

10. Summary

Background to and structure of the research

In April 2010, the Ministers for Youth and Family and of Justice decided that there should be an investigation into possible signs of the sexual abuse of minors who had been placed in institutions or foster families on the authority of the government. For this purpose the Samson Committee was established. The committee was charged with the investigation into the signs of and response to the sexual abuse of children in care during the period between 1945 and 2010, and into current mechanisms for spotting abuse. Thus, the task was not to investigate individual cases of sexual abuse. The report 'Surrounded by care, still unsafe' contains the results of the investigation.

The report is divided into three parts. Part one of the report describes the results of the committee's investigation and the conclusions and recommendations that the committee has linked to these results. Part two concerns a detailed account of the committee's work. Part three contains the substantive input used by the committee to come to its final conclusion. This consists of reports on the research, and the reports on the round-table discussions and an international expert meeting, along with its own analyses of the reports made to the committee. Some reports also became available following the round-table discussions on residential juvenile care and foster care. Furthermore, the committee carried out discussions with around forty informants, primarily victims. The field of research in which the committee operated is largely new in the Netherlands.

The subject of this report

The government (the juvenile magistrate, on the order of the Child Welfare Council and on the recommendation of the Youth Care Office; and in criminal cases, on the order of the Public Prosecutor)

regularly puts children into care. In 2010, a total of 46,826 children were living in a residential institution or foster family.

Diverse reasons can underlie the decision to put a child into care, varying from parental problems with upbringing to serious behavioural problems on the part of the child. After having been put into care, many children are subsequently moved again a number of times. This instability in their living and upbringing situation obviously does them no good.

From the victims' stories and earlier academic research, it has been shown that children in care are particularly vulnerable to becoming victims of sexual abuse. In addition, these children frequently receive too little protection in the new situation, despite being surrounded by care. The needs, rights and interests of children emphatically formed the basis of the committee's investigation.

Context and legal framework

The government has always paid heed to child protection and to the undesirability of sex with children. Sex with vulnerable persons was already a criminal offence long before the period of investigation. The most recent, and radical changes to the morality laws (*zedelijkswetgeving*) date from 1990 and 1991. The important articles for the penalisation of sexual abuse are Articles 242-245, 247 and 249 of the Dutch Criminal Code (*Wetboek van Strafrecht*). Article 249, first and second paragraph, sub-section 2 of the Criminal Code is of particular importance, because it explicitly concerns the sexual abuse of a child who is in a position of specific dependence vis-à-vis the perpetrator. The criminal legislation has proved to be satisfactory for responding to the sexual abuse of minors.

The first laws relating to child protection date from 1905. In 1965, the Childcare and Protection Framework Act (*Beginnelsenwet voor de kindbescherming*) and the Childcare and Protection Implementation Decree (*Uitvoeringsbesluit kindbescherming*) came into effect, with rules on the enforcement of punishments and measures. In 1989, the Youth Services Act (*Wet op de jeugdhulpverlening*) came next with rules on how to plan youth services on the quality required and on the cooperation between and the conditions for youth services. In 2005, the Youth Care Act (*Wet*

op de jeugdzorg) was introduced. The current Youth Care Offices (Bureaus Jeugdzorg) carry out their duties on the basis of a plan that must be tailored to the needs of the client. Care providers render the actual care and offer accommodation. Juvenile magistrates make decisions regarding putting children into care.

The Minister of Health, Welfare and Sport (HWS) and the Minister of Security and Justice (S&J) have always borne final responsibility for policy relating to placement and quality in residential juvenile care and foster care and juvenile detention institutions, respectively. However, the two departments differ with respect to their degree of involvement in the implementation of the policy pursued in the institutions. The background to this, on the one hand, is the need to set out clear rules in the criminal domain regarding the restriction and removal of freedom; and, on the other hand, the difficulty of governmental involvement in upbringing in the civil domain. The Ministry of HWS sees itself as having a 'systemic responsibility' and does not direct the content of the security policy. HWS therefore also leaves it up to the residential juvenile care and foster care sector to formulate the approach to sexual abuse. The Ministry of S&J has a different responsibility concerning security policy in juvenile detention institutions. Namely, these are hierarchically subordinate to the minister, who, in contrast to his colleague at HWS, holds full ministerial responsibility. The security norms to which personnel and young people adhere in juvenile detention institutions are set from above.

