

Poverty, social exclusion and human rights

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Foreword

Poverty is the theme of this fifth report on Human Rights in the Netherlands from the Netherlands Institute for Human Rights. You may be wondering whether this is (still) relevant. After all, the economic crisis is behind us and unemployment is falling. And yet...

Many people and families still live in poverty in the Netherlands, and certainly also in the Caribbean part of our Kingdom. And that involves problems in many areas. Problems that have accumulated over the years and that are not solved the minute you have a job again. Too many people have ended up in a vicious circle. That means that human rights such as the right to housing, education, health and full participation in society have come under pressure. A government which assumes an increasingly smaller role and takes as a starting point that people can look after themselves runs the risk of losing sight of those who can no longer do so properly.

Ending situations of poverty and preventing poverty when people are at risk, is a key task for the government. The Institute is convinced that the government can only be successful in this if a broad strategic vision is developed in which the fulfilment of human rights is a central tenet. This should be done in collaboration with bodies that provide assistance that have clear insight into the problems, advocacy organisations and people in poverty..

With this report the Institute provides for building blocks for such a vision, and is particularly also seeking to provide inspiration.

Adriana van Doijeweert
Chair, Netherlands Institute for Human Rights

The right to an adequate standard of living

In his famous *Four freedoms address* (1941), Franklin D. Roosevelt said that democracy could only fully flourish once all people had the right to freedom of speech, freedom of worship, freedom from want and freedom from fear.¹ Freedom from want was included in the 1948 Universal Declaration of Human Rights, and further elaborated within international and regional human rights treaties. It is usually referred to as ‘the right to an adequate standard of living’. Article 25 of the Universal Declaration of Human rights clarifies this as follows: ‘Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.’ This basis of social security is an important aspect of human dignity.

¹ Franklin D. Roosevelt, Speech to Congress, 6 January 1941. The four freedoms are: freedom of speech, freedom of worship, freedom from fear and freedom from want. This can be found on <http://www.fourfreedoms.nl/nl/roosevelt-four-freedoms/passage-fdrs-speech-to-congress-january-6-1941.htm>

Introduction

Poverty in the Netherlands

There are people in the Netherlands who live in poverty; this shows that social security does not go without saying. here. There are various reasons for this. Poverty is not always the result of a breach of human rights, but poverty, social exclusion and human rights are very closely interlinked. People on low incomes are limited in their options to take part in society and have less influence on the decisions that concern them. Poverty and social exclusion could also be caused by shortcomings in relation to the protection of human rights. In other words, people may end up living in poverty because their human rights have been inadequately protected however, in contrast, poverty can also lead to the inadequate protection of human rights. People living with the risk of poverty may end up in a vicious circle of powerlessness, stigmatisation, discrimination, exclusion and material deprivation.²

What is poverty?

The Netherlands Institute for Social Research (SCP) deems poverty to exist if someone does not have the means to access the goods and services which are considered to be the minimum necessity in their society. It concerns people who are unable to achieve a minimum standard of living with their income. The SCP adopts an objective approach: the poverty line does not depend on how people perceive their situation. The 'minimum necessity' is recorded in a list drawn up by Nibud (National Institute for Family Finance Information).³ Two reference budgets are used to establish poverty.

The basic needs budget comprises the minimum expenditure of an independent household on basic items such as food, clothing and accommodation and a number of other expenses which are hard to avoid, such as insurance costs. The second reference budget, the 'not much but adequate' budget, also takes account of the minimum costs of leisure and social participation.⁴

The SCP's most recent figures cover 2014. The number of people below the more generous 'not much but adequate' threshold is now slightly more than 1.2 million (7.6%), with over 810,000 (5.1%) below the basic needs threshold.⁵ Within the group of people below the basic needs threshold, the proportion of those in long-term poverty fluctuates between 40% and 50%. In the last measurement year (2012) a total of nearly 800,000 people had insufficient income to meet their basic needs. For over 375,000 people that situation had already lasted for at least three years in a row.⁶

² OHCHR, *Guiding principles on extreme poverty and human rights*. Geneva: OHCHR, 2012, p. 2. The UN Human Rights Council adopted these principles on 27 September 2012, resolution A/HRC/RES/21/11.

³ SCP, 'Wat is armoede' (What is poverty?). Poverty map 2016, September 2016.

⁴ SCP, 'Waar ligt de armoedegrens' (Where is the poverty line?). Poverty map 2016, September 2016.

⁵ SCP, 'De omvang van armoede' (The scope of poverty). Poverty map 2016, September 2016.

⁶ SCP, 'Hoeveel mensen zijn langdurig arm' (How many people live in long term poverty?). Poverty map 2016, September 2016.

Poverty and social exclusion

Social exclusion can be closely related to poverty in the economic sense. This concerns deficiencies with respect to social and societal involvement and commitment; the sense that you don't 'belong'. Social exclusion can be both a cause and a consequence of poverty; it can reinforce poverty and vice versa.⁷ The European Social Charter recognises this link. In article 30, the treaty states that governments must take measures to guarantee the right to protection against poverty and social exclusion.

Research by the WRR (Scientific Council for Government Policy) has shown that social confidence reduces as income inequality increases. This also applies to confidence in institutions such as the rule of law and parliament.⁸ The reduction of social inequality, therefore, is also important in a societal sense. This has been underscored by its status as one of the sustainable development goals.⁹ Goal 10 states: "Reduce inequality within and among countries." In order to achieve this, States have agreed to realise and advance social, economic and political inclusion for all, irrespective of age, gender, disability, race, ethnicity, origin, religion or economic or other background. In addition, they shall guarantee equal opportunities and eliminate inequality by means of legislation, policy and action. They will also implement policy that will gradually lead to increased equality, specifically with respect to taxability, wages and social protection.¹⁰ The fact that 'economic status' is included is a clear statement that poverty may not lead to social exclusion. In the first report on the sustainable development goals, the CBS (Statistics Netherlands) noted that more people were living under the national poverty line in 2015 than in 2006, and that the poverty gap has widened since 2012.¹¹ The CBS also identified that social inequality is one of the areas where the Netherlands performs relatively badly.¹² It is important, when working towards this goal, that the obligations arising from the human rights treaties are applied as the basic principles.

Aim and structure of this report

The Institute will not focus on the various definitions of poverty in this report. It would like to use several themes to demonstrate how poverty and social exclusion are human rights issues and that human rights could play a significant role in tackling poverty. The report is structured as follows. The first section places poverty and social exclusion within the perspective of human rights. The initial focus lies on the need for this perspective. There will then be an explanation of what a human rights based approach to poverty involves. In

⁷ See also SER (Social Economic Council) *Opgroeien zonder armoede (Growing up without poverty)*, Recommendation 17/03, The Hague: March 2017, p. 13-14.

⁸ Herman van de Werfhorst, 'Politieke en sociale gevolgen van inkomensongelijkheid' (Political and social consequences of income inequality), in Monique Kremer, Mark Bovens, Erik Schrijvers & Robert Went (red.), *Hoe ongelijk is Nederland? (How unequal is the Netherlands?) Een verkenning van de ontwikkeling en gevolgen van economische ongelijkheid. (An examination of the development and consequences of economic inequality.)* The Hague: WRR, 2014, p. 126-127.

⁹ These goals were adopted by the United Nations General Assembly on 25 September 2015. A/RES/70/1, Transforming our world: the 2030 Agenda for Sustainable Development, Goal 10.

¹⁰ Sub-goals 10.2 - 10.4, Dutch translation comes from <http://www.sdgnederland.nl/sdgs/doel-10-minder-ongelijkheid/>

¹¹ CBS, *Metten van SDG's: een eerste beeld voor Nederland (Measuring SDG's: an initial overview for the Netherlands)*. The Hague: CBS 2014, p. 27.

¹² CBS, *Metten van SDG's, (Measuring SDG's)* p. 28.

the second section of this report, the Institute will demonstrate, on the basis of the themes of employment, health, education and housing, how poverty influences the provision of human rights. There is a separate chapter dedicated to the Caribbean Netherlands. Prior to each theme, there is a short explanation of the most relevant right. The chapter on the Caribbean Netherlands is preceded by a brief explanation of the provision of human rights in this region. The third section contains the summary, conclusions and recommendations.

PART I

POVERTY, HUMAN RIGHTS AND SOCIAL EXCLUSION

1 The need for a central place for human rights in tackling poverty

An important question for policy makers, professionals, those in poverty and the people who represent them, relates to why poverty should be tackled from the perspective of human rights. Central and local governments already have policies in place. Additionally, civil society also has a significant role with projects that support people. In this paragraph, the Institute presents three arguments for a central place for the human rights framework. Firstly, human rights are comprehensive. This offers a basis for the content of policy and the process of formulating, implementing and evaluating policy. Secondly, it concerns legal standards which clearly demonstrate that people have rights and that these rights correspond to obligations for the government. Thirdly, the human rights framework offers clarity.

1.1 A comprehensive and effective approach to poverty and social exclusion

A person living in poverty could encounter problems when trying to exercise one of his human rights. However, frequently multiple human rights are jeopardised. The most noteworthy issues concern economic, social and cultural rights, such as the right to health and the right to housing. Individuals living in poverty can also struggle to exercise civil and political rights. This could include, for example, the obligation to provide personal information in order to be eligible for special schemes for minimum-wage earners. Those who are not able or willing to provide these details cannot use the scheme. Another example is the right to access information, which is a condition of being able to access rights. This could include information about a healthy lifestyle, for example. If this information cannot be understood by everyone, it could mean that the right to health is inadequately protected. The participation of people who live in poverty is vital in order to have effective policy to combat poverty. The human rights framework, as set forth in European and international treaties, provides direction for the content of policy and the way in which this policy is realised and implemented. Human rights are indivisible and interdependent. They thus offer an excellent basis for tackling the problems. Existing policy, or elements thereof, and ongoing projects all contribute towards compliance with several human rights, even if human rights are not explicitly identified as the departure point. Policy to combat poverty which is based on human rights is comprehensive. Human rights provide direction for the content of policy and the corresponding realisation process. This approach can therefore deliver a significant contribution to a comprehensive and effective approach to the poverty issue.

1.2 Legal obligations

Human rights are universally accepted, fundamental rights. They are set out in treaties and are legally binding. These treaties have a particular status in law. National legislation, policy and practices must be in conformity. This offers effective protection for people. Drafting policy on the basis of human rights has a fundamentally different point of departure than the formulation of policy exclusively on the basis of human needs or, as used to be the case, charity. The perspective of human rights goes much further than simply fulfilling (basic) needs. As mentioned above, human rights offer a basis for a comprehensive approach, allowing people to be involved in creating and implementing policy. Also people in a marginalised position are entitled to human rights. Simply working on the basis of people's needs fails to clarify that there are concrete obligations in this context, and who is obliged to fulfil them. The human rights framework, however, does so

very effectively. By accepting treaties, governments commit themselves to comply with human rights guaranteed in these treaties. This applies to all elements of government, both national and local. The details of what these obligations entail is further elaborated in the work of national and international supervisory bodies. There are various types of obligation. The government may not violate a right. This is the case, for example, if the government breaches the privacy of its citizens, or arbitrarily evicts someone from their home. A second type of obligation is that governments must protect their citizens against violations by others. For example, businesses or other citizens. The government must therefore guarantee that employers pay men and women the same wage for the same work. The government must also protect its citizens against products that are damaging to health. A third type of obligation is that the government must provide facilities under certain conditions, such as relief or a refuge for people who have no home. In concrete cases, the Dutch courts can investigate whether the government has fulfilled its obligations arising from the treaties.

The treaties set out which rights must be guaranteed by governments. The International Covenant on Economic, Social and Cultural Rights (ICESCR) obliges governments to take steps towards the full realisation of economic, social and cultural rights.¹³ While the Covenant provides for progressive realization, components of the rights, such as the obligation not to discriminate, must be realised immediately. The ‘progressive realisation’ of the right to equal pay for men and women would therefore contravene the Covenant. The obligation to create programmes to protect poor and marginalised people must also be fulfilled immediately.¹⁴ Examples include the protection of children against exploitation and the provision of equal access to care facilities. The obligation to not discriminate means that states must protect vulnerable and marginalised groups.

Once the provision of rights realises a certain level, this level should not subsequently reduce. It may only reduce if there is genuinely no other choice, having considered all of the available options. However, even in economically challenging times, when austerity measures have to be found, certain obligations arising from human rights treaties must continue unaffected. This includes the obligation to ensure that measures are non-discriminatory, that affected parties can participate in decision making, that the increase of social inequality remains within certain boundaries, and that the measures do not impact disproportionately upon vulnerable groups.¹⁵

1.3 Human rights provide clarity

Human rights standards create the frameworks within which national and local policy makers can, and must, carry out their work. Within these frameworks, there is space for differences between countries, and also within countries and between the municipalities

¹³ The full text of article 2, first section reads as follows: ‘Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.’

¹⁴ This obligation is further reflected in various general recommendations.

¹⁵ CESCR Committee, *Public debt, austerity measures and the International Covenant on Economic, Social and Cultural Rights. Statement by the Committee on Economic, Social and Cultural Rights.* E/C.12/2016/1, June 2016, par. 4.

therein. This is advantageous in terms of national and local governments being able to take account of the specific context in which they are operating. The decentralisation in the social domain which has recently taken place in the Netherlands also demands this of the local government. Customisation is key. This discretion in policy making, however, is not without boundaries. The limits are set out in national legislation and regulations and in international standards with which laws, regulations and practices must comply. Citizens could regard variances between municipalities as unclear or unfair. That is why clarity is vital when it comes to the basis upon which these governments make their decisions; effective explanation and justification of these decisions is also essential.

Human rights offer a foundation for the formulation, implementation and evaluation of policy, setting priorities and weighing up the considerations in concrete situations. Supervisory bodies have further clarified the substance of the rights of individuals and the obligations of states. This substance is not simply 'an opinion' but an objective and authoritative interpretation.

Supervision on compliance with human rights is carried out by national courts, European courts and other national, European and international supervisory bodies. There is a difference between supervising compliance with civil and political rights, on the one hand, and economic, social and cultural rights, on the other. Many judicial rulings have been issued on civil and political rights. The elaboration of rights such as the protection of privacy and freedom of expression is therefore particularly refined. Monitoring compliance with economic, social and cultural rights is, from a judicial viewpoint at least, less well elaborated. The Dutch court tends not to accept the direct effect of economic, social and cultural rights and international complaints procedures are a recent development. The general recommendations of the UN treaty bodies, particularly the CESCR Committee, are therefore important in terms of effectively understanding these rights.¹⁶ The Committee has provided clarification for each right with respect to its specific meaning and the corresponding obligations which must be fulfilled by the state. The work of the European Committee on Social Rights, which monitors compliance with the European Social Charter is also very significant. In order to explain rights, the CESCR Committee often applies the 4 A's or the AAAQ system. The 4 A's stand for Available, Acceptable, Adaptable and Accessible. AAAQ stands for Available, Acceptable, Accessible and Quality (BAKT in Dutch).

The AAAQ method has been developed in order to firm up the international obligations arising from economic, social and cultural rights. This chapter contains a brief outline of the methodology. The AAAQ framework for the specific human right is provided prior to each of the thematic chapters on employment, health, housing and education in relation to poverty.

Availability

Availability means that an infrastructure is available to realise human rights. This concerns institutions and legislation, among other things. It could include hospitals and other care facilities, schools, organisations that help people find employment and a system of social security. These facilities must, of course, function effectively.

¹⁶ The summary that follows is principally based on the work of the CESCR Committee, which has clarified the ICESCR norms within so-called general recommendations. Other important sources are the general recommendations of other supervisory committees, including CEDAW and CRPD and, on a European level, the European Committee for Social Rights.

Acceptability

Acceptability means that the implementation of human rights in practice takes account of the various groups of people in society. This encompasses different cultures, but also the different needs of men and women, old people, young people and people with a disability. In order to establish what is acceptable, the population must be involved in the process.

Quality

Effective compliance with human rights also implies that the government provides good quality services and facilities that fall within the scope of human rights. This also applies if they are provided by private organisations.

Accessibility

Accessibility is a multifaceted term. Firstly, there is the non-discrimination component. Facilities must be accessible to all, even the most vulnerable and marginalised groups. In order to guarantee this, governments may be required to provide additional investments. Secondly, this concerns physical accessibility. Thirdly, there is economic accessibility; the facilities must be affordable. Accessibility also covers the right to seek, receive and impart information about facilities and services.

2 A central place for human rights

This chapter further elaborates the human rights based approach to poverty and social exclusion and the problems that people living in poverty experience. The structure of the chapter mirrors the human rights principles. These principles are relevant to the process of formulating, implementing and monitoring policy, and determining the policy's substance.

Initially, the focus lies on social security as an element of human dignity. We will then examine autonomy, equality, participation and the protection of rights.

2.1 Dignity and an adequate standard of living

Dignity is the underlying value of human rights. In its preamble, the Universal Declaration of Human Rights (UDHR) refers to 'inherent dignity' and the 'equal and inalienable rights of all members of the human family'. Dignity plays a key role with respect to human rights. Dignity is the source of all human rights; humans have rights because they are human. Simultaneously, dignity is also the objective of human rights; the rights aim to protect and advance dignity. Freedom, autonomy, equality, participation and social security form essential building blocks for dignity. And these building blocks are often intertwined.¹⁷

Living with poverty and social exclusion can affect human dignity.¹⁸ Not in the sense that the individual who is poor loses their dignity, but in the sense that he/she is prevented from leading their life with dignity. Social security is therefore an important component of dignity.

¹⁷ College voor de Rechten van de Mens, *Mensenrechten in Nederland, Jaarlijkse Rapportage* (Netherlands Institute for Human Rights, *Human rights in the Netherlands, Annual Status Report*) 2012, p. 16 *et seq.*

¹⁸ ECSR, 'Statement of interpretation on article 30', in: *The right to be protected against poverty and social exclusion under the European Social Charter*, Council of Europe, 2016.

