

LGBTI children in the Netherlands

Report on the environment and rights of a forgotten group of vulnerable children

COC Netherlands

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Introduction

Children have their own rights, and all children must be equally entitled to all these rights. The International Convention on the Rights of the Child (hereinafter referred to as the CRC) establishes children's rights in terms of protection, provision and participation. However, for certain groups of often vulnerable children, it is sometimes difficult to ensure these rights are upheld. The state bears additional responsibility for children who require special protection or care. Lesbian, gay, bisexual, transgender and children with an intersex condition, collectively referred to in the abbreviated form as LGBTI children, also fall under the government's additional duty of care. During their development, this group of children and young people become aware that they do not meet the prevailing expectations in the Netherlands in terms of sexual orientation, gender identity and gender expression or sex characteristics. The aim of this report is to provide an insight into the rights of these children.

The Dutch government is required to report to the UN Committee on the Rights of the Child on the status of children and compliance with children's rights in the Netherlands. The most recent report made virtually no mention of LGBTI children. This is remarkable, as the Netherlands stimulates and finances a considerable amount of research, policy and projects in the area of acceptance of sexual and gender diversity. While we should applaud the continued efforts made by the Dutch government for these children in the most important area, namely education, in terms of their rights, LGBTI children remain invisible.

This report uses the articles of the CRC as a basis for providing an initial overview of LGBTI children's rights. The results reveal there is much more to say about LGBTI children than stated by the Dutch government and children's rights organisations in their reports. Even this overview provides only a partial glimpse of the situation.

However, this report clearly shows that the protection and support of LGBTI children requires additional efforts in all areas of life addressed by the CRC. The CRC articles provide the guidelines for identifying the various aspects of the environment and the welfare of these children. The recommendations presented to the Netherlands, the Children's Ombudsman, various children's organisations, parents and guardians and to educators indicate priorities for promoting the rights of LGBTI children.

A summarised English version of this report will be submitted to the UN Committee on the Rights of the Child as an NGO report alongside the periodic Dutch report. LGBT organisations from Guyana, Luxembourg and Russia have already reported to the UN Committee on the Rights of the Child about the status of LGBTI children in their countries. It is the first time that an interest group in the Netherlands has used the CRC to report on LGBTI children. COC Nederland hopes the Dutch government and children's rights organisations will from now on include the rights of LGBTI children in their reports.

COC Nederland would like to thank all experts interviewed, and all persons and bodies that have contributed information, suggestions and contacts, the transgender young people who completed the questionnaire and particularly for her invaluable advice and support, Aysel Sabahoglu, programme manager at Defence for Children.

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Suzanne van Rossenberg

Guide to this report

Methodology

This report comprises a combination of a study, a baseline measurement and data collection on LGBTI youth. It became clear during the preparation of the report that available knowledge was fragmented, and that data on LGBTI youth (regarding their protection, provision and participation) has never been considered in relation to the CRC. Secondly, there was virtually no literature or expertise on how the CRC articles should be interpreted by LGBTI children and young people. This report was prepared on the basis of interaction between the mutually reinforcing areas of data collection on LGBTI youth, a study of the policies that apply to them, and the interpretation of the articles of the CRC. In this sense the report is an exploratory study, which represents a renewed commitment to both LGBTI children and children's rights. Information from studies, policy documents and news reports, interviews and the CRC articles has generated many subjects, which can be reported on and researched further. Due to constraints of time and budget, difficult decisions had to be made in terms of the themes dealt with and the chapters presented. For these reasons, the number of discussions with respondents is also limited.

Notes to chapters

The voice of LGBTI children addresses the identity of LGBTI children and provides general information about this group. *LGBTI children's environment* provides information about what it means to be a member of this group. *Parents and guardians* deals with the attention given to the role of parents in the CRC. *Intersex: a 'new' target group* describes the researcher's rationale for including children with an intersex condition in the report.

Education is the longest chapter, as there is a great deal of activity in this respect and studies have shown that efforts in this area can make a substantial difference. This chapter, which is by no means exhaustive, provides an overview of relevant subjects, current policy and most recent developments. *Human rights and children's rights education* has been added, as it was evident this stimulates the emancipation of LGBTI children. *Access to information, young people's activities and role models* relate to children's rights that are vital for the welfare of LGBTI children. *Self-determination* arose from the difficulties faced by transgender children and children with an intersex condition. The purpose of this chapter is to describe how self-determination of LGBTI children is guaranteed and by which articles. *Health care and welfare* is an area where there is the largest diversity between LGB children, transgender children and children with an intersex condition. It is a subject that deserves more research and a wider application of the CRC. *Foreign policy and international cooperation* is an international obligation and improvements are possible in the area of LGBTI children.

Caribbean Netherlands was included on the basis of reports published by UNICEF in 2013. The application of the CRC has significant added value for LGBTI children and local LGBT organisations are required for its implementation. *References* provides background information for the studies, data collection and discussions. Finally, the *Questionnaire for transgender young people* and the *International Convention on the Rights of the Child* are annexed to this report.

LGBTI emancipation

Applying the CRC to LGBTI children is part of LGBTI emancipation. When work on this report began there was virtually no contact between LGBT interest organisations and the organisations or persons involved in the emancipation of people with an intersex condition. Even to date there is no overarching LGBTI movement, that is a movement that is sufficiently inclusive of or sensitive to the issues that

promote the position of people with an intersex condition. Their position is incomparable to that of LGB and transgender people, although the difficulties these individuals face in society such as stigmatisation, discrimination and exclusion, can be seen as binding factors. LGBT interest organisations cannot speak for people with an intersex condition. *Speak with us, not about us*, is a key message from organisations working for the intersex agenda. This dialogue, which is ongoing between the various groups in the LGBT movement, is necessary for shaping emancipation and solidarity, and is made possible because the partners involved in the dialogue make their own positions clear. Due to being commissioned by COC Nederlands to prepare this report, the researcher is one of these partners and therefore discusses developments in this area in the first person.

LGBTI children and young people in this report

Studies and focus groups for lesbian, homosexual and bisexual young people provided their voices for this report, and their opinions are cited herein. For their transgender peers, the results of thirty-nine questionnaires provide the basis for a voice, while the voices of children with an intersex condition are not represented here at all. As the overarching representation of interests of people with an intersex condition is very recent, and as there can be many different intersex conditions, it was not possible to carry out interviews or questionnaires. It is the aim of this report to be as accurate as possible and to only use the overarching term LGBTI when it actually refers to the entire group of people.

Questionnaire for transgender young people

In June 2013 questionnaires were completed by two groups of young people from Transvisie Zorg (a counselling organisation for transgender people). The questionnaire is included as an annex to this report. The Transvisie Zorg group leader distributed the questionnaire and answered any questions that the young people had. The average age of the 10 respondents in the 12-16 age group was 13. The average age of the 29 respondents in the 16-24 age group was 20. In total there were 15 individuals under the age of 18. The questions were formulated in consultation with Transvisie Zorg.

LGBTI children's rights

The rights of LGBTI children are established in the provisions of the International Convention on the Rights of the Child. The provisions of the Treaty and the rights therein sometimes require interpretation in order to be properly applied. The UN Committee on the Rights of the Child therefore regularly publishes the General Comments to explain the potential applications or specific provisions of the Treaty. This spring, the UN Committee on the Rights of the Child published a long-awaited General Comment on the term 'the best interests of the child' (General Comment, no. 14). Furthermore, the recommendations of the UN Special Rapporteurs, the European Convention on Human Rights (ECHR), the EU Charter of Fundamental Human Rights and the Yogyakarta Principles¹ apply. This report primarily uses the CRC as a legal framework. All the articles can be consulted at the end of this report. The children's rights mentioned at the beginning of each chapter are an interpretation of the relevant articles with regard to the rights of LGBTI children.

