

UPR Submission on sexual and reproductive health and rights in The Netherlands

13th Session of the Universal Periodic Review – The Netherlands – June 2012

Joint Submission by:



and

the Sexual Rights Initiative (SRI)



Sexual and reproductive health of youth, people with disabilities and LGBTQI in the Netherlands

1. This report is submitted by Rutgers WPF¹ and the Sexual Rights Initiative².

Executive Summary

2. This report focuses on the sexual and reproductive rights of youth, people with disabilities and transgender persons within the broader framework of the right to health. Young people in The Netherlands are doing relatively well when it comes to sexual and reproductive health and rights. Access to sexuality education is, however, still problematic as the Minister for Education has only recently decided to embed sexuality and sexual diversity in the 46 objectives for all schools (primary, secondary and vocational training centres) and this decision still needs to be implemented.³ Materials and sexuality education programmes are available but distribution and training of teachers needs to be improved. Sexual violence occurs relatively often and it is essential that sexuality education is comprehensive and includes negotiation skills and defensibility.
3. Transgender persons in The Netherlands do not yet have access to the medical and legal means enabling them to live their lives according to their gender identity. Medical procedures should be readily available and adaptable to personal needs. Identity papers should have a non-binary option and the person involved should have the right to decide which gender is registered.
4. Sexuality of people with a disability is still neglected in some ways in The Netherlands. Access to and availability of adapted sexuality education (materials) is limited. Although people with disabilities are often victims of sexual abuse, the people working with them lack the skills to detect it. Training of these professionals is necessary to enable people with a disability to have a healthy and enjoyable sex life.

Young people

5. In the Netherlands the Dutch youth in general is doing well on sexual health. 90% of youth used a contraception method to protect themselves against pregnancies and 75% used a condom during their first sexual intercourse.⁴ Abortion is allowed until 24 weeks of pregnancy. Contraceptives are free of charge under basic health insurance for women up to 21 years old. Between 16.000 and 24.000 people are living with HIV. Every year there are between 900 and 1100 new HIV infections. In 2009 77 young people were diagnosed with HIV infection. Chlamydia infections are increasing among youth.⁵ Adolescent girls have 6 times the STI risk of boys. STI result in substantial productivity losses and are leading causes of disability adjusted life years for women of productive age. In the Netherlands there are specific STI HIV health services and testing programs for youth and groups at risk.
6. In the Netherlands, 34% of women and 6% of man experience sexual violence at least once in their lifetime. 12% of women have been raped at least once.⁶ 18% per cent of female and 4% of male adolescents age 12 to 25 years old has had experience with sexual violence or sexual coercion. Sexual violence has severe physical, psychological and social implications. Sexual violence is rooted in unequal power relationships and gender related attitudes. Harmful gender stereotypes which usually disadvantage women still exist. A lot of women from ethnic and

¹ Rutgers WPF is a Dutch centre of expertise on sexual and reproductive health and rights focussing on socio sexological research, knowledge transfer, developing and implementing effective and innovative interventions in sexuality education, advocacy, training and advisory.

² The Sexual Rights Initiative is a coalition including Action Canada for Population and Development (ACPD); Creating Resources for Empowerment and Action (CREA, India); Federation for Women and Family Planning (Poland); Akahata (Argentina) and others.

³ The decision to include sexuality and sexual diversity in the school curricula was made on November 16th 2011.

⁴ Graaf H de, Meijer S, Poelman J, Vanwesenbeeck I. *Seks onder je 25e* [Sex under the age of 25]. In opdracht van de Rutgers Nisso Groep en Soa Aids Nederland. Delft: Eburon, 2005b.

⁵ H.J. Vriend, F.D.H. Koedijk, I.V.F. van den Broek, M.G. van Veen, E.L.M. Op de Coul, A.I. van Sighem, R.A. Verheij, M.A.B. van der Sande (2011). *Sexually transmitted infections, including HIV, in the Netherlands in 2010*. Bilthoven: Centre for Infectious Disease Control, National Institute for Public Health and the Environment

⁶ Bakker, F., Graaf, H.de,Haas, S.de, Kedde, H., Kruijer,H., Wijzen, C. (2009). *Seksuele gezondheid van de jeugd* [Sexual health of young people]. Utrecht: Rutgers Nisso Groep

religious groups but also young women in general are confronted with double sexual standards.⁷ In general men have more sexual freedom and privileges than girls. A girl has to behave sexy but not sexually active.