Article 20 of the Dutch Constitution stipulates that the social security of the population and the distribution of prosperity are governmental concerns. Furthermore, various treaties guarantee an individual right to an adequate standard of living. Article 11 ICESCR states that everyone has the right to an adequate standard of living for themselves and their family, including the right to appropriate food, clothing and housing. Article 30 of the European Social Charter (reviewed) obliges governments to offer protection against poverty and social exclusion. The right to an adequate standard of living is also guaranteed in other treaties, although not with precisely the same wording.¹⁹

International supervisory bodies have elaborated the various components of the right to an adequate standard of living. There are recommendations regarding the right to housing, the right to food and the right to water. The right to an adequate standard of living also encompasses the elements that are required for survival, health and physical and emotional development. There are also other, closely related rights such as the right to social security, which is guaranteed by, for example, article 9 ICESCR. The CESCR Committee has adopted a separate general recommendation on this article. The Committee thus underscores the importance of this right as a human right. When people are confronted with circumstances under which they cannot fully realise their rights, the right to social security is an important guarantee of human dignity. The Committee notes that social security plays a key role in tackling poverty, preventing social exclusion and promoting social inclusion.²⁰ Benefits (in cash or in kind) must be sufficient both in scope and duration to protect and support the family. They must also guarantee an adequate standard of living and access to healthcare.²¹

2.2 Autonomy

The European Court of Human Rights has ruled that autonomy is part of the right to respect for the private and family life (article 8 ECHR). It also plays an important role in the interpretation of other human rights. Autonomy is included in the Convention on the rights of persons with a disability, as one of the principles on which the Convention is based. People with little money are limited in terms of choice in many areas. This does not mean, however, that they should not be able to make choices or should be condemned to the least favourable outcomes in terms of issues such as housing and education.

Human rights treaties incorporate minimum guarantees for all, irrespective of financial means and social positions. These rights are not forfeited, even if inappropriate choices are made which result in debt. The formulation of conditions with respect to gaining assistance or support or being eligible for certain measures can be problematic from the viewpoint of autonomy. Sometimes, such conditions can contribute towards improving the position and empowerment of people who live in poverty. For example, the completion of interview training for improving prospects in the labour market. Other requirements, however, create barriers to the (unfair) use of a facility or require 'something in return' for society, with respect to the use of a facility. There is thus an implicit assumption that a

¹⁹ See article 27 of the Convention on the Rights of the Child, article 14 of the Convention on the Elimination of Discrimination against Women, article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and article 28 of the UN Convention on the Rights of Persons with Disabilities.

²⁰ CESCR, *General comment no. 19, The right to social security (article 9)*, E/C.12/GC/19, par. 1 and 3, 4 February 2008.

²¹ CESCR, *The right to social security (note 20)*, par. 22.

person living in poverty is unable to make rational choices in terms of improving his/her life. Or that the situation is somehow his/her fault and that the right to assistance and support is therefore forfeited. This can unintentionally reinforce prejudice about people in poverty, e.g. that they cannot take care of themselves or are irresponsible. Conditions that are too far-reaching could subsequently end up being at odds with human dignity. It is therefore vital that measures protect autonomy and do not lead to stigmatisation.

2.3 Equality

Equality and non-discrimination are important underlying principles of the human rights framework. The right to equal treatment and non-discrimination is guaranteed by article 1 of the Dutch Constitution and in all human rights treaties. This is evident from the formulation of many of the treaty provisions: ‘everyone has the right to...’ or ‘no one shall be subjected to...’. Furthermore, the treaties all contain specific provisions on the right to equal treatment in relation to exercising human rights. Specific treaties such as the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of all forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities focus on tackling existing shortcomings and discrimination and realising equality in practice. The treaties and the work by the supervisory bodies demonstrate how important it is that the different situations of individuals are taken into account.

Inequality and discrimination can be both a cause and a consequence of poverty. In individual cases, however, it is not necessarily clear that an individual is running the risk of poverty due to discrimination or as a result of an unfortunate concurrence of circumstances. Data about income distribution can demonstrate which groups or regions need attention in order for measures to be taken to protect and promote the human rights that have been or could be negatively affected.

2.3.1 Tackling social inequality

Individuals can only freely and fully develop their own personality in his/her relationships with others. Substantial social inequality can serve as a barrier in this regard. It can lead to people having less confidence in their fellow citizens, society, the rule of law and parliament.²² Research has shown that social-economic and social-cultural differences between people often correspond to differences in education. A combination of differences can ultimately lead to social divisions and unrest.²³

The European Committee of Social Rights states that, where necessary, specific measures must be taken for the most vulnerable groups and regions.²⁴ Poverty often encompasses families and local communities. This is clear from the numbers of children that grow up in poverty,²⁵ but also from the existence of disadvantaged neighbourhoods in cities.²⁶ Many

²² Scientific Council for Government Policy (WRR) 2014 (note 8).

²³ Roderik Ponds, Maarten van Ham, Gerard Marlet, *Verschillen, ongelijkheid en segregatie. Literatuurstudie. (Differences, inequality and segregation. Literature study.)* Utrecht: Atlas voor gemeenten (Atlas for municipalities), 2015, p. 7.

²⁴ ECSR, ‘Statement of interpretation on article 30’, (note 18).

²⁵ Bas Tierolf, Rob Gilsing and Majone Steketee (red.), *Kinderen in tel 2016, Databoek (Children Counted. Databook) 2016*. Utrecht: Verwey-Jonker Instituut, 2017.

²⁶ For details, see the CBS Poverty map 2016, ‘Waar wonen de armen in Nederland?’ (Where do the poor live in the Netherlands?).

farmers also live under the poverty line in the long term.²⁷ The relationship between poverty and social exclusion clearly points to the fact that policy must focus on the position of both the individual and his/her environment. This applies to the family and the group to which he/she belongs and, where relevant, the region where he/she lives. The main focus areas are sufficient employment opportunities and income security, adequate housing, and access to good healthcare and education. These all help improve the human rights of those who live in long term poverty and can also contribute towards breaking the legacy of poverty that passes from generation to generation.

According to the SCP, there are groups which ‘are consistently faced with an increased risk of long term poverty’.²⁸ In part, these are the same groups that already have an increased risk of poverty, such as people on benefits and non-western migrants. Another section includes people who, in essence, have a low chance of ending up in poverty but who also have a relatively low chance of escaping. The latter primarily relates to pensioners. The SCP concluded that, in terms of poverty duration ‘there are divisions in society rather than a generally occurring phenomenon’.²⁹ The risk of this is that ultimately an underclass will be created. According to the SCP:

‘If long term poverty is concentrated in groups which not only in financial terms but also in terms of education and (digital) skills, health and social network end up in an unfavourable position, this soft division can become a hard, almost insurmountable barrier between an upper layer where things are going well and a lower layer where that is not the case, and over which the government will have little control.’³⁰

Structural disappointment in relation to the government’s significance for them can subsequently lead to revolt against the rule of law ‘which has nothing to offer to them’ or to forms of anarchic and destructive behaviour. This must be prevented in the interests of those involved and also society as a whole.

2.3.2 Focus on people in vulnerable situations

A human rights approach requires specific attention to be paid to people in vulnerable situations. In this context, that means those living in or at risk of poverty. The increasing number of ‘working poor’ is a fairly recent phenomenon in the Netherlands.

Groups which have been identified as running the risk of falling into poverty include women, people with a migrant background and those with a disability. Poverty features highly among single-parent families with young children.³¹ In the majority of these single-parent families, a woman is head of the family. There are still many women in the Netherlands who are not economically independent. Their financial dependence means they are more susceptible to poverty. The loss of a partner has enormous economic consequences for them. Non-western migrants, principally first generation, run a far higher risk of poverty.³² It is also clear that the risk of poverty is higher for individuals with a disability. They are less likely to be employed, often depend on benefits and tend to work

²⁷ ING Economic bureau, ‘De boer op. Tijd voor keuzes voor agrarisch Nederland.’ (On the road. Time for choices for agricultural Netherlands). ING September 2016.

²⁸ SCP, *Een lang tekort (A long shortage)* (note 34), p. 50.

²⁹ SCP, *Een lang tekort (A long shortage)* (note 34), p. 50.

³⁰ SCP, *Een lang tekort (A long shortage)* (note 34), p. 11.

³¹ CBS, <https://www.cbs.nl/nl-nl/nieuws/2017/06/meer-huishoudens-langdurig-onder-lage-inkomensgrens-in-2015>

³² SCP, *Een lang tekort (A long shortage)* (note 34), p. 10.

part-time. Sickness or a disability is also associated with higher costs that are not always reimbursed.³³

There are also other groups that run an increased risk of poverty. The SCP distinguishes between a risk of short term poverty and a risk of long term poverty. The first group principally encompasses people who do not have children or have older children, those who live in a household where paid employment (salaried or self-employed) is the most important source of income and people with a Dutch background. People who live alone and single-parent families or couples with young children are faced with periods of poverty that last for over a year, relatively frequently. This also applies to benefit recipients and non-western migrants. Households with younger children, benefit and pension recipients and non-western migrants have a greater risk of long term poverty, i.e. a period longer than three years.³⁴ A fairly recent development is the increase in people with a flexible employment contract and the self-employed. They have an increased risk of poverty despite the fact that they work.³⁵ For the self-employed who end up in poverty, less than 60% manage to escape the situation within a year; a relatively high number leave poverty behind in the second year, however.³⁶ This SCP report does not include figures on the self-employed who do not ask organisations for assistance and could therefore be living under the poverty line.

2.3.3 Equal access to rights

Both people in poverty and people who run the risk of poverty tend to encounter similar problems as a result of their economic status. They could, for example, have to deal with a stigmatised attitude from municipalities or other citizens. The nature of the obligations which governments impose on benefit claimants, for example, could generate a sense among the general public that people on benefits are fraudsters, who unlawfully make claims on the social 'safety net' that is provided in law. This could involve having to show evidence of sufficient job applications or the obligation to provide something in return. The emphasis on economic status in the fight against obesity also suggests that poor people are incapable of making good choices.

People who live in or are at risk of poverty are entitled to the same protection in law. Discrimination on the grounds of economic status or other poverty-related grounds is not permitted by human rights treaties. Equal treatment requires governments to identify vulnerable and disadvantaged groups in society and ensure that these groups are also able to fully exercise their rights. People in or at risk of poverty must be able to effectively access their rights. The government must take measures to ensure access to social rights and eliminate any obstacles. Attention must also be paid to psychological and social-cultural barriers that prevent access to rights.³⁷

Government institutions must not stigmatise those in poverty. Positive measures are needed in order to realise this equality in practice. This could include legal, executive, administrative and financial measures, policy and programmes in poverty-sensitive areas, such as employment, housing, food, health, education and participation in social life.

³³ Ieder(in).

³⁴ SCP, *Een lang tekort. Langdurige armoede in Nederland (A long shortage. Long term poverty in the Netherlands)*. The Hague: SCP, March 2016, p. 8-9.

³⁵ SCP, *Een lang tekort (A long shortage)* (note 34), p. 11.

³⁶ SCP, *Een lang tekort (A long shortage)* (note 34), p. 44.

³⁷ ECSR, 'Statement of interpretation on article 30', (note 18).

2.4 Participation and empowerment

The departure point for a human rights based approach to poverty and social exclusion is that people in poverty have rights too and must be able to play an active role in the formulation of the measures which involve them. The right to political and societal participation is guaranteed as an independent human right. Participation is inextricably linked with many other human rights, such as the right to freedom of expression and the right to education. Participation in the formulation of policy not only advances the effectiveness of measures but also the dignity of those concerned. The process of formulating a particular measure is just as important as the measure itself.

The Sustainable Development Goals stress the importance of participation at every level. Governments have agreed to work towards these goals and must subsequently focus on the poorest and most vulnerable people and collaborate with all countries, all interested organisations and all people.³⁸ Participation is also the subject of goal 16: to ‘promote fair, peaceful and inclusive societies’. Governments have agreed to guarantee ‘sustainable, inclusive, participative and representative decision making at all levels’.³⁹ They thereby acknowledge that the people concerned must have their voices heard and that decisions must be made *with* them and not *for* them. This goal could fulfil a key role in the fight against poverty and social exclusion. It is not only a goal in its own right, it is also a method for realising sustainable development in society.

“People who have experienced what it is to live in poverty, are motivated ‘experts’ who know where the needs lie, and are the most suitable people for tackling poverty. This means that people who are living in poverty are not, as so often happens, excluded from the process and subjected to changes that are made without any form of consultation, but are able to state where the needs lie and contribute towards a better world with less poverty and injustice.”⁴⁰

Participation is an effective method for combating social exclusion, as long as it is effective and meaningful. Effective participation results in empowerment. The government must involve people living in poverty in all stages of the formulation, implementation, monitoring and evaluation of policy, and decisions which impact upon them. This requires, where necessary, investments in tapping into and developing talents and skills. Special measures could be required to eliminate obstacles that hinder involvement and participation in decision making. This is certainly the case when it comes to reaching the most marginalised people. They must also be able to express their opinions and visions and play an active role in tackling poverty. As a result, there may be a need for measures that focus on empowerment.⁴¹ Poverty can only be tackled in a manner which enables the responsibilities between central government, local government and the citizen to be fully appreciated, by means of effective participation. Guaranteeing human rights forms the basis thereof. Investments in education, therefore, provide a clear contribution towards eliminating poverty. It also impacts upon health and strengthens the position of women.⁴²

³⁸ A/RES/70/1 (note 9), preamble.

³⁹ Sub-goal 16.7, Dutch translation from <http://www.sdgnederland.nl/sdgs/doel-16-vrede-veiligheid-en-rechtvaardigheid/>

⁴⁰ ATD Fourth World.

⁴¹ See also SDG’s: een van de prioriteiten voor de uitbanning van armoede is *empowerment* (one of the priorities for eliminating poverty is *empowerment*).

⁴² E/CN.5/2017/3, Strategies for eradicating poverty to achieve sustainable development for all

2.5 Protection of rights

A human rights based approach requires adequate protection of the rights of individuals and that individuals can hold the government accountable for the implemented policy. It is therefore vital that the rules are clear and accessible so that individuals are familiar with their rights. This also means that decision making must be transparent so that people are aware of which considerations and arguments form the basis of the government's decisions. Furthermore, sufficient data must be available to monitor and evaluate the policy's effectiveness. Finally, it must be clear to individuals where they can go with their questions or complaints. Complaint procedures must be accessible and effective.

2.5.1 Raising awareness of human rights

The above (paragraph 1.2) focussed on the need for a human rights based approach. The development and application of such an approach requires awareness to be raised about human rights and the advancement of expertise among (organisations of) individuals concerned and policy makers. It is crucial that professionals who work on tackling poverty and social exclusion are not only aware of human rights but also of the specific obstacles which are encountered by people in poverty in enjoying their rights. This requires information and activities that focus on raising awareness, such as campaigns, and training of the professionals concerned. Existing policy, or elements thereof, which contribute towards tackling poverty and social exclusion can very effectively advance compliance with human rights, also when this is not stated explicitly. The exchange of good practices could help raising awareness.

2.5.2 Right to access information

The government has an obligation to ensure that information of public interest is proactively put in the public domain. It should make every effort to ensure easy, prompt, effective and practical access to such information.⁴³ According to the National ombudsman, the effective provision of information means that the government ensures that the citizen has the right information and that this is accurate, complete and clear. It does not just offer information when the citizen requests it, but also does this on its own initiative.⁴⁴ Additionally, it must also be aware of diversity within society.

"Government systems, for example, should not only be accessible for certain groups of people; the challenge is to ensure that systems work for as many types of citizen as possible."⁴⁵

It is the government's responsibility to provide accessible information about social rights and benefits, subsidies and facilities. People in poverty have to face a range of obstacles if they wish to apply for benefits or make use of schemes for people in their situation. People who are functionally illiterate find the rules and procedures very complicated. The recent SER recommendation about children in poverty concluded that improved

⁴³ Human Rights Committee, *Article 19: Freedoms of opinion and expression*, General comment no. 34 (2011), CCPR/C/GC/34, par. 19.

⁴⁴ Nationale ombudsman, *Een onderzoek naar de digitale bijstandsaanvraag in de gemeente Utrecht. (An examination of digital benefits applications in the municipality of Utrecht)*. Report 2016/045.

⁴⁵ National ombudsman, *Burgerperspectief. Een manier van kijken. Verslag van de Nationale ombudsman over 2015 (Citizen perspective. A point of view. Report from the National ombudsman on 2015)*. House of Representatives, 2015-2016, 34 410, no. 1, p. 4.

information is required about schemes and that the application procedures for these schemes should be simplified. According to the SER, many application forms are ‘needlessly complicated’.⁴⁶

An important focus area is the digitalisation of information. This offers opportunities as people can contact the government more quickly and easily. Some groups of people, however, are disadvantaged by the digitalisation process as they do not have the necessary resources and/or skills to find the relevant information.

A case that was handled by the National ombudsman illustrates this point. A woman applied, with her carer, for supplementary support from the municipality of Utrecht. In order to complete the application, she had to enter an email address. The woman did not have a computer and rarely used her email address. She therefore missed the invitation for the mandatory information meeting. The application was dismissed. The National ombudsman acknowledges that government bodies should encourage digital communication. But he found that the municipality had made it ‘rather difficult’ for residents who do not wish to complete a digital application for support. He noted that certain groups of citizens could easily fall off the radar as they do not have digital skills and that the people who tend to rely upon benefits are more likely to belong to groups which struggle with advancing digitalisation. There is therefore a risk that the people who need this type of support are the very people who do not receive it (in full). The complaint from the woman regarding the benefit application was found to be valid, on the ground of incompatibility with the requirement to ensure the provision of information.⁴⁷

2.5.3 Right to an accessible and effective remedy

Anyone who considers that their human rights have been breached must be able to make use of an effective remedy. This right is enshrined in all human rights treaties. The right to an accessible and effective remedy means that these are also available to people in a vulnerable situation. This can sometimes require adjustments of existing remedies.⁴⁸ A primary condition is that people in poverty have information about the option to make complaints and submit objections. They need information on the conditions for starting a procedure and any corresponding costs. It is important that the complaints procedure is easily accessible and affordable. That means that the costs for starting a procedure and legal assistance do not constitute a barrier. In a procedure, it is vital in terms of fair treatment, that complaints commissions and the judiciary are aware of prejudices regarding people in poverty.

