



Alternative report for the 89<sup>th</sup> session of the Pre-Sessional Working Group of  
Committee on the Rights of the Child

The Netherlands

Joint NGO submission by:

NNID - Netherlands organisation for sex diversity

COC Nederland

TNN – Transgender Netwerk Nederland

April 2021

## Recommendations

- Implement further measures to protect trans and gender diverse children from all forms of physical or mental violence, injury, abuse, neglect or negligent treatment, maltreatment, including sexual abuse.
- Improve the data collection on domestic violence and abuse of LGBTI children, with explicit attention to domestic violence and child abuse of transgender and gender diverse children.
- Implement further measures to guarantee the highest standard of health for trans children, which also include steps to guarantee that trans children do not get deprived from gender affirmative mental health support in case of absence of a mental health diagnosis.
- Take legal action to ensure that no child is subjected to non-necessary medical interventions, and intrusive and irreversible treatments, that can be safely deferred until a later age when these children can provide personal, prior, free, and fully informed consent.
- Install a legal ban that explicitly protects intersex children from harmful practices, in line with the criminal law articles on female genital mutilation.
- Provide impartial and free counselling services and psychological and social support for all intersex children and their families, and train medical, psychological and social professionals so as to inform them of the consequences of unnecessary and non-urgent surgery and other medical treatment to decide on the sex of the child where those procedures may be safely deferred until children are able to provide their informed consent.
- Guarantee the existence and improvement of the headline targets for education on sexual diversity, and addition of headline targets on gender diversity and sex diversity.
- Ensure that the Inspectorate of Education monitors laws and regulations closely and takes appropriate measure in case of non-compliance by schools.
- Implement measures to end rejection of LGBTI students in schools and to guarantee the acceptance of LGBTI students in the educational system.
- Implement measures to make all schools safe and welcoming to all students, for example by making gender inclusive facilities mandatory in all schools.
- Undertake action to prohibit ‘identity agreements’ that reject sexual, gender, and sex diversity.
- Implement measures to guarantee structural attention to sexual, gender, and sex diversity in teacher education.

- Create an LGBTI inclusive anti-bullying policy and take more extensive measures to decrease the number of suicidal thoughts and suicidal attempts among LGBTI children.
- Implement adequate policy measures in line with the Equal Treatment Act to explicitly protect LGBTI children against discrimination.
- Present a draft bill on the legal prohibition on ‘curative’ therapy and formulate adequate policy measures to prevent that LGBTI children are subjected to treatment aimed at ‘curing’ their sexual orientation, gender identity or sex characteristics.
- Present a draft bill on legal gender recognition that is aimed to provide a fast, transparent and accessible procedure based on the respect for the free, informed choice, to confirm the gender of a child as part of their identity, when the lived gender of the child does not correspond to the assigned gender at birth.
- Guarantee continued research into the position of LGBTI people, including children, within Dutch society.
- Conduct more research into intersectional issues that affect LGBTI people with diverse backgrounds (for example by the Netherlands Institute for Social Research (SCP)).
- Take targeted measures in the context of the Sustainable Development Goals to leave no one behind.

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## Introduction

NNID, TNN, and COC Nederland<sup>1</sup> have taken note of the procedure to submit an alternative report regarding the report of the Kingdom of the Netherlands under article 44 of the Convention on the Rights of the Child.

This alternative report highlights the key issues that affect lesbian, gay, bi+, transgender and intersex (LGBTI) children in the Netherlands. The report also provides more detailed information regarding question 18 in the List Of Issues Prior to Reporting (LOIPR) and gives more contextual information to the answer that is provided by the Kingdom of the Netherlands in the State party report under LOIPR.

In recent years, the Dutch government has taken extensive measures to improve the situation of LGBTI children. Since 2020, the Equal Treatment Act explicitly includes the legal status of transgender and intersex persons. The government also supports multiple initiatives that support LGBTI children.

Despite the existing policy measures, LGBTI children are still victim of persisting human rights violations, bullying, domestic violence, and abuse. The Netherlands has dropped in several rankings in which countries are ranked based on their policy and legislation on sexual, gender, and sex diversity<sup>2</sup>. Effective legislative, administrative, judicial, and other measures are needed to ensure the equality of LGBTI children.

Information on the current situation of LGBTI children in the Netherlands is presented in different paragraphs that are linked to the relevant articles of the Convention of the Rights of the Child. Recommendations to the State Party are formulated at the end of each paragraph.

