

Kinderrechtencollectief

Dutch NGO Coalition for Children's Rights

p/a Defence for Children International, Postbus 75297,
1070 AG Amsterdam. Tel: 020-4203771. E-mail: dcinl@wxs.nl

Working towards the full implementation of the Convention on the Rights of the Child in The Netherlands: 14 priorities

1. No budget reduction for children's organisations and for Child and Youth Legal Advice Centres

The total withdrawal of financial support at national level for youth organisations and the Child and Youth Legal Advice Centres is unacceptable.

2. Anti-spanking law

An anti-spanking law (as part of the Civil Code) should be adopted, as an effective instrument to combat child abuse.

3. Status of children without a residence permit

The judgment of the State Council that children whose parents do not have a residence permit are not entitled to all the rights recognised in the CRC is unacceptable.

4. Participation

There should be a framework law to guarantee participation at all levels.

5. Children's ombudsman

The establishment of a children's ombudsman should be realised, *as soon as possible*.

6. Child care for all children

All children including children without a residence permit have the right to *more and better* child care based on the CRC.

7. Juvenile Justice

There should be fewer children in closed institutions. Children who are in closed institutions based on a family law order should not be placed in the same institutions as children in conflict with the (penal) law.

8. Poor children in a rich country

There should be a higher minimum income for families on or below the poverty line.

9. Information

Information on the CRC should be made available on a regular and continual basis.

10. Public space: a place to play

A law should be adopted that guarantees sufficient and adequate space for play and recreation in the urban planning process, also considering that the Netherlands is a small country with a relatively large population.

11. A vision of child and youth policy based on the CRC

The Netherlands needs a clear policy paper on the priorities for child and youth policy at national level that is based on the CRC.

12. Children's rights as the basis of local youth policy

A law should be adopted ordering provinces and municipalities to develop a regional and local youth policy based on the CRC and to report on the policy's implementation.

13. Impact on children and youth of new policy and legislation

An instrument needs to be developed to measure the impact and effects of new policies and laws on children and youth.

14. A clear policy on children and international cooperation

The Dutch government needs to develop a clear policy with respect to its responsibility to implement the CRC in the framework of international cooperation, also as part of the UNGASS Plan of Action.

The Dutch NGO-coalition consists of Defence for Children International The Netherlands, UNICEF The Netherlands, National Association for Child and Youth Legal Advice Centres, Netherlands Youth Group, Save the Children Netherlands, Plan Netherlands, National Youth Council and The Netherlands Institute for Care and Welfare as advisor.

'Children's rights below sea level': is this a metaphor for the reality of children's rights in The Netherlands? One third of the country is below sea level and we need all the efforts to keep that part of the country dry by pumping out the water day and night.

Two-thirds of the Convention has been implemented in The Netherlands: being a rich country with rather high level services and facilities in the areas of education, health and recreation.

But one third of the position of children's rights is below the level of the Convention. Our report on behalf of sixty Dutch NGOs is about what is missing, what is below CRC standards, what is not good enough, what needs to be improved.

1. Eight areas of concern

In our NGO Report 'Growing up in the Low Countries, Children's Rights in The Netherlands' we identified eight major areas of concern that should be addressed:

- child abuse Far too many children are victims of abuse and the government is not doing enough: more prevention, more care, and last but not least an anti-spanking law are needed;
- child and youth care Waiting lists and bad coordination: the need for help is large and a non bureaucratic system is necessary. A new law should be adopted that guarantees the right to child care, based on the CRC, for all children including children without a residence permit and asylum seeking children;
- poverty of children Too many children live on or below the poverty line. This is shameful for a rich country: we need higher incomes for families on or below the poverty line;
- immigration/alien law Children's rights are not the leading principle in immigration/alien law: not for unaccompanied minors seeking asylum, not for children without a residence permit, not in cases of family reunification;
- juvenile justice The system is more and more punitive: the Dutch authorities lock up three times more children than ten years ago; children placed in closed institutions based on a penal law order are locked up together with children placed in closed institutions based on a family law order;
- public space There is no public planning law to guarantee places for children to play;
- youth participation There are only projects and programmes but no legal basis for children's participation at all levels;
- youth information There is no systematic policy for (continuous, accessible and reliable) information services (including electronic information) for children and young people about the CRC and other important issues needed for young people to find their place in society.