1 The universal guidelines of international human rights experts for the implementation of international human rights law on sexual orientation and gender identity

Definition of the terms used in this report

- Sexual orientation: the grounds on which heterosexual, bisexual, homosexual and lesbian children differ; sexual preference.
- Gender identity: the child's self-determined identity regarding their sex; the gender identity of a transgender child does not match the child's sex at birth; the gender identity is neither male nor female.
- Gender expression: the way in which the child expresses his or her gender identity.
- Gender identity and expression: the grounds on which transgender children differ from non-transgender children.
- Gender variant: umbrella term for children who have a different gender identity and/or expression to the prevailing norm for girls and boys.
- Gender diversity: diversity in genders; male, female and other.
- Sex characteristics: the grounds on which children with an intersex condition differ from those without an intersex condition.
- Heteronormativity: the prevailing heterosexual norm.
- Gender normativity: the prevailing gender norms.
- Homonegativity: the negative attitude towards homosexuality and bisexuality.
- Homophobia: fear of homosexual and bisexual orientations, people and/or their behaviour.
- Transphobia: fear of transgender and gender variant identities, people and/or their behaviour.

Key conclusions and recommendations

LGBTI children are a vulnerable group. Promoting their welfare and social safety calls for raising greater awareness. This should lead to adults making a continued commitment to this group of children, but should also place this group in a position where they are able to improve their well-being and social safety by themselves. LGBTI youth want homosexuality, bisexuality, gender diversity and intersex conditions to be considered as *normal*. To this end, parents, teachers and social workers should increase their capacity to act, and the Dutch government must enable them to do so.

Education

Schools are required to provide LGBTI children with a socially safe learning environment. The Netherlands makes considerable efforts to promote the social safety of LGBTI school children. From the perspective of children's rights, these efforts can be continued and stepped up.

1. Prevent children from using the word 'homo' as an insult

When a child is insulted by being called a 'homo', it is a form of violence. Children have a right to be protected from all forms of physical and mental abuse. The Ministry of Education, Culture and Science and the Ombudsman for Children shall actively convey that the use of the word 'homo' (by children) as an insult violates the rights of the child. Policy shall be formulated to prevent this form of violence.

2. Provide clarity about providing compulsory attention for sexual diversity in education

Children have a right to information to promote their welfare. It is not clear how and whether compulsory attention for sexual diversity at all primary and secondary schools is implemented and monitored. The Ministry of Education, Culture and Science shall clarify how the new core targets are implemented in education, such as curricular tracks, in mandatory attention for sexual diversity and in the monitoring of the implementation. The Ministry shall ensure that educational methods that create social *insecurity* in LGBTI children are not used.

3. Register violent incidents towards LGBTI children at schools

LGBTI children are entitled to a learning environment that is free from discrimination and which offers protection from all forms of physical and mental abuse. It is insufficiently clear how the anti-bullying approach implemented at all primary and secondary schools guarantees the safety of LGBTI school children. It is essential that incidents are recorded. The anti-bullying approach should also be LGBTI-sensitive. Schools are required to record incidents of violence and discrimination based on sexual orientation, gender identity and gender expression and sex characteristics.

4. Increase teachers' power to act

Too many teachers have a limited power to act. Their lack of knowledge and skills in this area impinge on the rights of LGBTI children to a safe and discrimination-free learning environment. All teacher training programmes for primary and secondary education should include compulsory education about

sexual diversity, gender diversity and intersex conditions. They should also be trained to discuss these subjects openly.

5. Make teaching materials LGBTI-inclusive

LGBTI school children want homosexuality and bisexuality, gender diversity and intersex conditions to be regarded as *normal* at school. Having teaching materials that reflect these issues respects the child's right to information and development. The Ministry of Education, Culture and Science encourages educational publishers and schools to integrate homosexuality and bisexuality, gender diversity and intersex conditions in teaching materials for primary and secondary education.

6. Promote LGBTI human rights and children's rights education

Education on human rights and children's rights education in schools are a child's right. Human rights education about LGBTI people promotes the emancipation and welfare of LGBTI school children. The Ministry of Education, Culture and Science shall ensure the rapid introduction of at schools of human rights and children's rights about LGBTI people at schools.

7. Abolition of the 'sole fact' construction

LGBTI children may not be discriminated against. The Netherlands used to offer certain schools the opportunity to exclude both children and teachers who are openly homosexual. This was referred to as the 'sole fact' construction (*enkele-feitconstructie*), and was included in the Equal Treatment Act (*Algemene Wet Gelijke Behandeling*). The Dutch House of Representatives voted to abolish the 'sole fact' construction on 27 May 2014.

Greater sensitivity for LGBTI children

More research into the well-being and position of LGBTI children is necessary to understand the areas of society where they have problems. The research data form the basis for gaining a perspective on, and promoting children's rights.

8. Stimulate research into LGBTI youth

Research into the welfare and sexual health of LGBTI youth by research institutes is indispensable for the purposes of formulating policy. The Ministries of Education Culture and Science and of Health, Welfare and Sport shall continue to stimulate research into the welfare and sexual health of LGBTI youth.

9. Promote the visibility of children's rights and children with an intersex condition

Almost nothing is known about children with an intersex condition in the Netherlands. Their children's rights have not yet been assessed. The Ministries of Education, Culture and Science and of Health, Welfare and Sport shall stimulate research into the welfare of children with an intersex condition and establish their children's rights.

10. School children's rights organisations in the area of LGBTI

LGBTI children are invisible for the children's rights organisations that are supposed to represent them. Children's rights organisations shall include the rights of LGBTI children in their reports and their objectives.

11. Involvement of LGBTI children's rights in youth care and parental support

LGBTI children are virtually invisible in welfare work, youth care and parental support. A great deal still has to be done to uphold their rights as children. The Ministry of Health, Welfare and Sport shall support the further establishment of LGBTI children's rights in their welfare work, in youth care and in

parental care, promote expertise of civil society and parents in this area, and formulate policy for this.

The right to be heard and participation

The CRC obliges the Netherlands to listen to LGBTI children and to consider their opinion in the policy developed for them. This approach will promote the rights of LGBTI children.

12. LGBTI children are heard

The voice of LGBTI children is barely heard or represented in the Netherlands, and as a result their rights are not respected. The Ministries of Education, Culture and Science and of Health, Welfare and Sport shall promote the participation of LGBTI children in developing the policy that affects them.

Self-determination

Identity, physical integrity and the privacy of children are important for the welfare of LGBTI children. The Netherlands' compliance with the CRC promotes these specific children's rights.

13. Recognition of the gender identity of transgender children

Children have the right to privacy and recognition of their identity. Transgender children experience considerable distress by having the wrong identity papers. Eighty percent of transgender children want to change their sex before they are sixteen and these children have the right to be heard. The Netherlands shall ensure the rapid adoption of the new law for gender identity recognition, which will make it possible for 16 and 17 year old transgender individuals to change their registered sex without medical requirements and judicial intervention. The State Secretary of Security and Justice shall take into account the wishes of transgender children in the evaluation of the age limit for the new act.