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<sup>1</sup>**NNID Foundation** is an intersex-led human rights organization working for the equality, rights, and visibility of intersex people, **TNN** (Transgender Netwerk Nederland) works on the acceptance of gender diversity and the equality of transgender persons, **COC Nederland** is the largest Dutch LGBTI organization in the Netherlands. The three organizations are part of an alliance funded by the Dutch Ministry of Education, Culture, and Science ([https://www.tweedekamer.nl/kamerstukken/brieven\\_regering/detail?id=2017Z05577&did=2017D11620](https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2017Z05577&did=2017D11620) )

<sup>2</sup> **ILGA Europe** (2020) Country Ranking <https://www.ilga-europe.org/rainboweurope/2020>

## General trends

### Discrimination [art. 2]

LGBTI children are at a higher risk for facing social challenges and discrimination. Being part of LGBTI can intersect with discrimination based on a child's or his, her, or their parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic, or social origin, property, disability, birth, or other status.

In spite of recommendations from CESCR in 2017, and the recognition of these issues in the 'emancipation letter', that the government published in 2018, data regarding these intersecting forms of discrimination remains lacking. Data collection regarding the position of LGBTI people has to be continued. In such research, focus on the intersection of multiple forms of discrimination is needed. Proper knowledge on the complexity of intersectionality is necessary to formulate inclusive policy measures.

Recommendations:

**Guarantee continued research into the position of LGBTI people, including children, within Dutch society.**

**Conduct more research into intersectional issues that affect LGBTI people with diverse backgrounds (for example by the Netherlands Institute for Social Research (SCP)).**

**Take targeted measures in the context of the Sustainable Development Goals to leave no one behind.**

## Legal gender recognition [art. 3, art. 8]

As of 2014, citizens from age 16 onwards can access legal gender recognition through an administrative procedure<sup>3</sup>. The only requirement is an expert letter from a physician or psychologist with an expertise in gender dysphoria. Under the current law, legal gender recognition is not possible for citizens younger than 16. One exception is the gender registration of intersex children, but these procedures are not part of the laws on legal gender recognition.

The current legislation on legal gender recognition is under review by the Department of Justice and Safety. In response to the review, the Dutch government has proposed to make legal gender recognition available to children under the age of 16. The expert letter will no longer be necessary for people older than the age of 16, but children under the age of 16 must get approval of a judge for their legal gender recognition.

Regarding the current legislation, the proposal is an improvement, but it does not meet the minimum standards to facilitate legal gender recognition to children under the age of 16 in a quick, transparent, and accessible procedure. The proposal does not fulfill the need for respectful of free and informed choice, as is called for by among others the Committee for the Rights of the Child in the 2017 Joint Statement<sup>4</sup>.

Recommendation:

**Present a draft bill on legal gender recognition that is aimed to provide a fast, transparent and accessible procedure based on the respect for the free, informed choice, to confirm the gender of a child as part of their identity, when the lived gender of the child does not correspond to the assigned gender at birth.**

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<sup>3</sup>Ministerie van Veiligheid en Justitie, Informatieblad: Wet wijziging vermelding van het geslacht in de geboorteakte (transgenderwet) 2017

<sup>4</sup> Experts of CRC, CAT, independent experts, IACHR, ACHPR, and the Commissioner for Human Rights (2017) *Embrace diversity and protect trans and gender diverse children and adolescents*

## 'Curative' therapy [art. 6]

Various people and organizations in the Netherlands offer treatments with the aim to 'cure homosexuality'<sup>5</sup>. Similar treatments are offered for transgender children. Extensive 'curative' therapies are offered to intersex children, see below. Such treatments are unscientific, unethical, and a form of psychological violence. In May 2019 Dutch parliament passed a resolution asking the government to ban 'curative' therapy, with special attention for LGBTI children<sup>6</sup>. However, this motion did not result in a draft bill for a legal ban on 'curative' therapy.

In January 2021, the Parliament voted in favor of a motion that calls upon the government to present a draft bill on a legal prohibition on 'curative' therapy in the beginning of 2021<sup>7</sup>. This draft bill has not been presented yet.

