



STATE KIDNAPPINGS

Human rights violations in Dutch Child Care

A FORMAL LEGAL TECHNICAL ANALYSIS

How Dutch municipalities can immediately end the abuses in Child Care,
and why they should

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Preface

1. Although youth care is intended for "protection", "care" and "help", it has caused a lot of human suffering in the Netherlands for decades, and offers little to no protection, care and help. Because of the sheer size of this public-private multibillion-dollar industry, a humanitarian disaster of unprecedented proportions has arisen. The vast majority of children in youth care are victims of unlawful out-of-home placements, "State kidnappings"¹, and therefore victims of human trafficking/exploitation/modern slavery (OTS/UHP). Approximately 450,000-900,000 children are victims of unlawful state interference and therefore also of human trafficking/exploitation/modern slavery (OTS). Nevertheless, the youth care industry continues to grow unhindered. In fact, Dutch youth care is no longer part of the rule of law, but is organized crime, intertwined with the public administration (mafia).
2. Since there is a deliberate, widespread, systematic attack against the Dutch civilian population (men, women and children), these human rights violations qualify as crimes against humanity; there is no statute of limitation.

These crimes have been committed in the name of the municipality since 2015.
The College of Mayor & Aldermen forms the day-to-day management, civil servants are involved, and the municipal council is the highest body that has to check the legality.
Individual members of the municipal council are therefore personally responsible and liable.

3. This document contains a formal analysis based on laws and treaties on the (non)legality and injustice of Dutch youth care (chapters 3 – 5). The results are shocking, as they show that the chain partners operate as a crime syndicate, and that public administration and the judiciary are mixed with organized crime. The analysis shows that (almost) every child protection measure taken since 2015 is null and void, unjustified, illegal (illegal) and/or unlawful. These formal findings are independent of any future findings (of review committees) in the context of the substantive review at individual dossier level. Although these exercises are useful, we can no longer wait for the results.
4. This document is not only intended for members of the municipal councils, the College of Mayor & Aldermen, municipal officials and the negotiators who are now active after the elections of 16 March 2022. The advice is also intended for every lawyer, every board member and every manager of a GI, every faction of the Senate or House of Representatives of the States General, every Minister, every policy officer of the Ministry of Justice and Security, every youth protector of a GI who must meet professional standards, every council researcher of the Council for Child Protection, every professor and every lecturer of universities and colleges, every lawyer and every judge, every foster parent, every family home parent and every self-employed person, employee or organization in the youth care chain.
5. On paper, the Netherlands is a rule of law, but the implementation practice of youth care is not. All ideals about "going to 0 out-of-home placements" remain illusory as long as the mixing of organized crime with the public administration and the judiciary is not abolished: for the next four years, a doubling of the growth of youth care is again foreseeable. In the circumstances outlined, the municipalities may no longer rely on a court order. You are aware of this advice, which is a follow-up to previous documents – most recently my letter of 28 January 2022 – insofar as you, as a professional or director, did not already know, or should not have known, these legal provisions and treaty provisions.
6. Therefore, do not put your feelings and your conscience aside any longer, but do what is necessary: do justice to the victims and prevent new victims. The municipalities hold the key to stop this inhumane and barbaric commercial practice. The first concrete step is to end the funding and ensure that the children can return home. Children who have been placed under State supervision without a legal basis, illegally or unlawfully, should also be discharged from it. By means of adapted policies, municipalities can – and must – prevent new human rights violations.
7. If you have any questions, or want concrete help for your municipality or organization, I am of course available.

Henriette Nakad-Weststrate

¹ <https://www.ad.nl/show/peter-pannekoek-krijgt-volop-bijval-na-uithaal-rond-staatsontvoeringen-naar-rutte~a49a8c9d/>

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Chapter 1: State kidnappings

1.1 Human trafficking

8. According to the United Nations, human trafficking is the recruitment, transport, transfer, housing or reception of people through violence, fraud or deceit, with the aim of exploiting them for profit. Men, women and children of all ages and backgrounds can fall victim to this crime, which occurs in every region of the world.²
9. In the Netherlands, child trafficking has occurred for more than 80 years, organized and financed by the Dutch State. This is done under the headings "Youth care", "Youth protection", "Youth assistance" etc. in a system of public-private partnership. With this trade one mainly earns money as the children are more damaged or more problems can be detected, manufactured or made up.³ One earns little or no money, at least less, if the well-being of children is promoted and any actual problems or requests for help are solved quickly and appropriately. This approach is the basis of a multibillion-dollar industry at taxpayers' expense.
10. Youth care is a world in which children are taken away from their parents on the basis of faulty files and taken to an unknown location, with strangers, after which contact with their loved ones is forbidden or only sporadically allowed, often under the guise of 'confusing' and 'getting used to'. These traumatizing experiences by definition cause psychological damage to children and parents. In addition, children are often abused and abused and appropriate help is not forthcoming. Many children are thus parked and detained for financial gain, on the basis of no more than false reports, unsubstantiated concerns, misdiagnoses, guesswork, the problematization and medicalization of the children by those who have a financial interest in it, and who also do not shy away from further (false) accusations of and unfounded concerns about the parents.⁴
11. Through repression and psychological torture, children and parents are forced into obedience, docility and silence and a culture of fear arises (Rutte Doctrine). Expressions of despair and sadness are punished by (further) restraining orders, the loss of parental authority (via the juvenile court), fines and imprisonment (via the criminal court, for example for insult) or the threat of such punitive measures. Because of the harassment, insults, humiliations, intimidation, threats and retaliation, etc. in the daily dealings with youth care, there is a lot of psychological suffering, sometimes with suicide, brain hemorrhages, heart attacks and cancer etc. as a result.⁵
12. Youth care is also a world in which the perpetrators present themselves as interlocutors and confidants, who (compellingly) invite the victims to share their feelings with them. But they also force them to undergo psychological and medical acts and examinations by third parties, with at most the aim that they learn to 'accept' the unlawful situation as quickly as possible. In addition, there is an unwritten rule that the information – selectively, whether or not in distorted form – may be used by the certified institutions against them in further file formation and court cases. This also applies to the refusal to cooperate.⁶
13. It is a world in which one's own mistakes and wrongful actions are not corrected, and the passage of time offers further guarantees to cash in on the children. The passage of time leads to further strengthening of one's own legal position and the (property) rights to the exploited children (modern slavery). A world where *private equity* funds, convicted sex offenders and fraudulent healthcare providers have made their appearance, to whom no obstacles are put in the way. A world that attracts people with personality disorders such as narcissism, psychopathy and sociopathy that does not prevent a climb on the career ladder. On the contrary. A world in which whistleblowers are mercilessly dealt with and hunted down, even beyond national borders, just as parents who try to flee the Netherlands to protect their children are tackled and hunted down.

² <https://www.unodc.org/unodc/en/human-trafficking/human-trafficking.html>

³ In the case of multiple problems, the term "complex problems" is usually used.