3 Final remarks

3.1 Introduction

Poverty is an issue in the Netherlands and often goes hand-in-hand with social exclusion. In the first section of this report, the Institute has explained the relationship between poverty, social exclusion and human rights. The fact that large groups of people are living in poverty in the long term and that this figure is not reducing, but is actually increasing,

⁴⁶ SER, *Opgroeien zonder armoede (Growing up without poverty (note 7)*, p. 72-73.

⁴⁷ Nationale ombudsman, *Een onderzoek naar de digitale bijstandsaanvraag in de gemeente Utrecht. (An examination of digital benefits applications in the municipality of Utrecht)*. Report 2016/045.

⁴⁸ Human rights committee, *The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, General comment no. 31 (2004), CCPR/C/21/Rev.1/Add.13, par. 15.

means that urgent measures are required. This is an obligation that arises from the universally guaranteed right to social security. The SER recently made an urgent appeal for another, more robust approach to poverty among children, whereby much greater effort than is currently the case, goes into the prevention of poverty. In this, the SER also focuses on the poverty of the parents.⁴⁹ The Institute is making an urgent appeal for poverty to be tackled in the Netherlands and recommends working on the principle that poverty is a human rights issue and that human rights must be accorded a central place in combating poverty.

The first section of this report focussed on the usefulness and significance of human rights in tackling poverty. According to the Institute, this shows important preconditions, which must be fulfilled by future policy. This final paragraph provides a brief summary of the most important findings.

3.2 Poverty is a human rights issue - and so is combating poverty

The right to an adequate standard of living and protection against poverty and social exclusion are fundamental human rights. A life in poverty and exclusion can impact upon human dignity. A human rights based approach works on the basis that poverty is a human rights issue. This approach to the poverty problem offers guidelines for both the content of policy and the process of formulating and evaluating this policy. The usefulness of a human rights approach lies within the all-encompassing nature of human rights, the acknowledgement of rights and the corresponding obligations, and clarity provided by the framework.

3.3 Basic policy principles

Protecting social security

A long term lack of financial resources can, in itself, be problematic in terms of human rights. This is the case if the right to an adequate standard of living is insufficiently protected. There must be adequate income support in order to ensure that this right is guaranteed.

Respect for autonomy

The human rights framework offers a clear, normative basis for the approach to poverty and social exclusion. The basic principle, when formulating, implementing and monitoring policy, must be the protection of a person's autonomy. This is not the same as taking the capacity to cope on one's own as a starting point. There may well be a need for assistance for those who are not capable of escaping poverty of their own accord. The government must remove obstacles that hinder the enjoyment of human rights.

Equality

Inequality and discrimination can be both a cause and a consequence of poverty. Social inequality can lead to a reduction in confidence in the rule of law and institutions such as parliament. If inequality occurs on various fronts simultaneously, e.g. differences in social-economic status, education and health, this can lead to social unrest or have an impact on the rule of law.

⁴⁹ SER, *Opgroeien zonder armoede (Growing up without poverty (note 7)*, p. 63: 'The poverty of children is the poverty of their parents or carers.'

Protecting the rights of persons in a vulnerable situation

The rights of persons in vulnerable situations require additional protection. For some time, various groups have been considered susceptible to falling into or remaining in poverty, such as non-western migrants and single-parent families with minor age children. A fairly recent development, however, is the phenomenon of the 'working poor'. When cuts are required, it should not be the most vulnerable people who are the worst affected.

Equal human rights

Discrimination on the grounds of economic status or on poverty-related grounds is not permitted. Among other things, equal access to human rights requires barriers which stand in the way of human rights to be identified and eliminated. Furthermore, there must be a focus on preventing people in poverty becoming disadvantaged by the stigmatised attitude of institutions and other citizens.

Participation and empowerment

An effective approach to poverty requires that those in poverty and groups representing their interests on all fronts are involved in formulating, implementing and monitoring policy. This may require additional efforts to reach out to people and genuinely involve them. Only then can poverty be tackled, with the corresponding responsibilities shared between central government, local governments and the person concerned.

Protection of rights

Effective protection means that the citizen can hold the government to account. Awareness of human rights is therefore vital, as is the development of expertise among the professionals who work on tackling poverty. The government must ensure that the relevant information is timely available for people in poverty. Anyone who considers that their human rights have been breached must be able to make use of an effective remedy.

PART II

POVERTY IN RELATION TO

HEALTH, EMPLOYMENT, EDUCATION AND HOUSING

CARIBBEAN NETHERLANDS

The right to health

The right of everyone to the enjoyment of the highest attainable standard of physical and mental health (in short: the right to health) is set forth in article 12 ICESCR.⁵⁰ In this regard, besides the right to health, other rights are relevant too, such as the child's right to live and develop (article 6 CRC). The right to health does not simply mean the right to be healthy; the right to health has a much broader scope. It encompasses a series of social-economic factors that create a situation within which people can lead a healthy life. It extends to the underlying factors that determine health, such as food, housing, access to safe and potable water and adequate sanitary facilities, safe and healthy working conditions and a healthy environment. In General Recommendation No. 14, the CESCR sets out the substance of the right to health and the resulting governmental obligations.⁵¹ These are set out below.

Availability: ensuring effective, public healthcare and the physical presence of care, goods, services and facilities. Medicines, for example, must be available in pharmacies in sufficient quantity.

Acceptability: according to medical/ethical standards and different cultures, gender and age;

Quality: scientifically and medically justifiable and of a good quality;

Accessibility: non-discrimination, physical and financial accessibility and access to information and data on health. Accessibility means that everyone can genuinely make use of care and health related goods and services. Medicines must therefore not only be available in sufficient quantities in pharmacies, but also be properly prescribed and (under certain conditions) be reimbursed so that patients are able to use them.

The CESCR stresses the prohibition of discrimination in relation to accessing healthcare and the underlying factors that determine health. The government must pay particular attention to groups in society that face a higher risk of not receiving good healthcare, such as migrants. They must also focus on groups that live in less healthy conditions, such as people in poverty who cannot always afford to eat healthily.

⁵⁰ Also in article 11 ICESCR ('Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable') and article 24 UNCRC ('Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health'). Article 22 of the Dutch Constitution states that the government shall take measures to advance public health.

⁵¹ CESCR Committee, *General Comment no. 14. The right to the highest attainable standard of health*, E/C.12/2000/4, 11 August 2000.

4 Health and poverty

4.1 Introduction

On average, people in the Netherlands are living and staying healthy for longer. However, this good standard of health is not shared evenly throughout the population. 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.⁵² These are significant differences. The 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.⁵³

It is a self-reinforcing process whereby cause and consequence are firmly intertwined. Bad health has a negative impact on education, work and other forms of societal participation. A lack of good employment and living conditions leads to deteriorating health. Among people who are socially/economically vulnerable, bad health (alongside debt) is one of the most important barriers to finding work.⁵⁴ The CBS concludes that deficiencies in health and lifestyle are ultimately determining factors for the degree of social exclusion.⁵⁵ All good reasons to focus more closely on the background to the health variances that have been identified.

4.2 Risk factors for bad health

The major burdens of disease in the Netherlands are chronic illnesses such as psychological disorders (22%), heart and vascular diseases (20%) and cancer (13%). Cardiovascular disease is at the top, followed by diabetes mellitus, strokes, anxiety disorders, COPD (chronic obstructive and pulmonary disease), lung cancer, mood disorders and neck and back problems.⁵⁶

Various factors impact upon the prevention of these diseases. Thus, not only heredity, but also lifestyle factors have great influence. With regard to lifestyle, smoking is by far the most significant cause of death and sickness (13% of the burden of disease), followed by obesity, unhealthy food, alcohol and lack of exercise. The percentage of adult smokers is reducing and, according to the RIVM, will reduce further, from 23% in 2012 to 19% in 2030. The percentage of overweight people remains high and unchanged (48%), although there seems to be an end to the long-term increase.⁵⁷

In addition to lifestyle, the social and physical environment is important for the occurrence of diseases. Also factors in the environment and the conditions in which people live, work and grow play an important role. For example, adverse working conditions and environmental factors contribute to the disease burden for approximately 5% to 6% of.

⁵² RIVM, *'Een gezonder Nederland' (A healthier Netherlands)*, Volksgezondheid Toekomst Verkenning (Public Health, Future Investigation) 2014, vtv2014.nl.

⁵³ Mackenbach and Stronks, *Volksgezondheid en gezondheidszorg (Public Health and healthcare)*, 2016; CBS, *Armoede en sociale uitsluiting (Poverty and social exclusion) 2015*, p. 75.

⁵⁴ Gezond in, *'Gezondheidsachterstanden: doorbreek de tendens' (Health deprivation: break the trend')*, <https://www.gezondin.nu/uploads/Publiekbrochure.pdf>.

⁵⁵ CBS 2015, p.75.

⁵⁶ RIVM (National Institute for Public Health and Environment) 2014.

⁵⁷ RIVM (National Institute for Public Health and Environment) 2014.

However, environment can also be beneficial to health, e.g. by attracting public areas for cycling, sports and outdoor activities.⁵⁸

Factors which impact upon people's health include:

- Heredity
- Lifestyle, such as use of tobacco, nutrition and alcohol, and sleep and relaxation patterns
- People's social network
- The amenities and attractiveness of a neighbourhood
- The opportunity to participate in society via work, education or otherwise
- Working conditions
- Housing quality
- Access to prevention and care facilities
- Quality of education

4.3 Why does poverty lead to deteriorating health?

Also in explaining the impact of poverty on health, individual and social factors can be distinguished.⁵⁹

4.3.1 Individual factors

Living in poverty can have a direct impact on health. For example, an unhealthy diet as a result of a lack of money, unhealthy living conditions or an inability to participate in sport due to low income.⁶⁰ Avoiding because of high expected costs can also contribute to poorer health.

Poverty can also indirectly affect health. A lack of financial resources keeps people focused on the short term and not consider long term issues. They are effectively absorbed by their living conditions. "People with debts do have strength. Very much even. But is all used up on the struggle to just make it through the day. Nobody sees this fight, but it does eat energy."⁶¹

People on low incomes tend to smoke a lot. The percentage of heavy smokers in this group is twice as high as in the higher income group. The same goes for severe overweight: people on low incomes are more obese than those with higher incomes. When it comes to children, the variances are even more significant: among children from low-income families, this problem is three times more prevalent than among families with high incomes. 6% of the children in poor families even were seriously overweight in 2013. There

⁵⁸ RIVM 2014; Gezond in, 'Gezondheidsachterstanden: doorbreek de tendens' (Health deprivation: break the trend'), <https://www.gezondin.nu/uploads/Publiekbrochure.pdf>.

⁵⁹ Stronks and Droomers, 'Ongezonde armoede. Waarom arme mensen ongezonder zijn en wat daaraan te doen is' (Unhealthy poverty. Why poor people are less healthy and what can be done about it), in: Michon and Slot (ed.), *Armoede in Amsterdam. Een stadsbrede aanpak van hardnekkige armoede* (Poverty in Amsterdam. A city-wide approach to stubborn poverty), February 2014, p. 63-71.

⁶⁰ RIVM, *Belemmeringen en drijfveren voor sport en bewegen bij ondervertegenwoordigde groepen (Hindrances and drivers for sport and exercise among under-represented groups)*, 2016.

⁶¹ NRC Handelsblad, *Wie altijd over geld tobt, kan niet meer denken (Those who constantly worry about money, can no longer think straight)*, 21 April 2017; Mullainathan & Shafir, *Schaarste. Hoe gebrek aan tijd en geld ons gedrag bepalen (How a lack of time and money determines our behaviour)*, Maven Publishing, 2013.

is no difference in income in the percentage of heavy drinkers. However, young people with an income above the low-income threshold drink significantly more than those with low income.⁶²

Healthy life requires so-called health skills. People on low incomes often have relatively low levels of these skills. They have trouble finding, understanding and applying information. They do not always have a computer or are unable to use one. Around 10% of the Dutch population have low literacy. Another 20 to 30% can get by on a daily basis but struggle to obtain and apply information in more complex circumstances, such as within healthcare.⁶³

Anyone who cannot properly understand the advice of a doctor or the leaflet that comes with medicine, runs a health risk. People with low literacy have limited medical knowledge and are less able to effectively find their way around the medical 'circuit' and the bureaucracy which surrounds health benefits and the reimbursement of healthcare costs. Health education often fails to reach lower educated people and has more impact on higher educated people.⁶⁴

Special attention is needed for the health situation of asylum-seekers and refugees. Due to their experiences, they are more likely to suffer psychological problems. Newcomers since 2013 have been responsible for their own integration, and this can be problematic for the less well educated. In three quarters of cases, the household income is (well) below average; 26% has a household income below the poverty line. In short, in view of their health, it is vital to support these people in terms of participation, integration and health issues.⁶⁵

4.3.2 Social factors

For a good understanding of the relationship between poverty and healthcare, we also need to look broader. As already mentioned, people live in a social context that has a major influence on their health. For example, the support received from their own neighbourhood or the impact of people's behaviour in the immediate on the individual's own behaviour.

Wider social influences are also important. As a result of the economic downturn, the income position of many people on a minimum income has deteriorated over the past few years. The number of households that for a long period had to stay below the low-income threshold increased by 27,000 to 221,000 in 2015. This is one in eleven households.⁶⁶ In the crisis years, the government has greatly reduced healthcare, for example by increasing the excess to be paid in relation to health insurance. Also, in 2015, the Act for reimbursing those with chronic illnesses or disabilities for healthcare costs (Wtcg) was scrapped. Over the past five years, healthcare costs have risen significantly for those with chronic illnesses or disabilities who have to cope with cumulative healthcare expenses. A single person

⁶² CBS 2015, p. 79 - 82.

⁶³ AMC/UvA, *De populatie als patiënt. Vijftig jaar sociale geneeskunde (The population as a patient. Fifty years of social medicine)*, 2011, p. 112.

⁶⁴ Brug e.a., *Gezondheidsvoorlichting en gedragsverandering. Een planmatige aanpak (Healthcare information and changing behaviour. A plan-based approach)*, 2012, par. 1.7.

⁶⁵ Pharos, *Factsheet Gezondheidsbevordering van vluchtelingen in gemeenten, (Fact sheet Advancing healthcare for refugees in municipalities)* November 2015.

⁶⁶ CBS news report 8-2-2017, <https://www.cbs.nl/nl-nl/nieuws/2017/06/meer-huishoudens-langdurig-onder-lage-inkomensgrens-in-2015>.

living just above the social minimum had to pay out € 1,295 for healthcare costs in 2011; this rose to € 2,673 in 2016 (expenses minus reimbursements). Singles with 135% of the minimum wage in 2016 paid out € 1,967 more on healthcare costs. Couples are even worse off. Couples just above the social minimum paid out € 1,811 more in 2016. With 135% of minimum wage, they paid € 2,399 more in 2016.⁶⁷

These figures only apply when we look at national policy. Municipalities also provide support on the basis of the Wmo (Social support act) and special assistance, for example. The municipality of Amsterdam reimburses around half of the healthcare costs of those on the lowest incomes. However, research shows that 40% of the municipalities do not pay compensation for people who are in trouble due to high healthcare costs. There are large variances between municipalities. The provision of information still leaves a lot to be desired, especially for municipalities.⁶⁸ The national government and municipalities are taking initiatives in order to keep care expenses affordable, such as reducing the excess for the Wmo in 2017.⁶⁹

Research has shown that patients are put off by the expected high costs:

- 25% of the people that are entitled to municipal care are put off by the excess, which is too high;⁷⁰
- 14% of the patients are put off having the treatment they need if it falls within the excess they have to pay for their health insurance;⁷¹
- 27% of the patients monitored in 2013 did not follow up a referral from their GP. This was 18% in 2008.⁷²

As of 2014, health insurers and the Ministry of Health, Welfare and Sport (VWS) decided to exclude people without registration in the municipal population register from health insurance. This has led to a substantial increase in uninsured homeless people. While homeless people have the lowest life expectancy and often struggle with the effects of addiction problems, psychiatric disorders and intellectual disabilities. For them, administrative obligations and compliance are very difficult. Medical specialists and GP's are less likely to accept uninsured homeless patients for medical care unless it is an emergency. Reinsurance is an often long-winded and intensive process that many homeless people are simply incapable of completing.⁷³ As of 1 March 2017, there has been an

⁶⁷ Nibud, *Zorguitgaven van chronisch zieken en mensen met een beperking in 2011 en 2016 vergeleken (Comparison of healthcare expenditure for people with chronic illness and a disability in 2011 and 2016)*, 2016.

⁶⁸ Soeters and Verhoeks, *Zorgmijding, eigen bijdrage en financieel maatwerk (Avoiding care, own contribution and financial customisation)*, 2016; Nibud 2016; leder(in), 'Onderzoek naar stapeling zorgkosten' (Research into stacking healthcare costs), 2016; *Local Government*, February 2016; *ANBO magazine*, 'Ik wacht nog even. Zorg uitstellen is niet zonder risico' (I'll wait a while. Delaying care is not without risk), 2016 (5).

⁶⁹ See, for example, *Parliamentary documents II*, 2016-2017, 29538, no. 231.

⁷⁰ leder(in), *Meldactie Eigen bijdrage (Reporting action Own Contribution)*, February 2016.

⁷¹ NPCF, LPGGz and leder(in), *Meldactie Inzicht in zorgkosten? (Reporting Action Insight into healthcare costs?)*, July 2015.

⁷² Nivel, *Inzicht in zorgmijden (Insight into avoiding care)*, research for the Ministry of Health, Welfare and Sport, October 2015.

⁷³ Slockers e.a., 'Straatdokter slaan alarm over epidemie van onverzekerde daklozen' (*Street doctors sound the alarm on the epidemic of uninsured homeless*), *Ned Tijdschr Geneesk.* 2016, 160, D214.

arrangement for uninsured people who are obliged to have insurance.⁷⁴ This could reduce the number of distressing situations.