Description of residential and of foster care over time

In the period following the Second World War (1945-1965), child protection, as residential juvenile care and foster care were then called, was characterised by a compartmentalisation along social or religious lines. Each 'compartment' bore prime responsibility for organisation and supervision, and government interference was accepted only to a very limited degree. The government accepted its final responsibility as a matter of fact, but did little to provide means (i.e. staff) for the inspectorate, which made strict supervision impossible. Supervision was limited to formal responsibility. Children had to be protected against physical and moral ruin. Sexuality was one of the areas in which a child might go 'off the rails'

if they were to encounter it prematurely, however or via whom-ever that might happen. However, sexual abuse was not a particular problem that received special attention.

In the period between 1965 and 1990, the system of compartmentalisation lost influence and sexual morals changed. There was a growing openness in the area of sexuality. At the same time, a greater reluctance to interfere in families arose. From 1990, the safety of the child was central, and a stringent policy was introduced in relation to sexual contact between group leaders and pupils. The development of protocols gathered pace. An action plan (beleidsbrief) by the Ministry of Welfare, Health and Culture from 1990 demanded attention to child maltreatment and the need for cooperation in the approach to it, and announced an inventarisation of the nature and extent of child maltreatment in residential care institutions. After this, similar intentions were repeated a number of times, but they were never adequately acted upon.

During the entire period described, the sexual abuse of children was a subject that professionals hardly knew how to tackle. This discomfort is linked, in part, to the atmosphere of taboo surrounding sexuality. Even though people were previously familiar with the phenomenon, sexual abuse has only been articulated as a particular problem for children since the mid-1980s. Since then, more attention has been given to its traumatic character than was the case in the past. In addition, it is now clearer that the gravity and complexity of sexual abuse makes great demands on the professionalism of workers in juvenile care and on the functioning of juvenile care as a system. The professionalism of juvenile care has clearly improved over the last thirty years. That it has not improved as much as one would wish is partly to do with the complexity of the phenomenon of sexual abuse; its seriousness makes it essential to make quick progress with the development of this professionalism.

Nature, extent and consequences

It is not easy to 'measure' the extent of sexual abuse. This is true for sexual abuse in general and, to a greater extent, for the abuse that was examined by the committee.

From the literature and from the discussions with victims, we

know that our assumption must be that victims report less sexual abuse than has occurred. In other words, under-reporting is taking place. The reports into the past commissioned by the committee show that it is not possible to achieve a clear picture of the nature and extent of sexual abuse. A lot of information was not recorded, and the archives have been cleaned up in accordance with regulations. This tallies with what the victims told the committee. If they reported the abuse, they were mostly not believed, or were punished for their 'lies' and 'dirty talk'.

Sexual abuse is also occurring now, as research into the prevalence in 2010 shows. The research produced a number of striking results. For example, professionals actually perceive less than 2% of the number of cases that are reported by children. In a large number of the cases, the young people are unwilling to reveal the name of the perpetrator. When the victims did want to, they reported that in more than half of the incidents, the perpetrator was younger than 21 years old. It is also notable that the children state that one third of the cases involved a female perpetrator (or co-perpetrator), while almost only male perpetrators are to be found in official records. The investigation established that abuse by group leaders or foster fathers can go on for years. Not only assaults, but also rapes, take place. The researchers conclude that the risk of sexual abuse is inherent in juvenile care. This is due to the organisation of the care, the complexity of the issue and the deeply troubled background of the children (together in care), the position of power of the professionals and foster parents, and the fact that physical contact is unavoidable and sometimes also sorely needed. Juvenile care is a setting in which the risk of sexual abuse is relatively high, and the risk of detection and reprisals for perpetrators is low.

