



National Rapporteur on Trafficking in
Human Beings and Sexual Violence
against Children

List of Issues Prior to Reporting for the Committee on the Rights of the Child

*Contribution of the National Rapporteur on Trafficking
in Human Beings and Sexual Violence against Children*





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Reference: National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2019)
List of Issues Prior to Reporting for the Committee on the Rights of the Child – contribution of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children. The Hague: National Rapporteur.

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Graphic and digital realization: Studio Kers

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Introduction

Every child is entitled to protection against exploitation and sexual violence. Shortcomings in that protection do not only have seriously harmful effects for the individual, but also have a disruptive effect on society as a whole. In the Netherlands, according to estimates made by the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, every year around 2,000 children fall victim to human trafficking; around 20,000 children become victim of severe forms of sexual violence. Moreover, one in four offenders of human trafficking is younger than 23 and one in five offenders of sexual violence against children is younger than 18.¹ These numbers are worrying.

The main objective of the Dutch National Rapporteur is to combat these issues by reporting independently on the nature and extent of human trafficking and sexual violence against children in the Netherlands, and on the effects of the government policies put in place. The National Rapporteur pursues this objective by conducting independent research and by making recommendations both aimed at policy and policy implementation in order to prevent and combat human trafficking and sexual violence against children. Since both issues are transnational, the work of the National Rapporteur has an international scope. For example when it comes to the 1,600 asylum seeking children who went missing from Dutch reception centres over the past few years.² International measures should be implemented to protect these vulnerable children from exploitation and abuse.

Two decades of research by the National Rapporteur have led to a vast amount of knowledge on human trafficking and sexual violence against children in the Netherlands. Two of the most important and persistent findings are the need for a thorough understanding of the nature and extent of exploitation and sexual violence, as well as insight regarding the effectiveness of policy measures. Without improved data and monitoring, this is not possible. Better data and monitoring enables professionals and policy makers to learn and, if needed, adapt policies in a timely matter. In order to continuously improve the effectiveness of policy measures, organisations and professionals should use the Plan, Do, Check, Act (PDCA) circle, a method created by Deming.³ By measuring the effect of their policy measures, they are able to learn and possibly adapt policies. This approach also stimulates the learning capabilities of organisations, so organisations and professionals can formulate measurable objectives themselves, and define the prerequisites for implementation and monitoring.

Besides these notions on the general measures of implementation, the National Rapporteur will also elaborate on five issues that require the full attention of the Committee, namely prevention, technology, criminal exploitation, youth care, and lifelong criminal records for juvenile offenders of sexual violence.

Prevention

The proverb, prevention is better than cure, remains as valid as ever. Having a preventative approach towards sexual violence and exploitation is more effective, cheaper, and in the best interest of potential victims, offenders, and society itself compared to having no preventative approach. This approach should focus on:

- Primary prevention: Prevention of the crime itself by taking effective measures to prevent potential offenders from committing crimes and to protect potential victims. This primary prevention should not only focus on the individual victim or offender, but also on their social environment as a whole. By gearing practice, policy and legislation towards prevention, it will create a more successful approach against exploitation of and sexual violence against children.
- Secondary prevention: Stopping the crime as soon as possible and prevent further damage. This is in the best interest of the victim, the offender and society. Therefore it is of the utmost importance to identify the first signs that children could be victim or offender of sexual violence or any form of exploitation.

1 Nationaal Rapporteur (2018a); Nationaal Rapporteur (2018b); Nationaal Rapporteur (2018c); Nationaal Rapporteur (2019).

2 NRC (2019).

3 For more information on the PDCA cycle, see <https://deming.org/explore/p-d-s-a> (consulted on 28 May 2019).

- Tertiary prevention: Prevent revictimisation and recidivism. After the crime has been stopped, measures should be taken in order to prevent the crime from happening again. Criminal law and integrated care programmes should play a crucial role in the resocialisation of offenders. Especially when it comes to juvenile offenders, tertiary prevention should be at the core of these programmes.