⁴ There are more patterns visible in the handling of files that indicate harmful psychological manipulation of children and parents that are also used in religious sects, for example, for the description of this, see <https://sterzoeker.blogspot.com/2012/03/leer-van-de-sektes.html>. On the other hand, information is publicly available about the recognition and treatment of actual psychological/psychiatric problems, such as <https://www.studeersnel.nl/nl/document/rijksuniversiteit-groningen/inleiding-psichiatrie-voor-juristen/inleiding-psichiatrie-voor-juristen-samenvatting/12136303>

⁵ <https://www.greelane.com/nl/geesteswetenschappen/problemen/us-constitution-22th-amendment-text-105391/>;
<https://www.managementimpact.nl/artikel/machtsmisbruik-door-managers-een-bedreiging-voor-menswaardige-organisaties/>;
<https://overheid.fnv-magazine.nl/012021/rutte-doctrine/>;

⁶ <https://recovery-freechoice.com/kenmerken-sekte/>

1.2 A humanitarian disaster

14. Due to the enormous size of commercial youth aid, there is a humanitarian disaster. The vast majority of children in youth care are victims of unlawful out-of-home placements, "State abductions," and therefore victims of human trafficking/exploitation/modern slavery (OTS/UHP). There are 450,000-900,000 children who are victims of unlawful state interference and therefore also of human trafficking/exploitation/modern slavery (OTS). Despite the abuses, human rights violations and human suffering, the youth care industry continues to grow (fast).
15. This document contains a formal analysis based on laws and treaties on the (in)legality of Dutch youth care (chapters 3 – 5). The results are shocking. The analysis shows that (almost) every child protection measure taken since 2015 is null and void, unjustified, illegal (illegal) and/or unlawful. This is usually due to the fact that: (1) there is no legal basis for coercive measures, or (2) there is nullity due to violation of the principle of legality, violation of mandatory legal provisions, violation of treaty provisions, violations of principles of the rule of law. The administrative culture has characteristics of narcissism and sometimes sadism, which is contrary to the principles of good governance. This administrative culture is partly explained by the (integrity) problems at system level, and in turn leads to (further) violation of human dignity; violation of Article 1 of the EU Charter, the most important treaty provision in the EU. These conclusions take priority over any review committees for the substantive assessment at individual file level.
16. Because there is a deliberate, widespread, systematic attack directed against the Dutch civilian population (men, women and children), the offences qualify as crimes against humanity. These are not time-barred. These crimes have been committed in the name of the municipality since 2015. The College of B&W forms the day-to-day management, civil servants are involved, and the municipal council is the highest body that has to check the legality. Individual members of the municipal council are therefore responsible and liable for this.
17. In fact, Dutch youth care is no longer part of the rule of law, but is organized crime, intertwined with the public administration (mafia). The proposal of the new Minister for Legal Protection Franc Weerwind for 420 children, namely a (costly, time-consuming, casuistic) material review at file level, and the judiciary that indicates in advance that some of the children will not be allowed to return home, makes this visible. Although this material review will, in the long term, almost always have to lead to the conclusion of illegality (most files lack valid and reliable evidence, are not about concrete, serious development threats, are unsound due to forgery, false statements, unfounded concerns, false accusations, misdiagnoses, unilateral, selective file construction, etc.), these material problems at file level are not dealt with in this document. We can no longer do that, because the out-of-home placements are already null and void or unlawful on the basis of formal, systemic problems.
18. Is out-of-home placement of children due to perverse financial incentives in youth care, **human trafficking**?
The answer was already given in 2012:
*"If the municipalities are also wise enough to set up the new financing system in such a way that actual results are judged instead of activities and lead times, then the perverse effect that by focusing on youth care trajectories and maximum lead times **the goal (letting children develop safely)** will also come to an end."*⁷
19. It is not only a matter of reason to stop human rights violations, but also a matter of the rule of law, of mandatory legal and treaty provisions, and of integrity and humanity. A small, civilized country like the Netherlands, when it brings youth care back within the limits of the rule of law, should place not more than a total of 420 children out of their homes, and at most 5,000 under State supervision.
20. In the current situation, municipalities are no longer allowed to rely on a court order. They hold the key to stop this inhumane and barbaric commercial practice. The first concrete step is to end the funding and ensure that the children can return home. Children who have been placed under State supervision without a legal basis, illegally or unlawfully, should also be discharged from it. In their policy, municipalities can – and must – prevent new human rights violations, for which they themselves are (partly) held responsible.
21. The legal and treaty provisions are not complicated, but are in line with the common sense and sense of justice with which every human being is naturally equipped. This document is not only intended for everyone who plays a role in the youth care chain. Ministers, MPs, administrators, policymakers, lawyers, lawyers and judges are expected to know the laws and treaties.

⁷ Domestic governance, 02 April 2012: The end of perverse incentives. Column by Erik Gerritsen about the financing of youth care. Link: <https://www.binnenlandsbestuur.nl/sociaal/het-einde-van-de-perverse-prikkels-column-van-erik-gerritsen-over-de-financiering-van-de>

1.3 Correction of past mistakes

22. Municipalities can – and must – do the following to restore the rule of law:

- a. Municipalities **cease the financing** of void and unlawful out-of-home placements and supervision.
- b. Municipalities have the right and duty to reclaim funding for void child protection measures in recent years. They are obliged under Article 162 of the Code of Civil Procedure **to report criminal offences**.
- c. Children unlawfully removed from their homes **must return home immediately**, without further investigation, court order or relocation process, because they are staying with strangers without a legal basis. Unlawful state interference (surveillance) must be stopped immediately, including early warning and risk lists in the way it is currently set up. The "protection" is null and void, unlawful and harmful.
- d. Parents and children are **generously financially compensated** for the damage and suffering caused.

23. Under void and unlawful removals and supervision the following examples are included, as a minimum (see Chapters 3 to 5).

- a. **A ('voluntary') agreement** of supervision and/or joint management by the Certified Institution (OTS) and/or the eviction (UHP) via contract law, i.e. without a court order, whereby the parents can no longer decide independently and autonomously when the assistance ends, **is null and void**, (1) due to violation of mandatory legal provisions and (2) due to violation of international treaty provisions, as a result of which they are contrary to morality or public order by their content or purport.
- b. The court order in which an out-of-home placement has been pronounced must state which **less harmful alternatives** have been tried first (Article 8 ECHR). Court orders in which out-of-home placement has been pronounced, without the network being mapped, living relatives, friends, neighbors, church, mosque, shul, etc. and others, and the court has not determined that they refuse to provide assistance to the child, and has not given priority to it, **are unlawful**.
Less harmful alternatives that should be given priority to **shall be at least**:
 - (i) parents can follow a parenting course;
 - (ii) parents can follow an autism course or other relevant course and possibly ambulatory help and / or day care depending on the wishes of the parents;
 - (iii) parent(s) and child will (temporarily) move in with family or others from the network;
 - (iv) family or others from the network come in temporarily for support;
 - (v) there will be informal care or outpatient care at home one or more days a week, or only during the 'rush hours' (preparing children for school, dinner time, etc.);
 - (vi) in the event of financial problems, the family is protected and helped by its own family and the network, possibly with the help of the municipality, so that the stress that this causes also decreases;
 - (vii) the municipality ensures that there is sufficient varied housing supply, so that the family can possibly live in a residential group, where the child is protected and parents offer each other support and conviviality;
 - (viii) in the case of domestic violence, the child is not taken out of the home, but the perpetrator of violence must always leave the house (with family or friends or other housing, which is the responsibility of the perpetrator), and less harmful forms of support and aftercare are organized.
- c. A child eviction without **the decision** having been served in advance pursuant to Article 430 paragraph 3 Dutch Code of Civil Proceedings is **null and void**.
- d. Court orders in which an extension of an eviction has been pronounced on the basis of a perspective decision are null and void, (1) because of a violation of mandatory legal provisions and (2) because of violation of international treaty provisions. The judges should have disapplied these directives ex officio under Article 94 of the Dutch Constitution.
- e. **A child protection measure without a prior plan**, as a result of which it is not certain in court that the requested measure will work, and if so, within what (reasonable) period, or the positive effect of which cannot be guaranteed, or that the measure in itself causes harm and on balance does not bring any improvement for the child or that this can be doubted. The legal provision that a plan can be made within six weeks is null and void by operation of law and should have been disapplied by judges under Article 94 of the Constitution. Supervision only because of the desire to monitor the

family and/or the concern that problems might arise in the future is contrary to mandatory legal provisions and international treaties. Extensions of measures based on a perspective decision that is (partly) based on illegal directives are also null and void. Court orders contrary to this are null and void and must be disappplied. These are forms of modern slavery and exploitation of children.