Another important social factor that impacts upon the health of poor people is their physical environment. Changes in the physical environment are, in fact, the underlying cause of issues such as increased obesity over the last few decades. Vehicle usage has increased enormously and, as a result, people take less exercise. However, due to the increased supply of (unhealthy) food, they are eating more and more. Finally, the number of smokers is reducing because smoking is allowed in fewer places, by increasing the minimum age for buying tobacco to 18, and high tobacco duties. However, price measures sometimes lead to even greater financial problems for those on low incomes.⁷⁵

The National Prevention Programme seeks, among other things, to reduce socioeconomic health differences. Spearheads include smoking, obesity, excessive use of alcohol, exercise, diabetes and depression. Various national policy programmes have been set up, as well as a large number of projects between governments, civil society and business. The extension of the programme in 2016 is a positive measure, the need of which is underscored by scientific research.

4.4 The significance of the right to health for people in poverty

The right to health aims to provide everyone with equal opportunities for the best possible health. What elements of the right to health are significant for an improvement in the health status of those in poverty?

The Netherlands has a good quality healthcare system which is also available to many people in poverty. The criteria for accessibility, however, are often a stumbling block for many of those in poverty. This concerns the following aspects:

- Physical access: transport may be required to visit some facilities and institutions and that costs money. There are signs that some people do not go for this reason.
- Financial accessibility: as mentioned above, healthcare costs have risen substantially over the past few years. This subsequently leads to further poverty and avoidance of care. Policy changes have made the necessary care less accessible for the homeless.
- The accessibility of education and information: people in poverty are often also low-literate and struggle to find, understand and apply information.

The government tends to focus on the ‘cure’ (treatment and healing) and ‘care’ (nursing and long term care). However, in order to substantially improve the health of people in poverty, it is vital to focus on the underlying determinants of health. There are huge health benefits to be gained if the government is more committed to preventative healthcare and improvement of the factors that affect human health. From a human rights perspective, it is all about giving everyone equal opportunities to achieve the best possible health. This requires an integrated approach based on the various relevant human rights.

The right to self-determination sometimes seems to hinder this type of approach. This right plays a major role in healthcare and in relation to the right to health. It is not only a defence right against public interference in personal lives. It is also a heading under which

⁷⁴ Government Gazette 2017, 10332.

⁷⁵ AMC/UvA, *De populatie als patiënt. Vijftig jaar sociale geneeskunde (The population as a patient. Fifty years of social medicine)*, 2011, p. 112 et seq.

people may do what they like with their own lives, health and body. This can lead to behaviours that are detrimental to health. Nevertheless, people still retain the right to access the necessary healthcare.

The government often uses the image of the free, self-disposing and oral patient, who must act on his own initiative as much as possible. There is no clear willingness to support far-reaching preventative measures.⁷⁶ In the plea for personal responsibility and self-determination, the government assumes that the citizen makes deliberate choices. Preventative measures are often regarded as somewhat patronising. However, not everyone is able to make conscious choices. People in poverty, with debts and deteriorating health, often lack self-reliance. New insights about the interaction between health, poverty and debt are increasingly leading to local initiatives whereby people are helped to take charge of their lives and recover their capabilities.⁷⁷

Another focus area is encouraging the participation of the population. In the context of this chapter, this principally concerns people in poverty with poor health. The attention for involvement of experience persons in poverty and health has increased considerably in recent years.⁷⁸ Experience persons often have creative solutions, can provide support on the basis of their own experiences and reduce the stigma which can inhibit participation. The people themselves benefit from this and their participation in policy formulation can also ensure a better connection with the target group and thus increased effectiveness of the policy. The Wmo tasks the municipalities to involve clients in policy at an early stage. Participation can be in a formal form, through interest groups and client councils. Informal methods tend to be more suitable for poor people with bad health.⁷⁹

4.5 Finally

The right to health of people in poverty can be realised far more effectively if the government is even more committed to preventative healthcare and improvement of the health determinants. So that everyone has equal opportunities for the best possible health. Access to care is also more difficult for people in poverty than for those with higher incomes. This inequality can never be entirely eliminated. This does not, however, detract from the fact that financial accessibility and the access to information is insufficiently guaranteed for many people with low incomes.

⁷⁶ J. Dute, *De vrijblijvendheid voorbij. Over het recht op preventie (The time for no-obligations has passed. On the right to prevention)*, inaugural address, Nijmegen University, 2013.

⁷⁷ NRC Handelsblad, *Wie altijd over geld tobt, kan niet meer denken (Those who constantly worry about money, can no longer think straight)*, 1 April 2017; Jungman and Wesdorp, *Mobility mentoring. Hoe inzichten uit de hersenwetenschap kunnen leiden tot een betere aanpak van schulden en armoede (How insights from cerebral science can lead to a better approach to poverty and debt)*, Platform 31, January 2017.

⁷⁸ See <http://coeva.nl/coeva/> en <http://www.volkskrant.nl/binnenland/grote-opmars-ervaringsdeskundigen-in-psihiatrie-zorg-en-welzijnswerk-a4282526/>.

⁷⁹ Movisie, *Wat werkt bij de aanpak van armoede? (What works when tackling poverty?)*, 2016, p. 28-29; <https://www.gezondin.nu/thema/burgers-zijn-hoofdrolspelers>; RIVM, *Handreiking bewonersparticipatie bij een gezonde leefomgeving (Supporting resident participation for a healthy living environment)*, 2016.

The right to education

The right to education is set out in several declarations and treaties, e.g. in article 26 of the Universal Declaration of Human Rights (UDHR), articles 13 and 14 ICESCR, articles 28 and 29 CRC, article 2, Protocol No. 1 of the ECHR and article 17 ESC. There are also general comments which elaborate on the right to education and the aims of education.⁸⁰ The right to education is a right in itself, but also an enabling right in the sense that education can provide economically and socially marginalised adults and children with the strength and trust to escape poverty and participate fully in society. Hence, this right is not only a right of children, but also of adults within the context of life-long learning. Ignorance and illiteracy must be eliminated and everyone should have the right to fulfil their basic learning needs. The right to education must also fulfil the AAAQ (BAKT) criteria.

Availability: the state must ensure that there are sufficient educational establishments and programmes for primary, secondary, vocational, higher and adult education. This means, among other things, that there are sufficient buildings with sanitary facilities and safe drinking water, but also adequate numbers of well-educated teachers and relevant learning resources. This can also involve ICT.

Acceptability: the form and content of education, including curricula and learning methods, must be acceptable for the students and, in some cases, their parents. In other words, education must be relevant and flexible enough to adapt to social developments and the social and cultural needs of the students concerned. This could involve, for example, private or public education. Discipline within education must be in line with human dignity.

Quality: education must also be of good quality. Teachers must be adequately trained and provide lessons in line with modern educational methods. Furthermore, education must contribute towards specific goals. This includes, for example, the development of the human personality and the recognition of human dignity, respect for the human rights, enabling people to play a useful role in a free society, tolerance between different groups such as different ethnic and religious groups, sexual equality and respect for the natural environment.

Accessibility: Education must be accessible for all. For all types of education, this means eliminating discrimination. This particularly applies to the most vulnerable groups. Not only in law, but also in practice. Education must also be economically and financially accessible. For primary education, this means that it is mandatory, free and available to all. For secondary and higher education, it means that it is accessible to all, even though a selection can take place on the basis of suitability. It must also be physically accessible. This means that an educational establishment must be located at a reasonable distance from the student's home, or be accessible using modern technologies. In addition, education must take into account as much as possible any disability a student may have.

⁸⁰ CESCR General Comment no. 13, CRC General Comment no. 1.

5 Education and poverty

5.1 Introduction

Education is one of the fundamental building blocks for self-determination and economic independence as an adult. The better educated the person, the more likely they are to find a well-paid job and the less likely they are to end up in poverty. The reverse, however, is equally true: financial and social status have an impact upon opportunity in education. The government assumes that education offers opportunities for social mobility: through education an intelligent child from a less well educated household can achieve a higher level of education and a better income. In addition, a higher level of education among the population also increases the population's productivity and health, and encourages the responsibility and participation among citizens required for a well-functioning democracy.⁸¹ As a result, every child has the right to quality education. Quality education not only means a focus on gaining knowledge, but also on developing social skills, learning how to deal with others in society and learning how to stand up for yourself in a self-confident manner. The fact that the social-economic status of a family in the Netherlands impacts upon the the child's opportunity in education is a cause for great concern.

5.2 Consequences of low literacy for the risk of poverty

In the Netherlands, around 2.5 million people struggle with reading, writing and/or arithmetic.⁸² They have low literacy. These men and women are far more likely to experience long-term poverty than literate people. Persons with low literacy have more trouble finding and understanding the right information. As a result, they find it harder to accurately estimate financial risks or to use social facilities (in time). Consequently, they are over-represented among those seeking debt counseling. In 2016, the WRR stated that problematic debts were often the result of the government's high expectations of its citizens' financial self-sufficiency.⁸³ In addition, according to the National ombudsman, People who have low literacy are often unable to find the way to debt counseling on their own.⁸⁴ They often struggle to use computers too. Digital skills are vital in today's society as much information and many services are only accessible online.

The number of Dutch 15 year olds with a language deficiency increased from 11.5% to 17.9% between 2003 and 2015.⁸⁵ Significant factors in relation to these language deficiencies are intelligence, verbal language skills, vocabulary, well-being, reading attitude and the motivation of the child itself. The quality of the education, the tutor and the role of the school management also play a role, as do social-economic status, the parents' educational level and their attitude towards and interaction with the child.⁸⁶ The

⁸¹ SCP, 'Voorzieningen verdeeld. Profijt van de overheid' (Shared facilities. Benefits for the government), February 2017 (with further references).

⁸² Court of Audit, *Aanpak van laaggeletterdheid (Tackling illiteracy)*, 2016.

⁸³ WRR, 'Eigen Schuld? Een gedragswetenschappelijk perspectief op problematische schulden' (Own fault? A behavioural science perspective on problematic debts), 2016.

⁸⁴ Stichting Lezen & Schrijven: National ombudsman, 2016.

⁸⁵ Cito, 'Resultaten PISA-2015 in vogelvlucht. Praktische kennis en vaardigheden van 15-jarigen' (Results PISA-2015 in summary. Practical knowledge and skills of 15 year olds), Arnhem: Cito, 2016.

⁸⁶ I. Christoffels, A. Groot, C. Clement & J.F. Lam, *Preventie door interventie: Literatuurstudie naar lees- en schrijffacterstanden bij kinderen en jongeren. (Prevention by intervention:*

literacy of parents not only impacts upon the language acquisition of the children, but activities such as reading aloud and telling stories also affects their cognitive and social-emotional development. This further underscores the importance of education for both children and adults when preventing and tackling poverty.

5.3 Financial accessibility in relation to education and social inclusion

The fact that social mobility via education is not so straightforward in the Netherlands is clear from recent discussions about the inequality of opportunities in education.⁸⁷ Parents want the best possible education for their children but if a family does not have much money or is part of a lower social class, this can have implications for the education of children and their social inclusion. Below are a couple of practical examples.

In the Netherlands, primary and secondary education are provided free of charge. This effectively means that the government subsidises education. In terms of financial accessibility, the situation therefore seems alright. However, parents are often confronted with financial barriers, such as parental contributions and transport costs. Let's have a closer look at parental contributions. Almost all schools ask for a parental contribution to meet the costs of extra, often social and cultural, activities such as the St Nicholas party or a school trip. If parents cannot or do not wish to pay the parental contribution, the school may exclude the child from these activities. This, in turn, has consequences for the child's social contacts. Moreover, research from 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.⁸⁸

Simultaneously, pupils are often ashamed of their home situation, are less likely to invite friends over (even for birthday parties), are more often bullied by other pupils and feel isolated because they can't keep up with the latest 'trends'. Youngsters often try to counter this by taking on after-school jobs. All of these factors impact upon the child's well-being and school performance.

Some schools also use the parental contributions for improving the quality of education itself, e.g. for buying tablets, offering extra subjects or attracting auxiliary personnel. As a result, the parental contribution at these schools is even higher. This increases segregation within education and the inequality of opportunities. Parents from poorer families, as a result of the higher parental contribution, are less likely to register their children at these schools, and children with higher incomes are provided with exceptional education. In his report on the right to education in a digital age, the special UN rapporteur on the right to education referred to the risk of marginalisation and exclusion as a result of unequal access to digital technologies in general and in (higher) education in particular.⁸⁹ In education in the Netherlands, we can also see that pupils increasingly require a *smartphone* in order to participate fully at school. This can relate to homework, accessing timetables, and classroom activities. Schools often assume that most pupils have a

Literature study on reading and writing deficiencies among children and young people). 's Hertogenbosch: ecbo, 2017.

⁸⁷ SER, *Opgroeien zonder armoede (Growing up without poverty)*, Recommendation 17/03; Education Inspectorate, *De Staat van het Onderwijs – Onderwijsverslag (The State of Education - Education report) 2014/2015*, 2016.

⁸⁸ <http://www.dekinderombudsman.nl/ul/cms/fck-uploaded/2013.KOM004KindereninArmoede.pdf>
Last consulted on 2 March 2017.

⁸⁹ Human Rights Council, Report of the Special Rapporteur on the right to education, April 2016.

smartphone. But what if a pupil doesn't? Then it means additional costs for poorer households to buy one.⁹⁰ Or to social exclusion of the child if they don't.

The above focussed on the financial accessibility of primary and secondary education. With regard to vocational and higher education, the Institute has noted that financial considerations mean that the children of poorer families tend to opt for a 'safe' education at a lower level, at lower costs. Pupils from disadvantaged areas are less likely to enter higher education which reduces their chances at the labour market and inequality of opportunity increases.⁹¹

Even when a school or municipality has special arrangements for children from poorer families to help with the parental contribution, it cannot be assumed that parents who are looking for a school (for the first time) are aware of this type of support. And it cannot be assumed that they are willing to ask for support and provide details of their financial situation. There is a clear risk of a social divide which, in turn threatens equal accessibility of education.

5.4 Risk of social divide

This divide within education was also highlighted in the annual report by the Education Inspectorate in 2016. In general, Dutch education is of a very good quality. But not all children can benefit from it equally. Furthermore, variations in opportunities have become even more pronounced over the past few years. The Education Inspectorate⁹² and the OECD⁹³ both indicate that the children of less well educated parents or children from poorer neighbourhoods are more often advised to continue to lower education and are less likely to 'choose' higher education, even if they have similar school results. This divide is partially created due to 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, which results in less ambitious advice being provided to the latter. Young girls and boys from lower income categories are also more frequently found in schools for special needs education.⁹⁴ In other words, the educational and income levels of its parents impacts upon a child's opportunities in education. This calls into question the acceptability and accessibility of education. The Minister for Education, but also the House of Representatives and the education sector have recognised this issue.⁹⁵

5.5 Intergenerational and long term poverty

Poor children are almost twice as likely to be poor later in life than non-poor children: 7% compared to 4%. The factor which is most significant in this transfer of poverty is the

⁹⁰ SER, *Opgroeien zonder armoede (Growing up without poverty)*.

⁹¹ SER, *Opgroeien zonder armoede (Growing up without poverty)*.

⁹² Education Inspectorate, *De Staat van Het Onderwijs (The State of Education)*, 2014/2015

⁹³ 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

⁹⁴ SCP, *'Voorzieningen verdeeld. Profijt van de overheid' (Shared facilities. Benefits for the government)*, February 2017

⁹⁵ See, for example, the Equal Opportunities Alliance and Action Plan Equal Opportunities launched by the Ministry of Education, Culture and Sciences on 31.10.2016, House of Representatives debate on 30.01.2017 and proposals from the PO Council by Parliamentary Paper on 20.01.2017.

educational level of the parents. The educational level achieved by children impacts upon their employment chances and, in turn, upon the likelihood of poverty and social exclusion as adults.⁹⁶ In order to tackle poverty, and prevent this transfer of poverty from parents to children, it is crucial to continue to invest in education and, most importantly, in equal opportunities. Inclusive education must be the norm, whereby every pupil, irrespective of his/her social, cultural, ethnic or other background or that of his/her parents, and irrespective of his/her disability, can enjoy an education that meets their personal educational needs. The discussion about the educational divide and how it affects the risk of poverty or the ability to get out of it, must continue. There must also be guarantees that pupils and students with disabilities can engage in education on an equal footing as those without. This will increase economic and social independence.

5.6 Participation

The examples above show that besides limited opportunities in education and subsequently on the labour market, children from poor families also have limited opportunities to participate in society. If a child cannot or does not want to invite fellow pupils or friends back to the house to play, does not go on school trips, is harassed or bullied because of his/her second-hand clothing, and does not have a *smartphone* for *snapchatting*, it will impact upon his/her social-emotional bonding. And this, in turn, will affect the child's self-confidence and the level of participation and influence in the classroom and circle of friends.

However, adults also encounter intangible consequences of their lack of education or their low literacy. They may feel less connected to society, may live in less affluent neighbourhoods, have lower levels of social trust, experience politics as less effective, and have worse health outcomes.⁹⁷ Moreover, their autonomy and privacy is affected by their dependence on others in their day-to-day lives, e.g. when dealing with banks, taking out insurance, paying bills, choosing telephone and internet providers, but also with debt relief.

5.7 Other risk factors

When you are less educated or have low literacy, you run a greater risk of poverty and when you hail from a poor family you have limited opportunities of a good education and a high qualification. Several factors can further aggravate this link. The chance of people with a disability realising quality education of their choice, is lower than for people without a disability due to physical and social barriers in primary, secondary, vocational and higher education. This also applies to retraining. Compared to other countries, the performance of pupils with and without a migration background in primary and secondary education is relatively differs a lot. In higher education, we also see that students with a non-western background are 16% less likely to graduate than those with a Dutch background.⁹⁸

⁹⁶ <http://www.ser.nl/nl/publicaties/ser/2016/mei2016/kinderen-armoede.aspx> Last consulted on 2 March 2017.

⁹⁷ I. Christoffels, P. Baay, (ecbo), I. Bijlsma, M. Levels, (ROA), *Over de relatie tussen laaggeletterdheid en armoede (On the relationship between illiteracy and poverty)*, May 2016.