14. Study into abolishing gender registration

In the Netherlands a child's gender is assigned at birth, and this obstructs acceptance of gender diversity and has a negative effect on the right of self-determination for transgender children and children with an intersex condition. LGBT children also benefit from the acceptance of gender diversity. Scrapping gender registration promotes the LGBTI children's rights. The Ministry of Security and Justice shall study the possibility of abolishing the requirement to assign a gender at birth.

Foreign policy and development cooperation

The Netherlands is obliged to promote the rights of LGBTI children in the world.

15. The Netherlands is committed to LGBTI children throughout the world

LGBT human rights and sexual and reproductive health and rights (SRHR) are currently priorities of Dutch foreign policy. The position of LGBTI children worldwide is highly vulnerable. With the support of the Netherlands, foreign LGBTI organisations can improve the position of LGBTI children by involving sexual and gender diversity and SRHR in their local and international work. The Netherlands makes efforts in a multilateral context to raise awareness of the rights and position of LGBTI children. The Ministry of Foreign Affairs shall promote activities for LGBTI children and adolescents that are arranged by organisations active in the area of LGBTI and SRHR.

Caribbean Netherlands

The governments of Aruba, Curacao and Saint Martin and the Netherlands are responsible for promoting the rights of LGBTI children on there and on Bonaire, St. Eustatius and Saba

16. The Netherlands, Aruba, Curacao and Saint Martin draw attention to LGBTI children

Insufficient attention is devoted to children within the emerging LGBT emancipation movement in the Caribbean Netherlands. The governments of the Netherlands, Aruba, Curacao and Saint Martin shall enable LGBT organisations in the Caribbean Netherlands to report on situations of LGBTI children and adolescents on the basis of the UN Convention on the Rights of the Child.

17. The Netherlands, Aruba, Curacao and Saint Martin offer protection to LGBTI children

LGBT organisations in the Caribbean Netherlands shall report violence and physical abuse intended to punish or 'cure' homosexuality. LGBT children must be protected from this immediately. The governments of the Netherlands, Aruba, Curacao and Saint Martin shall investigate reports, promote prevention of these practices and provide psychosocial support and security to victims.

The voice of LGBTI children

LGBTI children's rights

- All rights apply to all children, without exception. The government takes measures to uphold these rights and ensure every child is protected against discrimination based on sexual orientation, gender identity and expression and sex characteristics (CRC Article 2, non-discrimination).
- Children have the right to decide their own sexual and / or gender identity) (CRC Article 8, identity).
- Children have the right to give their view on all matters affecting them. The government shall ensure that LGBTI children can freely express that view, and that it will be listened to (CRC Article 12, participation and right to be heard).

Summary

The voice of the LGBTI child does not exist. This is due to the differences in the situations and self-identification of children and adolescents. The target groups are also to varying degrees invisible. It is recommended that parents, teachers and social workers listen to the words children use to talk about sexual and gender diversity. The government must do more to support the voice of LGBTI children and adolescents in emancipation and youth support. They also have the right to have a say in the policy developed for them.

LGBTI, a term for adults

LGBTI is a term conceived by adults. This term makes it possible to refer to a group of people who would otherwise remain invisible in society and policy. The knowledge required to improve the situations of LGBTI persons is transferable and it is therefore possible to provide social workers and teachers, who are often not experts in this area, with training and guidance. Children and adolescents do not use the umbrella term LGBTI. It varies per child and per situation as to whether they use the words lesbian, gay, bisexual, transgender and intersex. Sometimes the negative connotation of the word is reason not to use it. It is important that parents, teachers and counsellors do not attach any negative connotations to these descriptions.

Self descriptions of lesbian, homosexual and bisexual children and adolescents

Research² shows that young people do not like to label their sexual orientation. They find the pigeon holes unnecessary, the labels sound negative to them or they do not yet wish to state their sexual orientation. Young people who are attracted to members of the same sex are usually familiar with the descriptions 'lesbian', 'homosexual' and 'bisexual'. However, a common self-definition is 'gay'. The term 'lesbian' is used much less frequently, probably due to its negative connotation in society. For both boys and girls, the definition 'someone who (also) likes girls/boys' and bisexual are in the top three self-definitions.³ For LGB children and adolescents, feelings, behaviour and label are not always responsive. Of young people who at least feel some degree of attraction to members of the same sex, 24% of boys and 40.6% of girls feel they are heterosexual. Respectively, 10.3% and 13.4% do not yet know what their sexual orientation is or they do not give it a name.⁴

Self-definitions of transgender children and adolescents

Transgender children are children whose experience of their gender does not fully correspond with their gender at birth.

>> Transgender is an umbrella term for people whose gender identity and/or expression differs from the gender assigned to them at birth. This term encompasses a spectrum of gender diverse people, including trans men, trans women, cross dressers and many others who not (only) identify themselves as male or female. (Transgender Network Netherlands)

Of the young people who are registered with the two gender teams of the VU University Medical Centre or the Leiden University Medical Centre (diagnosis and treatment) and / or Transvisie Zorg (psychological support), only a small proportion undergo a medical transition⁵. Children and young people who obtain care and support for their transgender condition are familiar with the word transgender.

COC Netherlands invited 39 young people aged 12 to 24 from the two transgender youth groups of Transvisie Zorg to complete a written questionnaire on how they define themselves. Seventeen of the respondents also used the word transgender. It is a good word to use to explain their difference to other people, but not always the definition they prefer. Transgender has the connotation that the young people referred to as such are not 'really' of the opposite sex. Descriptions referring to the body are also often used (by 14 respondents): being biologically a boy or a girl, but on the inside being respectively a girl or a boy and being born in the wrong body. Gender dysphoria is a medical and psychiatric term to indicate one's gender identity does not match the gender assigned at birth. Three out of ten 12-16 year-olds and only one of the twenty-nine 16-24 year-olds used this word. There are few children and young people who feel as if they are neither male nor female, but this does occur. The term used by adults for this condition is 'gender variant'.

² Van Lisdonk, J. en D. van Bergen, *SameFeelings: een onderzoek onder homojongeren* (a survey among homosexual youth), from: *Steeds gewoner, nooit gewoon* (Increasingly normal, never the norm), *Acceptatie van homoseksualiteit in Nederland* (Acceptance of homosexuality in the Netherlands), Saskia Keuzenkamp (editor), The Netherlands Institute for Social Research, The Hague, June 2010, pp. 139-140; in the report shortened to 'SameFeelings 2010'.

³ SameFeelings 2010, pp. 137 and 139

⁴ Graaf, H. de, H. Kruijer, J. van Acker, S. Meijer, *SEKS ONDER JE 25^e, Seksuele gezondheid van jongeren in Nederland 2012*, (Sex under 25; Sexual health among Young people in the Netherlands 2012) Rutgers WPF/Soa aids Nederland, 2012, p. 34; in the report shortened to 'Sex under 25 years 2012'.