On average, children in care reported almost twice as often (143 per 1000) as average Dutch children (74 per 1000 children) that they were sexually abused in 2010. A closer analysis of the facts shows that primarily children in residential institutions reported an increased prevalence (194 per 1000), while children in foster care didn't report an increased prevalence (55 per 1000). The researchers state that these differences are probably greater in reality. A comparison within the group of children in care that was investigated shows that children in residential juvenile care

reported over 2.5 times more sexual abuse than children in foster care (229 per 1000 and 88 per 1000, respectively). This difference is significant, and also large in an absolute sense. There was no significant difference in the chronic nature of the sexual abuse between foster families and residential institutions. Girls are victims more than twice as often as boys (264 per 1000 versus 126 per 1000), this, too, is a significant difference. On the basis of reports from people working with children with intellectual disabilities or mild intellectual disabilities, it appears that these children are victims of sexual abuse over three times more often than children without such an intellectual disability.

The consequences of sexual abuse are serious, also in the long term. Victims who are currently dealing with problems stemming from their past find it difficult to put their stories and questions behind them. It is clear that help must be offered when physical and/or psychological damage has been incurred. In mid-2011, at the urgent request of the committee, there was a promise from political quarters that provision would be made, whereby the personal charge for psychological health services (ggz) would no longer necessarily hinder this category of victims from obtaining help. In addition, the committee has stated a number of times that a reporting centre such as the committee's must also be maintained after the committee has been dissolved. While there are many reporting centres, these are all intended for current cases.

Perpetrators of sexual abuse in juvenile care

The various investigations that the committee commissioned into the incidence of sexual abuse all show that in approximately half of the cases, the perpetrator was a peer of the victim. In-depth research was undertaken into the backgrounds of convicted perpetrators. On average, juvenile perpetrators are 15 years old at the time of the abuse. They usually live with the victims in residential institutions or are their foster brothers. They are principally native Dutch and retarded or have a mild intellectual disability. The adult perpetrators are, on average, 37 years old, and they are also mainly native Dutch. Only rarely do they have a previous conviction for sexual or other offences. In contrast with the young perpetrators, the adult perpetrators are of average to above-average intelli-

gence. Paedophilia is rarely diagnosed. It is notable that about one third of these perpetrators were themselves mistreated, neglected or abused in their youth. The research into perpetrators shows that it is unlikely that additional screening of professionals who work with children would prevent sexual abuse. The perpetrators usually have no marked characteristics. By far the majority of perpetrators do not intend to sexually abuse children when they start to work with children as group leaders or foster parents.

Mechanisms

The process that ultimately leads to abuse does not always begin with a sexual interest in the young person. The mutual relations in a residential group are complex, the pecking order changes constantly as residents come and go, there are scapegoats, and mutually affective bonds develop. While group leaders are more distant from this, they also form part of this system. Reciprocal affection can thus develop between a group leader and a pupil that ultimately results in a sexual transgression. The danger of group leaders who feel 'more than a click' with a young person is also true, to an even greater extent, of a foster parent. After all, there are situations in a foster family that involve more intimacy than in a residential group. Relatively little is known about the process by which care providers and foster parents become perpetrators. The committee finds it advisable that greater insight be acquired into these processes in order to better equip foster parents, group leaders and other professionals with knowledge and skills, so that they gain a better understanding of the risks to themselves and in their environment.

The government response to signs of sexual abuse

After signs of sexual abuse have been identified, the government can respond to them in two ways: by means of criminal law and by means of supervision by the inspectorate.

The research relating to the period between 1945 and 1990 made it clear that professionals and managers in child protection were confronted with only a small number of cases of sexual abuse. That is to say, it has not been possible to find much specific information in the archives of either the Institutions or the gov-

ernmental organizations. However, the phenomenon of sexual abuse occurs with such a frequency that awareness of it has arisen at various levels. It evokes a variety of responses. In less 'serious' cases there is a general tendency to put an end to the undesirable situation with as little fuss as possible: children are moved to other institutions, staff members are dismissed. The inspectorate keeps a close watch in this kind of case. The surviving recorded descriptions of responses to incidents do give the impression that the government takes action, but they are too few in number to be able to draw general conclusions from them. Criminal law is only partly considered an adequate recourse. Only very few cases go to court. In as far the limited source material makes it possible to draw any conclusion, this would have to be that such cases concern grave incidents, or long-lasting and structural abuse.