⁹⁸ Education Inspectorate, *De Staat van Het Onderwijs (The State of Education)*, 2014/2015

The right to employment

The right to employment is a fundamental right that is included in article 19 of the Dutch Constitution. It states that it shall be the concern of the authorities to promote the provision of sufficient employment. In both regional and national treaties, the right to employment is guaranteed as an individual right. The many treaties and recommendations of the International Labour Organisation (ILO) are also significant in this context. The right to employment essentially means that everyone who is willing and able to work should have free choice in terms of employment. This right also encompasses issues such as equal access to employment without discrimination, lawful and favourable (i.e. healthy and safe) employment conditions, freedom from exploitation, equal pay for equal work and adequate wages for a decent standard of living. The Committee on Economic, Social and Cultural Rights has further elaborated this in a range of general comments. The right to employment is vital in order to realise other human rights, such as the right to an adequate standard of living and the right to protection against poverty and social exclusion. It also applies to protecting fundamental values that form the basis of all human rights, such as dignity, autonomy and participation. Additionally, as long as it is chosen voluntarily, employment also contributes towards self-development and recognition within society. The right to employment must also fulfil the AAAQ criteria:

Availability: of institutions that help people find work, loans for re-training that are required in order to fit into the current labour market and a system of social security.

Acceptability and quality: reasonable remuneration for work and that the work must be lawful and carried out in safe conditions, and offer a certain degree of security.

Accessibility: no trace of discrimination on any grounds. This means that existing inequalities and deficiencies are taken into account and, where necessary, additional measures are taken to ensure that everyone has genuine access to the right to work. This also applies to physical accessibility.

6 Employment and poverty

Employment which provides an income is vital in relation to a number of fundamental values and rights: for leading a dignified and autonomous life, with an adequate standard of living and a degree of social security. Long term poverty, or a lack of resources that means an adequate standard of living cannot be attained, is a hindrance to this. Long term unemployment often leads to long term poverty. Those who are without work for longer than a year have greater chance of ending up in poverty, and run an increased risk of social exclusion and health problems. In light of this, the recent CBS figures on the recovering economy look hopeful: for the first time since 2009, the number of long term unemployed persons has reduced.⁹⁹ Many new jobs have been created, particularly flexible, temporary (agency) jobs.¹⁰⁰ This seems to be good news, because paid work is often the best solution to the poverty issue.¹⁰¹ Nevertheless, work does not always alleviate poverty: the Netherlands has a growing number of so-called ‘working poor’. People who, despite having paid employment, still live in or face the very real risk of long term poverty. According to the CBS, the risk of poverty is actually increasing among people with paid work. Below, we look at the way in which poverty and work impact upon one another. We first explain how poor people find it more difficult to *access work* and also have a greater chance of unemployment and dependency on social security. We will then examine how poverty affects many *working* people and how it also prevents them leading a life which corresponds to fundamental values and human rights.

6.1 The unemployed are often poor and dependent

Those who cannot work (fully), run a greater risk of poverty. This also applies the other way around, i.e. those who have spent a long time on benefits and are poor, find it harder to find paid employment and struggle to make ends meet. This is due to the fact that people are less likely to have a social network that is necessary to find employment,¹⁰² or because they do not have the money required for re-training in order to meet the needs of the current labour market.¹⁰³ However, long term unemployed people can also end up in poverty if their wages are inadequate to meet their expenses. This can hinder access to healthcare (‘care avoidance’).¹⁰⁴ In its general comment, the Committee on Economic, Social and Cultural Rights (CESCR Committee) indicates that the right to social security (art. 9) is intended to protect people against ‘unaffordable access to healthcare’ and ‘insufficient financial support for the family’.¹⁰⁵ The SER notes, in its report published in 2017, however, that 8 to 12% of children in the Netherlands grow up in poverty.¹⁰⁶ People who are involuntarily unemployed end up in a position of dependency, on benefits

⁹⁹ CBS, *Armoede en sociale uitsluiting (Poverty and social exclusion)*, 2017.

¹⁰⁰ Youngsters in particular have benefited from this (their numbers in the group of unemployed from 15 to 35 decreased by 18,000 in a year (CBS, *ibid.*).

¹⁰¹ SER, [Opgroeien zonder armoede \(Growing up without poverty\)](#), March 2017, p. 35.

¹⁰² See, among others, SCP/CBS (2015), *De onderkant van de arbeidsmarkt (The underside of the labour market) in 2025*, June 2015.

¹⁰³ Nibud Minima-impact report municipality x. *De invloed van gemeentelijke maatregelen op de financiële positie van inwoners met lage inkomens (The impact of municipal measures on the financial position of residents with low incomes)*, 2013, p. 26.

¹⁰⁴ Recent research by TNS NIPO, 2016, *Het eigen risico in de zorg (Own-risk in healthcare)*, shows a percentage of 10%. (Previous research by NIVEL into care avoidance from 2014 shows a percentage of 3%).

¹⁰⁵ CESCR, 4 February 2008, *The right to social security (art. 9)*, E/C.12/GC/19, par. 2.

¹⁰⁶ SER, *Opgroeien zonder armoede (Growing up without poverty)*, March 2017.

organisations. They therefore have to fulfil an obligation to apply for jobs and sometimes an obligation to do ‘something in return’ for their benefits. The government subjects those entitled to benefits to checks which involve the persons concerned revealing details of their private lives. Aside from the issue of whether this is correct, the unemployed must relinquish their freedom and privacy to a greater extent than those who are working. There is thus a division in the extent to which people can exercise these fundamental rights. A division on the grounds of social-economic status.

6.1.1 Greater chance of unemployment and poverty due to a lack of options

From the research ‘Voor de zekerheid’ (Just to be sure) from the Netherlands Scientific Council for Government Policy (WRR) on ensuring flexibility within the labour market, various risk factors can be identified for unemployment and poverty.¹⁰⁷ These include:

- *no basic qualification*: people without a basic qualification are around twice as likely to be unemployed and run a high risk of long term poverty.
- *poor education*: people with a poor education - in 2015 around two million working people and job-seekers - are one and a half times more likely to be unemployed than average.¹⁰⁸ Anyone who has not attended Senior General Secondary School, Higher Academic Education or Intermediate Vocational Education to level 2 or higher will find work hard to come by. Poorly educated people do not match the jobs which are currently available.¹⁰⁹ This also relates to displacement by those with an average education (they, in turn, have to cope with displacement by the better educated and the introduction of robots into the central segment).¹¹⁰
- *working in sectors where there is a lot of competition with cheaper labour* from Central and Eastern Europe: this applies to industry, agriculture and horticulture, the building and transport sectors.¹¹¹
- *sick or an employment disability*: which results in limited work capacity.¹¹²
- *older than 55*: the group of people between the ages of 55 and 65 constitutes a fifth (22%) of the long term unemployed¹¹³ and, according to the CBS, they find it hard to fit into the current, flexible labour market.¹¹⁴

¹⁰⁷ M. Kremer, R. Went and A. Knottnerus (ed.), [*Voor de zekerheid. De toekomst van flexibel werkenden en de moderne organisatie van de arbeid. \(Just to be sure. The future of flexible employment and the modern organisation of labour\)*](#). WRR, The Hague, 2017.

¹⁰⁸ SCP/CBS (2015), De onderkant van de arbeidsmarkt (The underside of the labour market) in 2025, June 2015.

¹⁰⁹ Ministry for Social Affairs and Employment, RIVM, SCP, CBS, TNO (2015), Perspectief op de onderkant van de arbeidsmarkt (Perspective on the underside of the labour market

¹¹⁰ WRR 2017, (note 107); see also SZW, Aanpak Jeugdwerkloosheid, project Overbrugging (Approach to Youth Unemployment, Bridging project), Feb. 2017.

¹¹¹ SER-recommendation 2014/09 *Arbeidsmigratie (Labour migration)*; SEO 2014; The Netherlands Institute for Human Rights, Polish migrants in a human rights perspective, 2013.

¹¹² See WRR 2017, (note 107), p. 105; *Ieder(in), Input vanuit Ieder(in) voor Bestuurlijk Overleg (Input from Ieder(in) for Management Discussion)* LCR-SZW, April 2017.

¹¹³ CBS 2017 (note 99).

¹¹⁴ CBS, *Armoede en sociale uitsluiting (Poverty and social exclusion)*, 2015.

- *single parents with minor age children*: this tends to involve (divorced) women.¹¹⁵ Around 67% of the single parents with children say they struggle to make ends meet.¹¹⁶

As a consequence of risk factors that often reinforce one another, such as a poor education, working at the lower end of the labour market, in sectors with a great deal of competition, people are unable to prevent unemployment or poverty and/or escape from this situation.

6.1.2 *Unequal access to work due to discrimination and prejudice*

Just like poverty, discrimination also leads to social inequality. Discrimination due to prejudices about groups has a detrimental impact on access to employment for individual job seekers. They are stigmatised as ‘old’, ‘disabled’ or ‘uneducated migrants’. People with a disability, for example, struggle to find work as a result of prejudices about disability or illnesses.¹¹⁷ This particularly affects those who are completely unable to work, in the long term, and who do not qualify for benefits under the Participation Act.¹¹⁸ Prejudices also form barriers to older people accessing the labour market.¹¹⁹ The percentage of older people between the ages of 55 and 65 who are long term unemployed doubled from 10% in 2016 to 22% in 2017.¹²⁰ They are most likely to end up in long term poverty,¹²¹ however those over the age of 45 are also in the risk zone: 6 out of 10 people aged over 45 have been seeking work for longer than a year,¹²² and they have to work another 22 years before they can retire.

For young people with a migrant background, discrimination and prejudice about ethnicity and religion are also a hindrance with respect to access to work.¹²³ These prejudices about origins and religion, often focussed on the headgear, are already beginning to play a role in education, with respect to school recommendations in primary education and unequal access to internships during secondary vocational education.¹²⁴ As a consequence of being turned down for internships due to origins or religion, but also in order to avoid rejection, Intermediate Vocational Education students tend to complete internships within an idealistic organisation, a government body, or an ‘ethnic’ company with the same ethnic origins as the student. A tutor: "Of course a Turkish student will find a work placement with a Turkish pizzeria."¹²⁵ The unequal access to work placements for migrant students in

¹¹⁵ CBS, 8 February 2017, Dec 2015.

¹¹⁶ Nibud, *Geldzaken in de praktijk* (Money issues in practice), 2015, p. 41.

¹¹⁷ See Netherlands Institute for Human Rights (E. Hofhuis and A. Swarte), *Kroniek gelijke behandeling 2016* (*Chronicle on equal treatment*), NTM no. 4, issue 41, 2016, p.473-490.

¹¹⁸ *Ieder(in)* (note 112).

¹¹⁹ Age discrimination with respect to older people has been in the top 3 of the most common types of discrimination for the Institute for many years. See Netherlands Institute for Human Rights (2017), *Monitor discriminatiezaken* (*Monitor discrimination cases*) 2016.

¹²⁰ Figures CBS, 17/3/2017; WRR 2017 (note 107).

¹²¹ CBS 2015 (note 114).

¹²² Netherlands Institute for Human Rights, *Ondernemen met respect voor mensenrechten. Handreiking voor bedrijven in Nederland* (Doing business with respect for human rights. Tips for companies in the Netherlands), 2017 (to be published).

¹²³ SCP, various studies, incl. *Liever Mark dan Mohammed* (*Mark rather than Mohammed*) (2010), *De onderkant van de arbeidsmarkt in 2025* (The underside of the labour market in 2025). (2015).

¹²⁴ See E. Klooster et al., *MBO en de stagemarkt, wat is de rol van discriminatie? (Intermediate Vocational Education, what is the role of discrimination?)* Utrecht: Verwey-Jonker Institute, 2016.

¹²⁵ *Ibid.*

secondary vocational education can, in turn, lead to unequal opportunities in the labour market. These students are less likely to have the ‘recognisable’ work experience that is sought by ‘Dutch’ employers. They are also less likely to find their first job with a ‘mainstream’ company after a successful work placement: between 40 and 90% of work placement students are offered a job by the company where they completed their work placement. Their limited work experience thus leads to unequal opportunities in the regular labour market and they subsequently run the risk of unemployment. This can then contribute towards further marginalisation and long term poverty for people with a migrant background, from generation to generation. According to the CBS, the number of non-western households with a long term low income is almost six times higher than the number of western households with a long term low income.

6.1.3 Pregnancy and young motherhood as risk for unemployment and poverty

According to the interpretation of the right to employment by the CESCR Committee, pregnancy should be no obstacle to work and cannot be used to justify dismissal.¹²⁶ Nevertheless, at the end of 2015, in one month 636 women shared their experiences of pregnancy discrimination in relation to work with the Institute. The majority of these experiences related to a temporary contract not being renewed.¹²⁷ In 44% of cases, the pregnancy was thought to be the reason.¹²⁸ The subsequent research by the Institute from 2016 also showed that young mothers who leave the labour process after the termination of temporary contracts are less likely to be able to find work thereafter.¹²⁹ Pregnancy is therefore hard to combine with an uncertain labour market, and particularly within an increasingly ‘flexible labour market’ where 1 in 3 jobs involve (flexi) temporary work.¹³⁰ As a consequence of pregnancy and early motherhood, women have less social security, are often not financially independent, and are therefore more vulnerable in terms of poverty, than men. This is all the more applicable to single mothers with young children.¹³¹

Ensuring equal access to employment without discrimination is a key obligation for the government, and may not be realised in a gradual manner.¹³²

6.2 ‘Working poor’

Having work is often regarded as the best solution to the poverty issue however, this fails to recognise the fact that people in work can also end up in (long term) poverty. Among households with a high risk of poverty, there has been a significant increase of people with paid employment.¹³³ In its report *Growing up without poverty*, the SER notes that a majority (60%) of poor children in the Netherlands have working parents and also indicates

¹²⁶ CESCR, *The right to work (article 6)*, General comment no. 18, E/C.12/GC/18. par. 13, 6 February 2006.

¹²⁷ E. Hofhuis and A. Swarte, *Kroniek gelijke behandeling 2016* (Chronicle on equal treatment), *NTM* no. 4, issue 41, p. 480-491.

¹²⁸ Netherlands Institute for Human Rights, *Is het nu beter bevallen? (Is it better now?)* (follow up research), 2016.

¹²⁹ *Ibid.*

¹³⁰ Definition of flexible labour according to WRR: if there is no permanent contract (e.g. temporary contracts, such as agency work and those working via ‘payroll’ companies, self-employed work, or those who work a flexible number of hours per week, such as on-call workers (WRR 2017, (note 107) p. 20.

¹³¹ CBS 2015 (note 114).

¹³² CESCR, *The Right to work*, p. 8,9 (above, note 126).

¹³³ CBS 2015 (note 114).

that work does not necessarily eliminate poverty. The group of so-called ‘working poor’ includes a wide range of people. This could be small, self-employed traders and farmers who struggle to make ends meet, and people with a poorly paid part-time job who can only get by if they have multiple jobs simultaneously. People with an average income, however, are increasingly living under the poverty line because they earn just too much to be eligible for social housing and all of the corresponding benefits. Another group of working people that are often poor and which has grown significantly over the past few years, is flexi-workers. This includes all workers without a fixed contract, such as temporary (agency) workers and those working via ‘payroll’ companies, people who work for themselves (self-employed), and people who work a flexible number of hours per week (e.g. on-call employees).¹³⁴ As Cok Vrooman from the Netherlands Institute for Social Research has summarised: "Work is no guarantee against poverty. This is largely related to the changing labour market. In order to avoid poverty, you must have a full-time job at a reasonable level with good security. And these criteria are offered by fewer and fewer jobs."¹³⁵

6.2.1 Working in a flexible labour market: poverty and social security

The work that has been created over the past few years is almost entirely made up of temporary, insecure (flexi) contracts. The Netherlands Scientific Council for Government Policy (WRR) does not expect this to change in the coming years, even though all political parties would like to see more permanent jobs.¹³⁶ According to the WRR, in 2017 around one in three persons is working on the basis of a flexible employment contract. More than a quarter of young people work within a flexible working relationship, compared to one fifth of the working population.¹³⁷ Also, the number of self-employed workers (without personnel) has also dramatically increased: there are now around 1.3 million. Flexi-workers run a high risk of poverty. Around 0.2 million self-employed people live under the poverty line, and many flexi-workers in paid work are employed at the lower end of the labour market where there is a great deal of competition, which is detrimental to their income position.¹³⁸ Specifically, people without a basic qualification and who are poorly educated can only obtain badly paid and insecure flexi-work.

The WRR refers to the unequal pay for flexi-workers and the self-employed compared to permanent employees and their unequal treatment compared to those on permanent contracts. Employers do not invest in training flexi-workers and this is generally regarded as a problem.¹³⁹ The SER is also critical of the situation in its report *Leren en ontwikkelen tijdens de loopbaan (Learning and developing during the career)*.¹⁴⁰ Many flexi-workers with a poor education do not have high incomes or a partner with a permanent contract. They cannot compensate effectively for the financial and other insecurities of a temporary job, and also run a higher risk of poverty. This primarily concerns young people without

¹³⁴ WRR 2017 (note 107).

¹³⁵ Nos Nieuwsuur, 30 June 2016.

¹³⁶ Paul de Beer and Ton Wilthagen, “Nederland loopt vast in flex”: de toekomst van de Nederlandse arbeidsmarkt (The Netherlands bogged down in flexi-work: the future of the Dutch labour market). Interview with Paul de Beer and Ton Wilthagen, R. Asberg, WRR 2017 (note 107), p. 297-308.

¹³⁷ WRR 2017 (note 107), p. 259.

¹³⁸ Ton Wilthagen, (note 136), p. 302.

¹³⁹ Frank Pot, WRR 2017 (note 107), p. 12; De Beer and Wilthagen, (note 136), p. 302 et seq.

¹⁴⁰ SER, *Leren en ontwikkelen tijdens de loopbaan (Learning and Developing during the career)*, The Hague: 2017.

basic qualifications, typically including many people with a migrant background.¹⁴¹ The flexi-work that is carried out by this group often fails to fulfil the standards of decent work: they are rarely paid a reasonable wage for their work, often work in less than favourable conditions¹⁴² and often lack the social security that is necessary for an adequate standard of living.

