

**Submission to the
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by Farai Chikwanha**

Broken Chalk is an Amsterdam-based NGO established in 2020 and focused on raising awareness and minimizing human rights violations in the educational field.

Together with our international sponsors and partners, we encourage and support the following activities/projects: removing obstacles in education; contributing to the achievement of peace and tranquility in the society through adaptation studies in an environment of intercultural tolerance; preventing radicalism and polarization; and eliminating the opportunity gap in education for all. Our goal is to work together with global partners to remove barriers to access to education and to take concrete steps to ensure universal access to education.

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0. Introduction

1. The past five years since the Netherlands' previous Universal Periodic Review (UPR) have seen developments in certain areas. There have been concrete actions to protect and fulfil the human right of everyone to education. Concurrently, however, evidence has been gathered of multiple violations of the right within the same timeframe. It is imperative for the Netherlands, as a human rights duty-bearer, to address the different forms of discrimination and marginalisation experienced by vulnerable groups, which hinder their access to education, as well as the multiple other challenges these groups face, whether the challenges are based on socio-economic grounds or otherwise.
2. Under national and international human rights law, the government of the Netherlands is under an obligation to respect, protect and fulfil the right of every person to education, provide redress for the occurrence of such violations, and prevent them from happening.

I. National legal framework

3. There are multiple laws governing education in the Netherlands, including the Constitution, the Compulsory Education Act, and the Education Inspection Act, which regulates the Inspectorate of Education. Under Article 23 of the Dutch Constitution, education falls under governmental concerns. All persons have the right to provide free education, provided such right does not preclude the right of the Government to supervise such provision.ⁱ
4. The Compulsory Education Act establishes compulsory education throughout the nation between 5 and 16. All children in the Netherlands, whether they are citizens or foreign nationals, ought to have adequate access to education.ⁱⁱ

II. International legal framework

5. The Netherlands has signed and ratified all nine United Nations human rights treaties and their optional protocols, except for Article 32 of the Convention for the Protection of All Persons from Enforced Disappearance on Interstate Communication Procedures and the

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.ⁱⁱⁱ

III. Accession to U.N. human rights treaties and their protocols

6. The Netherlands also has not accepted individual complaints procedures for the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; and the Convention on the Rights of the Child.^{iv}

IV. Education during the COVID-19 pandemic

7. The closure of schools stemming from the COVID-19 pandemic restrictions disrupted the standard educational course. Although the system was able to adapt to remote teaching rapidly, the repeated, long-term closures of educational institutions created a reliance on strong internet connections and the availability of devices to facilitate online learning left many students without adequate access to this form of education.^v
8. The pandemic had a magnifying effect on the pre-existing inequalities in the Dutch education system. Children from vulnerable groups, namely those at refugee reception centres, migrant backgrounds, and children with disabilities, already faced challenges in receiving an education, an issue that was exacerbated during online and remote learning.

V. Inclusivity and non-discrimination in education

LGBTI students

9. Dutch law dictates that schools create and foster supportive environments for LGBTI students. In 2020, the Ministry of Education recognised the Gender and Sexuality Alliance (GSA) Education Standard, a tool assisting schools to create and foster supportive environments by establishing criteria for secondary schools to determine whether they provide such supportive environments. The three principles behind these criteria are: good knowledge transfer; good support; and good policy.^{vi}

10. Contrary to the goal of the GSA, in February 2020, research by Pointer found that 20% of Dutch Reformed Schools indicated in their profiles that sexuality in human relationships was only permissible within marriages between men and women.^{vii} In enrolling their children, parents may either have to endorse or accept school profiles and agree to their children being educated according to them.^{viii} The negative framing of non-heteronormative relationships in school has an alienating effect on LGBTI students and violates the principle of non-discrimination and their right to equal treatment. Although the Parliament did push forward a legal amendment later in the year to ensure respect and protection for the rights of LGBTI students,^{ix} it is necessary to ensure that such schools eradicate any practices which marginalise them.

Roma and Sinti and Traveller students

11. The Netherlands has a support scheme programme in place for schools where vulnerable groups, including Roma and Sinti children, are enrolled.^x Schools with four or more Sinti or Roma students are eligible to receive additional funding, and measures have been developed to prevent early school-leaving, an issue which mainly affects Roma students.^{xi}

12. At the beginning of education, Roma students face linguistic because, while they may speak Dutch at home, they lack the degree of fluency in written Dutch required to thrive at educational institutions, so they often enrol at older ages.^{xii} Nevertheless, the Sinti and Roma Inclusion Monitor noted the effectiveness of measures put in place to ensure that all Roma children were enrolled into primary education, and that participation and completion of schooling amongst students in the primary level had improved by 2018. It was also noted that attendance, participation in and completion of secondary education increased amongst Roma and Sinti students. Nevertheless, there were vast differences between municipalities, namely, Nieuwegein and Ede, which had significant high school dropout rates, and Capelle aan de IJssel, which had no dropouts.^{xiii} Moreover, the levels of qualification they achieve upon completion of secondary education often do not qualify them for official diplomas.^{xiv}

13. An additional challenge faced by Roma students is the poor relationships between their communities and school leaders, municipalities, and schools. This issue has resulted in the adoption of repressive measures such as informal surveillance to improve Roma students' opportunities.^{xv} In Lelystad, students were pulled out of class to answer invasive questions

unrelated to their education. Moreover, the municipality blocked the work of a local Roma NGO in providing educational courses to children. In Nieuwegein, schools established quota systems to keep the number of Roma students low.^{xvi}