- f. **Spying on parents and families in the name of prevention and early detection**, the creation of **blacklists on the basis of risk lists**, are contrary to mandatory legal provisions and violation of international treaty provisions, but also constitute a violation of the rule of law itself. **Preventive supervision** of young, pregnant girls and the taking of their baby at delivery or shortly thereafter is **also prohibited and null and void** on the same grounds. This is contrary to mandatory legal provisions, protective treaty provisions and contrary to the principles of the rule of law.
- g. The entire **system of youth care**, in which no *Chinese Walls* have been implemented between voluntary aid and coercive measures, is illegitimate, because this system by definition leads to human rights violations and lawlessness, and makes the protection of family life illusory. This is the result of (foreseeable) integrity problems, such as conflicts of interest, network corruption, perverse financial incentives, a governance culture of lawlessness and state terror, and ultimately personal interests in (continuing to) commit criminal offences, and afterwards denying, nuanced, and cover-up the crimes. It is a state within a state.

1.4 Preventing new human rights violations

24. The following steps must be taken – without further delay – to prevent new abuses and human rights violations:

- a. The municipality no longer allows new void and unlawful forms of state supervision and out-of-home placements.
- b. The municipality no longer allows placement in closed accommodations.
- c. The municipality combats the integrity problems of the current system: they dismantle spy services and secret police services, and build Chinese Walls to ensure the separation between voluntary help and forced protection;
- d. The municipality ceases the future financing of void and unlawful child protection measures, so that these exceptions remain.
- e. Those responsible for serious abuses and human rights violations in the past are not appointed alderman for youth care, and the municipality breaks ties with institutions that were responsible for the violations.
- f. The municipality promotes help to families under its own control through its own general practitioner, and ensures that the administration of the PCIs is so simple that each family can do this with help from its own network and, if necessary, from the municipality. Once PCIs have been issued, they will not be reclaimed. Errors are at the expense and risk of the municipality; the officials involved and their managers at SVB and the municipalities are responsible.

Chapter 2: The categories of Youth Care according to NJI

2.1 What is youth care according to NJI

25. In July 2021, an overview of the Netherlands Youth Institute, the NJI, was published: "*Help! What is the difference between youth care and youth care?*"⁸ According to the NJI, the concept of **youth care** is an overarching concept, and since the introduction of the Youth Act 2015, it is understood to mean the following:

a. youth help:

- Help with psychological problems, intellectual disability, parenting problems.
- Youth help without residence:
 - Neighbourhood or neighbourhood team
 - Outpatient on-site assistance provider
 - Day care on location provider
 - Help in network (at home, at school)
- Youth help with residence:
 - Foster family
 - Family-oriented care (guest houses or care farms)
 - Closed placement in institution
 - Other youth assistance with residence

Carried out by youth care providers.

b. youth protection:

- State Supervision
- Guardianship

Carried out by certified institutions.

c. juvenile probation

- Supervision and guidance forced
- Supervision and guidance voluntary
- Individual trajectory guidance

Carried out by certified institutions.

26. Before going into the violation of laws and treaties in chapters 3 to 5, which are made visible by this overview, first in this chapter 2 is briefly discussed the terminology that immediately leads to a lot of confusion.

2.2 Terminologie

27. In general, the terminology of the NJI is not sufficiently in line with the Youth Act and the Dutch Civil Code.⁹ Examples:

- The Youth Act defines "youth help" as follows:
 1. support of, and help and care, other than prevention, to young people and their parents in reducing, stabilizing, treating and eliminating or dealing with the consequences of psychological problems and disorders, psychosocial problems, behavioral problems or an intellectual disability of the youth, parenting problems or adoption-related problems;
 2. promoting the participation in society and the independent functioning of young people with a somatic, mental, physical or sensory disability, a chronic psychological problem or a psychosocial problem and who have not yet reached the age of eighteen, and
 3. supporting or taking over activities in the field of personal care aimed at eliminating a lack of self-reliance in young people with a mental, physical or sensory disability or a somatic or psychiatric disorder or disability, who have not yet reached the age of eighteen.
- "Youth protection" is not a legal term; the Youth Act defines the term "child protection measures." This means:
 1. voogdij en voorlopige voogdij op grond van Boek 1 van het Burgerlijk Wetboek, en
 2. ondertoezichtstelling, bedoeld in artikel 255, eerste lid, van Boek 1 van het Burgerlijk Wetboek en voorlopige ondertoezichtstelling, bedoeld in artikel 257, eerste lid, van Boek 1 van het Burgerlijk Wetboek.
(Het begrip jeugdbeschermingsmaatregelen komt één maal voor in artikel 8.2.1 lid 5 Jeugdwet.)
- 'Juvenile probation' refers to:

⁸ <https://www.nji.nl/sites/default/files/2021-07/Wat-is-het-verschil-tussen-jeugd zorg-en-jeugdhulp-handout.pdf>

⁹ In addition, the terminology of the Youth Act does not correspond to the Dutch Civil Code (for example, the definition of "parents"). This adds to the confusion, but is beyond the scope of this commentary.

1. probation activities, referred to in Article 77hh, first paragraph, of the Criminal Code,
 2. accompaniment referred to in article 77hh, second paragraph, of that code and
 3. supervising and supervising juveniles who participate in a education and training program as referred to in Article 3 of the Principles Act on Juvenile Justice Institutions,
 4. giving the instructions referred to in Article 12, fifth paragraph, of that Law, or
 5. the other tasks assigned to the certified bodies by or pursuant to the law.
- "Youth care with residence" is not a legal term, but this is a UHP (out of home placement). This is a form of child protection and not of help, and is a last resort.
 - "Closed youth assistance" is: the UHP with an admission, stay and youth assistance in a closed accommodation (an architectural facility or part of an architectural facility with the associated site, where closed youth assistance is provided). A closed accommodation is actually a juvenile detention centre, where children (sometimes for years), without criminal conviction, are deprived of their liberty. In the absence of protection and control, a regime of terror prevails in many accommodations. It is a form of long-term deprivation of liberty of minors that is at odds with international conventions, including for violation of human dignity. Incidentally, articles 6.1.2-6.1.4 Youth Act are clearly in conflict with legal and *treaty provisions* in parts, for example that a minor should be locked up on no more than suspicions (guesswork). This form of "aid" is so harmful ("inhumane and barbaric") and ineffective that many believe it should be completely dismantled.
 - Finally, the word "youth care" does not appear in the Youth Act 2015. This is not only (i) an overarching concept, as the NJI rightly points out, but (ii) it is also the collective name for the entire branch/youth care chain including the commercial care providers and even of foster parents and family home owners, and (iii) it is also used as an indication of one or more separate organizations from the industry, the chain partners.

Chapter 3: Voluntary or forced help

28. The first major difficulty in the NJI overview is the mixing of (i) voluntary aid and (ii) forced help. Especially for the legal position of parents and child, the separation of these two forms of assistance is of great importance. The NJI knows that, or at least it should know that, just as lawyers and judges know this, or at least should know.

3.1 Voluntary help is the main rule

29. **Article 1:247 of the Dutch Civil Code** (parental authority) not only gives parents *the right*, but also imposes on them *the duty*, each own child (*himself!*) to educate and care for. Pursuant to Article 1:247 of the Dutch Civil Code (parental authority, 'family life'), the autonomy of the parents is leading.

This makes voluntary help the main rule.

"The law assumes – and this is also the social view – that every parent is in principle suitable for parenthood and has or can have custody of his or her children.

There are – from a pedagogical point of view – very good parents, there are reasonable parents and there are moderate parents. All of them are loving parents and are given custody and are charged with the care and upbringing of their children and often – also with the moderate parents – without any involvement of youth protection.