Eight major areas of concern, some of them concerning all children, such as public space, youth participation and youth information, and some of them concerning children in difficult circumstances: abused and neglected children, poor children, children in conflict with the law.

2. A new government without a children's rights programme

We submitted our NGO report on 1 June 2003. It was at the same time that a new government was installed after the national elections of January 2003.

In our NGO report we could not react to the programme of the new government. We would have liked to, since children's rights are not mentioned at all in the programme. The general direction is: reductions in the budget to make the economy healthier.

3. Budget 2004: reductions, reductions...

In September 2003 the government published the budget for the year 2004: there will be a slight increase in the budget for education and child care. However, besides enormous reductions in the areas of social security and health care, there will also be a total wipe out of the financial contributions by the national government to youth organisations including sport organisations.

Especially the total withdrawal of the subsidies for youth organisation are not in accordance with the statement of your Committee: "{States should be] encouraging and facilitating the creation of structures and organisations run by and for children and youth". (*Report on the twenty-second session*, September/October 1999, UN Doc. CRC/C/90, para. 291 (w)).

It is unacceptable that organisations that contribute so much to youth participation will no longer be financially supported by the government.

The total withdrawal of the subsidies for the 11 Child and Youth Legal Advice Centres is of the same order: these centres are now fulfilling an important task to disseminate the CRC to children and young people and to support children to realise their rights.

4. What has changed since 1999?

The situation of children's rights in The Netherlands was discussed with your Committee in 1999: in June with the NGOs and in October with the governmental delegation. What has changed since 1999?

Positive

Let's start with the positive developments:

- Cooperation between the Dutch government and NGOs has improved. Twice a year there is a scheduled meeting between the Dutch NGO Coalition for Children's Rights and representatives of the most involved departments of state.
- Information on the CRC is developed and disseminated in a cooperative effort between NGOs and government. A booklet for children aged between 10-14 years has been published and a website (with a section for children and a section for adults) has been produced. A children's rights festival (sponsored by the government and the NGOs together) has developed into a yearly event that shows that children's rights are something to celebrate. Training material for courses for law professionals (judges, lawyers) on children's rights are in production.
- Better legislation (penal code) prohibiting sexual abuse and sexual exploitation based on the CRC.
- The establishment of the National Youth Council as a national forum for youth participation.

A mixture of positive and negative

There are also developments with a mixture of positive and negative elements. To mention:

local youth policy

There has been a promising national stimulation programme for local youth policy, but after four years there is no evaluation and no follow up, even though there was a lot of interest among the municipalities.

UNGASS

Active involvement of the Dutch government in the preparation process of the UNGASS, but there is still no (draft) Dutch Plan of Action.

international cooperation

Two children focused organisations (Plan The Netherlands and Terre des Hommes Netherlands) have been recognised as private co-funding organisations in the field of international cooperation, but the smaller (and specialised) children's-NGOs still have an uncertain position in this. There is no clear policy paper on the position of children's issues within the framework of international cooperation.

5. Nothing achieved

But there are also areas where nothing has been achieved:

no children's ombudsman

Still no children's ombudsman: a sort of a deadlock between parliament and government about who has the initiative.

no anti-spanking law

There is no anti-spanking law. On the contrary: the Minister of Justice recently gave as his opinion that such a law (following the Swedish model) is only symbolic legislation, of which he is not a supporter.

no innovative approach of juvenile delinquency

The government approach is only more of the same: more cells, a punitive approach and no room for restorative justice.

6. The Convention in practice: unsolved problems?

The Convention is more and more mentioned in legislation and jurisprudence. However, we do have serious problems with the interpretation of the CRC by legislators and judges.

The CRC on local level: a responsibility of the national government?

