

# Netherlands Institute for Human Rights

## Report

To the 84<sup>th</sup> session of the Committee on the Rights of the Child  
pre-sessional working group for adoption of the list of issues  
prior to reporting for the Kingdom of The Netherlands (5<sup>th</sup> and  
6<sup>th</sup> report)

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## 1 Introduction

By presenting this report, the Netherlands Institute for Human Rights (hereinafter: “the Institute”) aims to provide the Human Rights Committee with relevant information regarding the implementation of the Convention in the Netherlands for its adoption of the list of issues prior to reporting.

The Institute constitutes the National Human Rights Institution of the Netherlands and has been accredited with an A Status since May 2014. The Institute protects, monitors, explains and promotes human rights in the Netherlands through research, advice, and awareness raising. Its mandate also covers urging the government to ratify, implement and observe human rights treaties. One instrument used by the Institute to carry out its mandate is reporting to human rights treaty bodies, including the Committee on the Rights of the Child.

In this contribution the Institute will not address all topics covered by the Convention on the Rights of the Child (hereinafter: “the Convention” or “CRC”). This does not necessarily imply that the Institute believes those topics not addressed are sufficiently observed or that the Committee need not consider them.

The Institute notes that various issues affecting children’s human rights are high on the agenda of the government. These include domestic violence against children and children living in poverty. The government has taken a number of policy measures. However, the Institute observes that such policy plans do not always contain clear indicators and benchmarks formulated on the basis of children’s human rights. As a consequence, it is unclear how progress in the implementation of the Convention - or the lack thereof - will be measured.

There are various matters which deserve more vigorous actions by the government. The Institute highlights a number of issues of serious concern. These include the issue of stateless children and children registered with ‘nationality unknown’. A second issue the Institute wishes to draw the Committee’s attention to, is the question of children’s equal opportunities in education. The Institute has included in its report a number of examples where children’s right to education is a point of concern from a human rights perspective. These include children with disabilities and their right to access to good quality education and equal opportunities for children from poorer households.

## 2 General measures of implementation (arts. 4, 42, 44(6) CRC)

### 2.1 Awareness about children's rights

Dutch children are relatively uninformed about human rights and children's rights. This lack of knowledge is at least partially rooted in the way human rights education is embedded within the education programmes. In Dutch schools, human rights are a topic within the civic education courses, but in practice, how and whether human rights are practically included in the curriculum is highly dependent on the enthusiasm of individual teachers and non-governmental organisations that provide teaching materials.<sup>1</sup> The government acknowledged that human rights and children's rights should play a bigger role in education. Subsequently, the new national curriculum for primary and secondary education will most probably assign a more prominent place to human rights and children's rights within citizenship education.<sup>2</sup> The same holds true for the draft amendment on the Law on Active Citizenship and Social Inclusion. Yet, the questions about implementation remain as the factors which impeded human rights education in the past remain in place. For instance, many Dutch schools and teachers give human rights education little priority, furthermore teachers experience difficulties in discussing human rights due to their lack of knowledge.

The Institute itself has recently published a Toolbox on human rights at school. This was developed in close cooperation with NGOs with practical experience on human rights education, as well as with education professionals. The Toolbox has been made available without charge and has been downloaded and ordered approximately 1.400 times.

Suggestion for question:

What measures will the government take to ensure that all schools and teachers give proper attention to human rights education and in particular on children's rights?

## 3 General principles (arts. 2,3, 6 and 12 CRC)

### 3.1 Access to justice in civil proceedings (art. 12 CRC)

Minors have the right to be heard and their views should be taken into account in legal matters that concern them. Under article 12 CRC, they should be provided with the opportunity to participate in civil proceedings.<sup>3</sup>

Under Dutch civil law, minors have no legal standing and can therefore not initiate nor participate in legal proceedings. Their legal representatives act on their behalf in civil proceedings (art. 1:245, paragraph 4, Civil Code).<sup>4</sup> In case of a conflict of interests between the minor and the legal representative, a guardian *ad litem* can be appointed by the court. In the past decades, more possibilities have been included in the law, creating the possibilities for minors to participate in proceedings independently from their legal

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<sup>1</sup> Netherlands Institute for Human Rights, *Mensenrechten op school*, Advies. [Human rights at school. Advisory report], July 2015.

<sup>2</sup> See <https://curriculum.nu/ontwikkelteam/burgerschap>

<sup>3</sup> The information in this section is based on an interview with prof. dr. M. Bruning, Leiden University, who leads a team of researchers investigating this issue at the request of the government. The report of this research is expected to be published in September 2019.