In a prevalence study conducted by the National Rapporteur and UNODC in 2017, it was estimated that only 11% of all Dutch girls who are sexually exploited are identified.⁴ According to the National Rapporteur's report '*On solid ground. Tackling sexual violence against children*', one in three girls and one in five boys experience a form of sexual violence before the age of 18. Education and awareness campaigns could play an important role in preventing and identifying these crimes. In order to prevent sexual violence and exploitation of children, the National Rapporteur has recommended to use effective, evidence-based teaching methods to prevent children from becoming victims and/or offenders. However, according to the National Rapporteur's 2017 study '*Effective prevention*', there are no available methods on comprehensive sexuality education that have been proven effective. And when it comes to awareness campaigns on human trafficking, the National Rapporteur also notices there are no objectives formulated with regard to measuring the effectiveness of the intended campaigns.

The National Rapporteur commends the two multi-year programmes which the government has issued in 2018, as it shows government prioritisation of the fight against sexual violence against children and human trafficking. The first multi-year programme *Violence does not have a place in the home: Tackling domestic violence and child abuse* was published in April 2018 by the Ministry of Justice and Security, the Ministry of Health, Welfare and Sport, and the Association of Netherlands Municipalities. However, in this programme there is no mention of prevention. The National Rapporteur finds it laudable that the programme focuses on identifying, reporting and stopping violence, but we must not lose sight of the importance of prevention.

The second national multi-year programme, titled *Together against human trafficking*, was published on November 2018 by the Ministry of Justice and Security, the Ministry of Social Affairs and Employment, the Ministry of Health, Welfare and Sport, and the Ministry of Foreign Affairs. Although prevention takes a prominent place, it remains unclear for many of the proposed policy measures what the indicators for success are, who is responsible for the implementation, and how the results will be monitored. In order to create an effective and comprehensive approach, the National Rapporteur recommended the formulation of measurable objectives, and definition of prerequisites for implementation and monitoring.

This results in the following question:

What measures will the government of the Netherlands take in order to strengthen the preventative approach of exploitation of children and sexual violence against children, both on the primary, secondary, as well as the tertiary level?

Technological developments

Society has been changing drastically due to rapid technological developments. The different forms of exploitation of and sexual violence against children have changed, and technology plays a prominent role in facilitating exploitation and sexual violence. For example the case of a 15-year-old girl, who was forced to prostitute herself via dating apps because of sextortion.⁵ Her former boyfriend threatened to show her parents the video material he had secretly made during sex. Via WhatsApp she would let him know how much she had earned, after which he would come to her bedroom window to collect the money.

This case is unfortunately not an isolated incident. In recent years, there has been a shift towards hands-off sexual abuse and the offering of illegal prostitution services online. Offenders change their modus operandi. Technological developments are not solely used to recruit or blackmail children, they are also used to find new ways to exploit, abuse, and control them. For example exploitation and abuse by webcam or video surveillance, when there is no physical contact between the victim and a third person. According to the National

4 Van Dijk, J., Cruyff, M., Van Der Heijden, P., & Kragten-Heerdink, S. L. J. (2018).

5 The District Court of The Hague, (January 2018) ECLI:NL:RBDHA:2018:22

Rapporteur's periodical report on offenders of sexual violence against children 2013-2017, the number of reports on Child Sexual Abuse Material (CSAM) has increased sixfold in the reporting period. Additionally, technology also facilitates financial payments for services, including those involving exploitation or abuse of children. Therefore it is important to gain insight in the vulnerabilities of victims and the modus operandi of offenders, in order to develop an effective approach to help and to stop them.

Technological progress can, on the other hand, also offer possibilities that can be used in the fight against exploitation of and sexual violence against children. Technology can be used for prevention and detection, for example by investigating suspicious online advertisements for prostitution services in order to identify sexual exploitation. In other countries, such as the US and the UK, technological developments are used to advance digital investigation. A strong public-private cooperation proves fruitful when it comes to utilising technological potential. In the Netherlands progress is being made with public-private cooperation between hosting providers and the investigation authorities in order to remove CSAM online.

However, the Dutch investigation authorities do not use technological possibilities to the full extent. It is indicative that the national multi-year programme *Together against human trafficking* does not mention digital investigation. Public-private cooperation should be stimulated and expanded in order to fully utilise and thus benefit from digital investigation and public-private cooperation possibilities.

This results in the following question:

How will the government of the Netherlands leverage the potential of technology in order to create meaningful policies and solutions combating exploitation of and sexual violence against children?

