

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE
44 OF THE CONVENTION

**Concluding Observations of the Committee on the Rights of the Child:
The KINGDOM OF THE NETHERLANDS (NETHERLANDS and ARUBA)¹**

1. The Committee considered the reports of the Kingdom of the Netherlands which included the second periodic report of the Netherlands (CRC/C/117/Add.1) and the initial report of Aruba (CRC/C/117/Add.2) at its 928th and 929th meetings (see CRC/C/SR.928-929), held on 19 January 2004, and adopted at the 946th meeting, held on 30 January 2004, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's reports, as well as the detailed written replies to its list of issues (CRC/C/Q/NLD/2), which gave a better understanding of the situation of children in the State party. It also appreciates the presence of a high-level and cross-sectoral delegation and the frank and open dialogue with the delegation.
3. At the same time, the Committee reiterates its previous concerns, raised in the concluding observation on the Kingdom of the Netherlands (Netherlands Antilles) (CRC/C/15/Add.186, para. 2), that although the Kingdom of the Netherlands is one State party, it has submitted separate reports for each of the three autonomous entities within the State party. The Committee therefore reiterates its request that the State party submit a comprehensive third periodic report which includes information on all three regions in the State party.

B. Positive aspects

4. The Committee notes with appreciation efforts to improve coordination of policy through inter alia the establishment of a Youth Commissioner in the Netherlands in 2004.

¹ For practical purposes only, hereinafter the European part of the Kingdom of the Netherlands will be referred to solely as the Netherlands.

5. The Committee welcomes the efforts to improve the participation of youth in policymaking through inter alia the establishment of a National Youth Council and a Youth Parliament in Aruba in 2003.
6. The Committee welcomes legislative reform aimed at improving implementation of the Convention, in particular:
 - a) amendments to criminal law provisions on sexual offences in Aruba in 2003;
 - b) the adoption of the Work and Care Act in 2001;
 - c) the entry into force of the Disablement Assistance (Young Persons) Act in 1998.
7. The Committee also notes with appreciation that the State party has met the United Nation's target of allocating at least 0.7% of GNI to official development assistance.

C. Principle areas of concern and recommendations

1. General Measures of Implementation

(arts. 4, 42 and 44, paragraph 6 of the Convention)

The Committee's previous recommendations

8. The Committee notes with satisfaction that various concerns and recommendations (CRC/C/15/Add.114 of 26 October 1996) made upon the consideration of the State party's initial report on the Netherlands (CRC/C/51/Add.1) have been addressed through legislative measures and policies. However, recommendations regarding, inter alia, the establishment of an independent mechanism to monitor children's rights such as an ombudsman for children (para. 12), alternative care and the need for alternatives to residential institutions for children deprived of a family (para.16), female genital mutilation (para. 18) and human rights education (para. 21), have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present document.
9. **The Committee urges the State party to make every effort to address those recommendations from the concluding observations of the initial report that have not yet been implemented and to address the ones contained in the present concluding observations with respect to the Kingdom of the Netherlands.**

Reservations

10. The Committee is concerned about the reservations to articles 26, 37 and 40 entered by the State party on its accession to the Convention.
11. **In light of the Vienna Declaration and Plan of Action of the World Conference on Human Rights of 1993, the Committee recommends that the State party withdraw its reservations to the Convention.**

Legislation

12. As noted in paragraph 6, the Committee welcomes legislative reforms aimed at improving conformity with the Convention. However, the Committee is concerned that some domestic legislation in the Netherlands and in Aruba, does not yet fully conform to the principles and provisions of the Convention inter alia with regard to education in minority languages and juvenile justice as well as compulsory education in Aruba.
13. **The Committee recommends that the State party to take all necessary measures to ensure that its domestic legislation in the Netherlands and in Aruba conforms fully to the principles and provisions of the Convention, in particular with regard to education in minority languages, juvenile justice as well as compulsory education in Aruba.**

Coordination

14. While recognizing efforts to improve policy coordination, the Committee is concerned about coordination between ministries and between the national and local authorities.
15. **With respect to the Netherlands, the Committee recommends that the State party ensure that the Youth Commissioner facilitate coordination between ministries and also the federal and local authorities, and that the Commissioner is allocated sufficient financial and human resources to fulfil the mandate. The Committee further recommends that the State party evaluate the effectiveness of the Youth Commissioner with a view to establishing a permanent mechanism to coordinate the implementation of the Convention.**
16. **With respect to Aruba, the Committee recommends that the State party ensure that the National Committee on the Rights of the Child is allocated sufficient financial and human resources to carry out its mandate effectively.**