<sup>4</sup> This provision reads: Authority over a minor covers the person of the minor, the administration of his property and his representation in performing acts on the field of civil law, both in and out of court.

representative on specific issues. As a consequence, under civil law there are currently many different rules affecting minors' legal standing in proceedings. These rules are inconsistent and unclear. In the past five years, only a few minors have been able to make use of the possibilities to initiate legal proceedings.

Dutch minors consider the possibility to be heard in civil proceedings of great importance. Civil procedural law provides for the opportunity for minors from the age of twelve to be invited by the judge to be heard. Only under rare circumstances, the judge can decide not to invite the minor to be heard. Children under the ages of twelve may be provided with the opportunity to be heard. In practice, however, this rarely happens. The practice with regard to hearing children differs from court to court. Courts of first instance, appeal courts and judges have different practices in the way in which they conduct the hearing of children. Also, practice differs as regards the contents of these hearings and the status these have in the decision making process. Finally, the way in which minors are informed of court decisions varies.

Dutch legal scholars have repeatedly recommended the strengthening of the legal position of minors. However, the government continues to adhere to the principle of procedural incompetence as laid down in the Civil Code. It regularly refers to the possibility to appoint a guardian *ad litem* as an additional possibility for minors to participate in civil proceedings if their legal representatives cannot or do not want to support their child in the proceedings. While there have been improvements as regards the guardian *ad litem*, in the past five years, a significant number of requests to appoint a guardian *ad litem* has been rejected. Only in a relatively limited number of family law and youth law cases, a guardian *ad litem* plays a role.

In conclusion, Dutch practice on the participation of children in civil proceedings is not in conformity with the CRC. The strict adherence by courts to the age limit defined in law is a point of concern. Children under the age of twelve are rarely heard by courts. They should be supported in order to be able to participate in civil proceedings. Further, it is necessary to improve the right to access to court for minors.

Suggestion for questions:

What steps will the government take to improve the participation of minors, also under the age of twelve, in civil proceedings?

What steps will the government take to improve the right to access to court for minors?

### **3.2 Childhood statelessness and the right to a nationality (arts. 7 and 8 CRC)**

For children, being stateless means being exposed to a higher risk of infringement of children's rights, in a number of areas. First, childhood statelessness is an infringement of the right to a nationality as guaranteed in articles 7 and 8 CRC). The consequences of not having a nationality are grave. For example, in many cases, social benefits cannot be applied for if children are stateless. This increases the risk of growing up in poverty. This issue was addressed in the Committee's concluding observations adopted in 2015. It welcomed that the government was in the process of amending the Nationality Act in order to extend the access to Dutch citizenship for stateless children born in the Netherlands

without a legal residence permit. It noted, however, that the proposed amendments do not extend such right to children whose parents did not cooperate with the State party's authorities.

It made the following recommendation:

'The Committee recommends that the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to citizenship without any conditions. In particular, it recommends the State party not to adopt the proposed requirements of parents' cooperation with the authorities.'<sup>5</sup>

Guaranteeing the right to a nationality for stateless children requires a procedure under which statelessness is established. However, the government has not complied with the recommendation by the Committee and there is still no such procedure in the Netherlands. As a consequence, individuals, including children, who may be stateless, belong to the group 'nationality unknown'. They can neither prove that they have a particular nationality, nor that they do not have a nationality. This does not offer adequate legal protection, since they cannot enjoy the protection under the conventions on stateless persons.

In 2016, the government adopted a legislative proposal, concerning a procedure to establish statelessness. This has not yet been sent to the Dutch Parliament.<sup>6</sup> The proposed bill offers the possibility of having statelessness established by the civil courts. However, the proposed bill does not comply with the Committee's recommendation. In particular, the proposal contains the requirement of parents' cooperation with the authorities. This requirement is not in conformity with article 3 of the Convention.

Suggestion for question:

What steps will the government take to adopt the necessary legislative measures in order to eradicate statelessness of children in the Netherlands and to guarantee children's right to a nationality?

Another issue regarding statelessness concerns the absence of a national policy regarding the registration of statelessness. This current registration policy differs per municipality, which results in a lack of data on the number of stateless children in the Netherlands. In addition, insufficient distinction is made between children born in the Netherlands or elsewhere and children with or without a residence status. Therefore, the unclear procedures for registration of these children might impact their rights as well.

Suggestion for question:

Please provide information to clarify the current policy and practice regarding the registration of stateless children in the Netherlands and the collection of data on their numbers and position.