Recommendation:

**Present a draft bill on the legal prohibition on 'curative' therapy and formulate adequate policy measures to prevent that LGBTI children are subjected to treatment aimed at 'curing' their sexual orientation, gender identity or sex characteristics.**

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<sup>5</sup> COC Nederland (2019) *COC wil verbod op homogenizing*. Retrieved from <https://www.coc.nl/geloof-cultuur/coc-wil-verbod-op-homogenizing>

<sup>6</sup> <https://www.tweedekamer.nl/kamerstukken/moties/detail?id=2019Z10048&did=2019D20682>

<sup>7</sup> <https://www.tweedekamer.nl/kamerstukken/moties/detail?id=2021Z01059&did=2021D02548>

## Bullying and suicide [art. 19]

The Netherlands does not have an LGBTI inclusive anti-bullying policy, even though homophobic bullying is common in Dutch schools. The 2018 research by Columbia University also found that students experienced various forms of violence. Two out of three students were verbally abused, and the word ‘homo’ (‘gay’) is one of the most commonly used forms of verbal violence in and around schools. The study also found that one in four students was physically harassed (shoving, pushing) and 6,4% was physically assaulted (punching, kicking or injured with a weapon).

Bullying leads to physical and mental health problems, it obstructs the personal and social development of the child, leads to depression and increases the risk for children to become violent themselves<sup>8</sup>. Furthermore, feeling unsafe at school leads to absenteeism, which can negatively affect the school results of LGBTI children. The Committee on the Rights of the Child, in General Comment 13, states that protection from violence includes protection from psychological and physical bullying. The Netherlands has the obligation to prevent violence against LGBTI children and adolescents.

Recommendations:

**Create an LGBTI inclusive anti-bullying policy and take more extensive measures to decrease the number of suicidal thoughts and suicidal attempts among LGBTI children.**

**Implement adequate policy measures in line with the Equal Treatment Act to explicitly protect LGBTI children against discrimination.**

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<sup>8</sup> Van Rossenberg, S. (2014). *LHBTI-kinderen in Nederland*. Amsterdam: COC Nederland.

## Education [art. 28, art. 29]

In recent years, multiple cases of rejection of LGBTI students in high schools were reported<sup>9</sup>. Research showed that 1 in 5 reformatioal schools in the Netherlands explicitly rejects homosexuality<sup>10</sup>. The results also show that these schools do not accept gender- and sex diversity and have strict rules that define how male and female students should behave. Most of these schools have a mandatory ‘identity agreement’ that parents and students must sign in which sexual, gender and sex diversity are rejected.

Although the Dutch government has a structural commitment to improve the situation of LGBTI children within the education system, such as the Gender and Sexuality Alliances (GSA’s) in schools, more action is needed to protect the safety and wellbeing of LGBTI students in the educational environment. A 2018 research by Columbia University into the experiences of LGBTI youth in Dutch schools found that nearly half (47,1%) of the participating students reported that teachers and other school staff did not intervene when confronted with homophobic remarks<sup>11</sup>. Transgender children receive threats and face violence at school. European research conducted in 2019 found that half the intersex children (ages 15-17) in Europe experienced bullying, national figures are not available.<sup>12</sup>

In 2012, the headline targets (‘kerndoelen’) were adjusted; since then, schools are required to offer education on sexual diversity<sup>13</sup>. In 2016 the Dutch Inspectorate of Education reviewed the headline targets and found that implementation still falls short. Schools and teachers are generally willing to implement the headline targets but lack knowledge, and the government does not provide clear guidelines<sup>14</sup>. The Inspectorate found that education on sexual diversity, gender diversity, and sex diversity are not part of the regular curriculum; schools did not develop a vision or concrete goals for implementing the headline targets, and schools did not keep track of results of education on sexual diversity. Although the Dutch inspectorate published a thematic report, there is no structural monitoring of the headline targets. The headline targets are still under review, and it is unclear whether the renewed headline targets would be an improvement and offer a clear standard for schools to strive towards.

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<sup>9</sup> <https://www.trouw.nl/religie-filosofie/mogen-reformatorische-scholen-eisen-dat-ouders-homoseksualiteit-afwijzen-verbieden-zet-alleen-maar-kwaad-bloed~be296ea6/>

<https://www.nrc.nl/nieuws/2021/03/26/school-duwt-kinderen-ongevraagd-uit-de-kast-a4037387>

<sup>10</sup> <https://pointer.kro-ncrv.nl/een-op-de-vijf-reformatorische-scholen-vindt-homohuwelijk-moreel-onacceptabel>

<sup>11</sup> **Pizmony-Levy, O.** (2018). *The 2018 Dutch National School Climate Survey Report. Research Report*. New York: Teachers College, Columbia University.