With regard to the police and the Public Prosecutor, for the period up until 1990, the committee can only draw conclusions on the basis of the informants' reports. The police and the Public Prosecutor were hardly called. Most victims did not report the crimes, and if a crime was reported, according to the informants, this tended not to lead to prosecution, owing to insufficient evidence. The Public Prosecutor did not adopt a special approach to sexual offences until the end of the 1980s.

Due to the changing social climate in recent decades, victims of sexual abuse in residential juvenile care and foster care were gradually taken more seriously. There was a strong need for greater clarity regarding the approach to this. At the request of the Ministry of Welfare, Health and Culture, general guidelines for action in the case of suspicions of sexual abuse were developed. These did not specifically apply to the residential sector and foster care. The Inspectorate for Youth Care put strong emphasis on the development of protocols. At the end of the 1980s and beginning of the 1990s, a few sexual offence cases that were widely known at the national level, convinced the police and the Public Prosecutor of the need for more policy and more expertise. The committee found that the police handling of cases in which crimes were reported in the last 10 years could be regarded as logical and understandable. The same is true for the Public Prosecutor for the last 20 years.

Reports made to the Health Care Inspectorate dating from 2008, 2009 and 2010 on children with an intellectual disability or mild intellectual disability show that in half of these cases, the crime was also reported to the police. People frequently decide not to report a crime, because there is an unwillingness to confront these young people with laborious judicial procedures that often have an uncertain outcome. In the vast majority of the cases (94%), the inspectorate did not know at the time of the report whether the incident had been brought to the Public Prosecutor.

As mentioned above, the Ministries of S&J and HWS differ regarding their control over security in the judicial sector and the juvenile care sector, respectively. The Ministry of S&J exercises more control than the Ministry of HWS, which leaves taking care of security more to the sector itself. It is obvious that control is only a precondition for protection against sexual abuse. For the actual protection, the professionalism of staff members plays a larger role.

The current protection of children

The committee worked from the perspective of the child, whose interests it considers to be central. The protection mechanisms in residential juvenile care and foster care have been mapped out on the basis of a concentric model. The child forms the central point, surrounded by the people and bodies who have been designated to protect them in the different circles. The analysis of the protection system was based on the principle that for their protection, a child is primarily dependent on the people who are closest to them in everyday life, that is, the people in the innermost circle. This innermost circle contains the parents (or foster parents), children (or foster children), group leaders, peers and teachers.

When young people – usually of both sexes – are with each other on a daily basis, sexuality is constantly ‘in the air’. Just like young people in a residential group, children who are placed in a foster family, for reasons of protection, bring with them the consequences of their experiences of abuse, violence and/or neglect. These consequences – among other things, in terms of having fewer defences, being over-dependent, having low self-esteem and confusing sex with affection – increase their vulnerability, including to sexual abuse.

Despite this, numerous studies in this area show that sexual development, norms of sexual behaviour and, linked to this, the theme of sexual abuse, hardly have a place in the training and the work agendas of professionals, in terms of training, supervision, consultation, reflection and rules. If it is adequately addressed when preparing foster parents for foster-parenthood, then afterwards, it often receives too little attention in supervision. When the subjects are included in an institution's agenda, the essential peer supervision and work guidance are the first to perish when financial cuts occur or workload increases.

Every residential setting has rules, forms of control, supervision and discipline that are essential. However, an overly one-sided culture of maintaining rules can mean that with sexually transgressive behaviour, the emphasis lies more on the taking of post-facto measures for the maintenance of order and the protection of the institution, and less on pre-emptive action and a therapeutic response. A repressive climate hinders young people from turning to leaders with sensitive information. An atmosphere of power and intimidation between adults themselves, between adults and young people and between young people themselves, can play a role in the forcing of sex and in maintaining a culture of keeping silent about this.

Due to incomplete records, group leaders and foster parents often have insufficient knowledge of the background and behaviour of a child, which can hinder the development of an effective approach and treatment. As a result, children with (too) complex problems can be placed in foster families that are not appropriate for the child in question, or a child can be placed in a group in which he or she does not fit.