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<sup>5</sup> CRC Committee, Concluding observations on the fourth periodic report of the Netherlands, CRC/C/NDL/CO/4 (2015), par. 33.

<sup>6</sup> National law on the determination procedure for statelessness, [www.internetconsultatie.nl/staatloosheid/details](http://www.internetconsultatie.nl/staatloosheid/details), last visited 9 May 2019.

## 4 Violence against children (arts. 19, 24(3), 28(2), 34, 37(a) and 39 CRC)

### 4.1 Violence against children in the private sphere (art. 19 CRC)

Research has shown that on an annual basis an estimate of between 90,000 to 127,000 children experience at least one form of maltreatment. This not only concerns physical and sexual abuse, but also cases of serious neglect. Among these children 29% has experienced more than one form of maltreatment.<sup>7</sup> It is not known in how many cases this involves girls respectively boys.

Violence in the domestic sphere often goes unnoticed because it literally takes place behind closed doors. There have been various campaigns to raise awareness about (domestic) violence against children. The approach to combat domestic violence and violence against children is enshrined in legislation and the programme ‘Violence does not belong at home’, that has been adopted by various ministries.<sup>8</sup> However, the programme does not contain concrete benchmarks.

The Institute appreciates that domestic violence against children is accorded a high priority by the government. The awareness raising of the scope and gravity of domestic violence against children is a crucial step in combating and eliminating this serious problem. At the same time, the increased awareness is likely to increase the workload for support institutions. The question is, whether these have the necessary capacity to deal with the increasing demand for help and support and to deal with the complexity of cases.

As from 1 January 2015, the responsibility for preventing domestic violence and providing support and protection, rehabilitation and care to victims has been vested in the municipalities. This allows for individualised approaches, which is a positive development. However, in practice, specialist care provided to victims is often lacking. Nor is the quality and capacity of the support and protection services offered properly supervised on the national level. Waiting lists continue to exist. The risk exists that this waiting period will become longer and that, in time, urgent reports, too, cannot be processed directly. It is observed that the waiting lists are the result of a successful campaign to the general public to report cases of (suspected) domestic violence. Many municipalities do not have sufficient capacity to deal with all reported cases. These include reports of cases classified as ‘troubling’.

Suggestion for questions:

How will the government monitor the effect of its policies?

What does the Government intend to do to ensure that all victims of violence have access to high-quality protection and support services and specialist aid at the local level without delay?

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<sup>7</sup> Research and Documentation Centre, Netherlands’ prevalence study on maltreatment of children and youth [Nationale prevalentiestudie mishandeling van kinderen en jeugdigen], 2018.

<sup>8</sup> Ministry of Justice and Security, Ministry of Health, Welfare and Sport, Association of Netherlands Municipalities, Violence does not belong at home, Dealing with domestic violence and violence against children [Geweld hoort nergens thuis. Aanpak huiselijk geweld en kindermishandeling], 2018.

## 4.2 Sexual violence against children, including children with disabilities (19, 34 & 39 CRC)

A specific source of concern are child victims of sexual violence. The National rapporteur on trafficking in human beings and sexual violence against children established that child victims of sexual violence are often placed in a closed institution, in particular if the victim is a girl.<sup>9</sup> It has also been found that in closed settings, a substantial number of children has a (minor or moderate) intellectual disability.<sup>10</sup> It may therefore be assumed that many children with intellectual disabilities, in particular girls, who are victims of sexual violence, are placed in closed settings.

In order to offer children the best possible protection against violence, policy measures should distinguish between the different types of victims. Girls with a(n) (intellectual) disability appear to be very vulnerable to various forms of violence, including sexual exploitation. An approach that is both gender sensitive as well as sensitive to disability will be more effective in the battle against sexual violence.

Suggestion for question:

What measures will the government take to guarantee that different types of victims will be given appropriate help and support, tailored to their specific needs?

Various abuses and infringements of rights of children placed in closed settings have come to light. Research has shown that children are placed in closed youth institutions, while this is neither legitimate nor necessary. This is due to lack of capacity and insufficient supervision.<sup>11</sup> Custodial measures can be imposed without being pedagogically justified nor sufficiently securing the rights of children.

Suggestion for question:

How does the Government intend to tackle abuses within Child Welfare institutions as a matter of urgency?