<sup>12</sup> **European Union Agency for Fundamental Rights (FRA)**. A long way to go for LGBTI equality. 2020. <https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>

<sup>13</sup> **COC Nederland** (2012) *LHBT-voorlichting eindelijk verplicht*. Retrieved from <https://www.coc.nl/jong-school/lhbt-voorlichting-eindelijk-verplicht>

<sup>14</sup> **Inspectie van Onderwijs** (2016) *Omgaan met seksuele diversiteit*. Utrecht: Inspectie van Onderwijs.

Recommendations:

**Guarantee the existence and improvement of the headline targets for education on sexual diversity, and addition of headline targets on gender diversity and sex diversity.**

**Ensure that the Inspectorate of Education monitors laws and regulations closely and takes appropriate measure in case of non-compliance by schools.**

**Implement measures to end rejection of LGBTI students in schools and to guarantee the acceptance of LGBTI students in the educational system.**

**Implement measures to make all schools safe and welcoming to all students, for example by making gender inclusive facilities mandatory in all schools.**

**Undertake action to prohibit ‘identity agreements’ that reject sexual, gender, and sex diversity.**

**Implement measures to guarantee structural attention to sexual, gender, and sex diversity in teacher education.**

## Intersex

Harmful practices [art. 2, art 12, art. 16, art. 19, art. 24, GC no. 13, 15 & 18]

Harmful practices for intersex children include non-necessary medical interventions, and intrusive and irreversible treatments, that can be safely deferred until a later age when these children can provide personal, prior, free, and fully informed consent. Intersex children continue to be confronted with high levels of medicalization and pathologization. Intersex is not a disease. However, intersex people are often treated by society and health workers as if they have a defect to be fixed by surgery and medicine. These practices are supported by the European Society for Pediatric Urology and the Society for Pediatric Urology.<sup>15</sup> While there are strict laws prohibiting female genital mutilation, there are no limits to adjusting the genitals or reproductive organs of girls as long as they are first assigned a medical diagnosis to indicate that they are intersex. These treatments include surgical interventions, to adjust the appearance of external sex characteristics and to remove internal reproductive organs that are not in line with the assigned sex<sup>16</sup>, hormone treatments, and psychological treatments to enforce and strengthen the assigned sex and gender.

It is often denied these procedures still take place. However, newspapers show that a number of young children undergo genital surgery every day according to several urologists<sup>17</sup> and an endocrinologist<sup>18</sup>. At medical conferences, presentations on DSD still detail cases and the surgical techniques used. It is often denied that these procedures still take place. A Dutch urologist said at a conference:

*'And in a very large proportion of children who are born with sex characteristics that are a little unclear we often find no [medical] cause and you end up calling it a severe form of hypospadias. So it was with this little boy. And these parents had a strong desire to have this child operated on so that he would look a little more boyish. We do that kind of surgery as*

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<sup>15</sup> ESPU - SPU Consensus statement 2020: Management of Differences of Sex development (DSD). Draft published online at: <https://www.espu.org/members/documents/383-espu-spu-consensus-statement-2020-management-of-differences-of-sex-development-dsd> (accessed 20 April 2020).

<sup>16</sup> Shnorhavorian M. Fechner PY, Disorders of Sexual Differentiation. In: Avery's Diseases of the Newborn (Tenth Edition), 2018

<sup>17</sup> **Hulshof A.** Kinderen met een onduidelijk geslacht: soms is vroeg opereren beter dan niets doen: Interview Kinderuroloog Barbara Kortmann Amsterdam, Nederland 2021 [adjusted 24 februari 2021; accessed 26 maart 2021]. 24 februari 2021. URL: <https://www.trouw.nl/zorg/kinderen-met-een-onduidelijk-geslacht-soms-is-vroeg-opereren-beter-dan-niets-doen~b4f45d:-/>. "Hopefully in twenty, thirty years these children will be much more accepted. Unlike in the past, many parents today have no problem at all if their child is homosexual. Although of course there is still a lot of gay discrimination in the Netherlands."

**de Jong TPVM, Salvatore C.** Achterhaalde misstanden. De Volkskrant. 6 June 2015, Pagina 21 Sect. Opinie en Debat, Rubriek U.