In the practice of residential juvenile care, there is great confusion about how best to act where sexuality is concerned. Children are placed together in peer groups. Their sexual development is accompanied by (mutually) experimental behaviour and the pushing of boundaries. Youth workers and group leaders are insufficiently equipped and lack methods of discussing this with the young people and with each other. The high rate of staff turnover in many teams means that a safe basis to talk openly about this difficult subject is often lacking. Sufficient continuity in the team is also a condition for young people to enter into a

relationship of trust with a group leader. If there is an absence of trust, then young people will not talk so readily about sexuality and sexual abuse. In practice, in foster care, the contact between the foster family and the family guardian is often not frequent enough to realise such a relationship of trust.

Prevention is better than cure. Gathering references on new personnel is a must, but so is giving honest references for personnel when they leave. During the application procedure, attention should be paid to talking about sexuality and sexual abuse. The applicant should show that they realise that, and how, their own possibly traumatic childhood experiences can play a role in their work. In preparing aspiring foster parents for foster-parenthood, sexuality should also be given sufficient attention.

The ambiguity of the signs and, with this, the uncertainty about what exactly is going on, raises the bar for reporting suspicions of sexual abuse. Not everyone knows what they should do when they spot potential sexual abuse, which is why indications have not always been reported to the official bodies. This is also because there are so many – and sometimes too many – bodies and officials that no one feels that they are problem owner, so that no one takes the lead in dealing with (suspected) sexual abuse.

Conclusions

- During the entire period investigated, the government knew of the incidence of the sexual abuse of the children that it had put into care. Just like the rest of society, for years, the government knew almost nothing of the effects this abuse had on children, or the extent to which it occurred. Few cases ended up in the criminal justice system. When this did occur, the response was understandable. For twenty years, the government has done nothing about the wish that it had expressed in 1990, to gain insight into the nature and extent of sexual abuse in juvenile care institutions. The Ministry of HWS has left the development of policy too much to the sector itself. However, the Ministry of S&J did play a steering role.
- There has always been sexual abuse in residential juvenile care and foster care. In residential juvenile care, the risk is more than 2.5 times higher than for the average Dutch child. Girls are victims more than twice as often as boys, and children with an

intellectual disability or mild intellectual disability are victims three times more often than children in care without such an intellectual disability.

- More than half of the perpetrators are peers, often a member of the same group. The adult perpetrators have no marked characteristics. By far the majority of perpetrators did not intend to sexually abuse children when they started their work as group leaders or foster parents. It is unlikely that additional screening could prevent sexual abuse.
- The sector is insufficiently able to recognise sexual problems, make them subject of discussion and intervene effectively.
- General problems surrounding cooperation, communication and leadership in juvenile care are particularly manifest with regard to the spotting of sexual abuse. This is linked to the complexity of the phenomenon and the impact that it has on all those involved, primarily the child. Dealing with these general problems must therefore go hand-in-hand with investing in the professionalism that this complexity demands.

Recommendations

The committee assumes that measures that focus on the direct environment of the child can make the greatest contribution to preventing sexual abuse and bringing such abuse to light in a timely manner. Therefore, they advise that the quality be improved here as far as possible.

The recommendations are divided into eight themes, beginning with (A) professionalisation. At all levels, a serious professionalisation of the sector is needed in the area of sexuality, sexual development (including unhealthy sexual development), and the sexual abuse of children and young people. (B) The recommendations in the second theme are focused on the two circles directly surrounding the child. Subsequently, the committee makes a distinction between recommendations focused on (C) residential juvenile care and recommendations that concentrate on (D) foster care. Then follow (E) the system and (F) politics. The committee issues some additional general notes to the profession, politics and society and recommends more detailed academic research (G). Finally, the committee discusses the implementation (H).

Youth Care Netherlands is aware of the gravity of the problem and is working on a quality framework for the organisations involved.

Sexual abuse in juvenile care is a complex and tough problem, to which there are no easy solutions. It requires an approach from multiple sides, commitment from very responsible official, from top to bottom. It also requires patience and persistence on the part of politicians and policymakers, and a society-wide recognition of the fact that risks are inherent in work in juvenile care.