National Plan of Action

17. The Committee regrets the lack of a comprehensive national plan of action for children in the State party.
18. **The Committee recommends that in the Netherlands, the State party expedite the elaboration and adoption of the current plan of action to implement the World Fit For Children, the outcome document of the UN Special Session on Children in May 2002, and ensure that the plan of action takes into account all aspects of the Convention.**
19. **In Aruba, the Committee recommends that the State party review its Youth Policy Programme 2001-2005 with a view to expanding it to include all areas of the Convention for all persons under the age of 18.**

Independent Monitoring

20. The Committee welcomes the information provided by the delegation that a draft bill on the establishment of an ombudsman for children has been presented to Parliament in the

Netherlands by a member of that Parliament. The Committee furthermore notes the conclusion of a study in 2002, commissioned by the Government of the Netherlands, which is in favour of the establishment of an ombudsman for children. The Committee regrets that no follow-up has been given to this study, and therefore reiterates its previous concern about the absence of an independent mechanism with a mandate to, inter alia, regularly monitor and evaluate progress in the implementation of the Convention and which is empowered to receive and address individual complaints about human rights violations in the Netherlands and Aruba.

- 21. In light of its previous recommendations and the conclusion of the aforementioned study in 2002, the Committee urges the State party to take the necessary measures for the establishment of an ombudsman for children in accordance with the Committee's General Comment no. 2 (CRC/GC/2002/2) on national human rights institutions and the Paris Principles (General Assembly resolution 48/134) in both the Netherlands and Aruba. In light of the different institutional settings in the Netherlands and Aruba, the Committee suggests that State party establish an independent and effective mechanism in the Netherlands and Aruba respectively. These ombudsmen for children should monitor the implementation of the Convention, deal with complaints from children in a child-sensitive and expeditious manner and, provide remedies for violations of their rights under the Convention and are provided with adequate human and financial resources and are easily accessible to children.**

Resources for children

22. While noting that budget allocations for children are relatively significant, the Committee is concerned in recent years, the financial resources allocated to education, child protection, the prevention of child abuse have declined, and that in the Netherlands, funding of legal assistance for children and the work of youth organizations has been significantly reduced, jeopardizing the continuity of services.
- 23. The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to economically disadvantaged groups, "to the maximum extent of... available resources".**

Data collection

24. While welcoming the statistical data supplied in the State party's written replies to the list of issues (CRC/C/RESP/48), the Committee regrets the absence of information on the system of data collection. In addition, the Committee is concerned that in the Netherlands the statistics appear to be disaggregated by age groups to 25 years, which causes difficulties in determining the situation of children under the age of 18.

- 25. The Committee recommends that the State party develop a system of data collection which is compatible with the Convention and collects data disaggregated by sex, age and other relevant indicators. Such a system should cover all persons under the age of 18 and pay particular attention to vulnerable groups, such as children deprived of a family environment, victims of abuse, sexual exploitation and trafficking and children in conflict with the law. Furthermore, the data should be used in the development of programmes and policies for the implementation of the Convention.**

Cooperation with civil society

26. The Committee notes with satisfaction the cooperation between the State party and NGOs in the drafting of the report and the State party's financial support to NGOs drafting an alternative report which was submitted to the Committee. Nevertheless, the Committee is of the opinion that cooperation with civil society could be strengthened and systematized.
- 27. The Committee recommends that the State party consistently seek cooperation with civil society in implementing the Convention, including in the area of policy-making.**

Dissemination and training

28. The Committee notes with satisfaction the State party's efforts to make the provisions and principles of the Convention widely known, however, it considers that these efforts are insufficient.
- 29. The Committee recommends that the State party pursue its efforts to ensure that the principles and provisions of the Convention are widely known and understood by adults and children alike. In this regard the Committee encourages the State party to undertake a systematic education and training program on the principles and provisions of the Convention for children, parents and all professional groups working for and with children, including judges, lawyers, law enforcement officials, teachers, health care personnel, and social workers.**

**2. General principles
(arts. 2, 3, 6 and 12 of the Convention)**

Non-discrimination

30. The Committee notes the significant efforts made by the State party to address racial discrimination, which have also been recognized in detail by the Committee on the Elimination of Racial Discrimination (CERD/C/304/Add.104). However, the Committee is concerned that societal prejudices and discrimination persist in society, in particular against children of ethnic minorities and refugee and asylum-seeking children, and that in some localities and schools in the Netherlands there is de facto segregation between ethnically Dutch families and families of foreign origin. In Aruba, the Committee is concerned about discrimination against children of migrant families, in particular in accessing services and the fact that disability is not considered a ground for discrimination as defined by the Constitution.