**Joosten O.** Iedere week wordt er in Nederland een kindje geboren met een onduidelijk geslacht [Brandpunt]. Hilversum, Nederland: KRO/NCRV; 2016 [accessed 22 May 2016]. 26 April 2016. URL: <http://brandpunt.kro-ncrv.nl/brandpunt/iedere-week-wordt-er-in-nederland-eeen-kindje-geboren-met-eeen-onduidelijk-geslacht/>.

**Peters L.** Hoe om te gaan met kinderen van wie het geslacht onduidelijk is. De Volkskrant. 7 april 2018, Pagina 14-16 Sect. Zaterdag.

**Hulshof A.** Wen Long (9) wil gewoon zichzelf zijn, als meisje én jongen. Trouw, 15 October 2020. [Accessed 15 October 2020] URL: <https://www.trouw.nl/cultuur-media/wen-long-9-wil-gewoon-zichzelf-zijn-als-meisje-en-jongen>

<sup>18</sup> **Oosterom R.** 'De eerste reflex van ouders is vaak: Dokter, kunt u het goed maken?'. Trouw. 27 juli 2017, Pagina 7 Sect. Vandaag.

*well.[...] I can tell you, I can't perform magic. I can operate but I don't make perfectly normal penises, not a perfectly normal urethra. So the wish of parents that their child has as normal a dick as other boys, I can't satisfy that.'*<sup>19</sup>

These practices are also described in medical scientific publications<sup>20</sup>, patient information<sup>21</sup> and information for general practitioners<sup>22</sup>. Cools et al. have shown in 2017 that removal of gonadal material for at least a part of the intersex people that underwent these procedures, that these treatments were not necessary.<sup>23</sup> However, A sexologist part of a hospital team that performs these procedures on intersex people indicated in 2020 that these interventions still take place: 'Until recently, and I know there are doctors anno 2019 who tell that at lectures for medical students, those gonads they have to be removed.'<sup>24</sup>

As a result of these unnecessary treatments, these children will often require life-long medical care. Medical procedures can commence even before the birth of an intersex child. However, there is only very limited information available on the results of these interventions, and there even are proven negative consequences.<sup>25</sup> The medical interventions on intersex children are based on '*predict and control*': when an intersex child is born, health professionals try to predict the future gender of the child and control the outcome of this prediction by means of medically unnecessary and irreversible surgery, hormone treatments, other normalizing treatments and psychological support, without the free and fully informed consent of the child<sup>26</sup>. The '*predict and control*' method is a violation of the right of self-determination,

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<sup>19</sup> **Kortmann B.** Genitale chirurgie bij DSD. "Ik kan niet toveren" (Transcription presentation). NVVS Najaarscongress 2019: Geslachtsvariatie en Seksualiteit: voorbij het binaire denken; 29 November 2019; De Reehorst, Ede: Nederlandse Wetenschappelijke Vereniging voor Seksuologie; 2019.

<sup>20</sup> **Davis K.** Dubious equalities and embodied differences: Cultural studies on cosmetic surgery: Rowman & Littlefield; 2003.

<sup>21</sup> **Deem K.** Intersekse kinderen mogen in Duitsland voortaan zelf beslissen over hun lichaam Amsterdam: DPG Media; 2021 [accessed 28 March 2021]. 27 March 2021. URL: <https://www.trouw.nl/buitenland/intersekse-kinderen-mogen-in-duitsland-voortaan-zelf-beslissen-over-hun-lichaam~beff2.46/>.

<sup>22</sup> **Dehue T.** Betere mensen - over gezondheid als keuze en koopwaar. Amsterdam: Uitgeverij Augustus / Atlas Contact; 2014.

<sup>23</sup> **Cools M, Wolffenbittel K P, Hersmus R, Mendonca B B, Kaprová J, Drop S L S, et al.** Malignant testicular germ cell tumors in postpubertal individuals with androgen insensitivity: prevalence, pathology and relevance of single nucleotide polymorphism-based susceptibility profiling. *Human Reproduction*. 2017;32(12): 2561–2573. <https://doi.org/10.1093/humrep/dex300>.

<sup>24</sup> **Barbara Kortman & Rik van Lunsen.** Casuïstiek (Transcription presentation).. NVVS Najaarscongress 2019: Geslachtsvariatie en Seksualiteit: voorbij het binaire denken; 29 November 2019; De Reehorst, Ede: Nederlandse Wetenschappelijke Vereniging voor Seksuologie; 2019.