7. In 2009 the Dutch government has funded a national campaign to prevent sexual violence of youth. Rutgers WPF and SANL⁸ has launched the campaign “how to make sex clear”. The website was visited by 16,5% of all young people in The Netherlands of whom almost 20% made a checklist of wishes and boundaries regarding their sexuality and forwarded the site to an average of 5 friends.⁹ After 2011 the funding of this very successful campaign will be ended.

Sexuality education

8. After a majority of the Dutch parliament has asked the Dutch government to implement obligatory sexuality education in schools twice, in December 2009 and spring 2011, the government finally agreed to include education on sexuality and sexual diversity in primary and secondary school on November 16th 2011. The fact that sexuality education is at this moment still dependent on the school a student attends is a in violation of general comment 4 of the UN Committee on the Rights of the Child, which states that ‘it is the obligation of States parties to ensure that all adolescent girls and boys, both in and out of school, are provided with, and not denied, accurate and appropriate information on how to protect their health and development and practice healthy behaviors.’¹⁰ Now that the government has agreed to include sexuality and sexual diversity in school curricula, assistance and monitoring of implementation is necessary. Youth need information and skills to express boundaries and wishes in the right way and structured opportunities to explore their attitudes and values and to practice life skills they need to be able to make free and informed choices about their sexual lives. Special attention must be paid to groups with intellectual, physical and sensory disabilities. Special attention must also be given to parents.

Access to contraceptives

9. As of January 2011, contraceptives are no longer reimbursed by the basic insurance for people over the age of 21. Since the nineties the number of teenage pregnancies had declined, but abortion rates have slightly increased. If a young person gets pregnant she is more likely to choose an abortion than to give birth.¹¹ Yearly almost 32.000 women (age 15-45 years old) have an abortion. Not all sexually active women can use contraceptives consistently. For two-thirds of women who had an abortion in 2008, contraceptive and condom use failed¹².
10. Surinamese and Antillean girls and girls with lower education are more at risk of teenage pregnancies and teenage motherhood than other girls. Young asylum seekers are even at a greater risk.¹³ They often lack access to sexuality education and are confronted with taboos on

⁷ The double sexual standard is especially strong in Moroccan and Turkish communities, see: De graaf, H., Egten, C. van, Hoog, S. de, Berlo, W. van (2009). *Seksualisering: aandacht voor etniciteit. Een onderzoek naar verbanden met opvattingen en gedrag van jongeren* [Sexualisation: attention for ethnicity. A research into the relation with attitudes and behaviors of young people], Utrecht: Rutgers WPF

⁸ A national STI/Aids foundation

⁹ In 2010, 165.000 young people (from a total of 1 million young people in The Netherlands) have visited the site and 30.000 young people have filled in their checklist of wishes and boundaries concerning sexuality and sent a match request to an average of 5 friends. 50.000 young people have played the game ‘Can you fix it?’ in which you watch a video and have to push the red button when you think something goes wrong. The general numbers of visit for the website sense.info which provides information about sexuality also increased in 2010. This website, for young people age 12-25, has had 1 million visits in 1,5 years.

¹⁰ United Nations Committee on the Rights of the Child on CRC/GC/2003/4, 1 July 2003. Adolescent health and development in the context of the Convention on the Rights of the Child (CRC)

¹¹ Of all teenage girls who have an unplanned pregnancy in 2008, 65% choose abortion while 35% choose to become a mother. See page 27:

<http://www.rutgersnissogroep.nl/productenendiensten/onderzoekpublicaties/rapport-lar-2008.pdf>

¹² See page 27:

<http://www.rutgersnissogroep.nl/productenendiensten/onderzoekpublicaties/rapport-lar-2008.pdf>

¹³ Girls from a Dutch Antilles, Surinamese, Sub-Saharan and South American background have a pregnancy rate which is about 4 - 6 times higher than of native Dutch girls. See page 2: Lee, L., van, & Wijzen, C. (2008). *Landelijke Abortus Registratie 2007*. Utrecht: Rutgers Nisso Groep. Per 1000 girls, age 16-19, 2006-2008, the abortion rates are 4,7 for native Dutch girls, 33,3 for Dutch girls with a Surinamese background, 37,4 for Dutch girls with a Dutch Antilles background, 5,9 for Dutch girls with a Turkish background and 10,5 for Dutch girls with a Moroccan background. See page 27:

<http://www.rutgersnissogroep.nl/productenendiensten/onderzoekpublicaties/rapport-lar-2008.pdf>

sexuality¹⁴ Asylum seekers also do not have access to free contraceptives. Information which is available about sexuality does not yet fully address the different backgrounds of young people and an improvement should be made in the accessibility of reliable and effective information for these groups. A more integrated sexual reproductive health approach in cooperation with the health care workers (Sense, family doctors and midwives) public health centres and ethnic minorities can contribute to the prevention of teenage and unplanned pregnancies.