The Council is on the line that it must be investigated – in short – whether father can do it. For father, however, what applies to all parents in the Netherlands applies: he does not have to take an exam to prove that he is a good parent. It is the other way around: only if it turns out that the father cannot cope with parenthood, there is reason not to entrust the father with custody and care in deviation from the principle."

Source: judgment of the Noord-Holland District Court of 4 March 2020, Case number C/15/290923 / FA RK 19-3922, ECLI:NL:RBNHO:2020:2091

30. Parental authority includes autonomy (the "general policy") and also the self-direction (concrete decisions), while the child in principle lives at home, or after divorce alternately with the parents (regular family life, "family life"). The family is part of the social network (grandfathers and grandmothers and other family, friends, neighbors, acquaintances, neighborhood children, classmates, etc.). Parents are free to seek and/or allow external advice, interference or help where necessary. They can purchase these externally, directly or through their own general practitioner pursuant to Article 2.6 paragraph 1 under e Youth Act, so without interference from youth care. This referral gives access to youth care. There are two situations when parents call on the municipality for funding:

Situation 1. The referral concerns contracted youth care. This is paid directly by the municipality to the youth care provider.

Situation 2. The referral concerns non-contracted youth care. In that case, parents can apply for a PGB.

The municipality may check whether the PGB conditions are met, but may *not* check the need for access to youth care if the general practitioner has already determined this. If the PGB conditions are met, the municipality issues the PGB. If the conditions are not met, the municipality offers a contracted alternative.

31. The autonomy of parents also implies a high degree of (policy) freedom. For example, parents can look at the situation for a while (*'do not pull grass to make it grow faster'*). In case of concerns about the children, it is common for parents to consult with people from their own social network.

32. Furthermore, parents and children derive protection from the UN Convention on the Rights of the Child and other treaties.

- a. On the basis of **Article 3 paragraph 2 of the UN Convention** on the Rights of the Child, the Dutch State *must take into account* the rights and obligations of parents, and the State *must respect* the responsibilities, rights and obligations of the parents on the basis of Article 5 of the **UN Convention** on the Rights of the Child. Children and parents are also *protected from interference with* family life by other European and international treaties.¹⁰
- b. Article 43 of the Statute for the Kingdom of the Netherlands provides: *'(1) Each of the countries shall ensure the realisation of fundamental human rights and freedoms, legal certainty and the soundness of governance. (2) The safeguarding of those rights, freedoms, legal certainty and sound administration is a matter for the Kingdom.'*
- c. Article 93 of the Constitution states: *'Provisions of treaties and of decisions of organisations governed by international law which, by their content, may bind everyone, shall have binding effect after they have been published.'*

¹⁰ Think of: Article 8 ECHR, Articles 1 and 7 of the European Charter, the UN Convention on the Rights of the Child, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, Article 3 of the Istanbul Convention and Article 7 of the Rome Statute, Article 12 of the Universal Declaration of Human Rights, etc.

- d. Article 94 of the Constitution states: 'Legal provisions *in force within the Kingdom shall not apply if such application is not compatible with provisions of treaties and decisions of international organisations which are binding on everyone.'*

3.2 Forced help is very rare

33. In the case of child protection measures, parental authority is completely or partially eroded or taken away by order of the State;¹¹ these measures may only be imposed where it has been established on the basis of valid and reliable evidence that there is a *concrete, serious threat of development on the part of the child*, while the parents are in the way of necessary care.

In that case, the autonomy, but usually also the self-direction, is always taken away in whole or in part from the parents (OTS). At OTS/UHP, the child is even taken away and made available to third parties, who take over the daily upbringing and care in full. In all these cases, there is interference in family life. Then the children become the "children of the State".

34. The Netherlands has a remarkably high number of child protection measures. This is a first indication that these instruments are being used too quickly. As has been said, children and parents should enjoy protection against interference with family life by European and international treaties. That protection goes very far. So much so that, on the basis of Article 94 of the Constitution, legal provisions in force within the Kingdom do not apply if this application is not compatible with it.¹²

35. In doing so, the government has to take into account the effectiveness of the measures, but also the requirements of proportionality and subsidiarity and the prohibition of *détournement de pouvoir* and other principles of good administration, from which citizens also derive protection, are not without consequences. This means that priority must always be given to the upbringing and care of the parents, with the support of their own social network and within it in particular the family.

3.3 Consequences of the mixture in terms of legal protection

36. The consequence of mixing voluntary aid with forced help is an impairment of legal protection. In Dutch performance practice, the protection of parental authority and the protection of the rights of the child are completely lacking, as the NJI overview shows. Practice has many examples.

Example 1. One or more employees of the youth care chain are deployed by the municipality in the handling of requests for a PGB for voluntary youth care, instead of referring parents to their general practitioner. They are going to form an opinion about the necessity of the aid.

Example 2. These employees take the opportunity to do a (disguised) investigation into the family, and ask the parents questions. In doing so, they actively look for problems other than the original request for help, for example attachment disorders, family problems or other starting points to build a file for child protection measures (*détournement de pouvoir*). Even though there are no concrete starting points, they still develop concerns.

In the conversation, the parents are being told that there are many concerns, partly child own and partly family related, and that they have to sign a voluntary agreement with the GI, because otherwise OTS will be applied for through the court. This is actually a common complaint: "*I asked for help, but I received problems.*"

Example 3. What the parents do not know is that the GI has often agreed with the municipality (on paper or as a *'gentlemen's agreement'*) that they will provide employees free of charge to the periodic "youth protection tables", but that at least two children at a time will be placed under OTS, for which the municipality guarantees funding. It sounds like a win/win: the municipality ensures quality, and the GI secures a profitable time investment. However, this is one of the most direct forms of child trafficking within the system. However, these agreements should remain inapplicable because of the protection of family life.

37. Compliance with legal and treaty provisions must be ensured. The NJI knows this, or at least it should know this. This requires a complete separation between voluntary and forced help, and this must be reflected in the organization of the youth care system, and therefore in the overview of the NJI.

¹¹ The first important goal of the Youth Act is:

1. Making use of the own strength of young people, parents and their social network. It is important that they remain in control of their lives. And that they look for solutions together with their own environment and professional care providers.

<https://www.rijksoverheid.nl/onderwerpen/jeugdhulp/jeugdhulp-bij-gemeenten#:~:text=Gemeenten%20zijn%20verantwoordelijk%20voor%20de,Dat%20staat%20in%20de%20Jeugdwet.>

¹² Think of: Article 8 ECHR, Articles 1 and 7 of the European Charter, the UN Convention on the Rights of the Child, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, Article 3 of the Istanbul Convention and Article 7 of the Rome Statute, Article 12 of the Universal Declaration of Human Rights, etc.

Chapter 4: integrity problems

38. The mixing of voluntary help and coercive measures not only leads to an erosion of the legal protection of parents and children, but also creates integrity problems.

4.1 Conflicts of interests and network corruption

39. In practice, especially from the part of youth care, the pretense is that families and youth care serve the same interest, namely the interest of the child. This is not the case. Families have different interests than youth care.

- On the one hand, the interest of parents and children is the protection of their family life and Article 1:247 of the Dutch Civil Code, and quick answers and solutions to their requests for help.
- On the other hand, the chain partners *have their own interest* in infringing on family life and bringing the children into their power. Both their "business model" and their raison d'être are based on damaged children or inadequate, unsuitable parents. The supply of new damaged children and/or the further damage to children already placed in their power (OTS or OTS/UHP) is necessary for the continuity of the chain partners, both official organizations and entrepreneurs: their annual budget or their turnover depends on this.

