

**The Dutch School System's Failure to Achieve Inclusion and Comply with the UN-  
CRPD**

Esra Baas & Michelle Mamedov

Student paper for Ethical Dilemmas in the minor Human Rights Interdisciplinary

Hanze University of Applied Sciences Groningen

Professor: Sergei Oudman

15/12/2024

### **Abstract**

The Dutch school system claims to promote inclusion through the Appropriate Education Act (2014), which obliges schools to find the best educational environment for each student. Despite these intentions, the reliance on special schools remains omnipresent, with over 73,000 students enrolled in 2023, which is an increase compared to 2014. This contradicts the idea of inclusivity envisioned by the Act and the UN-CRPD and maintains a dual-track system, where students with disabilities are separated into specialized schools. This essay discusses the current situation in the Dutch school system and how it is failing to achieve inclusion advocated by the UN-CRPD.

## Introduction

The Dutch school system claims to promote inclusion through the Appropriate Education Act (2014), which obliges schools to find the best educational environment for each student. Despite these intentions, the reliance on special schools remains omnipresent, with over 73,000 students enrolled in 2023, which is an increase compared to 2014. This contradicts the idea of inclusivity envisioned by the Act and the UN-CRPD and maintains a dual-track system, where students with disabilities are separated into specialized schools. Internationally, commitments like the Sustainable Development Goals, such as SDG 4 (about inclusive and equal education) and SDG 10 (reduction of inequalities) call for including students with disabilities into regular education. Article 24 of the UN-CRPD explicitly mandates inclusive education systems, emphasizing the dignity, equality, and participation of pupils with disabilities, without marginalization.

The practice of segregation violates Article 24 of the UN-CRPD, which guarantees the right to inclusive education. Separating students based on their disability denies them the chance to build relationships, access resources and fully participate in society, holding up stigma, and inequality. Segregation also undermines their dignity (Article 1) by suggesting their presence in mainstream schools is a burden rather than a right and disobeys on the principle of equality of opportunity (Article 3). The UN-CRPD Committee's 2024 Report raised concerns about the growing reliance on special schools in the Netherlands, citing issues like inaccessible mainstream schools, insufficient teacher training, and growing special education enrollment. Statistics show that students with disabilities face structural barriers, with many unable to transition into regular education, perpetuating feelings of exclusion, and systemic inequality.

While the reliance on special schools raises concerns, it is important to recognize exceptions under the Equal Treatment (Disabled and Chronically Ill People) Act, which permits discrimination when necessary for health and safety. Special schools may serve as a temporary solution for students with severe needs when mainstream schools lack capacity or trained staff.

Also, some may argue that regular schoolteachers lack training, adapting to mainstream schools is costly and integration could lower the quality of education. However, these arguments overlook the systemic obligation under UN-CRPD Article 24 to prioritize inclusivity. Teacher training gaps highlight the need for investments in professional development, and inclusive education has been shown to improve empathy and outcomes for all students. Financial concerns should not overshadow the moral and legal imperatives to foster equality and dignity. Investments in inclusion benefit society by breaking barriers and fostering understanding.

In conclusion, the Dutch school system fails to meet its international legal obligations and commitments, as the segregation of pupils with disabilities perpetuates discrimination and systematic exclusion. The current system needs to focus on adapting mainstream schools, ensuring equal opportunities and promoting a truly inclusive education system for all.

## Justification

The lack of inclusivity in the Dutch school system begins with the understanding of inclusion as the removal of barriers that prevent full participation in societal activities, including education. This can be concluded by the definition of disability as outlined by the UN-CRPD (2008, Art.1), which identifies disability as the result of interaction between an individual's impairments and external barriers:

“Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.” (United Nations, 2006, Art 1).

These barriers can be found in various areas, such as workplaces, social life and most critically in this context, education.

True inclusion can only be achieved when these barriers are systematically identified and removed. Without addressing these obstacles, individuals with disabilities are denied equal opportunities, perpetuating exclusion and inequality. In education, barriers such as inaccessible infrastructure, insufficient teacher training and a lack of reasonable accommodations directly limit the ability of students with disabilities to participate in mainstream schools (Möller & Imhäuser, 2012).