6.2.2 Flexi-workers are more stressed and are often dependent

To provide an illustration, two stories from young flexi-workers in paid work. A young person aged 20 without basic qualifications works on a zero-hours contract for a temporary agency. The agency sends him to a random petrol station every day in the Netherlands, to operate the pumps for a day. He likes the work but explains that it is a very vulnerable existence and that it is very hard to make ends meet. "There are weeks when I have to live on three packs of noodles a day." He decided to return to education and obtain an qualification.¹⁴³ Another man aged 29 who has an Intermediate Vocational Education qualification in furniture making and who won the sector prize in 2009, has no option to move onto a permanent contract even after years working on a temporary contract. He is forced to live with his parents and complains about stress and not being able to plan his future.¹⁴⁴

The WRR has shown that it is a misunderstanding to think that most young people voluntarily choose flexi-working patterns. This applies to just 4% of young people. The vast majority, particularly those with basic or secondary education levels, would like certainty and a place to call their own.¹⁴⁵ However, they lack the resources needed to live alone and have a family. The WRR refers to the negative psychological effects of the job and income insecurity with respect to flexible work. This includes financial stress and ongoing unrest as a result of always having to look for the next wage, and the stress that is caused by not being able to plan for the future. Researchers indicate that this stress can lead to health issues.¹⁴⁶

6.2.3 Working under unfavourable and unhealthy employment conditions

The displacement at the lower end of the labour market in sectors such as construction, transport, agriculture and horticulture and industry, often goes hand-in-hand with the exploitation of labour migrants. Despite the action plan to tackle sham constructions, labour migrants from Central and Eastern Europe in these sectors often work in terrible employment conditions and, more often than their Dutch counterparts, live in poverty. Many labour migrants are still paid via local Collective Labour Agreements and are often

¹⁴¹ According to the WRR, 26.7% as opposed to 18.9% of native people have a temporary contract, WRR 2017 (note 107), p. 72.

¹⁴² ILO, *Framework of Decent Work Indicators*, December 2008. The indicators for 'decent work' include adequate remuneration (ii), stability and safe work (vi), equal opportunities and treatment (vii) and social security (ix). See CESCR, The right to work (note 126) and CESCR, General Comment No.23 (2016) On the right to just and favourable conditions of work (art. 7 of the International Covenant on Economic, Social and Cultural Rights.) E/C.12/GC/23.

¹⁴³ *Volkskrant*, "Flexwerker is vrij, blij en gestresst" (Flexi-worker is free, happy and stressed), 8 February 2017

¹⁴⁴ *Ibid.*

¹⁴⁵ WRR 2017 (note 107).

¹⁴⁶ WRR 2017 (note 107); *Volkskrant*, "Dit zijn de psychologische, verlamende gevolgen van flexwerken. De flexparadox (The psychologically crippling consequences of flexi-work. The flex-paradox), 13 February 2017."

paid the Dutch minimum wage,¹⁴⁷ while Dutch employees doing the same work are usually paid more. They also tend to work excessive hours, often in unsafe environments. Their poverty is encouraged by crooked (temporary) employment agencies who demand huge sums of money for accommodation that is included with the job and which is deducted from the wages.¹⁴⁸ This poverty makes them very vulnerable to exploitation.

Retail personnel may also be faced with exploitation and unacceptable employment conditions. This is clear from research by the trade union FNV into employment conditions within a well-known clothing chain.¹⁴⁹ (Ex) employees from 16 branches of the chain complained to a support line set up by FNV, about excessive work pressure and intimidation by managers. The (ex) employees also reported many infringements of privacy caused by the abuse of unlimited camera surveillance and managers who over-zealously investigate the nature of sickness and refuse to accept sickness reporting. There is also a lack of co-management. Only the employees who are able to resign are able to escape the terrible working conditions. This was not the case for the single mother with young children who told her story to the support line. Poverty in this context also creates vulnerability to exploitation.

We need to realise that for large groups in society, it is hard to lead a dignified life with a degree of social security and an adequate standard of living, for themselves and their children. This applies to the 838,000 long term unemployed,¹⁵⁰ but also to an increasingly large group of poor employed people, including those with a low educational level and others with a temporary (flexible) job. As noted at the end of 2015 in *Perspectief op de onderkant van de arbeidsmarkt (Perspective on the underside of the labour market)* less well educated people work less, the work they carry out is often badly paid and of a temporary nature, and they are more often unemployed and poor.¹⁵¹

¹⁴⁷ For the role of the temporary agency directive from 20 years ago which enables employees from Eastern Europe to work for agencies in the Netherlands and why this has never been amended, see *NRC Handelsblad*, "Arbeidsmigratie. Voor wat hoort wat" (Labour migration. What goes with what), p. E6, E7, 24 February 2017.

¹⁴⁸ Fairwork and SOMO, *Profiting from dependency, Working conditions of Polish migrant workers in the Netherlands and the role of recruitment agencies*, 2016; Netherlands Institute for Human Rights, *Poolse migranten in mensenrechtenperspectief (Polish migrants in a human rights perspective)*, 2013.

¹⁴⁹ FNV Handel, Primark research. Goedkoop ten koste van... (Cheap at the cost of...), 21 February 2017 (results of survey among 1186 (ex) employees).

¹⁵⁰ Figures CBS, *Quarterly report*, 17 March 2017.

¹⁵¹ SCP/CBS (2015), *De onderkant van de arbeidsmarkt (The underside of the labour market in 2025)* (note 108).

The right to housing

The essence of the right

The right to housing is a basic right in the Dutch constitution (art. 22). The most important provisions in regional and international treaties can be found in the European Social Charter (revised) (art. 31) and the ICESCR (art. 11 section 1). It concerns the right to adequate housing. Housing is understood to be a wide ranging term; it does not just relate to physical accommodation but also encompasses living with security and dignity.

Obligations

The obligations below are structured according to the AAAQ system. Many measures must be taken immediately and all measures must be non-discriminatory. The right to housing applies to all people, irrespective of income or financial resources.

Availability

In principle, there should be sufficient housing for everyone and the housing should fulfil certain quality criteria. It encompasses the availability of services, materials, facilities and infrastructure and includes, for example, facilities that are necessary to live in a healthy, safe and comfortable manner, such as safe drinking water, cooking facilities, heating, light, sanitary and washing facilities.

Acceptability

Nobody should be simply evicted from their housing or limited in any way with regard to their enjoyment of residence (e.g. by nuisance). Housing must be tailored to the needs and requirements of specific groups, such as elderly, persons with disabilities and people coming out of shelters. Culturally acceptable means that the construction of housing, the use of materials and the underlying policy must take account of the different cultures.

Quality

This concerns the physical health and safety of individuals. A home must protect from moisture, cold, heat, rain and wind. Housing must also offer access to healthcare services, schools and other social facilities. There must be a focus on households with a low income who may find travelling to essential facilities too expensive. Additionally, this means that housing should not be built on contaminated land or in the vicinity of sources of pollution (e.g. motorways, in relation to the risk of particulates).

Accessibility

It is important that everybody has full and ongoing access to housing. This encompasses physical accessibility, i.e. for elderly, children and persons with intellectual disabilities. Financial accessibility in the form of affordability is also important. States must take appropriate measures, such as the provision of subsidies, the provision of affordable accommodation and protection against disproportionate rental increases.

7 Housing and poverty

7.1 Introduction

In the Netherlands, there are various problems in relation to housing and poverty. The most important are set out below.

7.2 Availability and affordability of housing

7.2.1 Figures

There is a shortage of social housing. In the housing corporation sector between 2009 and 2015, 262,400 social dwellings disappeared as a result of sales, demolition and liberalisation.¹⁵² And all this occurred even though the demand for social housing is not diminishing. This is due to a growing number of GGZ-patients (the Dutch Association of Mental Health and Addiction Care) and those with mild intellectual disabilities who no longer live within institutions, elderly who are living at home longer and the growing number of people with a residence permit who can ask for social housing.¹⁵³

Simultaneously, the average rental price in the social housing sector increased to € 525 per month in 2016.¹⁵⁴ The private rental sector is also suffering from a shortage of affordable accommodation. This tends to impact upon people just above the social rental limit, with lower middle income. This shortage in the private rental sector has meant the demand for accommodation costing up to € 1000 is significantly greater than supply.¹⁵⁵

7.2.2 Major problems with affordability

Alongside limited availability, there are also major problems with the affordability of housing costs. Among other things, this leads to increasing poverty and is also a cause of homelessness (see 7.3). This particularly applies to groups in the social housing sector, but also to lower incomes that fall just outside the social housing limits. The Netherlands Environmental Assessment Agency (PBL) has noted that around 18% of all tenants within the rental sector (private and social) are prone to payment risks in 2015.¹⁵⁶ These are people who struggle to pay their rent each month and find the money to pay for the most basic living costs. This is an increase compared to 2012, when 13% of tenants had this problem. According to the PBL, it is especially those with low incomes who face these problems.¹⁵⁷ PBL research also shows that it is incredibly difficult to get out a situation of payment risk. The research indicates that around half of the 384,000 households with a payment risk in 2012 were still in the same situation in 2015:¹⁵⁸ “The longer someone has a

¹⁵² Based on figures from the Ministry of Internal Affairs, *Staat van de Woningmarkt 2016* (State of the Housing market 2016), Ministry of Internal Affairs and Kingdom Relations, 2016.

¹⁵³ Woonbond, Huge shortage of social housing.

¹⁵⁴ J. Veenstra, M.A. Allers and J.H. Garretsen, *Evaluatie verhuurdersheffing (Evaluation of rental costs)*, COELO The Centre for research on local government economics (COELO), University of Groningen, 2016.

¹⁵⁵ A. Vlak e.a., *Perspectieven voor de het middensegment van de woningmarkt: verkenning van maatregelen ter bevordering van het aanbod (Perspectives for the central segment of the housing market: examining measures to develop the offer)*, PBL, 2017.

¹⁵⁶ The Netherlands Environmental Assessment Agency, *Betaalrisico's in de huur- en koopsector (Payment risks in the rental and buying market), 2002 - 2015, Compendium voor de Leefomgeving (Compendium for the Living Environment)*, 2016.

¹⁵⁷ *Ibid.*

¹⁵⁸ F. Schilder en C. de Groot, *Inkomensdynamiek en de Betaalbaarheid van het Wonen (Income dynamics and the Affordability of Housing)*, PBL, 2017.

payment risk, the smaller the chance that they will resolve it.”¹⁵⁹ Part of the explanation for this is that incomes have stagnated in this period, but that the cost of living has risen.¹⁶⁰ Research has also shown that payment risks relatively affect young people more, despite the fact that their incomes increase quite quickly. Payment risks also affect self-employed persons relatively often.

Research from the Amsterdam School of Real Estate has shown that two-thirds of those on lower average incomes cannot afford a net rental price of € 710.68 (the liberalisation limit) and € 1000 per month according to Nibud norms. They are not, however, eligible for social housing and cannot buy a home as a result of more stringent financing regulations. These problems are particularly prevalent in large cities.¹⁶¹

FEANTSA, the European Federation of National Organisations Working with the Homeless, applies a series of indicators to measure compliance with the right to housing. In terms of affordability, FEANTSA looks at the percentage of income that people spend on housing costs. In 2015, 15.4% of the population spent more than 40% on housing costs.¹⁶² The EU average is 11.5% and the Netherlands is 25th in the EU.¹⁶³ The problems with housing are most significant for women, and principally women with a low income, and young people between the ages of 20 and 29.

7.2.3 Specific target groups

The range of suitable housing for specific target groups is limited. This applies to GGZ-patients (the Dutch Association of Mental Health and Addiction Care), people with addictions, those with a mild intellectual disabilities and ex-detainees, and also to elderly people who are living at home for longer. This is partially due to the limited overall supply of social housing, but also the fact that there is insufficient housing that adheres to their specific needs and requirements. Most of the people who are coming out of a homelessness situation live alone; however new housing (and existing accommodation) tends to concentrate on family houses. People with disabilities face a structural shortage of adapted housing. This applies to people with minor care needs, youngsters with non-congenital brain injuries, children with serious cognitive difficulties¹⁶⁴ and elderly with minor disabilities.¹⁶⁵ The options for living independently are limited too. This is clear from

¹⁵⁹ *Ibid.*

¹⁶⁰ *Ibid.*

¹⁶¹ F. Schilder and J. Conijn, *Middeninkomens op de woningmarkt: ontwikkelingen in een veranderend economisch en maatschappelijk klimaat* (Mid-incomes in the housing market: developments in a changing economic and social climate), Amsterdam School of Real Estate, Paper 2017-01, 2017.

¹⁶² FEANTSA, *The second overview of housing exclusion in Europe*, The Foundation Abbe Pierre and FEANTSA, 2017.

¹⁶³ FEANTSA, *The second overview of housing exclusion in Europe*, The Foundation Abbe Pierre and FEANTSA, March 2017.

¹⁶⁴ MEE trend rapport 2014 and MEE, *Trend- en Signaleringsrapportage (Trend and Highlight report) 2016*, MEE, 2016, p. 9 and 12.

¹⁶⁵ Council for the Environment and Infrastructure, *Advies: langer zelfstandig, een gedeelde opgave van wonen, zorg en welzijn (Recommendation: independent for longer, a shared report on housing, care and welfare)*, RLI, 2014.

the high number of people that live in institutions and the limited accessibility of neighbourhood facilities, such as shops and green spaces.¹⁶⁶

7.3 Homelessness

7.3.1 Homelessness figures

In 2016, the CBS (Statistics Netherlands) published two series of figures about homelessness. A multi-annual overview that was published in March 2016 showed that the number of homeless people had risen by 74% in six years (2009-2015) from 18,000 to 31,000.¹⁶⁷ The figures from December 2016 show that this increase has stabilised.¹⁶⁸

According to the Federatie Opvang (an association of organisations providing shelter and support for people living in, or facing, in vulnerable or unsafe situations), this figure is almost certainly an underestimation. Not all homeless people are registered in the Municipal Personal Records Database and undocumented people are not included in the figures. The size of the group of homeless women is also hard to estimate. This is generally the case, but the definition used by the CBS adds to this. Women tend not to sleep on the street or in (emergency) shelters for fear of their security.. Measuring non-structural accommodation in other places is also difficult.¹⁶⁹

FEANTSA applies a broader definition of homelessness than the CBS. It distinguishes four categories: rooflessness (sleeping rough), houselessness (with a place to live, but temporary in an institution or shelter), insecure and, inadequate. ‘Insecure’ relates to issues such as illegal contracts. These people may have a roof over their heads and are not living in shelters but they could be evicted from one day to the next. ‘Inadequate’ is accommodation that is unsafe to live in or is home to an excessive number of people. The use of this definition would provide a more comprehensive overview of the number of homeless and the number of people that risk becoming homeless or are facing serious problems exercising their right to housing. It would also help in formulating a more coherent policy and legislation with respect to preventing homelessness.¹⁷⁰

7.3.2 Problems with respect to shelters

A major issue that is both a cause and consequence of limited accessibility to housing, is restricted mobility between the inflow into and the outflow from shelters. There is a lack of available and affordable housing tailored to the specific needs and requirements of the target group. The fact that the number of available houses for those flowing out of the institutions/shelters is limited hampers mobility. As a result people often stay too long within the system. At the same time, people who are trying to access the system struggle to find a place. It also seems that many people who come out of the shelters end up lapse

¹⁶⁶ The Netherlands Institute for Human Rights, *Inzicht in inclusie; Werk, wonen en onderwijs: participatie van mensen met een beperking (Insight and inclusion; Work, housing and education: participation of people with a disability)*, The Netherlands Institute for Human Rights, July 2016.

¹⁶⁷ CBS, “Number of homeless people increases by three-quarters in six years”, CBS, 2016. And response from Federatie Opvang (Refuge Federation), “Stijging van aantal dakloze mensen door CBS bevestigd” (Increase in number of homeless confirmed by CBS), Federatie Opvang, March 2016.

¹⁶⁸ CBS, “Dakloos: vaker jong en niet-westers” (Homeless: often young and non-western), CBS, 2016.

¹⁶⁹ For more information see Homeless in Europe, *Perspectives on Women’s Homelessness*. FEANTSA, summer 2016.

¹⁷⁰ *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, A/HRC/31/54, 30 December 2015.

back into homelessness. A possible cause is that the care that is required as a result of their (mental) disabilities and/or addictions was not properly recognised during previous periods of homelessness.¹⁷¹ Other reasons for the increase could be the financial crisis, the lack of affordable homes, the lack of debt relief, the effects of the shared costs standard for people on social welfare and austerity in terms of mental healthcare.

7.3.3 Accessibility of support

The pressure on the support system increases due to an increase in homeless people. This means the availability of place to stay is also under pressure. There are also difficulties when it comes to gaining access to shelters/institutions and support. Some municipalities still apply the criteria that only people who have a connection to the area are eligible for support services in their municipality.¹⁷² People often have to prove that they have lived in the area for at least two years. This is only possible if they are registered in the Municipal Personal Records Database. This, however, is a problem as registration in the Municipal Personal Records Database is exceptionally difficult for the homeless. A correspondence address is required in order to register but without registration, you cannot access facilities, such as shelters/, get support or obtain benefits. This leads to a vicious circle: once you are homeless, it is very hard to escape the situation. In November 2016, the National Ombudsman published a report on this issue.¹⁷³ In response to this report and pressure from civil society, the Ministry of Interior published a new circular on the Municipal Personal Records Database and the options open to make sure homeless persons can acquire a formal address for correspondence.¹⁷⁴ As a result, if the Municipal executive (College van Burgemeester en Wethouders), by virtue of its office, decides to include the correspondence address in the Municipal Personal Records Database, it can choose to give the address of an institution/shelter in which the homeless person resides.¹⁷⁵ A further difficulty is that the principle that people should be considered to care for themselves (zelfredzaamheid) applies to the homeless too. This means that facilities and support are not accessible to people who are considered to be able to care for themselves. This includes those who do not have psychological or addiction problems (are not considered to be socially vulnerable). Essentially, they must care for themselves, and must rely on the support from their network or private initiatives.¹⁷⁶

Finally, accessibility is also limited by the way in which requests for facilities are turned down. There are many signs that a refusal to access shelter is not taken and communicated as a formal decision. As a result, the homeless person cannot lodge an appeal should they

¹⁷¹ C. van Everdingen, *De Utrechtse nachtopvang en crisisopvang in beeld* (Utrecht night and crisis refuge), EZC, September 2016; C. van Everdingen, *Verwarde mensen op straat* (Confused people on the streets), Salvation Army and VEZC, November 2015.