Criminal exploitation of children

According to the National Rapporteur's periodical report on victims of human trafficking 2013-2017, there is an increase in the number of victims of criminal exploitation in the Netherlands. From the 2017 research study on the estimated prevalence from UNODC and the National Rapporteur⁶, and case studies from the field, it is known that there has been a large number of children that has become victim of criminal exploitation.

Several schools in the Netherlands spoke to the press saying that they were worried their students were forced to work as drug runners. In their annual report '*Children's Rights 2018*'⁷, UNICEF and Defence for Children mention signals that children in reception centres, secondary schools and youth assistance institutions are recruited by criminals, and that these signals are not recognised or registered by the authorities. Insights into these numbers are limited.

In 2018, the Dutch Salvation Army sounded the alarm bell about children from the Roma community who fall victim to criminal exploitation.⁸ They mention that this group is often seen as criminal offenders instead of victims. After arrest, children are often released into the custody of their exploiter. This is seen as a serious blind spot, because it leads to an inability to protect these children against exploitation.

The National Rapporteur stresses the importance of judicial and policy measures in order to protect children against criminal exploitation. On the judicial level, a non-punishment clause has been established on an international and European level. This stipulates that victims should not be prosecuted or punished for crimes they committed while they were subjected to human trafficking. The National Rapporteur advises to firmly establish this non-punishment clause in the Dutch justice system.

On the policy level, provisions should be made to ensure that a comprehensive approach against criminal exploitation is implemented. Especially on the local level, there is concern that the approach is too person depen-

6 Van Dijk, J., Cruyff, M., Van Der Heijden, P., & Kragten-Heerdink, S. L. J. (2018)

7 Unicef Nederland & Defence for Children (2018).

8 Nationaal Rapporteur (2018b).

dent and thus vulnerable. The current approach regarding the investigation of criminal exploitation is almost exclusively focused on children from the Roma community. As mentioned by the Dutch Salvation Army, this focus on Roma children is needed. However, the approach regarding the investigation of criminal exploitation should be broadened by focusing on other victim groups as well. The National Rapporteur therefore advises a shift in focus. Instead of a focus on risk profiles, the approach should focus on the phenomenon itself, the underlying financial flows, and the (international) logistic networks used by criminals. Criminal exploitation is often invisible at first sight. You have to know what you're looking for, before you're able to see it.

Therefore the following question arises:

How will the government of the Netherlands ensure the protection of all children against all forms of criminal exploitation?

Youth care for victims and offenders

Since 1 January 2015, the Dutch youth care system falls under the responsibility of local municipalities. There have been several issues with the new Youth Act. Reports and evaluations published by the National Rapporteur, Health and Youth Care Inspectorate, Transition Authority Youth⁹, and others, find most notably the insufficient ability of the system to address the known vulnerabilities of children in youth care. There is lack of capacity to help victims and child offenders of exploitation and sexual violence (leading to waiting lists), lack of comprehensive treatment of children with multiple and/or complex issues, the placement of victims of sexual violence in closed institutions (often without child protection measures), the disappearance of unaccompanied children from closed reception centres, and the absence of crucial data for monitoring.

In 2018, the National Rapporteur published a report on victims of sexual violence in public youth care. In cooperation with Statistics Netherlands, they found that the reasons why children in the Netherlands receive care, have not been disclosed in the registration. Youth services providers and certified institutions provide data input to Statistics Netherlands, so it is known that on average 400,000 children receive some form of care each year, but it is not known if this is for example for dyslexia or for trauma counselling after sexual abuse. Since information is crucial for establishing a sustainable, effective, and comprehensive approach that prevents, treats, and avoids recidivism or revictimisation, better availability of information is required. Without that, timely diagnostics of multiple and/or complex issues, and effective referral to specialised help will not provide the level of protection needed.