40. The interests of families and youth care are *opposed* to each other.

- (i) By mixing voluntary help and coercion, a youth care worker must serve multiple interests, which can exert such an influence on each other that the integrity of one and/or the other interest is compromised. In the case of opposite interests, there is by definition *a conflict of interest*.
- (ii) At the organizational level, the parallel (financial) interests of the chain partners create the problem of *network corruption*. Network corruption is the phenomenon that people who know each other, at the local or national level, form an exclusive network that excludes others. The members are very loyal and supportive and do not allow criticism. In their cooperation – the chain partners are also informants of each other and provide each other with evidence, which is accepted by the judges as independent – they can work towards a result that is beneficial for everyone in the chain, to which the interests of the child and parents are subordinated.

41. Both phenomena, the conflict of interest and the network corruption, are foreseeable. The Trias Politica was thus known for 2015 by the laws and regulations of financial supervision, including the further regulations on controlled and ethical business operations and conduct supervision) that the legislative and executive powers themselves have made, and which the judiciary has often considered. These systemic errors explain why the abuses could have arisen, such as institutional forgery, inadequate file formation, resulting in unprecedented injustice and human suffering.

42. The conflict of interest is further reinforced at organizational and personal level, because university professors are allowed to conduct government-sponsored research into youth care, because judges give courses to youth care institutions, through periodic formal and informal consultations, meetings, conferences and drinks between the chain partners, and the culture of punishments and rewards. This encourages a (tacit) code of honour, the "Omerta in the polder".

4.2 Perverse financial incentives

43. An additional problem is the perverse incentives. Perverse incentives arise because the youth care chain (public/private) is so powerful that it can fully control the demand for its own services.

44. The chain partners do this in practice by false accusations by parents, by stretching the grounds for out-of-home placement, by unnecessarily problematizing and medicalizing children, by failing to investigate less harmful alternatives, and by committing forgery (inventing problems, constructing, exaggerating, aggravating, aggravating, cause, provoke incidents, and ignore favorable information for parents, reject it, keep it out of the file, etc.), by structurally siding with the violent, narcissistic and troubled and trouble-causing parent in divorces and presenting this as a conflict between parents, and finally suppressing any form of criticism from parents (parents are threatened if they are on social media dare to express their dissatisfaction, complaints or despair, and youth care strikes back with retaliatory actions such as contact restrictions, prohibitions or taking parental authority).

45. In the public domain, the chain partners give the impression that they strictly comply with laws and treaties, that most files are sound but that occasionally a mistake is made, that children would not be safe at home with their own parents, and that youth care improves their situation. This information is usually incorrect and misleading. Principles of good administration, such as transparency and accountability, are violated.

4.3 A harmful system

46. The result is that parents and lawyers who assist them, just not understand how it is possible that 'stupid mistakes' are made in every case. Then there is a tendency to attribute this to a lack of education level. In reality, the way of working is motivated by the conflict of interest, network corruption and the perverse financial incentives, which affect the entire chain, including the legal profession and judiciary, including the Children's Ombudsman and even the Dutch Committee for Human Rights).

- a. Since youth care workers are employed by the chain partners, they are unable – despite their specialist training, despite the available knowledge through modern scientific insights and despite billions of investments by the government in training, methodology, protocols, guidelines, knowledge and expertise of the sector – to carry out their core task (youth care) to the satisfaction of parents, children and further family and to solve problems properly and quickly, to offer appropriate help, in a pleasant cooperation with parents, brothers and sisters, grandparents, uncles and aunts, etc. neighbors and friends.
- b. Since the Child Protection Board is also a chain partner, the council investigators are unable to check the GI. Even if a wrong child is placed out of the home, the Council approves, and even if the GI confuses autism with neglect, the Council approves. In the event of questions or criticisms, the Council refers to protocols.
- c. Since the judiciary is also a chain partner, judges are unable to carry out their core task (legal protection, independent and impartial assessment) in the youth care domain. They uncritically accept the statements of chain partners, even admit anonymous informants, and ignore their dispute by parents, regardless of the evidence to the contrary. Judges do not pay attention to international treaty provisions or national legislation of mandatory law. Even the case law of the European Court of Justice is not given precedential effect. Very occasionally, very rarely, a ruling is in favour of family reunification, thus maintaining the appearance of a functioning rule of law. However, the reality is arbitrariness, no legal protection and no 'fair trial' within the meaning of Article 6 of the ECHR. There is no Constitutional Court (the Netherlands is unique in Europe) and judges are not allowed to test against the Constitution (120 Constitution). In practice, judges act as chain partners in defiance of Article 43 of the Statute for the Kingdom of the Netherlands.
On 30 March 2022, the government announced its intention to amend the Constitution.¹³ However, the deletion of Article 120 of the Constitution is not part of this. In doing so, the Netherlands is diametrically opposed to the advice of the Venice Commission.¹⁴ The Netherlands is also still not preparing to introduce a Constitutional Court. These decisions are also indications of the intentional nature of the unjust actions in youth care, and the desire to continue with human rights violations, against their better judgment.
- d. Because municipalities, the legislative/controlling power (First and Second Chamber of the States General) and the executive power (Ministries of Justice and Security and of VWS) are also chain partners, have organized and maintained the system, they continue to hide behind the decisions of chain partners, complaints committees and court orders in individual files. They remain silent about the system errors and integrity problems.

4.4 Governance culture: state terror

47. Then, because the chain partners know that they are above the law, i.e. that they are protected by all authorities (up to and including the judiciary, the Children's Ombudsman and even the Dutch Committee for Human Rights), a culture of oppression of parents and children, and lawlessness is further encouraged.

- a. Under the law, the Certified Institutions "GI's", are required to adhere to the principles of good administration (careful preparation of decisions, duty of care to parents). In practice, parents are ignored and belittled. The GI pretends that it is solely obliged to safeguard the best interests of the child and does not consider itself bound by the General Administrative Law Act. The offences are also committed with a terrorist purpose (Article: 83a Dutch Criminal Code): the aim of seriously frightening a part of the population of a country – namely: the parents – or unlawfully forcing them to tolerate something – namely: state supervision and/or the removal of their child.
- b. When parents come into the picture in youth care, they soon notice that their child is damaged instead of being helped, they have lost all their rights and autonomy and that the service has a punitive character: the input of parents no longer matters. They may (must) only listen and obey.
- c. There is a culture of harassment, repression, intimidation, threats and retaliation. This contributes to the unprecedented injustice and human suffering. For example, children are not allowed to attend family parties with their own family, they are not allowed to say goodbye to a grandparent on their deathbed, parents are not allowed to go swimming to swim their own child, or they are not allowed to accompany them during an operation in the hospital. Parents are completely sidelined, and the foster parents may – and should – consider the child as their own child. When parents protest, restraining orders follow that sometimes last for many months.

¹³ <https://www.rijksoverheid.nl/actueel/nieuws/2022/03/30/grondwetswijzigingen>

¹⁴ <https://ecer.minbuza.nl/-/veneti%C3%AB-commissie-van-raad-van-europa-brengt-advies-uit-over-de-kindertoelagenaffaire>

- d. Parents also do not get a hearing in court, but every input or complaint is invariably interpreted to their disadvantage, namely the accusation against the parents that they do not cooperate well with youth care and enter into the fight. This is sufficient ground for most judges to renew OTS or OTS/UHP, to restrict visitation rights or impose restraining orders, or to take custody. They also notice that they have no legal position and do not receive legal protection.
- e. Staff absenteeism and turnover in youth care is high. An obvious explanation is that this is due to the human conscience. When employees realize that they have ended up in a world full of unprecedented injustice, despair and human suffering caused by their own organizations, they may initially raise this in the organization, but they soon notice that they have to work on it "as a professional". They see a world of human rights violations that take place in people's homes, behind the front door, as a business model. Then those who have trouble putting their consciences and feelings aside will not keep it up. So a 'natural selection' takes place, in which people who are to a greater extent unscrupulous and/or numb, or even enjoy belittling, humiliating and damaging others, continue to make a career. This is provided through the remuneration structure. The culture of fear and silence is further enforced through employment contracts with confidentiality clauses and threats, blackmail or intimidation to silence dissatisfied employees. These personnel problems are concealed across the board by the chain partners, universities or trade unions that deal with these issues. They merely call for more money so that new staff can be recruited for higher salaries.
- f. It is not excluded that the managers or other responsible parties within the chain would like to use their power to end the abuses, or would like to be whistleblowers, but can no longer do so. This is, for example, because they are blackmailable (compromising information or photos), out of fear for their own well-being and safety or that of their loved ones, or because they know that they have already committed, co-committed, or caused to commit too many criminal offences. Since those responsible are complicit in or co-perpetrators of criminal offences, there is a personal interest in not admitting errors and covering up the offences. The statements of Ministers Sander Dekker and Hugo de Jonge in response to the De Winter Committee (12 June 2019) and Minister Franc Weerwind about the Allowances Affair (31 March 2022) are good examples thereof.
- g. If this dynamic can continue long enough – as in the Netherlands since 1945, or perhaps even earlier – the reality of a syndicate of organized crime, intertwined with public administration, arises: the mafia.