<sup>25</sup> **Dreger A, Feder EK, Tamar-Mattis A.** Prenatal dexamethasone for congenital adrenal hyperplasia. *Journal of bioethical inquiry*. 2012;9(3):277-294.

**Wallenstein L, Zimmermann M, Sandberg MT, Gezelius A, Nordenström A, Tatja J, et al.** Sex-dimorphic effects of prenatal treatment with dexamethasone. *Journal of Clinical Endocrinology & Metabolism*. 2016; Early release.

<sup>26</sup> **Wolffenbittel KP.** Disorders of sex development: méér dan alleen een andere naam. *Tijdschrift voor Urologie*. 2015;5(1):8-12

**Wolffenbittel K, Crouch NS.** Timing of feminising surgery in disorders of sex development. *Understanding Differences and Disorders of Sex Development (DSD)*. 27: Karger Publishers; 2014. p. 210-221

**Claahsen-van der Grinten HL, Stikkelbroeck MML, Vulsa T.** Informatie voor de huisarts over Adrenogenitaal syndroom (AGS). In: van Breukelen CW, Goren SS, Oude Vrielink S, Woutersen-Koch H, van Veldhuizen E, redactie.: *Bijniervereniging NVACP, Vereniging Samenwerkende Ouder- en Patiëntenorganisaties (VSOP), Nederlands Huisartsen Genootschap (NHG)*; 2011

**UMC St Radboud.** Behandelteam meisjes met adrenogenitaal syndroom (AGS): Patiënteninformatie. Nijmegen, Nederland: UMC St Radboud; 2011.

**De Jong TPVM, Salvatore C.** Achterhaalde misstanden. *De Volkskrant*. 6 juni 2015, Pagina 21 Sect. Opinie en Debat, Rubriek U

bodily integrity, and the right to the highest attainable standard of physical and mental health. This standard is not guaranteed for intersex children, because they are victim of unnecessary, unproven, and unscientific medical treatments.

A Dutch Urologist indicated that some procedures generally take place approximately one year after birth.<sup>27</sup> Naturally, at these ages children cannot provide consent for these unnecessary interventions. No certainty be given on future gender identity of intersex children.<sup>28</sup> Recent European research, which included the Netherlands, has shown that five percent of *all* intersex children change their assigned gender, including those with forms of intersex that are often not recognized at birth. In about 80% of those cases, the shift occurs before puberty.<sup>29</sup> These interventions are mostly irreversible and can lead to intersex children being confronted with a body that does not fit with who they are. Additionally, complications can arise that are comparable both short term and long term with the effects of Female Genital Mutilation, such as pain, infection, damage to the urethra, dyspareunia (painful sexual intercourse), and psychological effects. 45 percent of adult intersex people experience mental health problems, almost 20 percent have suicidal thoughts and almost 7 percent have tried to commit suicide<sup>30</sup> – in general, intersex people suffer from physical and mental health issues throughout their lives.<sup>31</sup> Support for intersex people and parents of intersex children is lacking, and most information that is provided is pathologizing. Psychological support is offered by hospitals that perform these interventions, and by health professionals who are part of the team that decides which procedures will be performed.

While growing up, intersex children are often subjected to regular genital exams, violating their right to privacy. The parents of a Dutch intersex girl reported their shock they found all doctors and nurses they visited requested to see their daughter's genitals.<sup>32</sup> These exams are often repeated by multiple health workers through an intersex child's life. A Dutch Urologist told at a conference that she has specifically chosen to start performing genital examinations

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<sup>27</sup> **Barbara Kortmann:** We opereren alleen een kind met DSD als het hele team, samen met ouders en kind, besloten heeft dat we daar goed aan doen. [https://www.cyberpoli.nl/dsd/interviews/intvw\\_barbarakortman](https://www.cyberpoli.nl/dsd/interviews/intvw_barbarakortman). Accessed 12 December 2019.