According to this periodical report on child victims of sexual violence 2016, child victims from sexual violence received twice as much crisis stabilisation aid compared to children in care with no history of sexual violence. Victims of sexual violence often receive care outside their home: 50 per cent of all victims of sexual violence, compared to 20 per cent of all non-victims. It is especially noteworthy that victims of sexual violence are 20 times more likely to be placed in a closed institution than non-victims. They are almost exclusively girls. This means that 85 per cent of all girls that have been placed in a closed institution, received help for being a victim of sexual violence. This is a worrying trend. Although these measures always have to be officially reviewed and confirmed by a juvenile court, they often do not go hand in hand with other child protection measures (i.e. the allocation of a guardian to the family in question). This means that the authorisation given for the placement in closed institutions is based on consent from the parents. The absence of additional child protection measures could have implications for the legal standing of the parents and child, and the possible follow up in care. This could mean that children have to stay in closed institutions longer than needed, which is highly undesirable considering this is such a burdensome form of intervention.

Instead, a comprehensive, problem-oriented approach focusing on (preventative) protection, treatment, follow up care, and sheltering of victims and rehabilitation of (repeating) juvenile offenders, should be at the centre of youth care. Therefore the following question arises:

9 Inspectie Gezondheidszorg en Jeugd (2018); Transitie Autoriteit Jeugd (2018); ZonMW (2018); Nationaal Rapporteur (2018a).

How does the government of the Netherlands intend to improve comprehensive care for child victims and offenders of sexual violence and exploitation, based on insights derived from reliable data sources?

Lifelong criminal records for juvenile offenders of sexual violence

In the Netherlands, a Certificate of good conduct (Verklaring Omtrent het Gedrag - VOG) indicates that the recipient has not committed any criminal offences that are relevant to the performance of his or her duties. For some jobs, such as teaching, childminding, or being a taxi driver, lawyer, or civil servant, a Certificate of good conduct is mandatory. A request for a Certificate of good conduct may be denied if the applicant has a relevant criminal record in a specific time frame prior to the application. However, in certain cases, such as a conviction for sexual violence, there is no specific time frame: a Certificate of good conduct will never be issued.

This excludes juvenile offenders convicted for sexual violence from ever obtaining a Certificate of good conduct and thus from ever working in a great number of occupations. This is not in accordance with the principles of the Dutch juvenile justice system, which is based upon the belief that the development of a child's brain is not fully completed until the age of approximately 23. The system's main principle is both normative and educational: juvenile delinquents should learn from their mistakes. The current regulations could work counterproductive, since they could hinder protective factors for recidivism such as study or employment, financial stability and having a (non-criminal) social life.

In 2015, the UN Committee on the Rights of the Child recommended to the Netherlands to expunge the criminal record of children once the sentence has been served. The National Rapporteur has also advised the government in 2017 and 2018 to change the rules of issuance for the Certificate of good conduct for applicants who committed a sexual offence in their childhood.

Due to the importance of this issue, the National Rapporteur poses the following question:

How will the government of the Netherlands adhere to the rights of juvenile offenders and to the subsequent recommendations made by the UN Committee on the Rights of the Child and the National Rapporteur?

Conclusion

To conclude, over the last few decades the Dutch government has made tremendous efforts to protect and improve children's rights. The National Rapporteur always looks for ways to enhance the protection of the most vulnerable in our society against exploitation and sexual abuse. The abovementioned issues should be addressed more intensively the coming years. Therefore, the National Rapporteur urges the UN Committee on the Rights of the Child to take these issues into consideration.

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The National Rapporteur is an independent research organisation that reports on the nature and extent of human trafficking and sexual violence against children in the Netherlands.



What does the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children do?

The National Rapporteur reports on the nature and extent of human trafficking and sexual violence against children in the Netherlands, and on the effects of the government policies put in place. The National Rapporteur raises public awareness for these phenomena, and makes policy recommendations aimed at preventing and combating human trafficking and sexual violence against children. The National Rapporteur has no investigative authority and is not a complaints agency.

Who is the National Rapporteur?

The current National Rapporteur is Herman Bolhaar. He is assisted by a team of staff members who together constitute the Bureau of the National Rapporteur.

What kind of activities are carried out by the National Rapporteur?

The National Rapporteur conducts independent research and publishes reports in which he makes specific recommendations to the issues addressed. Data is collected by means of independent research, through intensive contact with other bodies, by organising and participating in meetings and conferences, and by participating in taskforces and expert groups. The reports contain data, descriptions of the phenomena of human trafficking and sexual violence against children, relevant legislation, and the measures taken in the areas of prevention, investigation and prosecution of offenders, and aid to victims. The National Rapporteur is active at national and international level.

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July 2019