People with disabilities

11. Sexuality and the sexual rights of people with disabilities have only recently been recognized and accepted in the Netherlands. As for a few decades, people with disabilities were not considered to be sexual beings; they were seen and treated as 'different', where their handicap was regarded as the crucial characteristic of their identity.¹⁵ Supposedly gender neutral and sexless, sexual desire and expression of people with disabilities were undesirable and even frightening to the people without disability.
12. People with disabilities have the right to have a healthy and happy sex life. However, Dutch research revealed that almost 25% of women with physical disability and 22% of the men have sexual function problems.¹⁶ This is due to the illness or disability itself, or to secondary characteristics such as fatigue, psychological problems as a consequence of the disease/disability and use of medication. In a recent study, Rutgers WPF made an inventory of existing educational material for people with different kinds of disabilities, and -perhaps even more importantly - the need for materials that yet has to be developed.¹⁷ It was concluded that educational material for people with intellectual disabilities was quite sufficient, but that people with physical disabilities need more information, especially with regard to the effect of the disability or disease on sexual functioning and fertility. People with visual and hearing impairments need specific educational material they can understand (material to 'feel' for the blind and in sign language for deaf people). Besides, sex education should start at an early age, and parents need support to manage this properly. It also became clear in this inventory that many professionals in the care for people with disabilities are reluctant to bring the issue up, and they also need guidance. Sexuality should be part of their education. Finally, institutions should have proper policy with regard to sexuality and sexual abuse.
13. Since the eighties and nineties international research revealed that people with disabilities are often victims of sexual abuse. Lack of sexual knowledge, dependency on others for daily care, lack of privacy, social isolation, physical and mental vulnerability, and low self-esteem are risk factors for sexual abuse. This is the case for both the intellectually and physically disabled. A recent Dutch study, carried out by Rutgers WPF and Movisie, confirmed the international findings; especially people with intellectual disabilities appear to be often victimized.¹⁸ It was concluded that sex education and empowerment are crucial to enhance knowledge about proper and improper sexual behavior, to set limits and to establish self-esteem. Professionals need to learn more about being sensitive to and signaling signs of sexual abuse among their clients, and to discuss and address the issue.

Transgender persons

14. Transgender persons, also referred to as trans persons, are a vulnerable group in Dutch society. Trans persons are people whose gender identity and/or expression is different from the gender

¹⁴ The double sexual standard is especially strong in Moroccan and Turkish communities, see: De graaf, H., Egten, C. van, Hoog, S. de, Berlo, W. van (2009). *Seksualisering: aandacht voor etniciteit. Een onderzoek naar verbanden met opvattingen en gedrag van jongeren* [Sexualisation: attention for ethnicity. A research into the relation with attitudes and behaviors of young people], Utrecht: Rutgers WPF.

¹⁵ Lammers, M. (2002). *Mannen en vrouwen met een handicap en seksueel misbruik. Ongezien?* [Men and women with a disability and sexual abuse: Unnoticed?] Utrecht: Movisie

¹⁶ Kedde, H. (2006). *Seksualiteit en seksuele gezondheid bij ziekte en handicap* [Sexuality and sexual health among people with illness and disability]. Utrecht: Rutgers Nisso Groep.

¹⁷ Gesell, S., Maris, S., Berlo, W. van & Haastrecht, P. van (2010). *Slapende honden wakker maken? Quickscan van het interventieaanbod ter bevordering van seksuele gezondheid voor mensen met een beperking of chronische ziekte.* [Wake up the sleeping dogs? Quickscan of availability of interventions for the sexual health of people with a disability or chronic disease] Utrecht: Rutgers Nisso Groep

¹⁸ Berlo, W. van, De Haas, S., Van Oosten, N., Van Dijk, L., Brants, L., Tonnon, S., & Storms, O. (2011). *Beperkt weerbaar. Een onderzoek naar seksueel geweld bij mensen met een lichamelijke, zintuiglijke of verstandelijke beperking.* [Limited defense. A research on sexual violence and people with a physical, sensory or mental disability] Utrecht: Rutgers WPF/Movisie.

assigned to them at birth. They form a diverse group of people who differ with regards to their gender identity (man, woman or other), bodily experience and need of medical transition. The umbrella term 'transgender' encompasses among others cross-dressers (transvestites), transgenderists, genderqueers and transsexual persons. As there is no consensus within the transgender community about the precise meanings of these terms, we will here use 'transgender' as an umbrella term and specify other characteristics if needed. Furthermore, 'trans woman' refers to a woman who was assigned 'male' at birth and 'trans man' to a man who was assigned 'female' at birth.