This claim is further supported by the findings from the UN-CRPD Committee's report of 5th September, which highlights ongoing systemic issues in the Netherlands, such as the perpetuation of a dual-track education system, inadequate training for general education teachers, and a lack of accessibility in mainstream schools (CRPD Committee, 2024). These barriers not

only segregate students with disabilities and promote inequality but also perpetuate stigma, undermining their dignity and rights.

Some specialised schools may provide critical support for students whose needs are not met in mainstream schools. However, this approach fails to address the root causes of exclusion, which lie in the systemic barriers within the mainstream education system.

### **Factual description of the issue**

The Dutch education system operates on a dual-track model, with students divided between mainstream and specialised schools based on their needs. The four clusters of specialised schools categorise pupils with disabilities into specific groups: Cluster 1 for visual impairments, Cluster 2 for hearing and speech disorders, Cluster 3 for physical or mental disabilities, and Cluster 4 for behavioural or emotional-social difficulties (Rijksoverheid, n.d.). While this system provides targeted support, it perpetuates segregation by isolating students based on their disabilities from their peers in mainstream education (Ministerie van Onderwijs, 2024).

The Netherlands has committed to international frameworks, including the Sustainable Development Goals (SDGs), specifically SDG 4 (Quality Education) and SDG 11 (Sustainable Cities and Communities) (United Nations, 2015). These goals emphasize the importance of inclusive, equitable education and the creation of environments that foster participation and equality for all. Despite these commitments, the Dutch system falls short of fully realizing these ideals in education.

The Wet passend onderwijs (Appropriate Education Act) was introduced in 2014 with

the aim of addressing these shortcomings by ensuring that every child could find an

appropriate place in the education system (Wet Passend Onderwijs | Nederlands Jeugdinstituut, 2014).

This Act sought to integrate students with disabilities into mainstream schools by requiring schools to offer individualized support and accommodations. However, the dual-track system continues to dominate, with specialized schools playing a significant role in the education of students with disabilities. This is shown by the statistics provided by the Nederlands Jeugdinstituut (2024). In 2015, there were 68,214 pupils in special needs schools (figure 3), with around 85% coming from clusters 3 and 4 (59,090 pupils) (Figure 2). By 2023, this number has increased to 73,630 pupils (Figure 3), with about 89% coming from clusters 3 and 4 (65,130 pupils) (Figure 2).

This reliance on specialized schools reflects systemic barriers within mainstream education, such as a lack of sufficient teacher training, inadequate infrastructure, and limited resources. As a result, the goals of the Appropriate Education Act and the Netherlands' commitments to the SDGs remain unmet, demonstrating a continued gap between policy intentions and practical outcomes.

### **Legal Articles**

Segregation within the Dutch education system violates several critical legal provisions, undermining the principles of equality and inclusion outlined in both international and national frameworks. Article 24 of the UN Convention on the Rights of Persons with Disabilities (UN-CRPD), which is ratified by the Netherlands since 14.06.2016, mandates that students with disabilities must have access to inclusive education systems that foster participation and social

inclusion without segregation based on someone's disability (Article 24 United Nations, 2006). Furthermore, it emphasises the need to provide support within the general education system.

Similarly, Article 3 of the UN-CRPD enshrines the principle of equality of opportunity, while Article 1 protects the inherent dignity of all individuals (United Nations, 2006). The broader European Convention on Human Rights also supports these principles, emphasising the equal right to education without discrimination (Council of Europe, 1950). On the basis of the articles presented, it can be concluded that the practiced segregation is legally indefensible because of these international commitments, which require educational systems to adapt to diverse needs and ensure equal access for all. Segregating students with disabilities into specialised schools violates their rights to equality, dignity, and participation, as protected under these legal frameworks. However, the Equal Treatment (Disabled and Chronically Ill People) Act provides a notable exception. In Section 3a of it states that It permits discrimination if it is necessary to protect health and safety. (Government of the Netherlands, 2003).

In consequence this provision allows for the possibility that segregation may, in certain cases, be justified temporarily, such as when mainstream schools lack the resources to ensure the well-being of students with severe disabilities. Nevertheless, reliance on these exemptions undermines the broader intent of inclusive education laws. Critics may argue that specialised schools are effective in addressing specific needs, but this perspective neglects the systemic obligation to establish accessible mainstream schools. These exceptions cannot be used to justify long-term segregation. Instead, they must be seen as temporary measures, with the ultimate aim of removing barriers within mainstream education to fully meet the purpose of these legal articles.