Students with disabilities

- 14.** Since introducing inclusive education in the Netherlands, there has been a paucity of information on students with special educational needs. This is partly due to the absence of national definitions which would serve as guidance for such processes and the lack of registration of progress and development plans.^{xvii} Although the registration of progress and development plans is mandatory, according to the Inspectorate of Education’s report in 2018, a study of 10 inter-institutional partnerships revealed that 27% of progress and development plans had been registered in the Basic Register of Education (*Basisregister Onderwijs*, “BRON”).^{xviii}
- 15.** According to a 2019 report by the Dutch NGO Coalition for Children’s Rights, as of 2018, the Netherlands was yet to put in place a “step-by-step transformation” of the mainstream educational system which would establish greater inclusivity for children with disabilities.^{xix} In the absence of a concrete plan, levels of inclusivity in the Dutch education system failed to meet international standards.
- 16.** Except for people with severe or multiple disabilities, students receiving special education were set to take the final test as a compulsory activity for the first time in 2020.^{xx} The cancellation of the test left these students without a “more detailed and objective picture” of their status, and without additional recommendations for further education which effectively limited their opportunities for further development.^{xxi}

Inclusion based on socio-economic background and migration backgrounds

- 17.** The report undertaken by the Dutch NGO Coalition for Children’s Rights revealed differences in the recommendations for selections of secondary schools as between students with higher educated parents and those with lower educated parents, even when their final exam scores were equal.^{xxii} Oftentimes, children with lower-educated parents in such cases were from non-Western backgrounds.^{xxiii} The differences in recommendations result in unequal opportunities, which extend beyond educational institutions to the labour market.

Increasing socio-economic segregation reinforces this inequality of opportunity.^{xxiv}

- 18.** The Inspectorate of Education's report in 2021 highlighted many concerning trends, including:
- 18.1.** Increasing segregation in schools, which detrimentally affects children from lower socio-economic grounds and those from immigrant backgrounds.^{xxv} Students from different backgrounds may even follow different types of education in the same schools.^{xxvi} This not only limits interaction between such students but also further entrenches inequality of opportunity;^{xxvii}
- 18.2.** In 2020, the percentage of students in primary education receiving recommendations for secondary school decreased by more than three percentage points from 2019.^{xxviii} As a result of pandemic-related restrictions, students were unable to take their final primary-level exams, rendering them incapable of changing their recommendations. This left 14,000 students without recommendations for higher education, most of whom were students with immigrant backgrounds, with parents who achieved lower levels of education or were on lower-income groups.^{xxix} The lack of a final test was considered detrimental for students from non-Western backgrounds by many school leaders at institutions with the highest percentage of students or parents with such backgrounds.^{xxx}
- 18.3.** The quality and extent of remote teaching varied between schools. It was determined that in the period before the summer of 2020, schools with high proportions of students with non-Western backgrounds or with low percentages of university-educated parents were more likely to receive limited parts of their regular curricula;^{xxxi}
- 18.4.** Students from low socio-economic backgrounds are more affected by enrolment in underperforming educational institutions, thus affecting their access to better opportunities.^{xxxii}

VI. Bullying in schools

- 19.** According to the Dutch Research Council, bullying saw a steady decline between 2014 and 2018. In 2018, 10% of children in primary education claimed that they were bullied at least once a month.^{xxxiii}

- 20.** Surveys are taken annually to determine students' perceptions of safety in Dutch educational institutions. However, monitoring and enforcement activities were disrupted due to the school closures in 2020.^{xxxiv} As of March 2021, the impact of repeated, long-term school closures and remote learning on student safety were yet to be investigated, but there are concerns related to cyberbullying. Therefore, such research must be conducted to develop tools and programmes to combat bullying effectively.

VII. Access to education by asylum seekers and refugees

- 21.** In April 2020, *Werkgroep Kind in azc* (the “Working Group on Children in Reception Centre”) reported to the State Secretary of Justice and Security that many asylum-seeking children in *Centraal Orgaan opvang asielzoekers* (COA)^{xxxv} reception centres lacked access to distance learning.^{xxxvi} Although the government had undertaken to resolve this issue by the third week of April 2020, by the end of the month, there were still reports from multiple locations of poor WiFi signals and not enough devices to meet children’s needs.^{xxxvii} There were also some instances of children not attending school at all because of recent relocations, which exacerbated the adverse effects of the asylum-seeking process and the COVID-19 pandemic.^{xxxviii}
- 22.** Added to the above is the concern surrounding the inability of newcomer education facilities to maintain contact with students at asylum seeker centres, either because of restrictions at the centres or because of problems with remote learning.^{xxxix}

VIII. Recommendations & conclusions

To the Dutch government:

- 23.** Accept the individual complaints mechanisms of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC);
- 24.** Adopt individual complaints procedures for the Convention on the Rights of the Child (CRC) and the International Covenant on Economic, Social and Cultural Rights (ICESCR);
- 25.** Facilitate access for school-age children in refugee reception centres to education via remote-learning by installing WiFi connections of a sufficient calibre and providing them with enough devices to pursue their education;
- 26.** Provide language-learning support in Dutch for Roma students, students with migrant backgrounds, and any other students who would otherwise enrol late in the Dutch

- education system due to language barriers;
27. Support Roma, Sinti, and Traveller NGOs in providing education to school children;
 28. Monitor and report on students with special education needs and establish whether they are receiving proper support;
 29. Conduct research into the effects of school closures and long-term remote learning on bullying and the mechanisms which can be put in place to combat it.
 30. Establish policies that effectively combat bullying based on migration status, anti-Roma sentiment, and LGBTI-phobia.

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Kingsfordweg 151, 1043 GR

Amsterdam, Netherlands

+31685639758 | info@brokenchalk.org | www.brokenchalk.org

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