⁵ "In approximately 80% of cases of young children with gender dysphoria, the condition disappears when they enter puberty." Cohen-Kettenis, P.T., *Agendering voor het nageslacht*, VU Medical University Center Amsterdam, Amsterdam, 2013, p. 13

>> “I call myself a boy. But if I have to explain it, I say I’m ‘transgender’.” (age 19)

>> “Trans man (or just ‘man’); In my experience, the word ‘transgender’ makes it sound like I am less of a man.” (age 20)

>> “I’m a biological boy, inside I am a girl.” (age 12)

>> “I was born in the wrong body.” (age 17)

>> “I have gender dysphoria and I want to be a boy.” (age 12)

>> “I am transgender. For me, that means I am not truly a man or a woman, but in between. I call myself queer or transgender.” (age 21)

>> “I’m an in-betweenener.” (age 18)

Self-definition of children and young people with an intersex condition

Intersex is a term used to refer in general to a group of individuals with an intersex condition. In contrast to LGB or transgender, intersex is mentioned to a much lesser extent, or even not at all, as an identity. It is preferable to refer to children and young people *with* an intersex condition. But what is intersex?

>> Intersex is an umbrella term for a variety of congenital conditions where development of the chromosomal, gonadal or anatomical sex is different from the norm. People with intersex conditions usually identify themselves as male or female. Since 2006 doctors have used the term DSD (Disorders of Sex Development), although the word ‘Disorders’ is increasingly being replaced by the word ‘Differences’. The former term, pseudo-hermaphroditism is generally perceived as offensive. (Dutch Intersex/DSD Network)

There is currently insufficient information on how children and young people with intersex conditions describe their differences, and in which situations they are required to do so. The ages in which intersex conditions are detected differs per condition. It may be at birth, at kindergarten age or puberty. There are medical diagnoses available such as Androgen Insensitivity Syndrome (AIS), Mayer-Rokitansky-Küster-Hauser Syndrome (MRKH), Klinefelter Syndrome, Turner Syndrome or micro penis.⁶ There are also more metaphorical descriptions to make the condition understandable for children (and their parents), but which only tell part of the story. We are not used to talking about intersex conditions, and as a result they remain largely invisible, and worse still, are considered taboo. Due to the emerging emancipation of people with intersex condition, the overarching definition has become more well-known. The advantage here is that information becomes more accessible to children and parents.

Figures

>> There are around 3.5 million children under the age of 18 in the Netherlands.

⁶ *Standpunten & Beleid* (Positions and Policy), Dutch Intersex/DSD Network, 2013, p. 17

>> The first awareness of sexual preference among LGB young people occurs on average at 13.5 for girls and 12.6 for boys. The period between initial awareness and coming-out lasts on average three years for girls and almost four years for boys. (SameFeelings 2010)

>> 94.4% of boys and 91.4% of girls are attracted to *only* the *opposite* sex; 2% of boys and 1.1% of girls are *only* attracted to members of the *same* sex. (Sex under 25, 2012)

>> An estimated 3% of males and 1.4% of females aged 16 and older are attracted exclusively to members of their own sex. Over 6% of males and almost 16% of females are somewhat or equally attracted to members of the same sex as their own, and can be described as bisexual. In the Netherlands there are in total approximately 600 thousand males and almost 1.2 million women fitting this description. (*Niet te ver uit de kast*, [Not too far out of the closet] 2012)

>> The coming-out age of LGB young people varies from 6-25 years old, although coming out is exceptional for individuals under the age of 14. (SameFeelings 2010)

>> Awareness of experiencing a gender identity other than the birth gender already occurs from the age of 4. (*Brochure Genderdysdorie* 2011, FWOS - 2011 Gender Dysphoria Brochure, Fund for Scientific Research on Sexuality)

>> 0.6% of males and 0.2% of females (aged 15 to 70) reported an ambivalent or incongruent gender identity combined with dissatisfaction with their own body and a wish to (partially) modify the birth gender through hormones and/or operations. (*Worden wie je bent* [Become who you are] 2012)

>> Reliable data on prevalence is not available for all intersex conditions. It can be assumed that the percentage of Dutch people with an intersex condition is between 0.6% and 1.7%. (Dutch Intersex/DSD Network). This would mean that there are at least 21,000 children in the Netherlands with an intersex condition.

>> Some intersex conditions remain undiagnosed due to the lack of reason to do so.

LGBTI children and young people in discussion with the Dutch government

The Dutch National Youth Council (*Nationale Jeugdraad* - NJR)⁷ ensures the voices of Dutch young people are heard by the Dutch government. Although the NJR supports the position of LGBT children through campaigns, research and collaboration with LGBT organisation, it does not provide a representative interpretation of the voices of LGBTI children and young people. The 2012 NJR report on children's rights did not initially mention the position of LGBTI young people, while other vulnerable groups did receive additional attention. *Expreszo* is a LGBT youth organisation set up by LGBT young people themselves. Besides providing a magazine and an online community for LGBT young people, it is also an interest group. *Expreszo* receives no subsidies and relies entirely on volunteers. It also cooperates with other bodies including NJR and COC Netherlands, and occasionally engages in discussions with the government about emancipation policy on the theme of homosexuality and young people.⁸

The voice of LGBT young people is also partially represented by interviews and focus groups within the framework of a number of studies by for example the Netherlands Institute for Social Research and Rutgers WPF (an organisation promoting sexual and reproductive health and rights). Researchers took these opinions into account in the recommendations they presented to government. LGBTI

⁷ NJR is an umbrella organisation for youth organisations in the Netherlands. Their activities include running media campaigns and projects for young people. www.njr.nl

⁸ *Expreszo*: <http://www.expreszo.nl/organisatie>

children and young people have no direct say in policy that concerns them, such as emancipation or youth policy. Furthermore, in terms of youth policy they are largely invisible. Moreover, the effect of general youth policy on LGBTI children and young people is not tested or evaluated. It is precisely because LGBTI children merit special protection, that they require a stronger and better organised channel for making their voices heard. Greater efforts allow the voices of children with an intersex condition to be heard.

LGBTI children's environment

LGBTI children's rights

- All rights apply to all children, without exception. The government shall take measures to uphold all rights and must ensure that every child is protected against discrimination based on sexual orientation, gender identity and expression and sex characteristics (Article 2 CRC, non-discrimination).

Summary

LGBTI children and young people are highly vulnerable. Many of these individuals have negative experiences at school, home, the sports club and / or work based on sexual orientation, gender identity and expression and sexual characteristics. These experiences include being bullied, insulted, ignored or ridiculed or being the target of gossip. They are threatened or blackmailed and subject to physical aggression. Research shows that homosexuality is widely accepted in the Netherlands, even though LGBs have to contend with prejudice, harassment and violence. Gender diversity and intersex conditions are accepted to a much lesser extent than homosexuality, and the acceptance of bisexuality by both heterosexuals and homosexuals is a problem. Dutch LGBTI children and young people not only have to contend with deeply entrenched ideas about sexual and gender norms, but also with feigned tolerance. Alongside this, attention needs to be paid to the *differences* between LGBTI children and young people in order to provide them with support.