31. **The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups. The Committee requests the State party to pay particular attention to eliminating negative stereotypes of refugees and asylum-seeking children in the Netherlands and to address the root causes of de facto segregation in schools and localities. It further recommends that the State party ensure children of migrant families in Aruba have equal access to education, health and other services and that there is legislation to protect against discrimination children with disabilities.**
32. **The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of General Comment no. 1 on article 29(1) of the Convention (aims of education).**

Right to life, survival and development

33. The Committee notes the information that euthanasia remains a crime under art. 293 of the Penal Code, but which is not prosecuted if committed by a medical doctor who meets the criteria explicitly set out in art. 293(2) of the Penal Code and follows the procedures required by law and regulations. As this legislation is also applicable to children 12 years or older, requiring explicit and repeated requests from the child, and parental consent if the child is younger than 16 years, the Committee is concerned about the monitoring of such requests because controls are exercised after the request has been fulfilled and because some cases are not reported by doctors. The Committee is concerned about information that medical personnel have terminated the life of newborn infants with severe abnormalities.
34. **With reference to the Human Rights Committee's recommendations in this regard (CCPR/CO/72/NET para. 5), the Committee recommends that the State party:**
- a) **frequently evaluate, and if necessary revise, the regulations and procedures in the Netherlands with respect to the termination of life upon request in order to ensure that children, including newborn infants with severe abnormalities, enjoy special protection and that the regulations and procedures are in conformity with art. 6 of the Convention;**
 - b) **take all necessary measures to strengthen control of the practice of euthanasia and prevent non-reporting, and to ensure that the mental and psychological status of the child and parents or guardians requesting termination of life are taken into consideration when determining whether to grant the request;**
 - c) **provide additional information on the implementation of laws and regulations on the termination of life upon request in its next periodic report.**

Respect for the views of the child

35. The Committee welcomes the establishment of a National Youth Council both in the Netherlands and Aruba, and the financial support given to those Councils by the State party. The Committee also notes with satisfaction the survey entitled “Join the discussion about your rights” of young people aged 12-18 in the Netherlands in 2002, which illustrated significant awareness of their rights and allowed youth to express concerns about their rights. However, the Committee is concerned that, in the Netherlands, organizations made up of young people of foreign origin have not fully enjoyed their right to express their views freely and have them be taken into account.
- 36. The Committee recommends that the State party, in the Netherlands, strengthen its support of the National Youth Council and youth organizations, and intensify its support of organizations made up of young people of foreign origin and integrate them into networks of dialogue and participation. The Committee also recommends that the State party continue its support of the National Youth Council in Aruba, and urges the State party to support a survey of youth about their rights in Aruba, such as the one undertaken in the Netherlands.**

2. Civil rights and freedoms (arts. 7, 8, 13-17 and 37(a) of the Convention)

Birth registration

37. The Committee shares the State party’s concern that a significant number of births are not registered in Aruba.
- 38. The Committee recommends that the State party strengthen efforts in Aruba to ensure that the births of all children are registered, including those of undocumented migrants. In this regard, the Committee suggests that the State party explore cooperation between the regions of Aruba and the Netherlands Antilles and possibly other countries in the region.**

3. Family environment and alternative care (arts. 5; 18 (paras.1-2); 9-11; 19-21; 25; 27 (para.4); and 39 of the Convention)

Parental responsibilities

39. The Committee is concerned about the reduction of funding for child care institutions, facilities and services, including day care, in the State party which has resulted in waiting lists and a fragmentation of services aimed at assisting parents in their child-rearing responsibilities.
- 40. In light of article 18, the Committee recommends that the State party evaluate services available to parents to assist them in their child-rearing responsibilities in**

order to determine the cause of waiting lists in the Netherlands and assess the quality of services provided. The Committee further recommends that throughout the Kingdom, the State party increase the funding and availability of quality child care facilities and services, support parental education programmes, in particular for parents of disadvantaged and vulnerable children and adolescents, and ensure that all children and adolescents of working parents have the right to benefit from these services and facilities.