## 5 Disability, basic health and welfare (arts. 6, 18 (para.3), 23, 24, 26, 27, (paras. 1-3) and 33)

### 5.1 Children's right to health (art. 24 CRC)

The correlation between poverty and health is clearly visible in the Netherlands. The Institute addressed this in its 2016 Annual Status Report.<sup>12</sup> Research shows that on average, people on lower incomes, with poor education, live 7 years less and even 19 years less in good health than those with a better education.<sup>13</sup> These are significant differences. The

<sup>9</sup> Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen, *Slachtoffermonitor seksueel geweld tegen kinderen 2016* (Monitor on child victims of sexual violence 2016). Den Haag: Nationaal Rapporteur, 2018, section 7.1.5. This issue is addressed extensively in the submission by the National Rapporteur to the CRC Committee.

<sup>10</sup> M. Dirkse et al. Meisjes in JeugdzorgPlus, Een onderzoek naar genderverschillen in problematiek, behandelplan en genderspecifiek werken, (Girls in intensive youth care. An investigation into gender differences in problems, treatment and working genderspecifically) Amsterdam: NCSR, 2018, p. 9.

<sup>11</sup> M. de Jong- de Kruijf, Legitimiteit en rechtswaarborgen bij gesloten plaatsingen van kinderen, (Legitimacy and legal guarantees for closed placements of children), Den Haag: Boom, 2019.

<sup>12</sup> Netherlands Institute for Human Rights: Poverty, social exclusion and human rights. Utrecht: 2016.

<sup>13</sup> RIVM, 'Een gezonder Nederland' (A healthier Netherlands), Volksgezondheid Toekomst Verkenning (Public Health, Future Investigation) 2014.

variances are gradual: each step higher on the social ladder means a health-related benefit. For decades, the government has been trying to tackle health shortfalls among lower income groups. But the differences have not changed and are even increasing in certain areas.<sup>14</sup>

It is a self-reinforcing process whereby cause and consequence are firmly intertwined. Bad health has a negative impact on education and societal participation more generally. Poor living conditions lead to deteriorating health. The CBS concludes that deficiencies in health and lifestyle are ultimately determining factors for the degree of social exclusion.<sup>15</sup>

It is a positive step that the government has adopted the National Prevention Agreement, aimed at improving health. It aims, among others, at preventing and combating obesity. Other spearheads include: combating smoking, excessive use of alcohol, diabetes and depression. The target group of children is explicitly included in this integrated approach by providing information about healthier eating patterns and sufficient exercise.

One in seven children in the Netherlands is overweight.<sup>16</sup> Obesity among children is indirectly related to poverty. Obesity is more common among children from low-income families. Among children from low-income families, this problem is three times more prevalent than among families with high incomes. It is therefore a point of concern that the government decided to introduce a three percent VAT increase on food products in January 2019. As a result, many healthy food products, such as fruit and vegetables, have become more expensive. This measure is likely to affect low-income families disproportionately and can therefore have a detrimental effect on efforts to reduce obesity among children.<sup>17</sup>

Suggestion for questions:

How will the government monitor the effects of the National Prevention Agreement on advancing the right of children to the highest attainable standard of health?

How will it monitor the effects that policy measures have on the effectiveness of the programme? In particular, what measures will it take to mitigate the impact of the increased VAT rates for healthy food products if this measure indeed has a negative effect on combating overweight among children?

## 5.2 Access to youth care

Since 2015, municipalities have a crucial responsibility in guaranteeing access to youth care. From the start of the transition of responsibilities, numerous reports have been published about timely access to youth care and concerns about the quality of care. Waiting lists continue to exist, and adequate specialist care is not accessible timely for all children. The children in the most vulnerable situations are affected most. The Children's

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<sup>14</sup> Mackenbach and Stronks, *Volksgezondheid en gezondheidszorg (Public Health and healthcare)*, 2016; CBS, *Armoede en sociale uitsluiting (Poverty and social exclusion) 2015*, p. 75.

<sup>15</sup> CBS, *Armoede en sociale uitsluiting (Poverty and social exclusion) 2015*, p.75.

<sup>16</sup> RIVM, 'In 2030 passende zorg voor alle kinderen met overgewicht en obesitas' (In 2030 appropriate care for all overweight and obese children), 7 February 2019.

<sup>17</sup> H. van Dijk (ed.) *De populatie als patiënt. Vijftig jaar sociale geneeskunde (The population as a patient. Fifty years of social medicine)*, Amsterdam: AMC/UvA, 2011, p. 112 et seq.

Ombudsman addressed this issue in detail in her annual report to parliament.<sup>18</sup> The Institute shares the concerns expressed by other experts. Despite various measures taken by the government, serious problems continue to exist.

