to put in place a National Human Rights Institute is discussed in parliament at the end of 2010. Following the Paris Principles, education will be one of the main tasks of the Institute, and it is to be recommended that the organization and its budgeting will take this into account. In addition, the new-to-be formed House of Democracy will stimulate knowledge of the rule of law and fundamental rights. Here, a key challenge is to acknowledge the place of universal human rights within a democracy like the Netherlands, and the way in which the Dutch state is interwoven with the European and international community. Finally, the focus in the 2nd phase of the World Programme - on higher education and on human rights training programmes for teachers and educators, civil servants, law enforcement officials and military personnel – is much needed in the Netherlands as well.

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¹ (Nb: all references will be given in Dutch, but are on file with the Platform and can be translated should the Council so desire). Wet op het Primair Onderwijs, Besluit Vernieuwde Kerndoelen WPO

² Wet op het Voortgezet Onderwijs, Besluit Kerndoelen Onderbouw VO

³ Toezichtkader Actief Burgerschap en Sociale Integratie

⁴ See: B.Oomen & M. Vrolijk, *Inspiratie voor Mensenrechteneducatie: democratisch burgerschap en mensenrechten in het (burgerschaps)onderwijs*. 2010. Leiden: Stichting NJCM-boekerij 50, forthcoming

⁵ Platform Mensenrechteneducatie, *Gemiste Kansen?: Aandacht voor Mensen- en Kinderrechten in het Nederlandse Onderwijs Verslag van een voorlopig onderzoek*, 2008 and S. El Onsri et al., *Mensenrechten: Onderzoek Naar Mensenrechten in Lesmateriaal Voor Het Basisonderwijs*, 2010

⁶ R. Maslowski et al., *Eerste Bevindingen International Civic and Citizenship Education Study: Rapportage Voor Nederland*, 2010

⁷ European Commission, *Flash Eurobarometer: The Rights of the Child Analytical Report*, 273, 2009

⁸ See also the Dutch reply to the UPR discussion in the 8th session of the Human Rights Council, A/HRC/8/52, 549

⁹ Kamerstukken 27 017 Homo-emancipatiebeleid, Nr. 66 BRIEF VAN DE MINISTER VAN ONDERWIJS, CULTUUR EN WETENSCHAP, 5 februari 2010

¹⁰ For instance HR LJN: BK4549, 9 April 2010 (SGP)

¹¹ Kamerstukken, 31 700 V Vaststelling van de begrotingsstaten van het Ministerie, nr 72, 8 December 2008, *intention* repeated in a letter to the Platform by the Secretary General dated 8 June 2009

¹² Onderwijsraad, *Onderwijs En Burgerschap*, 2003, Ministerie van Binnenlandse Zaken. 2005. Nota Grondrechten in een Pluriforme Samenleving, 22 en passim, Wetenschappelijke Raad voor het Regeringsbeleid, 2003. *Waarden, Normen en de last van het gedrag*. Edited by De Wetenschappelijke Raad voor het Regeringsbeleid. Amsterdam: Amsterdam University Press; WRR. 2002. *De Toekomst van de Nationale Rechtsstaat*. Edited by De Wetenschappelijke Raad voor het Regeringsbeleid. Vol. 63, *Rapporten aan de Regering*. Den Haag: WRR; Commissie Uitdragen kernwaarden van de rechtsstaat. 2008. Onverschilligheid is geen optie: de rechtsstaat maken we samen. Den Haag: Minister van Justitie en de Minister van Binnenlandse Zaken en Koninkrijksrelaties; Raad voor de Maatschappelijke Ontwikkeling. 2007. Vormen van Democratie: een advies over democratische gezindheid. Den Haag: Raad voor de Maatschappelijke Ontwikkeling; IPP, *Met Allen Die Zich in Nederland Bevinden....Actieplan Democratische Rechtsstaat*, 2008

¹³ See the motions passed on 24 Februari 2005, kamerstuk 29 614, nr 5, 1 November 2007, kamerstuk 29 754, nr. 115, oorgesteld 18 december 2008, kamerstuk 31700 VII, nr. 125

¹⁴ Cf Inspectie van het Onderwijs, *De Staat Van Het Onderwijs: Onderwijsverslag 2008/2009*, 2010, p. 274

¹⁵ National Report of the Kingdom of the Netherlands for the Universal Periodic Review, February 2008

¹⁶ Third periodic report by the Netherlands on the implementation of the UN Convention on the Rights of the Child