The worlds of LGBTI children in figures

>> Almost 50% of LGB children have had suicidal thoughts, 12% have attempted suicide and 13% frequently experience depression. Suicide rates are **four to five** times higher among LGB children than among heterosexual children. (SameFeelings 2010)

>> Compared to their peers, effeminate boys and masculine girls report more experience with homonegativity and more depressive symptoms. (SameFeelings 2010)

>> 30% of homosexual and bisexual young people would prefer to be heterosexual. (Sex under 25, 2012)

>> 75% of homosexual and bisexual young people have been victims of bullying or verbal abuse. (SameFeelings 2010)

>> Negative reactions to sexual preference at school are the main cause of suicidal thoughts and suicide attempts among Dutch LGB young people. (American Journal of Public Health 2013)

>> 7% of primary school children think it is 'dirty' for boys and girls to kiss, while no less than 43% think this of two boys kissing and 40% for two girls kissing. (Acceptance of homosexuals, bisexuals and transgender people in the Netherlands, 2013)

>> Among adults (aged 16 and older), 29% consider it offensive for two men to kiss in public, 19% for two women kissing in public and 14% for a man and a woman kissing in public. *Acceptatie van homoseksuelen, biseksuelen en transgenders in Nederland 2013* (Acceptance of homosexuals, bisexuals and transgender people in the Netherlands, 2013)

>> Only 5% of 2-16 year secondary school children think homosexual classmates could be open about their sexuality at school. (*Acceptatie van homoseksuelen, biseksuelen en transgenders in Nederland 2013* - Acceptance of homosexuals, bisexuals and transgender people in the Netherlands, 2013)

>> Homonegativity is relatively high among those under the age 18, youth of Turkish or Moroccan descent, very religious Christian or Muslims individuals and lower-educated young people. (Sex under 25 2012)

>> Overall, boys are more negative than girls. (Acceptance of homosexuals, bisexuals and transgender people in the Netherlands, 2013)

>> Heterosexual young people always perceive gay people as 'feminine'. *Wees jezelf, maar wees niet anders 2010*, (Be yourself but don't be different 2010)

>> LGB young people who consider themselves 'sexually conformist', experience fewer unpleasant reactions from others. (SameFeelings 2010)

>> Homosexuality among women and bisexuality is mostly unknown and invisible to heterosexual youth. (SCP 2010)

>> A large majority of LGBT youth who are out of the closet (91%) state they have on occasion suffered negative experiences or reactions due to their sexual preference. (SameFeelings 2010)

>> One in twenty young people have a negative experience at least once per week due to their sexual preference. (SameFeelings 2010)

>> Approximately one in ten LGB young people say their family circle is not gay friendly. (SameFeelings 2010)

>> 7% of boys and 4% of girls who have experienced homonegativity state they have had sexual experiences against their will because of their sexual preference. (SameFeelings 2010)

>> LGB school children in secondary (denominational) education report having experienced significantly more violence at school than non-LGB school children. This trend appears to be increasing. (ITS 2012)

Vulnerability due to gender normativity

Relatively much is known about the situations of LGB children and young people. It appears that homonegativity of peers is partly related to rigidly defined ideas about masculinity and femininity held by adults and young people themselves.

>> You meet gay people and your first thought is that they're just normal heteros. Afterwards you hear they're gay and you don't expect that. Because they behave and dress so normally. (Zaid, 17) (*Wees jezelf, maar wees niet anders 2010*, p. 57 (Be yourself but don't be anything else 2010)

Because heterosexuality is the norm for many adults, children and young people with a non-heterosexual orientation are less visible for parents, teachers and counsellors. And because these children deviate from the norm, they are more often the targets of bullying from classmates.

>> Yeah, I was never really a boy's boy. [...] a girl had scanned a class photo, she'd removed my head and painted long blonde hair with a bow in, and she left it at the back of my drawer. And yeah, things like that happened in the classroom. And that was weird, strange. I didn't understand it at all. I didn't know I was different yet. I was like, I'm just a boy [...]. I didn't see it myself.

(boy, 19, SameFeelings 2010, p. 168)

>> Well, I had just dropped off my girlfriend and when I came back again. [...] I actually had to go through the dark for a bit. [...] And then in the street where I live, in one of the alleys, I got beaten up. [...] Yeah, kicked and punched actually. Luckily I didn't break anything, but there was lots of bruising.

(girl, 19, SameFeelings 2010, p. 167)

>> Once we were out in Utrecht, then we went... at the end of the Hoog Catharijne shopping mall you have those escalators, and we, me and my ex, went down and a group of Moroccans were going up, and then they started calling us fucking faggots, and spat at us. (boy, 22, SameFeelings 2010, p. 166)

Anticipating violence and exclusion also affects the well-being of LGBTI children. In combination with actual experiences this is known as 'minority stress'. The experience of this negative attitude can also ensure that LGB children and young people consider homosexuality and themselves less positively.

(SameFeelings 2010, p. 174)

Because sexuality is discussed relatively rarely at school or at home, and people do not find it easy to talk about sexuality as it is considered taboo, identifying discrimination against this group of children is not obvious to adults. Parents, teachers and counsellors shy away from dealing with this topic; they are afraid or not sufficiently skilled to intervene or provide support. LGB children who are bullied are not for example always concerned with their sexual preference. Furthermore, discussing sexual and gender diversity in groups or in class can contribute to stigmatising children who deviate from the norm, or may even be an invisible topic for teachers or counsellors. Then, the recurrent problems suffered by LGBTI children remain undiscussed and unbroken.

Bisexual young people experience their sexual preference differently to their homosexual peers. As a group they have a lower self-image and exhibit more suicidal behaviour than homosexual young people. They are less often inclined to seek support or help due to their sexual preference. This makes it even more difficult to support them and it requires greater efforts to identify their needs.⁹

Transgender children undertake the massive transformation from one sex to the other, and some don't want to be, or can't be categorised as male or female. The transition can provoke highly negative reactions in a society where gender normativity strongly prevails. Parents, teachers and counsellors often lack knowledge about gender diversity, and this does not help transgender children to understand what they feel and what they *are*. Gender variant children who ultimately do not undergo a medical procedure, are often faced with an absence of understanding about gender diversity. Transgender children often deviate from visible gender norms, such as in clothing, toys and behaviour. Highly unsafe situations can arise when these children are confronted with prying questions about their body.

In the Netherlands there is a widespread lack of knowledge about intersex conditions. If biological or

⁹ SameFeelings 2010, pp. 199-200

bodily deviations from gender norms are left largely undiscussed, it leads to the creation of taboos and secrecy, which is not good for children. However, under these circumstances openness can also lead to stigmatisation and extreme gossip and bullying.

The problems experienced by various children due to the prevailing gender norms in Dutch society does in theory unite them, although in practice this is not necessarily the case. There are differences in the perception of sexual orientation, social security and psychological well-being among lesbian, gay and bisexual youth. Gender identity plays a role in this. Transgender youth are faced with bullying that labels them as 'gay'. This can hurt them, no matter what their sexual orientation is, and whether they are concerned about it. Children with intersex conditions are not transgender, and transgender children do not have an intersex condition. The vast majority of children with intersex conditions do not question their gender identity. Their condition is unrelated to their sexual orientation. LGBTI children, just like all other children, can inherit negative attitudes in relation to sexual and gender diversity.

Acceptance...or not?

The Netherlands is renowned for its tolerance of homosexuality. Research shows that only 4% of the population truly disapproves of homosexuality.¹⁰ This is in stark contrast to the actual situation of LGB children and young people and the negativity they experience in all areas of life. Dutch youth are confronted with inconsistencies in the attitudes of adults towards people who do not conform to gender norms. For example, 20% of the Dutch population disapproves of equal adoption rights for homosexual and heterosexual couples¹¹. 'Not disapproving' of homosexuality does not therefore necessarily result in *equal rights* for LGBTI individuals. Children hear their parents talk negatively about gay people. Or they may see violence towards gay and transgender people on television. In this manner children are confronted with feigned tolerance in Dutch society.