Suggestion for question:

What measures will the government take to guarantee timely access to youth care of good quality for all children?

### 5.3 Health and wellbeing and safety of lesbian, gay and bisexual children

Dutch schoolchildren and young adults who identify as lesbian, gay or bisexual (LGB) report higher levels of psychological problems than their heterosexual peers. For example, LGB schoolchildren report problems with other children twice as often as heterosexual children, while LGB young adults (ages 16-25) report feeling depressed twice as often as heterosexual young adults.<sup>19</sup> Dutch LGB young adults also report having suicidal thoughts and attempting suicide far more often than their heterosexual peers. For instance, 9% of LGB youth reports having attempted suicide, compared to only 2% of heterosexual youth.<sup>20</sup> The differences in psychological problems between LGB and heterosexual schoolchildren and young adults show that even in the Netherlands, a country which is relatively accepting and tolerant of sexual diversity, LGB children and young adults have significantly worse experiences than heterosexual peers and might need additional care while going through a vulnerable youth period.

Suggestion for question:

What measures will the government take to improve the health of LGB children and youth and to ensure that LGB children receive adequate care and support?

## 6 Adequate standard of living (art. 27 CRC)

### 6.1 Children in long-term poverty

Poverty has been on the rise in the Netherlands as result of the financial crisis. Statistics show that while short-term poverty seems to stabilise for the coming years, long-term poverty continues to rise. This especially has an impact on the number of children living at risk of poverty. National anti-poverty policies largely focus on economic aspects of poverty. Municipalities have a large responsibility in combating poverty and supporting individual households.

In the Netherlands, 1 in 9 children grows up in poverty. In 2017 277,000 children lived in a low-income household and are at risk of poverty; this concerns 8,5% of all children in the Netherlands. The slight decrease in the number of children growing up in such conditions which was visible since 2014 has not continued persuasively if we observe the figures for 2016 and 2017. Furthermore, nearly 110,000 children have been living in a low-income household for at least four years. In the Netherlands, this is considered to constitute long-

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<sup>18</sup> Kamerstukken II, 2018-2019, 35135, no. 2. Since this issue will be addressed in detail in the Children's Ombudsman's own contribution to the Committee, the Institute will not duplicate her concerns.

<sup>19</sup> Netherlands Institute for Social Research (SCP), *Jongeren en seksuele oriëntatie* (Youth and sexual orientation), The Hague: SCP, 2016, p. 99-100.

<sup>20</sup> SCP, Youth and sexual orientation, p. 100-101.

term poverty.<sup>21</sup> Children living in single parent households, families living on social benefits, as well as children in families with a non-western background are particularly at risk.

Several studies have shown that growing up in poverty is detrimental in the long term.<sup>22</sup> Children who grew up in poverty are, on average, more likely to be socially excluded as adults than children who have not experienced poverty. The factor which is most significant in this transfer of poverty is the educational level of the parents. The educational level achieved by children impact upon their employment chances and, in turn, upon the likelihood of poverty and social exclusion as adults.<sup>23</sup>

Poverty has major impact on various issues related to the rights of the child, such as education, health and physical integrity. Research by the Children's Ombudsman has shown that children from poor families often worry about the financial situation at home, about the possibility of being evicted, and about the costs of their future education. She has noted that policy aims at improving children's lives outside from home, rather than at improving the unstable and uncertain living conditions at home that are caused by poverty.<sup>24</sup> Growing up in poverty also increases the risk of poverty in adult life. The Netherlands Institute for Human Rights has repeatedly called for a human rights based approach to combat poverty, which will contribute to breaking the cycle of poverty.<sup>25</sup>

Suggestion for question:

What measures will the government take to structurally combat poverty among children?

## 6.2 The right to adequate housing (art. 27 CRC)

Some children growing up in poverty are at risk of becoming homeless. Homelessness is a pressing social issue since it has a major influence on several other rights of children, for instance the right to education, an adequate standard of living, and the right to family life. It is an increasing problem in the Netherlands.<sup>26</sup> The official number of homeless people in the Netherlands increased in the period of 2010-2016 from 23.300 to 30.500, according to Statistics Netherlands.<sup>27</sup> Others report higher figures: the Federation shelter reports a number of 70.000.<sup>28</sup> In some cases of homelessness, children are separated from their parents. This occurs for instance because families are not allowed to stay together in shelters for homeless people due to lack of capacity.<sup>29</sup> In such cases, children can be

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<sup>21</sup> Statistics Netherlands, *Meer huishoudens met risico op armoede in 2017* [More households at risk of poverty in 2017], [www.cbs.nl](http://www.cbs.nl).