Alternative care

41. The Committee shares the State party's concern that alternative care mechanisms and institutions are insufficient to respond to the number of children requiring such care in Aruba, and it reiterates its concern regarding the lack of alternatives to residential care for children deprived of a family environment in the Netherlands.
- 42. The Committee recommends that the State party expand alternative care in all parts of the Kingdom through, inter alia, increasing the support services and financial assistance for foster care families, and increasing the number of staff working in residential institutions in Aruba so as to ensure that children receive full time care including on weekends.**

Violence, abuse and neglect

43. The Committee notes with satisfaction that, in the Netherlands, the Youth Care Act, which aims to improve the effectiveness of child protection services and includes the obligation for medical personnel to report suspected cases of child abuse, has been passed by the lower house of Parliament and is awaiting the approval of the Senate. However, the Committee is concerned that in the Netherlands waiting lists for services for victims of abuse remain, and insufficient financial resources are allocated for the prevention of abuse and recovery and counselling services. Furthermore, the Committee shares the State party's concern that there is no clearly defined policy on preventing child abuse and neglect and providing assistance to victims in Aruba and that services in this area are insufficient. The Committee is also concerned that there is no legal prohibition on corporal punishment in the family.
- 44. The Committee recommends that the State party :**
- a) ensure that there is a clearly defined policy on child abuse and neglect, which includes prevention, reporting and assistance to victims and is provided with adequate financial and human resources, in both the Netherlands and Aruba;**
 - b) ensure that, in the Netherlands, the Youth Act conforms to the provisions and principles of the Convention and expedite its entry into force;**
 - c) enact the 1993 Aruban Government Decree on the establishment of a medical examiner's office which registers cases of child abuse and neglect and coordinates investigation and treatment of victims in a child-sensitive manner;**
 - d) explicitly prohibit corporal punishment in law throughout the State party and carry out public education campaigns about the negative consequences**

of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment.

**4. Basic health and welfare
(arts. 6; 18, para. 3; 23; 24; 26; 27, paras. 1-3 of the Convention)**

Children with disabilities

45. The Committee welcomes continuing efforts to integrate children with disabilities into the mainstream education system, in particular in the Netherlands, however, it is concerned that children with disabilities in the Netherlands spend a significant amount of time waiting to access services and programmes. In addition, the Committee is concerned that in Aruba, children with disabilities are not fully integrated into society.

46. In keeping with the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities (GA Resolution 48/96 of 20 December 1993), the Committee recommends that the State party strengthen its efforts to integrate children with disabilities into mainstream education and every day life by:

- a) Taking all necessary measures to eliminate waiting lists for services and programmes for children with disabilities in the Netherlands;**
- b) expanding education possibilities for children with disabilities in Aruba, including those with learning disabilities, at the secondary school level**
- c) improving the physical accessibility of mainstream schools, leisure and recreational facilities, and other public buildings and spaces in Aruba;**
- d) undertaking awareness-raising campaigns to address prejudicial attitudes to children with disabilities, and promoting their full integration into society.**

Health and health services

47. The Committee welcomes the low infant and child mortality rates in all parts of the State party, but is concerned by the relatively low vaccination rates among some religious groups. The Committee is also concerned that HIV/AIDS infection rates for mothers and children are on the rise.

48. The Committee recommends that the State party:

- a) take all necessary measures, in cooperation with parents and religious leaders, to ensure universal vaccination of children;**
- b) take all necessary measures to reduce mother to child transmission of HIV/AIDS, including but not limited to the use of antiretroviral drugs for pregnant mothers who are HIV positive.**

Adolescent health

49. The Committee is also concerned at the lack of sufficient mental health services for adolescents in the State party, and the prevalence of drug and alcohol abuse. It is also concerned that teenage pregnancies and sexually transmitted infections (STIs) are on the

rise in the Netherlands, and that in Aruba there are limited services for teenage mothers and they are sometimes excluded from schools.

50. The Committee recommends that the State party:

- a) **take all necessary financial and administrative measures to ensure adequate availability of mental health services for adolescents;**
- b) **take all necessary measures to prevent drug and alcohol abuse, including education campaigns, and ensure that there are sufficient rehabilitation services specifically for children and adolescents;**
- c) **strengthen programmes on sex education, including in schools, and reproductive health counselling for adolescents and take effective measures to prevent early pregnancy;**
- d) **in Aruba, provide teenage mothers with the appropriate assistance and ensure that they can finish their education;**

**5. Education, leisure and cultural activities
(arts. 28, 29 and 31 of the Convention)**

51. The Committee notes the information provided by the delegation that efforts will be strengthened in the Netherlands and Aruba to prevent and assist school drop-outs and the intention to expand bilingual education (Papiemento and Dutch) to secondary schools in Aruba. However, the Committee is concerned that primary education is not compulsory in Aruba and that early childhood education is not universally available throughout the State party.