In conclusion, the segregation of students with disabilities violates key legal commitments under the UN-CRPD, the Convention on Human Rights, and national laws, and fails to align with the principles of inclusion, equality, and dignity. Temporary exceptions allowed under the Equal Treatment Act must not serve as an excuse for systemic inaction in creating inclusive education environments.

### **Reasons for selecting this particular issue**

The exclusion of students with disabilities from mainstream schools is both a moral and practical concern, which lies in the principles of fairness and equality - both foundational principles for ethical societies.

This is supported by the moral philosophy of Immanuel Kant (1785). Immanuel Kant's philosophy emphasizes treating individuals as ends in themselves, not merely as means to an end. Central to Kant's work is the categorical imperative, which argues that exclusion cannot be universally justified because it contradicts the aforementioned principle of treating individuals as ends in themselves, not merely means to an end.

Underlying this argument is the idea that moral fairness must require inclusiveness, so that all individuals can participate equally in our society. Segregating students with disabilities violates this by denying them the opportunity to fully integrate into mainstream education and benefit from equal resources. While moral fairness and equality strongly encourage the inclusion of students with disabilities into mainstream school, it's important that we also take into account that some schools may lack the immediate resources, infrastructure and trained workers to meet all their students' needs.

This however must not be the default solution, as it undermines the long-term effects of inclusivity. The lack of resources, training and lack of accessibility must be addressed

directly and swiftly. Investments in teacher training, infrastructure and added resources would create a sustainable system for all students.

### **Applicable Ethical Dilemma**

The main moral dilemma highlights may be in the conflicting obligations: in ensuring the *well-being of students with disabilities, who may require tailored resources, vs the addressing of the systemic exclusion that segregation creates*. Segregating students violates their inherent dignity and equality of opportunity. But mainstream schools still often lack the capacity, resources and trained staff to meet the needs of all students.

In this a question arises of the principle versus the practicality is relying on special schools as a “temporary solution” morally justifiable, knowing that it is causing systemic inequality and maintains the existing stigma?

Looking again at the moral philosophy of Immanuel Kant (1785), rather than treating students with disabilities as burdens we must look treat them as ends in themselves, and that would mean that the education system must be required to invest in inclusivity.

While the practical arguments – such as: the lack of capacity, resources and trained staff- may look like valid in the short term, if fails to address the long-term benefits inclusion will have such as promoting empathy reducing stigma and will help break down societal barriers.

The moral choice must therefore lie in the prioritizing of systemic change. While the exceptions under the Equal treatment act (2003) does still allow for the segregation for safety and health. This should not result in inaction. Investing in teacher training, accessible infrastructure and individual support systems can resolve this ethical dilemma, fulfilling the moral and legal imperative.

## Potential solutions

The transition towards a more inclusive Dutch education system requires significant structural reforms, grounded in a comprehensive plan that prioritises the integration of students with disabilities into mainstream schools. The needs for this solution are evident in the current reliance on specialised schools, which limit opportunities for students with disabilities and violates commitments to inclusivity. To address this, a review of the current implementation plan of the Appropriate Education Act is essential, establishing clear objectives, timelines, and evaluation mechanisms to ensure accountability and effective progress.

The argument connecting these measures to the desired outcome is that enhancing the capacity of mainstream schools to accommodate students with disabilities directly reduces the need for special education placements. This involves providing mainstream schools with adequate resources, such as trained staff, accessible infrastructure, and individualised support systems (Möller & Imhäuser, 2012). Furthermore, fostering stronger collaboration between schools, parents, and other stakeholders, as mandated by the Appropriate Education Act, ensures that every child receives the best possible education tailored to their needs (Dutch Government, 2014).

The Dutch education system must adopt a prioritised approach that focuses on transitioning from specialised schools to inclusion in regular schools, giving all children equal access to education. Examples from other countries, such as Germany, demonstrate the feasibility of such reforms. The introduction of school counsellors, who act as personal assistants for students with special needs, has been a successful model in Germany (Möller & Imhäuser, 2012). This system supports students in their daily school life, facilitating their integration and

providing long-term assistance. Adopting similar measures in the Netherlands could bridge the gap between policy and practice.