Epecially vulnerable

The situation of LGBTI youth whose parents are conservative Protestants, or have a Surinamese, Moroccan, Turkish or Chinese background is especially vulnerable. Religious young people are for example less frequently open about their sexual orientation than their non-religious peers.¹² Some Muslim LGBT youth have to deal with rejection, concealment, excessive violence and honour crimes from members of their family. Furthermore, gender, educational level, social class, age and any possible physical limitations of LGBTI children affects their social safety and welfare. For example, highly-educated gay youth have a lower level of self-acceptance than their less educated peers¹³. In contrast, young people with pre-vocational secondary education report experiencing gay negativity the most frequently¹⁴

LGBTI children can also be found in welfare care, juvenile institutions and centres for asylum seekers, and are also among children who are living in poverty and homeless. Because of their dual vulnerability they need additional attention. Dutch LGBTI youth policy requires an *intersectional* approach, which takes the differences of their situations into account. In 2013 the Dutch government pledged funding to benefit the emancipation of LGBT individuals from cultural minority groups in the four largest cities, and it is in this respect recommended that special attention is devoted to minors.

¹⁰ SCP 2013, p. 30

¹¹ SCP 2013, p. 18

¹² SameFeelings, SCP 2010, p. 147

¹³ SameFeelings, SCP 2010, p. 180

¹⁴ SameFeelings, SCP 2010, p. 170

For example, the multicultural community Respect2Love is only for young people aged over 18. Alongside this, intercultural psychiatry (psychiatric and psychological support in their own language) can also be extended to support LGBT children in cultural minority groups.

LGBTI children in asylum procedures

A report¹⁵ published in May 2013 concluded that lesbian, gay, bisexual and transgender (LGBT) asylum seekers in the Netherlands are often mistreated. This can be due to homophobia and transphobia, as well as ignorance and gender normativity. Youth in asylum procedures are also affected. These include children who are seeking asylum due to their LGBT identity, children of LGBT parents or children who realize they are lesbian, homosexual, bisexual or transgender. There is no information about asylum-seeking children with an intersex condition, LGBTI children are virtually invisible. To improve social safety and sexual health of LGBTI children in asylum centres, foster homes or substitutes for family environments, additional research, attention and commitment is required from organisations such as the Central Agency for the Reception of Asylum Seekers, Dutch Council for Refugees and Nidos Foundation.

¹⁵ Luit, L., Pink Solutions, *inventarisatie situatie LHBT asielzoekers* ,(inventory of the situation of LGBT asylum seekers), COC Nederland, 2013

Parents and guardians

LGBTI children's rights

- Both parents are responsible for the upbringing of their children, and the interests of the child are paramount in this respect. The government respects the primary responsibility of parents and guardians, providing them with support and creating facilities for the care of LGBTI children (Article 18 CRC responsibilities of parents).

Summary

Summary

The CRC establishes the primary responsibility of parents and guardians towards the child. LGBTI children have to deal with negativity and bullying in this private domain, while it is precisely these children who need parents that support them with the problems they encounter. Many parents stay silent about the possible sexual orientation, gender orientation and intersex conditions of their children. Parents should make greater efforts to support LGBTI children in their development. If parents have a negative attitude towards their LGBTI children, the Dutch government must address this. Even parents who are themselves LGBTI, as well as their children, are faced with bullying and must be able to count on support.

The role of parents

The CRC stipulates that parents have primary responsibility for their child's upbringing. The Convention respects the responsibilities, rights and duties of the parents, while parents must take into account the child's developing capabilities. Article 18 of the CRC also establishes the clear obligation of the Dutch government. The Netherlands has a duty to advise and educate parents about their responsibilities, by for example offering parenting courses. This entails specific parenting responsibilities for parents of LGBTI children and specific parenting support from the government, which is uncharted territory. The Netherlands centre for social development (Movisie) has prepared a guide for municipalities to raise awareness of sexual diversity in the Centre for Children and Families (*Centrum voor Jeugd en Gezin*), but a guide is only the beginning. Parents should be supportive in the sexual development and self-acceptance of their LGBTI children, and be alert to the harassment and stigma they have to deal with. The 'coming out' of parents is a subject of discussion in the gay rights movement. A great deal of time and effort is required from them to disclose to others that their child is gay. Parents of transgender children and children with an intersex condition have an even more crucial role due to the medication and medical decisions that must be made in consultation with the parents. The role of parents in the raising LGBTI children requires much greater attention and visibility and both parents and the government must make efforts to properly support LGBTI children.

Experiences of negativity

The way homosexuality and bisexuality, gender diversity and intersex conditions are dealt with in the family circle greatly influences the well-being and self-esteem of LGBTI children. The SameFeelings report published by the Netherlands Institute for Social Research indicates that 4% of LGB youth reported their parents do not accept or mostly do not accept their sexual preference, while 30% of respondents had not yet come out to their parents. The rate of acceptance among mothers is higher than among fathers. It also appears that the parent who is of the same sex as their LGB child has more difficulty with the homosexual or bisexual sexual preferences of the child. Social class does not seem to play a major role in the acceptance of sexual preference by parents, although religion does heavily influence the perceived degree of acceptance. In this respect, there is a higher level of negativity among the more strictly religious communities. The acceptance by parents of transgender children and children with intersex conditions has not been studied. In addition, more research is also needed to explain what promotes acceptance by parents.

Parental support

Parents do not talk openly with their children about sex. In 2013 the Dutch magazine *J/M voor Ouders* carried out a survey among 700 parents. The results of the survey showed that sex is virtually not discussed with children under the age of ten, and 34% of parents refuse to discuss the subject of homosexuality¹⁶. Youth and Family Centres can play a role in improving this situation. Knowledge about gender diversity and intersex conditions in relation to parental support should be promoted. Organisations involved in parenting and foster care should expand their knowledge and offer support to the parents of LGBTI children and LGBTI parents.

Special attention for gender diversity

Because gender diversity can provoke strong reactions in Dutch society, the Dutch government should devote special attention to the parents of transgender children, transgender parents and children of transgender parents. Transvisie Zorg offers support for the problems experienced by parents and children in education due to the negative reactions to their differences. The Patientenorganisatie Transvisie (transgender patient organisation) offers practical information and opportunities for contact with other parents of transgender children. The government should promote parental support for this group of parents and children.

Intersex: a 'new' target group

People with an intersex condition were first mentioned in the Dutch government's 2013 Emancipation Memorandum Note. In an international context the term LGBTI is increasingly used instead of LGBT, and there is also greater cooperation between organisations and people involved in intersex emancipation and LGBT organisations. In the Netherlands, this cooperation has arisen due to creation of the Dutch Intersex/DSD Network (*Nederlands Netwerk Intersekse/DSD - NNID*) in the same year. There was uncertainty as to whether COC Netherlands would include the subject of intersex conditions in this report. COC Netherlands had no knowledge about intersex conditions, did not

¹⁶ *Ouder onderschat seksleven kind* (Parents underestimate child's sex lives), www.nos.nl, 22 August 2013

represent the target group and was unable to represent the interests of people with an intersex condition.

This report provides a general overview of the rights of children with an intersex condition, but the situations relating to specific intersex conditions require more attention. The Netherlands Institute for Social Research will publish the results of an explorative qualitative study in 2014 to determine whether the Dutch government should promote the emancipation of people with an intersex condition. The extent to which this study will address the position of children is unclear. It is recommended that the rights of children with intersex conditions are further defined and in this respect a voice is given to the various patient organisations and the NNID.