¹⁷² M. Planije, C. Musse, en M. Tuynman, *Landelijke toegang opnieuw bekeken: herhalingsonderzoek naar de landelijke toegankelijkheid van de maatschappelijke opvang* (Reviewing national access: repeat research into the national accessibility of social refuge/support), Trimbos, 2015.

¹⁷³ National ombudsman, *'Een mens leeft, een systeem niet'* (A person lives, the system does not), report number 2016/10. The Hague: National ombudsman, 2016.

¹⁷⁴ Ministry of Internal Affairs, "Circulaire BRP en briefadres" (BRP Circular and postal address), Ministry of Internal Affairs and Kingdom Relations, reference 2016-0000656211, October 2016.

¹⁷⁵ Refuge Federation: *'Nieuwe circulaire briefadres voor dakloze mensen'* (New circular postal address for homeless people), November 2016.

¹⁷⁶ M. Planije et al, above, note 172, p. 27.

wish to do so. There is therefore no effective legal remedy which enables the homeless to hold the municipality accountable.¹⁷⁷

7.3.4 Stigmatisation

The stereotype image of ‘the homeless’ is a drunk or drug-addicted man who has to steal and beg in order to fund his addiction and who sleeps at night under a bridge or in a doorway, on a piece of cardboard. This image is often reinforced due to the fact homeless persons are often fined for things, such as sleeping outdoors, drinking alcohol on the street or hanging around without a purpose. These are things non-homeless people rarely need to do and will, thus, not be fined for¹⁷⁸ Often people believe homeless persons are to blame for the situation they are in. However, this illustrates a failure to understand the huge diversity of groups under the ‘homeless’ label and the many different types of homelessness; it also detracts from the fact that all homeless people have rights. Homelessness is often the result of many different factors. It is very rarely a choice and it is exceptionally difficult to escape.

In a human rights-based approach to homelessness the premise and guiding principle is that homeless persons have rights and should be able to claim these rights, while authorities have duties. These are also duties to respect, protect and fulfil the right to housing. For this they need to be accountable. This does not mean that there won’t be any homeless people if the government fulfils its obligations or that homeless people have no responsibilities themselves. It does, however, facilitate monitoring on whether efforts are being made to think outside the stereotype image and ensures that rights can be exercised and obligations fulfilled.

7.4 Discrimination and stigmatisation on the basis of social-economic circumstances: The Rotterdam act

The aim of the Rotterdam Act 2006 (The Innercity Problems Act) is to combat segregation in order to improve the quality of life in, and the safety of, neighbourhoods. The act is a temporary and exceptional measure. On the basis of article 8 of this act, municipalities may refuse accommodation for certain groups of people in specific, allocated neighbourhoods. In order to live in this type of area, people who have lived in the municipality for less than six years must apply for a housing permit. People who are dependent upon benefits are not entitled to a permit. The municipalities of Rotterdam, Nijmegen and Capelle aan de IJssel have applied this law to certain neighbourhoods.

In 2005, the Institute advised the government about this law. They repeatedly stated that the regulation was considered to be stigmatising, discriminatory, disproportionate and ineffective.¹⁷⁹ Research in 2016 showed that the act does, indeed, disproportionately

¹⁷⁷ M. Planije et al, above, note 172; T. Bosma, L. van der Plas en A. van der Wiggers, *Over de drempel: bestuurlijk rapport (Over the barriers: executive report)*, Audit Office The Hague, February 2017; "Annual Report 2016", Bureau Straatjurist; R. Roorda, "Homelessness and Access to Justice in the Netherlands", in G. Vonk and A. Tollenaar, *Homelessness and the Law: Constitution, criminal law and human rights*, Oisterwijk: Wolf, 2014.

¹⁷⁸ Bureau Straatjurist, 'Annual Report 2016'.

¹⁷⁹ Dutch Equal Treatment Commission, *Advies inzake huisvestingsbeleid van de Gemeente Rotterdam (Recommendation regarding housing policy of the Municipality of Rotterdam)* CGB 2005/03, 2005.

impact upon specific groups and that it is not effective in reducing insecurity and improving living standards.¹⁸⁰

In 2016, the European Court of Human Rights (ECtHR) issued a ruling in the case *Garib vs. the Netherlands*, which centred on the application of this article. The Court decided that the freedom to determine where to live is limited by the law, but that these limitations are justified. The Court's opinion was not unanimous. Two of the seven judges provided a so-called *dissenting opinion*. They believed that the measures unnecessarily stereotype and (subconsciously) discriminate. The limitations are particularly detrimental to specific groups, i.e. single mothers and migrants.¹⁸¹ The case is now being reviewed by the Court's Grand Chamber.

In 2016, the law was expanded with the option to require a Declaration of Good Conduct (VOG) for certain neighbourhoods from people who wanted to live there. Advice from the police may also be obtained with respect to the past of potential tenants. This could lead to discrimination against and the stigmatisation of vulnerable groups with respect to their right to housing.¹⁸²

¹⁸⁰ C. Hochstenbach, J. Uitermark and W. van Gent, *Evaluatie effecten Wet bijzondere maatregelen grootstedelijke problematiek ("Rotterdamwet") in Rotterdam (Evaluation of the impact of the Rotterdam act in Rotterdam)*, Amsterdam: Amsterdam Institute for Social Science Research, October 2015.

¹⁸¹ For notes on this case, see Netherlands Institute for Human Rights: "Mag Nederland de vrijheid om zelf te kiezen waar je wil wonen beperken?" (Can the Netherlands limit the freedom of choice regarding where you want to live?), September 2016.

¹⁸² Netherlands Institute for Human Rights, *Advies inzake het conceptwetsvoorstel wijziging van de wet bijzondere maatregelen grootstedelijke problematiek*, (Recommendation regarding the draft legislative proposal on changing the special measures for urban issues), 2016, and subsequent letters to the Upper and Lower Houses.

Human rights in the Caribbean Netherlands

Most of the international human rights treaties from the United Nations and the Council of Europe that have been accepted by the Netherlands also apply to the Caribbean Netherlands. Most of the European Social Charter, however, does not apply to the Caribbean Netherlands; only articles 1, 5, 6 and 16 apply. With the exception of the right to strike, the ICESCR also applies (article 8, section 1.d, ICESCR).

During the transition on 10 October 2010, an agreement was made that no far-reaching legislation would be introduced on the islands for a period of five years after transition. The government has therefore decided that the UN Convention on the rights of persons with disabilities and the Convention of Istanbul will not yet be implemented in Bonaire, St. Eustatius and Saba.

The Dutch Constitution has applied to these areas since 2010. As a result, the equality principle in article 1 of the Constitution applies to all of the islands. There are variations between the Caribbean part and European part of the Netherlands in terms of national legislation, policy and practice. The so-called differentiation clause from the Charter of the Kingdom of the Netherlands provides for these differences. Article 1, second section of the Charter states:

"Regulations may be set and other specific measures taken for these islands due to the economic and social conditions, the distance from the European part of the Netherlands, their insular character, small surface area and population size, geographical situation, the climate and other factors which distinguish the islands from the European part of the Netherlands."

The legislation in the European part of the Netherlands and the Caribbean Netherlands varies on many fronts. That is why the government often refers to this clause. The justification for the variances, however, is often brief and superficial. The differentiation provision serves as the guiding principle for the legislator, executive body and court in relation to the exceptional circumstances on the islands. Nevertheless, article 1 of the Dutch Constitution remains the framework within which specific situations must be evaluated.

As a result, a distinction may only be made in terms of the realisation level for certain human rights between the Caribbean and European part of the Netherlands if it is clear that the situations are different or that there is objective justification for the distinction. The Dutch government must work quickly and as effectively as possible towards full realisation of the social-economic rights from the ICESCR. This means that the Netherlands must ensure that the rights of the residents of the Caribbean Netherlands are available, acceptable, of good quality and accessible. The Netherlands was tasked with this objective from the moment that the islands of Bonaire, Saba and St. Eustatius became part of the Netherlands. To the best of their ability and without discrimination.

8 The Caribbean Netherlands

8.1 Introduction

On 10 October 2010, the islands of Bonaire, St. Eustatius and Saba were transformed into ‘public bodies’ within the Dutch constitution. Since then, the islands have been known as the Caribbean Netherlands. Various reports have shown that many people in the Caribbean Netherlands still struggle to make ends meet; there are poverty issues on all of the islands. The cause of these financial problems is often given as the transfer from the Antilles guilder to the American dollar and the corresponding price increase, the new tax system after 10 October 2010, and the enforcement thereof, and a lack of awareness about income-related support measures. This increase in costs for basic necessities has never been offset by increasing incomes in the form of wage rises or more generous benefits.

The poverty and (social) consequences are clearly visible on all three islands. It is unclear whether the severity of the problem differs between the islands. The more isolated location and small scale of St. Eustatius and Saba makes it even more difficult for the residents to escape poverty, compared to Bonaire. The government has acknowledged the poverty problem on the islands. In October 2016, the Ministry for Social Affairs and Employment (SZW) made 1 million Euro available to relieve poverty that specifically affects children.

No further standards in terms of the provision level have been set for employment, income and social security. A subsistence level has not been set for Bonaire, St. Eustatius and Saba.¹⁸³ The welfare standard has been set on the basis of the statutory minimum wage. As a result of discussions in the Upper and Lower Houses in spring 2016, an agreement was made to harmonise the norm, as is the case in the European Netherlands, with benchmarks for subsistence. This is an obligation that arises from the International Covenant on economic, social and cultural rights (ICESCR), among others. The State Secretary of the Ministry for Social Affairs and Employment would like to retain the existing standard, partially to stimulate people to look for work. As a result of questions to Parliament, in 2017 the State Secretary pledged to investigate how a social minimum could be set on the basis of benchmarks for subsistence.¹⁸⁴ As of 1 January 2016, child benefits have been introduced to replace child-related tax relief. The rate of the child benefit is 40 USD on Bonaire and 42 USD on St. Eustatius and Saba, per child per month.

8.2 Employment

The rates of unemployment are relatively low but even in cases where a person works, there is no guarantee that their income will be sufficient to fulfil basic subsistence requirements. Many of the people who work only earn the minimum wage. This is often too little for those in the Caribbean Netherlands to make ends meet financially. That is why many of them have multiple jobs. Since the statutory reform, many people have found that their financial situations have worsened.

¹⁸³ Commissie evaluatie uitwerking van de nieuwe staatkundige structuur Caribisch Nederland (Commission evaluating the elaboration of the new statutory structure of the Caribbean Netherlands), *Vijf jaar verbonden: Bonaire, Sint Eustatius, Saba en Europees Nederland (Bound for five years: Bonaire, Sint Eustatius, Saba and the European Netherlands)*, October 2015 (annex 500768 from *Parliamentary documents I*, 2015/2016, 34300 IV, B). Hereinafter: Spies Commission.

¹⁸⁴ *Parliamentary documents II*, 2016-2017, 34550 IV, no. 27.

8.2.1 Vulnerable groups

Vulnerable groups with a high risk of poverty include older people living on the State Pension (AOV), those with a disability that prevents them from working and (single) women with children.¹⁸⁵ Poverty is also very prominent among groups that are not expected to participate in the labour market, such as the elderly (in particular, single pensioners) and those who are unable to work due to sickness or disability. The measures for stimulating people to find work are more or less irrelevant to these groups. In terms of an incapacity to work, it is important that there are effective medical examinations and supervision. Currently, there is no review of whether a person could carry out another type of work.¹⁸⁶ Disabled people form a particularly vulnerable group. This group faces a huge struggle to find work in the limited, complex labour market on the islands.¹⁸⁷ The Ministry for Social Affairs and Employment may well be making an effort in terms of employment opportunities for those with a disability however there is no policy comparable to the Participation Act. Activities that supervise the search for work and work itself are fragmented; there is a lack of social work facilities and the expertise to support employees with limitations. Individual cases are sometimes resolved by placing a person in a small company with an informal culture. The Rijksdienst Dutch Caribbean, the body which represents the Netherlands on the islands, and the public bodies have no policy for recruiting people with a disability themselves.

8.2.2 Small-scale islands

The labour market is very small, the economic structure is vulnerable and alternative incomes are hard to come by. The Government and the islands are facing challenges when it comes to improving the effectiveness of the labour market and expanding opportunities for finding jobs among local workers. A lack of cooperation between the State and public bodies means that opportunities for the local population to find suitable work within the labour market are not fulfilled. The State issues a great deal of employment permits to foreign personnel, even for jobs at the lower end of the labour market. Regulations allow employers to be asked to provide training for local workers in return for employment permits. These options have so far not been used by the State.¹⁸⁸

In the Caribbean Netherlands, there is a need for more highly educated employees, e.g. in education¹⁸⁹ and governmental services. There is a clear brain-drain, i.e. well educated 'island children' are moving to the European Netherlands or the United States once they have completed their studies and are not returning to the islands. There is often a disparity between supply and demand on the islands.¹⁹⁰

¹⁸⁵ Nibud, *Minimumvoorbeeldbegrotingen voor Bonaire (Minimum sample budget for Bonaire)*, 2014 and Spies Commission, above, note 183.

¹⁸⁶ Spies Commission, above, note 183.

¹⁸⁷ IdeeVersa and DSP-Groep, *Onderzoek VN-Verdrag personen met een handicap Caribisch Nederland (Study of UN Treaty - persons with a disability Caribbean Netherlands)*, August 2016.

¹⁸⁸ Spies Commission, above, note 183.

¹⁸⁹ Education Inspectorate, *De ontwikkeling van het onderwijs in Caribisch Nederland 2014-2016 (The development of education in the Caribbean Netherlands)*, February 2017.

¹⁹⁰ Netherlands Institute for Social Research, *Vijf jaar Caribisch Nederland (Five years Caribbean Netherlands). [Gevolgen voor de bevolking \(Consequences for the population\)](#)*, The Hague: SCP, October 2015.

8.2.3 Equal treatment

The differentiation between the European and Caribbean Netherlands could also lead to unequal treatment. For example, the legislation and regulations with respect to children, such as maternity leave, paternity leave and child benefit, are less favourable for residents of the Caribbean Netherlands than those in the European Netherlands.¹⁹¹ This is a concern for many children as formal child support is inadequately organised. The lack of a ‘safety net’ means that some children are socially and economically neglected.¹⁹² The long term plan for the Caribbean Netherlands 2015-2018, states that the government will make investments in this context.

In order to realise a minimum level of subsistence, there needs to be an improvement in the effectiveness of the labour market, among other things. Supply and demand are not effectively harmonised. The State and public bodies use opportunities for the local population within the labour market insufficiently. This means that it is hard to get by on the rate of benefits and the minimum wage. There must also be a focus on vulnerable groups and on unequal legislation and regulations with respect to employment.

8.3 Education

Good education as a preparation for the labour market is important in order to escape poverty. Since the transition, the level of education has improved substantially.¹⁹³ The aim of the first Education Agenda for the Caribbean Netherlands (2011) was to increase the level of education in the Caribbean Netherlands to a standard that is acceptable according to both Dutch and Caribbean norms.¹⁹⁴ The second education agenda 2017-2020 will build upon this. The majority of schools and institutions (departments), i.e. 18 of the 26, have achieved basic quality. The financial situation of most of the boards has also improved and is more stable however, it does require active support.¹⁹⁵

The quality of secondary education, the inadequate connection between education and the labour market, the high number of pupils with deficiencies and pupils with mental health or physical limitations, however, remain focus areas.¹⁹⁶ The learning results are not the same as the European Netherlands, particularly when it comes to reading and writing.¹⁹⁷ Illiteracy is generally much more problematic in the Caribbean part of the Netherlands.¹⁹⁸ It is also difficult to enforce mandatory education¹⁹⁹ most schools lack modern learning

¹⁹¹ Netherlands Institute for Human Rights, *Recommendation: Naar een mensenrechtelijk aanvaardbaar voorzieningenniveau voor Caribisch Nederland (Towards a level of provision that is acceptable according to human rights, in the Caribbean Netherlands). Response to the report ‘Vijf jaar verbonden. Bonaire, Sint Eustatius, Saba en Europees Nederland’, (Bound for five years: Bonaire, Sint Eustatius, Saba and European Netherlands)*, April 2016 and Children’s ombudsman, *Children’s rights monitor 2016*.

¹⁹² K. Kloosterboer, *Kind op Bonaire, Sint Eustatius en Saba. Kinderrechten in Caribisch Nederland. Samenvatting (Children on Bonaire, Sint Eustatius and Saba. Children’s rights in Caribbean Netherlands. Summary)*, Unicef 2013.

¹⁹³ Spies Commission, above, note 183.

¹⁹⁴ SCP, *Vijf jaar Caribisch Nederland (Five years Caribbean Netherlands)*, above, note 190.

¹⁹⁵ Education Inspectorate, *De ontwikkeling van het onderwijs in Caribisch Nederland 2014-2016 (The development of education in the Caribbean Netherlands)*, February 2017.

¹⁹⁶ Spies Commission, above, note 183.

¹⁹⁷ Education Inspectorate, above, note 195.

¹⁹⁸ Spies Commission, above, note 183.

¹⁹⁹ Children’s rights monitor, 2016.

resources and many school buildings are in a very bad condition.²⁰⁰ Furthermore, the range and the quality of education often fails to link in with the demands of the employers.²⁰¹ The Education Inspectorate has recognised that secondary education and secondary vocational education on Bonaire and St. Eustatius, practical education on Bonaire, the expertise centre for educational care on Bonaire and the social opportunity projects for young people on St. Eustatius have not yet reached basic quality requirements. The continuity and quality of the boards has a huge impact on this.²⁰² The low number of potential work experience placements also hinders the provision of adequate, competency-centred vocational education.²⁰³ Support is available on the islands for pupils with mental health or physical issues. However, it is not clear whether there is adequate support at secondary education level.²⁰⁴ This would limit access to education and requires further research.