15. Although the first article of the Dutch constitution states that all people should be treated equally, discrimination of transgender persons does happen. In 2010, Rutgers WPF investigated the employment situation of Dutch and Belgian transgender persons. It was concluded that transgender persons form a vulnerable group on the labor market.¹⁹ Recently, Rutgers WPF conducted an exploratory investigation on safety, freedom and visibility of transgender persons in The Netherlands.²⁰ Results indicate that transgender persons often face social exclusion. Furthermore, they run the risk of being violated and/or harassed on the basis of their gender expression. This is especially the case for those trans persons whose gender expression challenges gender norms, such as trans women whose appearance still shows traces of them being born as a man, trans persons who just started the process of medical sex reassignment, and trans persons with a non-binary gender identity and/or expression.
16. A recent Human Rights Watch report on the position of transgender persons in The Netherlands²¹ pointed out that a trans person's gender identity can only be legally recognized by the Dutch government if the person involved is biologically infertile as a result of surgical removal of ovaries and womb (birth-assigned females) or testicles (birth-assigned males).²² However, a trans person may not wish to have sex re-assignment surgery. Moreover, for those who do wish to have such surgery, it takes many years between applying for medical sex reassignment and actually having surgery, while living as one's identified gender is in fact a compulsory first step of medical treatment (the so-called 'Real Life Experience'). Both facts mean that many trans persons have identity papers which do not match their lived gender.
17. Recently, the government has presented a bill to reform this law;²³ however, the proposed new law shows many limitations. For example, trans persons would only have their gender legally recognized if 'experts' can affirm their 'deep-felt belief of belonging to the other sex' (who counts as an expert has not yet been specified). Also, trans persons' parenthood status would not be legally recognized according to their identified and lived gender. For example, if a trans woman uses refrigerated semen to reproduce children with her female partner, the trans woman can only be legally recognized as its father. Finally, the proposed law does not allow for gender recognition of trans youth under 18. Neither are trans people with a non-binary gender identity (who do not identify as either 'man' or 'woman') recognized in the new law, as there are no other legally valid gender options than 'male' or 'female', and as it is obligatory to be registered as one of these two.
18. In the Netherlands, transgender persons with a need for hormone therapy, sex reassignment surgery (SRS) and/or other medical adaptations have access to these forms of medical care, and a large proportion of these medical costs are covered by health insurance. However, the available care still shows many limitations.
19. First of all, for many reasons trans persons can have a wish for partial sex reassignment instead of the "full package" of hormone therapy and SRS. Although the gender teams of university

¹⁹ Vennix, P. (2010). *Transgenders en werk: Een onderzoek naar de arbeidssituatie van transgenders in Nederland en Vlaanderen*. [Transgender and labor: A research on the employment situation of transgender persons in The Netherlands and Flanders] Utrecht: Rutgers Nisso Groep.

²⁰ Kedde, H. & Van Berlo, W. (2011). *Vrijheid en zichtbaarheid: Kwalitatief vooronderzoek naar transgenders en veiligheid*. [Freedom and visibility: qualitative preliminary research on transgenders and safety.] Utrecht: Rutgers WPF.

²¹ Human Rights Watch (2011). *Controlling Bodies, Denying Identities: Human Rights Violations against Trans People in the Netherlands*.

²² Article 1:28 of the Dutch Civil Code reads: Transsexuality and a change of the birth certificate - 1. Every person of Dutch nationality who is convinced he is of another gender than marked on his birth certificate and who is physically adjusted to the desired gender insofar this is possible and acceptable from a medical and psychological point of view, may request the District Court to order a change of the description of his gender on his birth certificate, if this person is marked on the birth certificate as a male and he is definitely incapable of procreating children or if he is marked on his birth certificate as a female and he is definitely incapable of giving birth to children.