<sup>28</sup> **Mouriquand PDE, Gorduza DB, Gay C-L, Meyer-Bahlburg HFL, Baker L, Baskin LS, et al.** Surgery in disorders of sex development (DSD) with a gender issue: If (why), when, and how? *J Pediatr Urol.* 2016. <https://doi.org/10.1016/j.jpuro.2016.04.001>

<sup>29</sup> **Falhammar H, Claahsen-van der Grinten HL, Reisch N, Slowikowska-Hilczner J, Nordenstrom A, Roehle R, et al.** Health status in 1040 adults with disorders of sex development (DSD): a European multicenter study. *Endocrine Connections.* 2018. (<https://doi.org/10.1530/ec-18-0031>).

<sup>30</sup> **De Vries ALC, Roehle R, Marshall L, Frisén L, van de Griff TC, Kreukels BPC, et al.** Mental Health of a Large Group of Adults With Disorders of Sex Development in Six European Countries. *Psychosomatic Medicine.* 2019;81(7):629-640. DOI: 10.1097/psy.0000000000000718

<sup>31</sup> **Falhammar H, Claahsen-van der Grinten HL, Reisch N, Slowikowska-Hilczner J, Nordenstrom A, Roehle R, et al.** Health status in 1040 adults with disorders of sex development (DSD): a European multicenter study. *Endocrine Connections.* 2018. (<https://doi.org/10.1530/ec-18-0031>).

<sup>32</sup> **Lisa Peters,** Wen Long (9) hoeft niet te kiezen tussen jongen en meisje. 16 October 2020. <https://www.oneworld.nl/lezen/seks-gender/lhbt/wen-long-9-hoeft-niet-te-kiezen-tussen-jongen-en-meisje/>

at a pre-pubescent age because children are more cooperative at that time.<sup>33</sup> Adult intersex people have reported that they have experienced these procedures as rape.<sup>34</sup>

Several international institutions have urged for governmental action against Intersex Genital Mutilation (IGM) and have called for action to prohibit unnecessary medical treatments of intersex children. In 2013, the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment called on states to repeal any law allowing intrusive and irreversible treatments, including forced genital-normalizing surgery, involuntary sterilization, “reparative therapies” or “conversion therapies”, when enforced or administered without the free and informed consent of the person concerned. He also called upon them to outlaw forced or coerced sterilization in all circumstances.<sup>35</sup> In 2018, The Committee against Torture (CaT) called upon the Dutch government to prohibit IGM and take measures to protect intersex children<sup>36</sup>. However, the Dutch government explicitly rejected the recommendations of CaT, and denies their responsibility to guarantee high standards of physical and mental health to health care professionals.<sup>37</sup> A transcription of the presentation above was also presented to the Dutch ministries of Education, Culture and Science, and Health, Science and Sports. The fact that health care professionals violate the fundamental human rights of intersex children is not recognized by the Dutch government. This stance leads to further medicalization of intersex children. German research has shown that the number of non-consensual unnecessary medical interventions in Germany have not or barely decreased, while Germany has a longer history than the Netherlands of legislation to protect the human rights of intersex people.<sup>38</sup>

Since many non-consensual unnecessary medical interventions occur when intersex people are infants and children, the statute of limitations for any complaints procedure or legal action has passed by the time they reach adulthood.

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<sup>33</sup> **Kortman B.** Genitale chirurgie bij DSD. “Ik kan niet toveren”, NVVS Najaarscongres Geslachtsvariatie en Seksualiteit: 'Voorbij het binaire denken', 29 November 2019, Ede, The Netherlands. “I tell them that before they come into puberty, that's when they are often still very open to information and they're not seated across me being irritable. Yes, that is really the time to explain it to them. And to do a physical examination together, because in puberty they find it embarrassing. And if I have seen it before puberty, and I know more or less what it looked like, then I can just talk with them. That physical examination is not nice at all for a lot of people. [They will say:] "Oh then I have to go to that doctor, then I have to take off my underpants again". So, I try to minimize that.” (translated from Dutch to English). Audio recording and transcription available through contact information below.

<sup>34</sup> **A. Tukker.** Spoken Word at Mama Cash Feminist Festival 8 March 2018. <https://www.facebook.com/nnid.nl/videos/1867630819982852>

<sup>35</sup> **Juan E. Medez** Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Medez, Human Rights Council, 1 February 2013 (A/HRC/22/53).