<sup>22</sup> Social and Economic Council (SER), *Armoede onder kinderen, een probleemschets* (Poverty among children- a problem analysis), The Hague: SER, 2017, p. 15.

<sup>23</sup> SER 2017, p. 15

<sup>24</sup> Kinderombudsman, *Notitie kindgericht armoedebeleid* [Note on child oriented policy on poverty], 2019, [www.dekinderombudsman.nl](http://www.dekinderombudsman.nl)

<sup>25</sup> Netherlands Institute for Human Rights, *Annual Status report human rights in the Netherlands. Poverty, social exclusion and human rights*, 2017, chapter 4.

<sup>26</sup> Netherlands Institute for Human Rights, 2017, chapter 5.

<sup>27</sup> Statistics Netherlands, *Inzicht in dakloosheid* [Insight in homelessness], The Hague: CBS, 2018.

<sup>28</sup> Trimbo's Instituut, *Maatschappelijke opvang: feiten en cijfers* (The community shelter: facts and figures), [www.trimbos.nl](http://www.trimbos.nl)

<sup>29</sup> Defence for Children, 'Gemeenten, laat dakloze gezinnen niet in de steek!' (Municipalities, do not abandon homeless families), [www.defenceforchildren.nl](http://www.defenceforchildren.nl)

placed in a foster home.<sup>30</sup> Families who have been admitted to shelters in the community often have difficulty moving on to affordable social housing.<sup>31</sup> The consequence is that children stay at the shelter for a longer period of time, while shelters are not suitable for that purpose. Children in shelters are often not seen as the clients themselves, because the funding is based on the number of adults in the shelter. This can have as a consequence that children do not receive the care and support they need.

Suggestion for question:

What measures will the government take to combat homelessness and to guarantee that no child is homeless and to prevent that any child is separated from his or her parents?

### 6.3 Poverty in the Caribbean Netherlands

Poverty and the related (social) consequences are a stubborn problem on all three islands belonging to the Caribbean Netherlands. The impact on children's health and wellbeing is significant. Notably, the Children's rights monitor showed that child abuse is a common problem in the Caribbean Netherlands.<sup>32</sup> Living in poverty can give rise to and sustain domestic violence.<sup>33</sup> Small, shoddy housing also has a negative impact on living with and bringing up children. The government acknowledges this issue and has provided financing to create improved living conditions for families.<sup>34</sup> Over the past few years, much effort has gone into the approach to domestic violence and violence against children, among others by the creation of the Children's Rights Task Force and the Administrative Agreement on Domestic Violence and Child Abuse.<sup>35</sup> There is a duty to report any suspected child abuse at schools, but this does not yet apply to professionals in youth care. On Bonaire, there is also a reporting point for child abuse and a children's hotline. The approach to child abuse, however, is not guaranteed in law.<sup>36</sup>

The Government has acknowledged the poverty problem on the islands. In October 2016, the Ministry for Social Affairs and Employment (SZW) made 1 million euros available to relieve poverty that specifically affects children, by means of a subsidy. In April 2019, the government announced that this would be changed into a structural increase of the budget for children in the Caribbean Netherlands.<sup>37</sup> The letter does not disclose how these measures may contribute to addressing the causes of poverty.

The Netherlands Institute for Human Rights has repeatedly called upon the government to establish a social minimum for Caribbean Netherlands. This is necessary to determine the height of social benefits and guarantee an adequate standard of living. On 27 June 2019,

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<sup>30</sup> Mariëlle Bahlmann, *Kinderrechten op straat* (Children's rights on the street), Leiden: Defence for children, 2018, p. 9.

<sup>31</sup> Defence for Children, 'Kinderrechten op straat' (Children's rights on the street), p. 17.

<sup>32</sup> Kinderombudsman. *Kinderrechtenmonitor 2016*, p. 74.

<sup>33</sup> Regioplan, *De aanpak van huiselijk geweld op de BES-eilanden* (The approach to domestic violence in the Caribbean Netherlands), Amsterdam: Regioplan, 2014.

<sup>34</sup> Long term programme Caribbean Netherlands 2015-2018, *Parliamentary documents II 2014-2015*, 34 000 IV, no. 44.

<sup>35</sup> Bestuursakkoord Aanpak Huiselijk geweld en kindermishandeling Caribisch Nederland 2017-2020, *Parliamentary proceedings II, 2017-2018*, 28 345, no. 183.