²³ Wijziging bepalingen boek 1 BW ivm transgenders <https://www.internetconsultatie.nl/transgenders>

medical centres VUMc and UMCG are slowly starting to recognize this need, it is often difficult or even impossible for trans persons to negotiate such treatment.²⁴ Especially a sole wish for surgery without hormone treatment is hard to obtain. There has up to now only been one case in which a female-to-male trans person with a non-binary gender identity was allowed chest surgery without hormone therapy.²⁵

20. Secondly, not all medical adaptations are covered by health insurance.²⁶ For example, breast augmentation is not covered for trans women, even though hormone treatment does in many cases not or hardly induce any breast formation. An example of trans men's treatment that is not covered is their erection implantation if they had phalloplasty (the construction of a neo-phallus).
21. Secondly, due to a lack of medical capacity, the gender teams' waiting lists for sex reassignment are extremely long. There is no officially accessible information regarding these waiting lists, but Transgender Network Netherlands estimates one year for the diagnostical phase, one year for vaginoplasty (the construction of a neo-vagina), and 3 to 5 years for phalloplasty). The government has recognized this as a problem and is currently investigating the possibilities, but has not promised any improvement.²⁷
22. Finally, there is a general lack of psycho-social care before, during and after medical transition. Trans people do have the possibility to take part in self-help groups in which they exchange information among each other. However, the care thus offered is not professional and is in many cases insufficient.
23. **Recommendations**
 - a) The Ministry of Health, Welfare and Sport should instruct primary health care workers to give information about reliable contraceptives, facts and myths, making the right choice and how to use contraceptives effectively.
 - b) The Ministry of Health, Welfare and Sport should reintroduce contraceptives as a part of basic health insurance for all women, regardless of age and legal immigration status.
 - c) The Ministry for Education, Culture and Science should implement comprehensive sexuality education in primary, secondary school and in the special education system.
 - d) The Ministry for Education, Culture and Science and the Ministry of Health, Welfare and Sports should ensure that teachers in primary, secondary and special schools have knowledge and skills concerning comprehensive sexuality education. Special attention must be paid to the needs of people with intellectual, physical and sensory disabilities, parents, young people seeking asylum and people from diverse ethnic, linguistic, and religious backgrounds. Knowledge and skills necessary for sensitivity of (the prevention of) sexual abuse of people with disabilities should be included in teacher and vocational training.
 - e) The Ministry of Health, Welfare and Sport should continue the funding of the national awareness raising multi media campaign to contribute to the prevention of sexual coercion and sexual violence in relationships of youth while making these campaigns accessible, understandable and usable for people with disabilities and/or a different language background.
 - f) The Ministry of Health, Welfare and Sport must ensure that institutions for people with disabilities have an adequate policy with regard to sexuality in general and sexual abuse in particular, and that this policy is also implemented;
 - g) The Ministry of Health, Welfare and Sport must make easily accessible information available for people with physical disabilities or disease concerning the effect of their disability on sexual functioning and fertility.
 - h) The Ministry of Health, Welfare and Sport must ensure that professionals working with people with a disability have adequate knowledge and skills to signal sexual abuse, and to support and treat victims of sexual abuse.
 - i) The Ministry of Education, Culture and Science and the Ministry of Security and Justice should include gender diversity and trans gender people in government-subsidized antidiscrimination projects and campaigns.

²⁴ According to experts of Transgender Network Netherlands, www.transgendernetwerk.nl. The current procedures do not allow a person to have a sex reassignment operation without first having hormone treatment due to hospital regulations which are not in line with the World Professional Association for Transgender Health standards of care protocols.

²⁵ http://www.transman.nl/nieuws_bericht.php?p=846

²⁶ According to experts of Transgender Network Netherlands, www.transgendernetwerk.nl

²⁷ <https://zoek.officielebekendmakingen.nl/ah-tk-20102011-2827.html>

- j) The Ministry of Social Affairs and Employment should instruct the UWV - the Dutch public agency responsible for (re) integrating people in the job market -to train their job coaches to support trans gender people who face discrimination on the labor market.²⁸
- k) The new bill on gender recognition should be implemented with the following adaptations:
 - I. Make trans people's self-declared gender identity leading for instead of experts' judgment
 - II. Legally recognize trans people who have children after their transition as parents in their identified gender.
 - III. Enable registration of non-binary gender identities, for example by enabling "other" as a third option alongside "male" and "female" on passports, driving licenses and other means of identification.
 - IV. Permit partial medical sex reassignment.
- l) The Ministry of Health, Welfare and Sport should ensure that health insurance covers all medical costs of transition.
- m) The Ministry of Health, Welfare and Sport should allocate financial means to the elimination of waiting lists for medical sex reassignment.
- n) The Ministry of Health, Welfare and Sport should allocate financial means to psycho-social care to be included in the process of medical transition.
- o) The Ministry of Health, Welfare and Sport should allocate financial means to research on transgender issues, especially concerning their social position and sexual and reproductive health.

²⁸ UWV is the Uitvoeringsinstituut Werknemersverzekeringen, the Dutch agency which tries to limit the number of people receiving government benefits by (re) integrating people into the job market. People without employment in the Netherlands have to visit their (re)integration officer on a regular basis in order for them to keep their benefits.