48. Institutionalized distrust in the citizen is characteristic of authoritarianism, in which the citizen is subordinate to the State, through espionage (of services and citizens themselves) and (secret) police force are monitored, criminalized and stigmatized, and adequate and effective protection of human rights is lacking.

49. The systemic problems of youth care show that the Netherlands is not fulfilling its obligations towards the population under Article 43 of the Statute for the Kingdom of the Netherlands. This is known through the many reports from parent organisations, victims and whistle blowers at file level. Because the police, the Public Prosecution Service, the judiciary and the Dutch Bar Association are also chain partners, parents are not even allowed to file an official complaint, even if their four-year-old daughter is assaulted or raped by a foster father or youth care worker, this actually means the total collapse of the rule of law, and the systematic violation of the principles of the rule of law.

50. The entire Trias Politica is looking at this, does not intervene, and the House of Representatives is mainly committed to youth care workers: they must be paid (even) better and (even) better protected against expressions of desperate, assertive parents (aggression). The municipalities continue to pay uncritically, under the leadership of the VNG. The general practitioners comply with the wishes of the LVH.

51. Parents and children are abandoned by all parties that should help and protect them: youth care, psychologists, (family) doctors, lawyers, judges and their own representatives at both national and municipal level, the Children's Ombudsman, the Committee for Human Rights, the Court of Audit, the Council of State, their own churches, mosques and shuls, and even the King and Queen: everyone is silent and looks away.

4.5 Violation of human dignity (Article 1 EU Charter)

52. The integrity problems at the system level, the damage that is done, and the administrative culture of state terror, lead to "exceptionally inhumane and barbaric"¹⁵ practices at the file level and the systematic violation of the principles of the rule of law. All in all, the entire commercial system causes damage to the human dignity of both children and parents.

¹⁵ Judgment of the Warsaw District Court of 21 September 2020

53. Human dignity is the first of the six core values on which the European Union is founded.¹⁶ The EU Charter begins in Article 1 with human dignity: *"Human dignity is inviolable. It must be respected and protected."* The explanatory statement explicitly states: *'Human dignity is not only a fundamental right in itself, but also the basis of all fundamental rights.'*

54. Partly because of the absolute nature of the protection of human dignity, both of parents and children, it cannot be said that Dutch youth care in the current set-up should be given another opportunity in the coming years to reform itself or to work on improving the services at file level. On the contrary. The "Future Scenario for Child and Family Protection" of 30 March 2021 provides further evidence of the intentional nature of continuing with the human rights violations. In the scenario, the integrity issues at the system level are left untouched.¹⁷ Despite the inhumane and barbaric nature of the services, the field of work of youth care is being expanded, and further merged with the Social Support Act (WMO). This scenario is yet another step in the wrong direction and is further evidence of the intentional nature of human rights violations, with "care" becoming increasingly focused – on all members of the family.

¹⁶ <https://www.europarl.europa.eu/news/nl/headlines/eu-affairs/20210325STO00802/eu-waarden-uitgelegd-in-een-minuut>

¹⁷ <https://www.rijksoverheid.nl/documenten/rapporten/2021/03/30/tk-bijlage-toekomstscenario-kind-en-gezinsbescherming>

Chapter 5: nullity and nullification

5.1 Nullity (violation of the principle of legality)

55. The second major difficulty in the NJI overview is the disregard of the legal framework: the principles of the rule of law, laws and treaties.

56. There is a certain ease with which the implementation practice seems to ignore the principle of legality. Bureau Berenschot published a report on 14 May 2018, in which their clients stated that the following "legal products" had to be assumed. These are products for which the municipality pays in the context of youth care.¹⁸

- Ga uit van de volgende (wettelijke) producten:
 - Ondertoezichtstelling (OTS) > 1 jaar
 - Ondertoezichtstelling (OTS) < 1 jaar
 - Voorlopige ondertoezichtstelling (VOTS)
 - Ontheffing/Ontzetting uit ouderlijk gezag (Voogdij)
 - Spoedeisende maatregelen/Voorlopige voogdij (Vovo)
 - Jeugdreclassering (JR) Regulier traject
 - Jeugdreclassering (JR) Extra maatregel
 - Intensieve Trajectbegeleiding Harde Kern (ITB Harde Kern)
 - Intensieve Trajectbegeleiding Criem (ITB Criem)
 - Scholing- en Trainingsprogramma (STP)
 - Gedragsbeïnvloedende Maatregel (GBM)
 - Drangtraject/Preventieve Jeugdbescherming
 - Consultatie en Advies
 - Landelijk Expertise Team Jeugdbescherming (LET-Jb)
 - Gezinsmanagement
 - Instemmingsverklaring gesloten jeugdzorg
 - Overige zorgproducten
- De te onderscheiden producten zijn in overleg met GI's, de leden van de werkgroep en die van de stuurgroep vastgesteld.

57. The reference to "(legal) products" indicates that youth care offers legal and non-legal products and services. However, the principle of legality means that all products/services in the context of government coercion must be based on a legal basis, because otherwise the administrative body acts without competence; this is the hallmark of a rule of law. Lawyers and judges, officials of the Ministry of Justice and Security, and the in-house lawyers and lawyers of the GI's know this, or at least they should know this. Lawyers employed by the municipalities or lawyers hired by the municipality also know this, or at least should know this.

58. The requirement of a legal basis protects citizens from unlawful interference with their family life, violation of human dignity and arbitrariness.

59. Examples of products and services without a legal basis are:

Example 1. The growing practice, whereby the parents conclude an agreement of child protection measures (coercion) – OTS or OTS/UHP – with the GI on the basis of the freedom of contract, is not based on a legal basis. This was explicitly discussed during the Round Table on Youth Protection in the House of Representatives on 27 October 2021.¹⁹

Example 2. The growing practice, in which employees from GIs and their chain partners proactively have access to families to observe them and to look for or construct possible and/or future development threats – serious or not – lacks a legal basis.

Example 3. The use of espionage services and secret police services against parents (who do not engage in domestic terrorist activities) lacks a legal basis.

60. Hereinafter we will see that contract law prohibits the parties from setting aside mandatory legal provisions.

5.2 Nullity (conflicts with mandatory articles of law or treaties)

Erosion of parental authority/Protection of family life

61. **Article 1:247 of the Dutch Civil Code** (parental authority) not only gives parents the right, but also imposes on them the duty, each own child (himself!) to educate and care for. The State must take into account the rights and obligations of parents on the basis of **Article 3 paragraph 2 of the UN Convention**

¹⁸ https://vng.nl/sites/default/files/eindrapport_kostprijsonderzoek_gecertificeerde_instellingen_14mei2018_0.pdf

¹⁹ https://www.tweedekamer.nl/debat_en_vergadering/commissievergaderingen/details?id=2021A05923

on the Rights of the Child, and the State *must* respect the responsibilities, rights and obligations of the parents on the basis of **Article 5 of this Treaty**.