Such reforms require substantial investment and a gradual rollout to ensure sustainability. Immediate systemic changes may face resistance due to resource constraints and the current reliance on special schools (Möller & Imhäuser, 2012).

Nevertheless, these challenges cannot justify inaction. International commitments, such as the UN-CRPD and the SDGs, demand inclusive education, and delaying reforms perpetuate systemic inequalities. Incremental steps, such as piloting integration programs and scaling successful models like Germany's school counsellors, provide practical pathways to reform (Möller & Imhäuser, 2012). By committing to these measures, the Dutch education system can transition towards a framework that ensures every child has the same opportunities to learn and thrive in an inclusive environment.

In conclusion, the solution to achieving inclusive education lies in revising the current system, equipping mainstream schools with the necessary resources, fostering collaboration among stakeholders, and drawing inspiration from proven international practices. This approach not only addresses immediate gaps but also aligns with long-term goals of equality and inclusivity.

### **Critical evaluation**

The critical evaluation of this work reflects on the analysis and argumentation surrounding the Dutch education system's shortcomings in achieving inclusivity for students with disabilities. In the **justification**, we emphasised that true inclusion requires removing barriers that hinder participation in education, as outlined in the **UN-CRPD** and grounded in

principles of fairness and equality. The examination of **legal articles**, including **Article 24, Article 3, and Article 1 of the UN-CRPD**, reinforced the argument that segregation violates both international and national commitments, although the **Equal Treatment Act** permits limited exceptions under specific circumstances.

The choice of this issue was driven by its moral significance, as segregation challenges the dignity and rights of students with disabilities. Our exploration of **ethical dilemmas** revealed the tension between relying on specialised schools to meet immediate needs and striving for long-term systemic change to achieve inclusivity. The **potential solutions**-proposed, such as enhancing mainstream school capacities, and adopting measures like Germany's school counsellors, provided actionable strategies to address these challenges.

## References

- Algemene Onderwijsbond. (2023, March 26). *Aantal leerlingen speciaal onderwijs neemt sterk toe*. AOB. Retrieved November 15, 2024, from [https://www.aob.nl/actueel/artikelen/aantal-leerlingen-speciaal-onderwijs-neemt-sterk-toe/#:~:text=Het%20\(voortgezet\)%20speciaal%20onderwijs%20nam,37.998%20leerlingen%20op%20335%20scholen](https://www.aob.nl/actueel/artikelen/aantal-leerlingen-speciaal-onderwijs-neemt-sterk-toe/#:~:text=Het%20(voortgezet)%20speciaal%20onderwijs%20nam,37.998%20leerlingen%20op%20335%20scholen)
- Council of Europe. (1950). *European Convention on Human Rights*. Retrieved from <https://www.echr.coe.int/european-convention-on-human-rights>
- Council of Europe. (2021). *European Convention on Human Rights: As amended by Protocols Nos. 11, 14, and 15 supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13, and 16*. Retrieved from [https://www.echr.coe.int/documents/d/echr/convention\\_ENG](https://www.echr.coe.int/documents/d/echr/convention_ENG)
- CRPD Committee. (2024). *Concluding observations on the Netherlands: Rights of persons with disabilities*. United Nations. Retrieved from <https://digitallibrary.un.org/record/4062658?v=pdf>
- Dutch Government. (2014). *Wet passend onderwijs* [Appropriate Education Act]. Retrieved from <https://wetten.overheid.nl>
- Government of the Netherlands. (2003, April 3). *Equal Treatment (Disabled and Chronically Ill People) Act*. Retrieved from <https://www.government.nl/topics/discrimination/prohibition-of-discrimination>
- Kant, I. (1785). *Groundwork of the metaphysics of morals*. Harper & Row.
- Ministerie van Onderwijs, Cultuur en Wetenschap. (2024, April 26). *(Voortgezet) speciaal onderwijs*. *Passend Onderwijs* / *Rijksoverheid.nl*. Retrieved November 23, 2024, from <https://www.rijksoverheid.nl/onderwerpen/passend-onderwijs/speciaal->