<sup>36</sup> Children's Ombudsman, *Kinderrechtenmonitor 2016* (Children's rights monitor 2016), The Hague: Kinderombudsman, 2016.

<sup>37</sup> *Ambities kinderarmoede* (Ambitions child poverty), Letter from the minister of Social affairs and employment to parliament, dated 1 April 2019.

the government established a benchmark for a social minimum, which is, according to the government, a target amount that individuals need to live on.<sup>38</sup>

Suggestion for question:

How will the government monitor the effects of the measures it has taken to combat child poverty in the Caribbean Netherlands?

## **7 Right to education (arts. 28 & 29 CRC)**

### **7.1 Equal opportunities**

In general, Dutch education is of a very good quality. Yet, not all children can benefit from it equally. The Education Inspectorate<sup>39</sup> and the OECD<sup>40</sup> both indicate that children of parents without high education or children from poorer neighbourhoods are more often advised to continue to lower education levels and are less likely to ‘choose’ higher education, even if they have similar school results. Furthermore, young girls and boys from lower income categories are also more frequently found in schools for special needs education.<sup>41</sup>

Part of these differences can be explained by wealthier parents more closely monitoring the developments of their children and investing in extra lessons and exam training. However, in large part, it is also due to teachers often (subconsciously) having higher expectations of children of parents with a higher level of education and lower expectations of children from disadvantaged families. This can influence the school advice which is decisive for the type of secondary school a child will attend and ultimately also for the highest level of education a child is likely to attain. School advice is based on the holistic assessment made by the teacher but can subsequently be amended (upwards) based on the results of one of the national standardized tests (which differ depending on the primary school).

There is evidence that the discrepancy between the teacher’s advice and the test results is larger among children of lower income and lower educated parents: children of lower income and lower educated parents score higher on the test than when assessed by their teachers more often than children with higher income and higher educated parents. However, when such discrepancies are found, the advice is amended more frequently among children of higher income parents. As a result, the gap between the two groups of children becomes even more pronounced.<sup>42</sup>

Suggestion for question:

How will the government guarantee that the social status of parents does not determine equal opportunities at school?

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<sup>38</sup> Voortgangsrapportage ijkpunt bestaanszekerheid Caribisch Nederland [Progress report benchmark standard of living Caribbean Netherlands], Letter to parliament, 27 June 2019.

<sup>39</sup> Education Inspectorate, *De Staat van Het Onderwijs* (The State of Education), 2014/2015.

<sup>40</sup> OECD, *Equity and Quality in Education - Supporting disadvantaged Students and Schools*. Spotlight Report: Netherlands; *Overcoming School Failure, policies that work - Background report for the Netherlands*, 2012.

<sup>41</sup> SCP, ‘Voorzieningen verdeeld. Profijt van de overheid’ (Shared facilities. Benefits for the government), February 2017.

<sup>42</sup> Onderwijsinspectie: *The state of education 2015-2016*.

## 7.2 Financial accessibility in relation to education and social inclusion

In the Netherlands, primary and secondary education are financed by the government and thus free of charge for all children. However, both in primary as well as secondary education, Dutch schools can and do ask parents for a voluntary financial contribution for various purposes such as extracurricular activities and school excursions, tablets, smartphones and computers or a standard contribution for specific types of schools (for instance STEM focused schools). These contributions are lower in the primary education but amount to several hundred euros in secondary schools. On average, the secondary school with 'higher' profile ask for higher contributions. While these contributions are voluntary, parents do not perceive them as such and feel pressure to provide such contribution. A small group of parents also states that the school choice was influenced by the costs. In addition, schools might exclude students from certain activities based on these contributions, creating social division between groups of students. While the Government has repeatedly opposed this practice, voluntary financial contributions are a pervasive practice in many Dutch schools.

Suggestion for question:

What measures will the government take to ensure that all public schools are accessible for all children, irrespective of the financial means of the parents and to ensure that public schools offer equal programs and activities to all children?