62. Parents may conclude contracts in the sphere of voluntary youth assistance, as long as this assistance does *not undermine* parental authority; from their autonomy they want extra support, and they are in charge of this themselves; they decide on which help, the beginning and the termination thereof. Furthermore, **Article 1:265a of the Dutch Civil Code** stipulates that only after an authorization from the court, a child can be placed out of the home. This provision is also mandatory. It is therefore not possible to agree through an agreement from youth care that children will be accommodated elsewhere.
63. Freedom of contract in the area of child protection measures is a different situation, because parental authority *is being completely or partially eroded*. A contract is concluded with the GI in which parents undertake to:
- i. either to structurally share their autonomy and the direction of care or upbringing, or to transfer it to the GI or to tolerate some degree of control of the GI (an agreement of OTS);
 - ii. or voluntarily give up their own child(ren) and deliver them to the GI who, with the help of third parties, fully takes over the upbringing and care (an agreement of OTS/UHP).
64. Such agreements are contrary to the legal obligation of parents under Article 1:247 of the Dutch Civil Code. On the basis of Article 3:40 paragraph 2 of the Dutch Civil Code, conflict with a mandatory legal provision – such as Article 1:247 of the Dutch Civil Code – leads to the *nullity* of the legal act. The GI as an administrative body should know that it may not ask parents to give such agreements contractual form, and that these agreements therefore have no legal validity whatsoever. The GI as an administrative body should therefore also know that it may not ask parents to conclude such an agreement. The Child Protection Board should review this. In the extreme case, the court should find the nullity and call the GI – and the Child Protection Board – to order.

Agreement of Exploitation/Modern Slavery

65. Any kind of help to a child, but certainly child protection measures, must be effective. They must therefore solve the serious, concrete problems within a reasonable period of time, because **Article 274 Sr** prohibits slave trade, **Article 273f Sr** prohibits human trafficking and any intentional benefit from the exploitation of another, and **Article 1:1 of the Dutch Civil Code** prohibits personal servitudes of any kind or under any name. These articles are also mandatory, so they may not be deviated from contractually either.
66. According to the United Nations, human trafficking is the recruitment, transport, transfer, housing or reception of people through violence, fraud or deceit, with the aim of exploiting them for profit. Men, women and children of all ages and backgrounds can become victims of this crime, which occurs in every region of the world.²⁰

Indicators

1. On the basis of the following *indicators*, an agreement with the Dutch youth care for child protection almost without exception qualifies *an agreement of modern slavery*: slave trade, human trafficking, exploitation, personal servitude.
 - (i) the child is always the source of the financial claims arising from the contract,
 - (ii) there is a legal relationship of power imbalance between the parents and the contracting party,²¹
 - (iii) there is some degree of erosion of parental authority, and/or
 - (iv) the child protection measures are ineffective, or even (on balance) harmful; yet they are renewed year after year,
 - (v) parents complain of forgery, unilateral filing, mendacious statements, faulty evidence, and other problems with the soundness of the file.
 - (vi) coercive measures are used against the parents (such as going to court, written instructions, contact restrictions, etc.), these means can be used, or there is a threat to induce parents to comply, obedience or complete submission.
67. Virtually all agreements will qualify as void agreements. Under the leadership of the GIs, most children are (further) damaged or their situation does not improve substantially, without parents still being able to protect their children and end the voluntary assistance independently or have the decisive vote in it (Article 255 DCC). The contractual provision that the GI only has an obligation to use its best efforts, or that

²⁰ <https://www.unodc.org/unodc/en/human-trafficking/human-trafficking.html>

²¹ The power imbalance can be: actual (number of employees), financial, knowledge related (in-house specialist knowledge and means to purchase that knowledge through external consultants and lawyers), experience (is the contracting party a professional "repeat-player"?), legal power base, and access to power (chain partners, including the Dutch Bar Association, the judiciary, the Council for Child Protection, the ministries involved (VWS/Minister V&J), and parallel interests to those of the power, etc.

agreement is not or is not intended to be an agreement for exploitation, do not remove the violation of Article 1:247 of the Dutch Civil Code. The fact that the GI receives payment for the services from the Municipality does not alter the qualification of slavery. *De facto*, parents in the Dutch system must also contribute (through their own contributions) to the exploitation of their own child(ren).

68. On the basis of Article 3:40 paragraph 2 of the Dutch Civil Code, the agreement is prohibited and void due to conflict with mandatory legal provisions. Because of the infringement of treaty provisions by content or purport "contrary to morality or public order," and therefore also null and void (Article 3:40 paragraph 1 of the Dutch Civil Code).

The GI as an administrative body should know that it may not ask parents to conclude such an agreement. The Child Protection Board should review this. In the extreme case, the court should find the nullity and call the GI – and the Child Protection Board – to order.

Treaty provisions on exploitation/modern slavery

69. The children are also protected from exploitation by European and international treaties, such as **Article 5 of the EU Charter and Article 32 of the Convention on the Rights of the Child**.²² Under Article 7 of the **UN Convention on the Rights of the Child**, children have the right to know their own parents and to be cared for by them. From their legal position, the agreement of the GI with their parent(s) – see above on the basis of the indicators – is by content or scope "contrary to morality or public order," and therefore also null and void (Article 3:40 paragraph 1 of the Dutch Civil Code).

70. On this ground, too, voluntary agreements of OTS and/or OTS/UHP are prohibited and void. The GI as an administrative body should know that it may not ask parents to conclude such an agreement. The Child Protection Board should review this. In the extreme case, the court should find the nullity and call the GI – and the Child Protection Board – to order.

5.3 Nullification (defects of free will)

71. These voluntary contracts can be unilaterally annulled by parents on the grounds of defects of free will.

Information backlog. As already noted, youth protection measures in practice almost never lead to a quick solution of the problems and/or return home. On the contrary, OTS and/or OTS/UHP are usually extended until the age of 18 or 21.

1. Even if mistakes have been made or it is established afterwards that the measures should never have been imposed, the children do not return home (not even in the Child Allowances Scandal).²³
2. Even if the measures do not help anything and do lead to and (further) damage to the child such as a UHP (think also of the findings of the Samson Committee and the De Winter Committee on sexual, physical and psychological violence), the children do not return home.

This information is often hidden from parents. The impression is created that the child may be able to return home through the annual judicial review, or the GI pretends that the child would be better off through voluntary youth protection measures.

Power inequality and/or pressure. It is standard practice that the GI - to make things easier for itself - strives for voluntary measures, with the threat of coercion as a means of getting parents to accept ('urge/compulsion'). With this, the industry itself proves that a voluntary agreement to OTS and/or OTS/UHP interferes with the legal system of protection in the event of coercive measures. Many parents and children live in constant fear, despite the so-called voluntary framework.

72. In the circumstances described above, parents may *unilaterally* invoke the nullity of the agreement (Article 3:49 of the Dutch Civil Code) on the grounds of threat, fraud, abuse of circumstances (Article 3:44 of the Dutch Civil Code) and/or error (Article 6:228 of the Dutch Civil Code). These defects of will lead to the voidability of the agreement. The destruction has retroactive effect ('*ex tunc*', Article 3:53 paragraph 1 of the Dutch Civil Code).

73. These legal consequences make it clear that freedom of contract is not an appropriate instrument for child protection measures (legal uncertainty). Municipalities risk losing years of funding with retroactive effect. They have to recover that from the GI.

74. Finally, the GI acts structurally unlawfully, by not accepting the legally valid annulment of a contract by parents, but ignoring it. The execution of the contract usually continues after annulment.