The national government can give no information whether and how the CRC is being implemented at the level of the (12) provinces and (480) municipalities. It is – according to the national government – an autonomous responsibility of the provincial and municipal government to implement the CRC (or not). Provinces have major responsibilities for child care and municipalities have responsibility for primary education, welfare, recreation and sports. The national government does not know what is happening; a legal obligation to inform the national government does not even exist.

Child care not in CRC?

In a discussion on the new Child and Youth Care act, the Minister of Justice declared in parliament (19 May 2003) that the right to child and youth care as defined in the new (draft) law is not included in the CRC. The minister then declared that because child care is not included in the CRC there is no government obligation to recognise this right for children without a residence permit for the Netherlands: article 2 CRC (non-discrimination) is not applicable.

Child care not in the CRC? For us it is unthinkable that such a limited interpretation of the CRC can stick. Child care, protection for neglected, abused and exploited children, support for parents to raise their children, rehabilitation of victims of violence, are undoubtedly the backbone of the CRC: there is not just one sole article about child care, there is a whole list, only to mention: articles 5,18, 19,23, 24, 25, 39.

A government which has the conviction that the right to child care is not included in the CRC needs a corrective remark of your Committee.

CRC not applicable for children of parents without a permit?

In a judgement of 15 February 2002 the State Council (*Raad van State*), highest advisory council to the government and at the same time the high court in administrative law, stated (literally): *'The CRC gives no rights to children whose parents have not a permit to stay in The Netherlands'*.

This statement does not show a deep knowledge and understanding of the CRC. It is a dangerous statement because it is coming from the highest administrative court, which has a determining influence on the work of the immigration service and other governmental agencies. Thus: children without a permit have no rights based on the CRC. Unbelievable! According to the Dutch government, children in a very uncertain and difficult position have no rights, because their parents have no permit to stay in the Netherlands. These children cannot help it: they are not a party in the discussion between the government and their parents about their status according to immigration/alien law.

It is absolutely important that the Committee on the Rights of the Child makes its position clear towards the Dutch government: within the Netherlands the highest administrative court has given its interpretation of the content of the CRC; there is no possibility for further appeal. The Dutch NGO Coalition fears a serious diminishing of the role of the CRC if this judgment of the State Council is not contradicted.

7. What is missing?

Are we content with what the Dutch government is doing for children and young people in the Netherlands? No, childhood and youth are clearly in a low position on the political agenda.

Strength: a rich country with many opportunities, capacities and chances

Weakness: financial issues are dominating social issues

Opportunities: many young people want to be involved

Threats: the government is denying the interests, the involvement and the problems of children and young people.

There is no comprehensive vision on child and youth policy, based on the Convention on the Rights of the Child, functioning as a leading principle on how to create the conditions for a child-friendly society. There is an urgent need for a strong policy paper on childhood and youth policy with effective instruments for coordination and with sufficient financial resources.

No instrument exists to measure the impact of policies on children and young people. A child and youth impact report, to be submitted at the occasion of every new policy proposal, should give answers to questions such as: what are the actual social effects for children of a new policy or a new law?

8. In conclusion

Two-thirds of the CRC is being implemented: The Netherlands provides her children and youth with a good climate to grow up in, at least for the vast majority of them. Many things are good, some things can be better.

One-third of the CRC is not being fully implemented: sometimes basically neglected, sometimes completely denied, sometimes wrongly interpreted, sometimes insufficiently financed, sometimes not taken seriously.

Poor children, abused and exploited children, and immigrant children need the CRC as a sharp tool and an effective instrument for their development and protection.

And all children and young people should be involved in society: by information, by participation, by commitment.

It is time to let children's rights be the basis for an active, innovative and responsible childhood and youth policy!

We ask the Committee to support us in our effort to make clear to the Dutch politicians, the Dutch authorities and the Dutch judges what the meaning of the CRC really is.

Amsterdam/Geneva, October 2003

Stan Meuwese

Chair Dutch NGO Coalition for Children's Rights