As a result of the preparation of this report, the researcher acted as an interlocutor on behalf of COC Netherlands to help develop the emerging cooperation between the intersex and the LGBT movement. This dialogue requires the position of the interlocutors to be clarified. Since COC Netherlands does not currently have sufficient knowledge of the intersex agenda and does not represent the target group, the decision was made to outline the progress made in representing these overarching interests from the personal perspective of the researcher.

Interlocutor in the emancipation process

In June 2013 I, the author of this report, Suzanne van Rossenberg, acting on behalf of COC Netherlands attended the very first meeting involving patient organisations, the NNID, LGBT organisations and the Ministry of Education, Culture and Science. Some of the participants stressed the importance of *explaining* intersex conditions. The reasoning is that prejudice can be overcome if it is understood that people with an intersex condition are just one example of the many variations in the development of sexual characteristics. While this may be true, in the course of my activities I found it was not possible to 'just explain' what intersex conditions are. There are many different intersex conditions, which are difficult to recognize and can be invisible due to the taboos and the considerable ignorance surrounding them

I was fortunate enough to be able to read Margriet van Heesch's dissertation. She was a PhD student at the Amsterdam School for Social Research, University of Amsterdam and now a lecturer at the Faculty of Behavioural Sciences of the Department of Sociology and Anthropology, University of Amsterdam. Her thesis examines how the life stories of people living with intersex conditions are at variance with the history of medical science. It gives a picture of what it means to be born and to live with an intersex condition in medical, social and personal terms. The research exposed gender and heteronormativity in the medical world, the asymmetry in medical knowledge, and hierarchy, between doctor and patient, the damage that can be caused by the secrecy, the shame that arises from taboos in society, the sometimes unconscious avoidance of knowledge and the years spent searching for the right words.

The recent policy document prepared by the NNID *Standpunten & Beleid* (Positions and Policy) contains the following summation: 'The mental health problems of people with an intersex condition can be related to the need for (genital) surgery, the need for medication, learning difficulties (languages), social problems, precocious or delayed puberty, extremely short or tall height, absence of menstruation and the need for technical aids during sexual contact.'¹⁷ These aspects do not always play a role, and do not always apply to all intersex conditions. The stigma that can be experienced by people with an intersex condition can be associated with shame, guilt, secrecy, the role of the 'black

¹⁷ *Standpunten & Beleid*, (Positions & Policy) NNID, pp. 61-62 (Cohen-Kettenis and Pfäfflin).

sheep of the family', isolation, social exclusion, stereotyping and discrimination.¹⁸

In a video interview made by NNID, Margriet van Heesch said: "The most important thing I've learned by listening to the life stories, of which there was a total of forty, is that there's nothing to gain from keeping secrets. Really nothing. And no matter how difficult and frightening it is to tell your story, to overcome your fear, the fear that comes from telling your story, that they might not understand your story, that you might tell it wrong, that you might be gossiped about ... all of that is less bad than keeping a secret."¹⁹ "

As someone who is active in the field of LGBT advocacy and emancipation I may not be completely familiar with the medical and biological perspective of intersex conditions, but I do understand the social and emancipatory aspects. This is also the primary main objective of the NNID, namely *demedicalising* intersex. From the viewpoint of human rights, a more symmetrical perspective on intersex conditions is required.²⁰

The establishment of the umbrella organisation NNID has expanded the dialogue between medical specialists and patient organisations to include human rights advocates. In the same way that LGB people have had to deal with the process of depathologizing and demedicalizing gay and bisexual orientations, transgender people are now engaged in depathologizing their gender identity and expression for the benefit of their human rights. The prevailing gender and heteronormativity in society affects the perspectives of patient and health care rights, as well as human and children's rights, but that could change.

I have noticed that people who campaign for the human rights of LGBT people are very interested in understanding what people with an intersex condition have to go through in their lives. This interest stems from their own minority position and the problems they experience in society with strong male and female stereotypes and taboos about sexuality. By adding an 'I' to LGBT and developing solidarity between minorities who all have negative experiences due to the gender normativity, it strengthens the arguments for promoting the needs of a vulnerable group of people. This also coincides with increased attention for children's and human rights in medicine.

In practice, empowerment means a great deal of talking; exchanging life stories and personal and professional standpoints – even if that is difficult to do. Activists, policy officers, doctors, ministers, politicians, psychologists, educators, social workers, teachers and relatives, whether or not they are LGBTI, are asked to see from a new perspective what sexuality and gender identity mean in the lives of people, in *our* lives.

¹⁸ Standpunten & Beleid, NNID, p. 62 (Byrne).

¹⁹ Standpunten & Beleid, NNID, 2013, p. 63

²⁰ Letter on emancipation of people with an intersex condition/DSD, NNID, 9 June 2013

Education

LGBTI children's rights under the Convention on the Rights of the Child

- The government shall take measures to uphold all rights and must ensure that every child is protected against discrimination on the grounds of sexual orientation, gender identity and expression and sex characteristics (Article 2, non-discrimination).
- The government shall to the maximum extent possible ensure the survival and development of the LGBTI child (Article 6, survival and development).
- Children have the right to express their opinion on all matters affecting them, such as educational policy and anti-bullying approaches. The government ensures that children are able to express this opinion, and that they are listened to. LGBTI children are supported in ensuring their own social safety at school (Article 12, participation and the right to be heard).
- LGBTI children have the right to meet together and provide each other with support (Article 15, freedom of association).
- Every child has the right to privacy. The government shall protect children from interference with their privacy, family, home or correspondence on the grounds of sexual orientation, gender identity or intersex condition (Article 16, privacy).
- Children have the right to access information and materials from different sources and in particular information and materials that promote their well-being and health (Article 17, right to information).
- Children have the right to be protected from all forms of physical and psychological abuse and neglect both within and outside the family. The government shall take measures to prevent and report this and to provide care and treatment (Article 19, protection from all forms of violence).
- Children have a right to education and efforts must be made to tackle dropping out of school due to bullying on the basis of sexual orientation, gender identity and intersex conditions (Article 28, education).
- Children have the right to education directed to: the development of the child; respect for human rights and sexual equality. LGBTI children must not be obstructed in their development and education is directed towards respect for sexual diversity, gender diversity and diversity of sex characteristics (Article 29, aims of education).

Summary

School is a socially unsafe environment for many LGBTI youth. The bullying they experience is a form of violence. The Dutch government does a great deal to improve their situation - for example, renewed core targets in education and the government's anti-bullying approach require schools to pay attention to sexual and gender diversity. The welfare and social safety of LGBTI school children is compromised by homophobia, transphobia and associated gender normativity that prevails in youth culture. Secondly, teachers' lack of knowledge is a problem – they have too many preconceptions about sexual and gender diversity. Furthermore, their ability to act is limited and they do little to change this.

School children primarily need an environment in which sexual and gender diversity are considered *normal*. It is regrettable that teachers may be unable to realise this and provide insufficient protection to a vulnerable group of children. Teacher training should include compulsory education on sexual and gender diversity, and children should be instructed in how to talk about these subjects.

To improve the social safety and welfare of LGBTI school children, attention to sexual and gender diversity in all areas is required: provision of information, the anti-bullying approach, information provided to school children, teacher training, gay straight alliances (GSAs) of school children and teachers, counsellors with an understanding of the LGBTI social landscape, human rights education and learning materials that include sexual and gender diversity. Sexual and gender diversity must also be discussed at primary schools. Considerable efforts are required in this respect.