To conclude, the quality of education has significantly improved over the past few years. However, there still needs to be a focus on the quality of secondary education, secondary vocational education and practical education in particular. A more integrated approach to poverty and the corresponding youth problem is vital for long term educational quality. The collaboration between schools and parties involved in care, youth and children's assistance, and the labour market could also be improved. In this context, specific attention must be paid to vulnerable pupils by improving the educational care structure.²⁰⁵

8.4 Health

The fact that people who live in poverty often have a bad health is also clear in the Caribbean Netherlands. Unhealthy practices lead to a great deal of obesity on the islands: 27% of the population in the Caribbean Netherlands have a serious weight problem. The most important cause is an unhealthy lifestyle with relatively high levels of fast-food and alcohol consumption and a lack of fruit and vegetables and exercise. Serious obesity leads to chronic illnesses.²⁰⁶ In order to prevent this, information on obesity and diabetes must be readily available. However, the system is still in its infancy.²⁰⁷

Healthcare in the Caribbean Netherlands has drastically improved since the transition, partly as a result of the introduction of public health insurance and investments in infrastructure, emergency transport, equipment and medical personnel.²⁰⁸ This has also contributed towards availability, quality and accessibility of healthcare, which are human rights obligations. The Committee for evaluation of the constitutional structure of the Caribbean Netherlands has highlighted increases in efficiency, the provision of more customisation in consultation with the sector, the reduction of costs and bureaucracy and

²⁰⁰ SCP, *Vijf jaar Caribisch Nederland (Five years Caribbean Netherlands)*, above, note 190.

²⁰¹ Spies Commission, above, note 183.

²⁰² Education Inspectorate, above, note 195.

²⁰³ Education Inspectorate, above, note 195, and SCP, *Vijf jaar Caribisch Nederland (Five years Caribbean Netherlands)*, above, note 190.

²⁰⁴ E. van de Mortel and O. Nauta, *Onderzoek VN-Verdrag inzake de rechten van personen met een handicap in Caribisch Nederland (Study of UN Treaty regarding the rights of persons with a disability in the Caribbean Netherlands)*, IdeeVersa and DSP-Groep, 2016.

²⁰⁵ Education Inspectorate, above, note 195.

²⁰⁶ SCP, *Vijf jaar Caribisch Nederland (Five years Caribbean Netherlands)*, above, note 190.

²⁰⁷ Van de Mortel and Nauta, above, note 204.

²⁰⁸ Spies Commission, above, note 183.

the issues around youth and families as significant focus areas.²⁰⁹ The examination of policy for healthcare, youth care and the public health provision in the Caribbean Netherlands in 2016 also flagged up risks for vulnerable groups such as children, teenage mothers, people with a disability and the elderly.²¹⁰ The policy for these specific problems and target groups is insufficiently developed and requires further attention. Provisions in long term care, care for the elderly and care for people with a disability must also be developed further. It is also clear that no measurable targets have been set for the realisation of the overall aim to improve healthcare in the Caribbean Netherlands to ‘a level of provision that is acceptable in the Netherlands, taking specific circumstances into account’. There is also a lack of reliable information for determining measurable objectives or targets. In order to highlight improvements or undesirable developments, it is important that this information is available.²¹¹ Effective policy can then be formulated on the basis of this information.

The Children’s rights monitor showed that child abuse is a stubborn and a common problem in the Caribbean Netherlands. This is closely related to the poverty issue. Conditions of poverty can give rise to and sustain domestic violence.²¹² 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.²¹³ Over the past few years, much effort has gone into the approach to domestic violence and violence against children, e.g. via the creation of the Children’s Rights Task Force. 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.²¹⁴

The quality of healthcare has improved over the past few years, but structural, preventative measures are necessary in order to break the negative spiral of poverty and bad health, if health in the Caribbean Netherlands is to be effectively improved.

8.5 Housing

On Bonaire, there is a clear division when it comes to housing. At various locations around the island, there are luxury residential complexes which are often populated by European Dutch people. The outlying neighbourhoods of Kralendijk and Rincon, however, are dominated by badly maintained, run-down homes. It is a clear effect of living at a subsistence level: people have little money for acquiring housing of a decent standard. This applies to all three islands of the Caribbean Netherlands, and on Saba it is particularly costly to build (social) housing due to the mountainous environment. The threat of hurricanes must also be taken into account, just as on St Eustatius.

²⁰⁹ Spies Commission, above, note 183.

²¹⁰ Ministry of Health, Welfare and Sport, Beleidsdoorlichting gezondheidszorg, jeugdzorg en publieke gezondheidszorg in Caribisch Nederland (An examination of policy regarding healthcare, youth care and the public health provision in the Caribbean Netherlands), 2016.

²¹¹ Policy examination Ministry of Health, Welfare and Sport, above, note 210.

²¹² Regional plan, *De aanpak van huiselijk geweld op de BES-eilanden (The approach to domestic violence on the BES islands)*, April 2014.

²¹³ Long term programme Caribbean Netherlands 2015-2018, *Parliamentary documents II 2014-2015*, 34 000 IV, no. 44.

²¹⁴ Children’s rights monitor 2016, above, note 191.

There are no suitable, accessible houses specifically for people with disabilities and existing housing cannot be adapted. There is a need for supervised dwellings for people with minor, mental health issues, those with psychiatric disorders and the elderly. On Saba and St Eustatius, there are no care facilities for these groups at all. They are accommodated in a hospital or with their families, without day-care or activities. On Bonaire, there are insufficient facilities for long term care: there are waiting lists for nursing homes and FKPD,²¹⁵ because there is practically no ‘sheltered’ accommodation.

A range of aspects relate to poverty, including poor quality housing. Central government and public bodies must take this into account and invest in good quality, affordable housing.

8.6 Concluding remarks

As a result of international treaties, there is an obligation to ensure that a minimum level of social security is achieved. In the Caribbean Netherlands, this standard is not being fulfilled, given the poverty issues. In terms of the employment situation, it is clear that work does not offer a route out of poverty. The low minimum wage and rate of benefits make it very difficult for many people to make ends meet financially. Subsequently, some groups end up in a vulnerable position, e.g. the elderly, single mothers and people with a disability. The government is focussing on the issue of poverty and is making efforts to limit the consequences thereof. In parliament, the parties are pressing ahead with setting a social minimum linked to benchmarks for subsistence. The State Secretary is maintaining the link with the statutory minimum wage even though it is not really enough to survive on.

²¹⁵ Fundashon Kuido Pa Personanan Desabilita.

PART III

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

9 Summary and conclusions

9.1 Poverty is detrimental for the individual and society

The figures do not lie. Poverty is a problem in the Netherlands. Many people are living in poverty, and a considerable percentage are in long-term poverty. The number of people in poverty has started to decline, but far from everyone is benefiting from this. The themed chapters in this report show that life in poverty has detrimental consequences for various aspects of the lives of the people affected by it. A number of examples illustrate this.

People with a low income and a lower level of education live for seven years less on average and have 19 years less in a state of health which is perceived as good. 2.5 million people in the Netherlands have great difficulty with reading, writing and/or arithmetic. Many of them are in long-term poverty. Many people in paid work are still below the poverty line. The number of working people in poverty has increased substantially. The number of homeless people has increased substantially over the past six years. It is difficult to present the precise number, but it certainly involves more than 30,000 people, including young people. 18% of all tenants struggle to pay their rent and the most basic living costs every month. In the Caribbean Netherlands many people have great difficulty making ends meet.

Poverty can in principle affect anyone, for example as a result of a big drop of income through job loss, a bankruptcy, divorce or serious debt. People can also end up in poverty through discrimination in the labour market or health problems which lead to high expenditure on healthcare. Various groups of people run a structurally greater risk of poverty. These include people on social welfare, single-parent families with young children, people with a disability and non-Western migrants. Research shows that for many people it is very difficult to get out of poverty. Poverty and human rights are closely related. People can end up in poverty because their human rights are insufficiently safeguarded, but poverty can also lead to insufficient protection of human rights. People in poverty can end up in a vicious circle of powerlessness, stigmatisation, discrimination, exclusion and material deprivation.

Poverty and the associated social inequality also have consequences for society as a whole. This has been found to particularly be the case when people's problems accumulate. If people have the feeling that they cannot participate and are not part of society (anymore) that can lead to social discontent and loss of confidence in institutions such as the government, the rule of law and parliament.

9.2 Poverty is a human rights issue

The problems outlined relate to human rights. The fact that large groups of people live in long-term poverty points to shortcomings in safeguarding the right to an adequate standard of living. The right to an adequate standard of living and protection from poverty and social exclusion, the right to health, the right to education, the right to work and the right to housing are fundamental human rights. Within these areas there are problems with participation, autonomy, equality and legal protection. A life in poverty and exclusion can affect human dignity. This urgently requires a new and different policy. An approach within which human rights play a central role provides for building blocks. Such an approach

emphasises for policymakers, professionals and people in poverty that this issue involves basic human rights.

9.3 Guaranteeing human rights helps to reduce the consequences of poverty and to prevent poverty

The protection and promotion of the rights of people living in poverty can reduce the detrimental consequences which poverty has on their life. And the protection of human rights can help prevent people from ending up in poverty. For example, measures which remove the obstacles to participation by people in poverty can counter their social exclusion. Income-supporting measures which ensure that people can pay their rent and can focus on their future help to improve their health and increase their opportunities in the labour market. Practical measures to improve health offer a health benefit and also encourage social participation and access to the labour market. Guaranteeing the right to education for children from poor families can contribute to a future without poverty for them.

9.4 An approach in which human rights play a central role

The need for an approach in which human rights play a central role is at least threefold. Human rights are all-encompassing, and therefore offer a basis for an integrated approach to the interrelated problems of people living in poverty. The human rights framework offers guidance for the content of policy and the process within that policy is formulated, for the implementation and for the monitoring and evaluation. Secondly, working from the recognition of the rights of the people living in poverty, identifying the government's associated obligations and formulating them in practical terms is a significantly different approach than just working from peoples' needs. It contributes to participation by and empowerment of the people affected by the policy. Thirdly, human rights offer clarity in formulating policy and balancing interests in concrete situations.

9.5 Human rights and combating poverty and social exclusion

Many human rights are relevant in combating poverty and social exclusion. A number of human rights has been examined in more detail in this report in order to initiate the discussion about an approach to poverty in which human rights play a central role. The first part of the report discusses a number of principles which form the basis for human rights. The second part examines a number of rights in more detail in order to clarify the link with poverty. The most important findings are given below.

Dignity and social security

A long-term lack of financial resources can be a problem in itself in terms of human rights. It can impact on the right to an adequate standard of living. When necessary the government must provide income support in order to prevent people from having to live below the minimum subsistence level.

Protection of the rights of people in a vulnerable situation

The rights of people in vulnerable situations require extra protection. Various groups have long been identified as being 'vulnerable' to ending up or remaining in poverty, such as single-parent families with young children and non-Western migrants. The phenomenon of 'working people in poverty', such as the self-employed and small business owners, is relatively new. Specific attention is also required for people with a disability or chronic

illness, the elderly, children and homeless people. If budget cuts are necessary, these should not affect the most vulnerable people disproportionately. In a situation of economic recovery, the improvement of their situation must be given a high priority.

Respect for autonomy

People's autonomy must be the starting point when formulating, implementing and monitoring policy. Freedom of choice and decision-making is not the same as assuming that people can look after themselves. It may actually be necessary to assist people who cannot get out of poverty on their own.

Equality and equal enjoyment of rights

Inequality and discrimination can be both a cause and consequence of poverty. Social inequality can lead to a reduction in confidence in the legal system and institutions such as parliament and the government. If inequality occurs in various areas at the same time, such as differences in socio-economic status, education and health, that can lead to social discontent and unrest.

Discrimination on the ground of economic status or grounds related to poverty is not permitted. Equal enjoyment of rights requires - amongst other things - that barriers that impede the exercise of rights be identified and removed. This would include paying attention to literacy and digital skills. In addition, there is a need to prevent people in poverty from being disadvantaged by a stigmatising attitude on the part of institutions or other citizens.

Participation and empowerment

For poverty to be tackled effectively, it is crucial that people in poverty and advocacy groups be involved in formulating, implementing and monitoring policy. This may require extra effort in order to reach people and genuinely involve them. Only then it is possible to combat poverty in a way that shares responsibility between central government, local government and the person concerned.

Protection of rights

Effective protection of rights requires that the individual can hold the government to account. This requires an awareness of human rights. Equally, professionals involved in combating poverty should have the necessary human rights expertise. The government also needs to do everything it can to make the relevant information accessible to people in poverty proactively and timely. Anyone who considers that their human rights have been breached must be able to make use of an effective remedy.

Health

Living in poverty impacts on health. A lack of money can lead to an unhealthy eating pattern, living in an unhealthy environment or foregoing healthcare. A lack of financial resources also means for many people that they largely focus on their life in the short term. Many people in poverty have poor literacy skills and therefore find it harder to access information about a healthy lifestyle. More effort is required in terms of preventative healthcare and for the factors that influence health, such as an adequate standard of living, adequate housing and good education. The measures must be specifically tailored to the situation of people living in poverty or who run a risk of ending up in poverty.

Education

Some 2.5 million people in the Netherlands have poor literacy skills. Many of them are in long-term poverty, have problems with their health and are less socially and politically engaged. Poor literacy skills can have negative consequences for the ability to get out of poverty. Although primary and secondary education are free in principle, many schools ask for extra contributions for activities organised by the school. If parents do not pay the contribution, this can result in the child being excluded from participation. There are also schools that ask parents to make contributions to improve the education. That can influence the choice of schools, and lead to children from rich families receiving a better education than children from poorer families. If children have parents with lower education or come from areas with poor opportunities, that more often leads to a lower school recommendation. Differences in opportunities within education have long-term consequences. It can result in parents' poverty being passed on to their children. Education is important to getting out of poverty, and crucial for the realisation of many other human rights.

Employment

Although work is still important to acquire an income, having paid work is not a guarantee of not ending up in poverty or being able to get out of poverty. 'Working people in poverty' include small business owners, farmers, people with a poorly paid part-time job and a rapidly expanded number of flexi-workers who are employed or self-employed. People with a low education level and a flexible employment contract in particular have a greater risk of ending up in poverty. For that group in particular, a flexible contract is not a personal free choice. Risk factors which can influence access to a job with an adequate wage, job security and favourable working conditions include a low level of education, a job in a sector with high competition, and discrimination. At the bottom end of the labour market there is also a greater risk of exploitation (e.g. by illegal employment agencies).

Life in long-term poverty can impede access to work, for example because it means that people have a more limited network or cannot afford or refresher training or retraining.

Housing

There is a lack of social housing and housing which is matched well to the needs of different target groups, such as the elderly and people with a disability. Further, many people cannot afford housing costs. This can lead to poverty and homelessness. There are a large number of homeless people, particularly if one adopts a broader definition which also includes people living in unsafe or inadequate accommodation. There are various problems with providing shelter for people who are homeless. Due to various circumstances - such as the economic crisis and the cuts to mental healthcare - more people need shelter. However, moving on is problematic for quite a number of people. Many people who need shelter require support, for example because of mental health issues or addiction. There is insufficient accommodation to meet such needs.

The Caribbean Netherlands

Many people in the Caribbean Netherlands have difficulties making ends meet. No minimum subsistence level has yet been calculated for the three islands. Work is no guarantee of an income that is sufficient to meet basic needs. In addition, it is very difficult to find work in the small and complex labour market, particularly for certain

groups such as people with a disability. The quality of education has improved in recent years, but continues to require attention. For example, the nature and quality of education does not match well with employers' demands. Many people living in poverty in the Caribbean Netherlands have health problems. Obesity is a common issue. Few preventative measures have been taken to counter this so far. It has also been found that there is a link between the large number of people living in poverty and the widespread occurrence of violence against child. Many people on the islands do not have the means to obtain good housing. Insufficient suitable accommodation is available for people with a disability. In addition, many homes are in a poor condition.

10 Recommendations

1. Develop a strategic policy for combating poverty and social exclusion in which human rights play a central role. Involve advocacy organisations for people living in poverty.
2. Develop a national programme to combat poverty and social exclusion on the basis of the strategic vision. Collaborate with local governments, advocacy organisations and people in poverty. Pay attention to the various human rights and principles within the programme.
 - a. Adequate standard of living
 - i. Guarantee the right to an adequate standard of living through income-supporting measures.
 - ii. Ensure that the procedure for income support is simple and that information is easily accessible for people in poverty.
 - b. Health
 - i. Focus more on preventative healthcare, and take steps which are specifically tailored to the situation of people in poverty.
 - ii. Approach people in poverty proactively, and give them an active role in finding solutions to financial and health problems.
 - iii. Guarantee that a lack of financial resources does not form an impediment to access to an adequate level of healthcare.
 - iv. Guarantee the accessibility of information about health care and health.
 - c. Education
 - i. Ensure that students with parents with lower education or parents in poverty have the same opportunity within education as pupils with more highly educated or rich parents.
 - ii. Ensure that financial considerations do not restrict the freedom of choice within education.
 - iii. Combat poor literacy amongst adults.
 - d. Employment
 - i. Strengthen and protect the labour market position of low-skilled and/or flexible employees.
 - ii. Encourage employment agencies and employers to invest in additional training or on-the-job training.
 - iii. Combat discrimination in access to the labour market.
 - iv. Offer adequate protection against exploitation in employment, with particular attention for people in a vulnerable position in the labour market.
 - e. Housing
 - i. Guarantee the availability of sufficient rented homes, including for people with specific needs and requirements.
 - ii. Guarantee the financial accessibility of rented homes.
 - iii. Investigate the causes of homelessness and take steps to eradicate them.
 - iv. Guarantee that everyone in an emergency situation has access to shelter.
 - f. The Caribbean Netherlands
 - i. Calculate the social security level on the basis of the local costs of living.
 - ii. Address the consequences of youth poverty in an integrated way, and ensure that the parties involved work together better.
 - iii. Take structural preventative measures in order to break out of the negative spiral of poverty and poor health.

- iv. Invest in good and affordable housing.
3. Implementation and monitoring of the programme to tackle poverty
- a. Ensure that the advocacy organisations and the people in poverty themselves are also involved in the implementation and monitoring of the policy. Thereby pay particular attention to the involvement of those with poor literacy skills. Ensure that they receive the information that is relevant to them in a form that is accessible to them.
 - b. Ensure the collection of sufficiently disaggregated data in order to allow evaluation of policy, particularly the consequences for vulnerable groups.