²² See also Article 36 UN Convention on the Rights of the Child, Article 7 paragraph 1 sub c Rome Statute, Article 4 ECHR, etc.

²³ <https://nieuwrechts.nl/87893-omtzig-furieuus-zelfs-een-onafhankelijk-onderzoek-laten-doen-lukt-deze-regering-niet>

5.4 Legally valid grounds for child eviction

75. The removal from home may only be used as a last resort (ECtHR 22 March 2018, nos. 68125/14 and 72204/14 (Wetjen and Others v. Germany), EHRC 2018/118 m.nt. S. Florescu, par. 84-85. See also o.m. ECtHR of 12 July 2001, No 25702/94 (K. and T. v. Finland), para. 166-167, ECtHR 26 October 2006, No 23848/04 (Wallová and Walla v. Czech Republic), para. 73-74, ECtHR 16 March 2010, no. 28680/06 (A.D. and O.D v. United Kingdom), par. 89. See also the Case law guide on Article 8 of the European Convention on Human Rights (version 30 April 2019), p. 62, available on www.echr.coe.int).

76. In the Parliamentary History (2010) examples are given of the rarity of cases,²⁴ in which this means could be suitable. Moreover, it remains the case that less harmful alternatives must first be tried, with support from one's own network; unfortunately, this has not happened in the examples below. Even in these distressing cases, alternatives should be tried (such as protected, assisted living in a residential group):

- a. A mother whose child was placed out of the home in 1998 is relieved of parental authority over her minor child. The mother has been addicted to alcohol and drugs for years, uses medication because of depressive symptoms, mother is unreachable for the assistance, unreliable in fulfilling agreements. There is no prospect of an improvement in the situation.
- b. Father is treated for years at the GGZ, department of forensic psychiatry. Both parents are weakly gifted. Since 1993, the family has a history of aggression and abuse of the child by the father. This abuse still takes place during the contact moments between the parents and the – who has been placed out of home for six years – child. The safety of the child cannot then be guaranteed. The mother cannot manage the situation in the right direction. The contact moments must be significantly reduced in order for the child to develop normally. In the best interests of the child, the parents lose legal custody of him. The court assumed that this exemption could induce the parents to follow expert advice and to comply with agreements.
- c. Mrs X, probably staying in the Rotterdam region, is 34 weeks pregnant. Her pregnancy goes uncontrollably, Mrs. X uses hard drugs heavily, deals in them and prostitutes herself. Mrs. refuses to be treated or to have her pregnancy checked. The child will most likely come into the world addicted. She does not receive parental authority and the Youth Care Agency receives provisional custody.
- d. Provisional supervision of unborn child. Mother has cognitive limitations and social emotional problems. The mother does not want any more help in any way. The unborn child is placed under supervision.
- e. Mother, exercises sole custody of two children and is pregnant. The development of the children is threatened in the social-emotional, cognitive and physical areas. Due to an intellectual disability, the mother is unable to show «adequate parenting behaviour». Assistance in a voluntary framework has not proved to be sufficient. Mother is of the opinion that there are ghosts in her house and has left the house. After she «ritually] had the house cleaned», she lives there again. Both the two minor children and the unborn child are placed under supervision and placed out of the home.
- f. A pregnant woman is known for a long time to various emergency services because of her various behavioral disorders. She functions at a weakly gifted level and regularly withdraws from assistance. The father who also needs help has stopped it. Because there is a fear that the parents will withdraw the unborn fruit from necessary medical care, the fruit is placed under provisional supervision and placed out of the home in due course.
- g. Mother, of a few weeks old baby, functions at a weakly gifted level, has borderline personality disorder and can «under adverse circumstances turn her powerlessness, fear or anger into destructive behavior». The woman must soon be in detention because of a conviction for attempted manslaughter. Mother is «cannot acquire parenting skills, she turned out [previously] not to be teachable». Mother has previously been relieved of the custody of two other children. Father also functions at a weakly gifted level and needs 24-hour guidance and treatment. He poses a danger associated with impulse breakthroughs in tension followed by aggression. The baby is placed under supervision and urgently placed out of the house.

77. According to many lawyers, the current grounds for out-of-home placement have demonstrably been stretched (far) too far over the past years.

5.5 Illegal guidelines for returning the children home

78. The guidelines for the return of the children home are based on a so-called "acceptable period". This period is 1/2 year (children up to 5 years) to one year (children older than 5 years). After that period, the children belong to the foster parents. The children would then be so attached to the foster parents that the foster parents take precedence over their own parents. In addition, foster parents have a 'blocking right' that they can invoke if parents request relocation home in case of 'voluntary' care of more than a year; in

²⁴ <https://zoek.officielebekendmakingen.nl/kst-32405-2.html>

a formal OTS/UHP, the Child Protection Board usually allows the wishes of the foster parents to outweigh those of the interests of the original family.

79. These guidelines also constitute evidence of the nature of the exploitation of Dutch youth care, partly due to the self-interest of the chain partners to continue the child protection measures and to 'cash in' on the children for as long as possible.
- Firstly, the Directive is null and void because it is contrary to Article 7 of the UN Convention on the Rights of the Child and contrary to Article 1:247 of the Dutch Civil Code.
 - Secondly, it is ignored that after this period the children are regularly moved within the youth care. In that case, the directive is clearly not an obstacle.
 - The passage of time is not a valid reason. The decisive factor is the existence of a concrete, serious threat to development.
 - If that concrete, serious development threat has never existed, or the eviction for other reasons turns out to be unlawful or null and void afterwards, the passage of time cannot remove the unlawfulness or nullity.
 - If children lose their attachment with their own parents, there is a suspicion of wrongful acts of the GI in violation of Article 1:262 paragraph 3 of the Dutch Civil Code (promoting the family bond).

80. The Netherlands does not even meet the level of Nazi Germany in 1945, since it has not identified such inhumane, barbaric guidelines as null and void and unlawful, but has implemented them as professional standards.

If the children are then not allowed to return home, and the parents are sidelined – often their parental authority is automatically taken away after a perspective decision – then the foster parents assert all parental rights against the children, but do not waive the exploitation rights. Thus, although they are the legal successors of the real biological parents, yet they do not have to settle for child benefit, but continue to receive generous daily allowances and other attractive conditions paid within the commercial system. The exploitation continues, but the parents have been formally disenfranchised.

"Of course, when the (Polish) mother is still alive, we are prepared, in view of the mother's terrible suffering and uncertainty during the years of separation, to return the child safe and sound to her. Of course, the biological mother has the first right and with a heavy heart I will give up the child whom we have come to love and cherish."

Germany, 1945

"Returning the children to their real parents equals the situation of a 'family separation', since they have found a safe, long term and accepted place with the foster parents and they are doing quite well."

The Netherlands, 2019

81. The mandatory periodic judicial review is illusory after the deadlines have been met. This also contributes to the character of show trials. Virtually no child is ever allowed to return home, even though the decisions do not explicitly refer to the guidelines. In their mutual division of roles, lawyers and judges give the appearance of legitimacy to void and unlawful practices.

5.6 The execution of court orders

82. Pursuant to Article 430 paragraph 3 rv, orders may only be enforced after prior service by the court bailiffs. Article 812 rv prevents the delivery of the children from having to be requested separately, but does not release the obligation to serve. Parents can file an execution dispute. This intervention also prevents the antedating of court orders (see Protocol 'fleeing' families).

83. The execution of court orders may not constitute an infringement of human dignity, neither of the parents nor of the child. If it turns out that the child does not want to be taken away at all, then the child is apparently (sufficiently) happy and attached despite possible problems and does not want to be 'protected' in this way. Prior service allows parents to prepare themselves and the child and voluntarily take the child to a designated place, instead of being ambushed at home by a force majeure of black uniforms (for example, with 12 police officers and four police buses).