52. The Committee recommends that State party:

- a) **expedite efforts to address non-attendance and the school drop out rate;**
- b) **ensure that affordable and quality early childhood education is available for all children;**
- c) **in Aruba, expedite the adoption of the National Ordinance on Compulsory Education and ensure that it is enforced, including for children of undocumented migrants;**
- d) **in Aruba, ensure that sufficient teaching materials are available in the Papiemento language for primary and secondary students;**
- e) **include human rights education in the curriculum in both the Netherlands and in Aruba.**

**6. Special protection measures
(arts. 22, 38, 39, 40, 37 (b)-(d), 32-36 of the Convention)**

Refugee and asylum-seeking children

53. The Committee is concerned that in the Netherlands the definition of an unaccompanied minor seeking asylum does not conform to international standards and it may make access to basic services more difficult for the child while in the country. It is also

concerned that determination and rejection of a significant and increasing proportion of refugee applications through the 48-hour accelerated procedure does not adhere to article 22 and international standards. Finally, the Committee is concerned that children whose refugee applications have been rejected are detained in closed camps with limited possibilities for education and leisure activities. Finally the Committee is concerned about the lack of formal asylum and protection procedures in Aruba and current practices with respect to the detention and deportation of irregular migrants.

54. The Committee recommends that the State party in the Netherlands:

- a) **Review the Aliens Act of 2001 and its application to ensure full conformity with international standards applicable to refugees and to the Convention;**
- b) **change its definition of unaccompanied minor seeking asylum so as to conform to international standards;**
- c) **ensure that determination of refugee status of minors adheres to international standards, and consequently reconsider the 48-hour accelerated procedure;**
- d) **ensure that detention of children whose refugee application has been rejected is used only as a last resort, and that all children awaiting expulsion receive adequate education and housing.**

55. The Committee recommends that in Aruba the State party, in cooperation with the United Nations High Commissioner for Refugees (UNHCR) establish a formal system of asylum and refugee protection procedures that adheres to the Convention and applicable international standards.

Sexual exploitation and trafficking

56. The Committee welcomes the State party's efforts in the Netherlands to address sexual exploitation of children, in particular through training of the police,. However it is concerned that the "complaint requirement" by victims over the age of 12 and the "double criminality" requirement hamper prosecution of cases of child sexual abuse committed in the Netherlands and abroad. In Aruba, the Committee is concerned that children are vulnerable to trafficking for the purposes of drug trafficking or sexual exploitation, including through tourism.

57. The Committee recommends that the State party:

- a) **develop a National Plan of Action against Commercial Sexual Exploitation for both the Netherlands and Aruba as agreed at the First and Second World Congresses Against Commercial Sexual Exploitation of Children (1996 and 2001), and strengthen regional cooperation in this regard;**
- b) **in the Netherlands, amend legislation to eliminate the complaint requirement and double criminality requirement for prosecution of sexual offences against children;**
- c) **strengthen the capacity of police in the Netherlands and Aruba to receive and investigate complaints of trafficking and sexual exploitation in a child-**

- sensitive manner, inter alia by increasing human and financial resources and where necessary providing appropriate training;
- d) **Ensure that all victims of trafficking and prostitution in the State party have access to appropriate recovery and reintegration programs and services**
 - e) **Undertake an in-depth study of trafficking and sexual exploitation of children in Aruba, including the possible existence of sex tourism.**

Juvenile justice

58. The Committee is concerned that in the State party:

- a) children in conflict with the law between the ages of 16 and 18 may be sentenced as adults;
- b) an increasing proportion of children in conflict with the law in the Netherlands are being sentenced to detention;
- c) juvenile offenders, in the Netherlands, are sometimes detained with children institutionalized for behavioural problems;
- d) there are limited alternatives to detention available in Aruba.

59. The Committee recommends that the State party:

- a) **ensure the full implementation of juvenile justice standards and in particular articles 37, 40 and 39 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's 1995 discussion day on the administration of juvenile justice throughout the State party and for all persons under the age of 18;**
- b) **amend legislation in the Netherlands and Aruba so that life imprisonment cannot be imposed on anyone between the age of 16 and 18 and fix a maximum limit for their detention;**
- c) **ensure that detention of juvenile offenders is used only as a last resort;**
- d) **avoid detention of juvenile offenders with children institutionalized for behavioural problems; and,**
- e) **in Aruba, expedite efforts to create more alternatives to detention for children in conflict with the law.**

9. Optional Protocols to the Convention on the Rights of the Child

60. The Committee notes that the State Party signed the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict on 7 September 2000. However, the Committee is concerned that the Protocols have not yet been ratified.

61. **The Committee recommends the State party to expedite the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of**

children, child prostitution and child pornography, and on the involvement of children in armed conflict.

10. Dissemination of documents

62. Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organisations.

11. Next report

- 63. The Committee expects to receive the next (third) periodic report from the State party, which includes information from all three autonomous entities of the Kingdom of the Netherlands and does not exceed 120 pages (see CRC/C/118), on its due date of 6 March 2007.**