## 7.3 Equal access to internships

An internship is an obligatory part of secondary vocational education in the Netherlands. It also forms an important first step towards the full participation in the labour market as it equips students with knowledge, experience and a network needed in their further professional career. There is evidence that various groups of students, in particular ethnic and religious minorities, experience discrimination when searching for an internship. For example, in 2017, 89% of non-immigrant origin students managed to find an internship with three or less applications, while only 76% of non-Western origin students had the same luck.<sup>43</sup> Research shows that such differences might be rooted in discrimination - for instance, an earlier experimental study shows that students with non-Dutch (Arabic) face discrimination when trying to interview for an internship. In their daily work, school officials who supervise the internship process often feel the pressure by management not to enter into conflict with the companies who refuse certain groups of students and subsequently apply strategies which circumvent the problem. One common way to do that is ethnic matching (placing students within companies with owners of same ethnic origin), a practice which might solve the problem of not having an internship place but might be on the long term damaging for students and society alike.<sup>44</sup>

Suggestion for question:

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<sup>43</sup> Research Centre For Education and the Labour Market, *MBO Stages en de migratieachtergrond van studenten* [Internships in secondary vocational education and the migration background of students], Factsheet ROA-F-2018/17, ROA, Maastricht University: 2018.

<sup>44</sup> E. Klooster, S. Koçak, & M. Day, *Mbo en de stagemarkt, wat is de rol van discriminatie?* [Secondary vocational education and internships: what is the role of discrimination?] Utrecht: Verwey-Jonker Instituut, 2016.

What measures has the government taken to ensure that all students have equal opportunity to follow their education programmes including internships and in specific, what measures are taken to combat discrimination concerning internship places in secondary vocational education?

#### **7.4 Safety and wellbeing of LGBT students**

While Dutch society is very tolerant towards sexual minorities and has become even more so in the recent years,<sup>45</sup> research shows that children and youth who identify as lesbian, gay or bisexual still face numerous problems. A number of these problems are related to the educational experiences of this group of children. Compared to their heterosexual peers, LGB schoolchildren in the Netherlands enjoy school less, experience a negative atmosphere in the classroom and poorer contact with the teacher, play truant more often and experience more bullying.<sup>46</sup> Similarly, transgender students experience more bullying and in general have worse youth experiences than other cisgender youth.

Suggestion for question:

What measures does the government take to ensure that all schools work to prevent bullying and discrimination of LGBT schoolchildren and offer these children support when needed?

#### **7.5 Children with disabilities**

Data shows that there are differences between persons with and without disabilities concerning education. In 2016, 9% of the children with an intellectual disability dropped out of mainstream schools without a diploma (whilst this is 2% for the general school going population). For children with a chronic illness or long term psychosocial disability this percentage was 4%. In 2016 8% of the children between 5 and 15 years old with an intellectual disability was not registered in schools (whilst this is 1% for the general population).<sup>47</sup> The causes of these differences are not clear. Explanations could be that mainstream schools are critical about accepting children with disabilities or that parents prefer their child to go to a school for special education. A reason for children with disabilities dropping out of school could be that schools are not capable of providing enough assistance and accommodation for these children.

The Institute regularly receives complaints and gives legal opinions about children and students who are not accepted at schools or sent away because of their disability or chronic illness. Or about children or students with a disability who do not receive a reasonable accommodation, such as an adapted exam. According to Dutch law it is discriminatory to refuse a reasonable accommodation, unless this imposes a disproportional burden on the school. Part of the problem is that teachers do not always know how to treat a person with a disability and are often unaware of what kinds of reasonable accommodation are available.

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<sup>45</sup> Gabriël van Beusekom & Lisette Kuyper, *LGBT Monitor 2018. The life situation of lesbian, gay, bisexual and transgender people in the Netherlands*, The Hague: SCP, 2018.

<sup>46</sup> Lisette Kuyper, Jongeren en seksuele oriëntatie. Ervaringen van en opvattingen over lesbische, homoseksuele, biseksuele en heteroseksuele jongeren, [Youth and sexual orientation. Experiences of and views about gay, bisexual and heterosexual youth], The Hague: SCP, 2015, p. 122.

<sup>47</sup> Netherlands Institute for Human Rights, *Inzicht in Inclusie II*, (Insight in Inclusion II), Utrecht, 2018.

Suggestion for questions:

Which measures is the government taking to prevent children with disabilities from dropping out of school without a diploma?

Which measures does the government take to combat discrimination against children with disabilities in accessing education?

## **7.6 Children who do not attend education**

While almost all Dutch children attend school, a number of children are, against their will and the will of their parents, excluded from attending schools. The exact reasons for not attending schools tend to vary, but in general, they are rooted in their specific educational needs not being met because of complex medical, social, intellectual or emotional reasons. This problem impacts children with disabilities who cannot find a place in the schools which can offer proper support, but it can also impact other children as well, for instance exceptionally gifted children.

Suggestion for question:

Which measures are taken to ensure that children who are not attending school receive the support they need and find their place within the education system within a reasonable period of time?