<sup>36</sup> **Committee against Torture** Netherlands: Concluding observations

<sup>37</sup> **B.J. Bruins** Reactie op het verzoek van het lid Özütok, gedaan tijdens de Regeling van werkzaamheden van 11 december 2018, over het bericht dat de VN-commissie Nederland op de vingers tikt op het gebied van intersekse rechten (2019)

<sup>38</sup> **Hoenes J, Januschke E, Klöppel U.** Häufigkeit normangleichender Operationen „uneindeutiger“ Genitalien im Kindesalter: Follow Up-Studie. Bochum, Deutschland: Ruhr-Universität Bochum, Fakultät für Sozialwissenschaft; 2019. <https://doi.org/10.13154/rub.113.99>

**Klöppel U.** Zur Aktualität kosmetischer Operationen „uneindeutiger“ Genitalien im Kindesalter. Zentrum für transdisziplinäre Geschlechterstudien, Dezember 2016. Rapport Nr. 42. <https://doi.org/10.25995/12>

Recommendations:

**Prohibit unnecessary medical or surgical interventions, in line with the criminal law articles on female genital mutilation, including clearly defined punishment for perpetrators. And take all legislative, administrative, and other measures necessary to guarantee no child is subjected to unnecessary intrusive and irreversible psychological, medical, or surgical treatments, that can be safely deferred until a later age when these children can provide personal, prior, free, and fully informed consent.**

**Provide impartial and free counselling services and psychological and social support for all intersex children and their families, and train medical, psychological, and social professionals so as to inform them of the consequences of unnecessary and non-urgent surgery and other medical treatment to decide on the sex of the child where those procedures may be safely deferred until children are able to provide their informed consent.**

## Transgender

### Waiting lists & depathologisation [art. 24]

Transgender health care for minors, medical as well as mental health care, is insufficiently available in the Netherlands. The waiting time for intake to access specialized medical healthcare has risen substantially to 77 weeks<sup>39</sup>. Especially for trans and gender diverse children who are entering or have started puberty this waiting time is a burden on their mental health. Although the Dutch government participates in a process to reduce waiting lists, it is uncertain if shorter waiting times are feasible with the current plans.

Mental health support for minors is part of the decentralized youth care in the Netherlands. The decentralization causes additional problems in youth care for trans and gender diverse children, because most municipalities have not contracted specialized care. It leads to cases in which trans and gender diverse children do not have access to the appropriate health care.

A positive trend is the depathologisation of transgender identities. As of 2020, the International Classification of Diseases will no longer view transgender people (including children) as having a mental disorder because of their gender identity. Nonetheless, mental health support for trans and gender diverse children is necessary, because their mental health is subjected to stigma and abuse.<sup>40</sup> Especially for pre-pubertal trans and gender diverse children, mental health professionals play an important role in creating a supportive and accepting network and environment around the child<sup>41</sup>

Recommendation:

**Implement further measures to guarantee the highest standard of health for trans children, which also include steps to guarantee that trans children do not get deprived from gender affirmative mental health support in case of absence of a mental health diagnosis.**

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<sup>39</sup> **Kwartiermaker Transgenderzorg** (Zorgvuldig advies), verlichting van knelpunten in de transgenderzorg, 2019

<sup>40</sup> **Sociaal en Cultureel Planbureau**, LHBT monitor, 2018

<sup>41</sup> **American Academy for Pediatricians**, policy statement: Ensuring Comprehensive Care and Support for Transgender and Gender Diverse Children and Adolescents, 2018

## Domestic violence & child abuse [art. 19]

Recent research on child abuse showed that transgender children experience twice as much abuse as cisgender children<sup>42</sup>. ‘Safe at Home’, the organization that monitors child abuse, admitted that they do not have any contact with transgender children<sup>43</sup>. This implies that the child abuse of transgender children is not reported. The difference between the research data and reported cases has to be investigated more thorough.

More awareness of domestic violence and the child abuse of trans and gender diverse children is needed. Health care professionals, teachers, and other people that have a role in reporting child abuse, need to be more aware of the risks of child abuse and domestic violence against trans and gender diverse children.

Recommendations:

**Implement further measures to protect trans and gender diverse children from all forms of physical or mental violence, injury, abuse, neglect or negligent treatment, maltreatment, including sexual abuse.**

**Improve the data collection on domestic violence and abuse of LGBTI children, with explicit attention to domestic violence and child abuse of transgender and gender diverse children.**

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<sup>42</sup> Sociaal en Cultureel Planbureau, LHBT monitor, 2018

<sup>43</sup> verbal information shared by ‘Safe at Home’, mentioned in a meeting, June 2019