1. Social safety and compulsory attention

Attention for LGBTI children at school

School is the place where most can be done to improve the welfare of LGBTI children and young people. The Dutch government has devoted considerable attention to this area by supporting research and interventions and continually developing and improving policy. Although there is some attention for transgender children, this can be greatly improved. Still very little is known about the support required by school children with an intersex condition. The cooperation and knowledge sharing between interest groups, schools and youth organisations must be continued and expanded. The specific situations of LGBTI school children are too different to take just one common approach.²¹

Calling someone a 'homo' is a form of violence

The pejorative 'homo' is one of the most commonly used insults in and around Dutch schools. Bullying leads to physical and mental health problems poorer personal and social development, depression and an increased risk of aggressive behaviour. The Committee on the Rights of the Child, in General Comment No. 13, summarises bullying under the provisions of Article 19 of the CRC (protection from all forms of violence).²² "Lesbian, homosexual, transgender and transsexual children" are explicitly referred to as children in potentially vulnerable situations.²³ The first UN consultations on 'homophobic bullying' were held in 2011, and in a joint statement governments were called upon to eliminate bullying based on homophobia from all schools in the world. It is the duty of the Netherlands to ensure the prevention of violence against LGBTI children. They should facilitate schools in this respect and monitor the situation. Schools should ensure that the word 'homo' is not be used as an insult in and around the school.

Cyberbullying

Schools can influence what happens in the classrooms and on the playground. What happens outside school, including cyberbullying, is more difficult to monitor and enforce. However, there often appears to be a connection between bullying in and around the school and through social media. This form of bullying is therefore not anonymous. There is no information about methods used to prevent cyberbullying based on sexual and gender diversity. More studies in this area should be stimulated.

²¹ Taken from a discussion with Geert-Jan Edelenbosch, youth and education project leader for COC Netherlands, 5 March 2013

²² Committee on the Rights of the Child, General Comment No. 13, The right of the child to freedom from all forms of violence (CRC/C/GC/13), 18 April 2011

²³ Ibidem, p. 27

The social safety of transgender children

Transvisie Zorg often receives reports of bullying of transgender children. On occasion, it is the transgender child who is responsible for the bullying. Ruth Kaufmann, an expert in this field who speaks with children and their parents on a daily basis said: "There are plenty of examples of harassment experienced by children, such as panty liners stuck on their backs, screws thrown at them, being pushed or being called 'homo' or 'man-woman' or completely ignored." ²⁴

Transvisie Zorg also has regular contact with truant officers. Many transgender children do not want to go to school. Sophie Schers, policy officer at the Netherlands Transgender Network: "Transgender school children get questions from classmates about their genitals. This creates a great deal of insecurity around puberty, and because the boundaries of these children are crossed, it is a form of sexual violence." ²⁵ It is significant that as many as four in ten 12-16 year old transgender youths suggest in the questionnaire that others who refuse to accept them should be expelled. That is a drastic, but apparently sole solution to the problems and stress they experience from being bullied by other children. One 15-year-old transgender young person wrote: "All those fucking kids who don't accept us can piss off."

The social safety of children with an intersex condition

Nothing is known about the social safety of children with an intersex condition. This situation should be urgently addressed.

Compulsory attention to sexual diversity

The attainment targets in Dutch education were amended in December 2012 ²⁶. As a result, primary and secondary (denominational) education must pay attention to sexual diversity. Sexual diversity is also understood to include gender diversity. It may be possible for SLO, the national institute for curriculum development in the Netherlands, to still interpret the renewed attainment targets in the interim objectives in the new attainment targets and curricular tracks and attention to sexual diversity can be incorporated into a new edition of the attainment targets guide. It is currently unclear how and *if* schools incorporate compulsory attention to this area into their teaching. It is also unclear how and *if* the compulsory attention is monitored. In June 2013 the House of Representatives adopted a motion²⁷ commissioning the Inspectorate of Education to monitor the provision of education on sexuality and sexual diversity over the next five years. It is still unclear how this will be interpreted by the Inspectorate of Education. It is in the interests of LGBTI children to provide clarity in this respect to schools and interest groups as soon as possible.

Compulsory attention to gender diversity

The renewed attainment targets also require more attention to be devoted to gender diversity. This is sorely needed. Transgender students are badly affected by strong gender divisions in school and the stereotypical ideas of their teachers. Ruth Kaufmann: "There are still teachers who unhesitatingly hand

²⁴ From a discussion with Ruth Kaufmann, sexologist (Dutch Sexology Association) and sexological educator at Transvisie Zorg, 24 April 2013

²⁵ From a discussion with Sophie Schers, policy officer at the Netherlands Transgender Network, 14 May 2013

²⁶ Decision to amend the Decrees on renewed attainment targets for primary education, first stage of secondary education, expertise centres act (special education), primary education in BES and first stage of secondary education in BES in connection with applying the attainment targets in the area of sexuality and sexual diversity (B02734.K-2) p. 7

²⁷ House of Representatives, session 2012–2013, 30 420, no. 185 (parliamentary papers 30420-185)

out colouring pictures of princesses to girls and knights to boys. It is necessary to raise awareness about their own form of 'black or white' thinking so they can take a different approach to entrenched gender patterns." ²⁸

There is still very little attention paid to how schools can meet the new attainment targets for gender diversity, and how this is linked to the safety of LGBT students. There are few methods and teachers lack knowledge in this area. Attention to gender diversity at primary school is important so children can learn to take a more playful attitude to gender. Sophie Schers of Transgender Network Netherlands: "Teachers simply do not know how to deal with children who do not conform to gender norms." ²⁹

Transgender young people consider that acceptance of gender diversity needs to be increased. Ten young people who completed this questionnaire stated that. Greater knowledge and awareness is required – it should not matter whether you are a boy or a girl. Seven young people stated that explicit information should be provided in this respect. One 17-year-old stated that nothing needed to change as everything was going well at school and he was respected.

To ensure public safety of transgender and gender diverse learners, attention is needed for gender diversity in teaching methods, sex education, LGBT awareness and anti-bullying policies in schools. There is more effort needed to effectively bridge the gap between social safety, LGB and transgender school children. The fact that gay and transgender negativity both arise from normative ideas about male and female genders does provide an opportunity, but there is still much work to be done.

Compulsory anti-bullying approach

In March 2013 the Ministry of Education, Culture and Science introduced a new policy ³⁰ for a compulsory approach to tackling bullying at schools. This is partly the result of a recommendation of UN Committee on the Rights of the Child. The anti-bullying approach policy required primary and secondary schools to ensure the safety of children through methods that are proven to be effective. In the general plan no attention is devoted to potentially vulnerable groups, as recommended by General Comment 13 of the Committee on the Rights of the Child, yet the annex to the general policy with an overview of current measures, does call for attention to the LGBT school children group.

The policy does not elaborate on how this attention should be incorporated into the general measures for the compulsory anti-bullying approach to be followed by schools. This was addressed when, during the general consultation of 28 May 2013, the State Secretary for the Ministry of Education, Culture and Science pledged that the compulsory anti-bullying approach would also cover the bullying of LGBT children and young people. A committee under the auspices of the Dutch Youth Institute (NJI), is responsible for drawing up the criteria for the methods³¹ will ensure the anti-bullying approach also includes LGBT pupils.³²

To address the unfamiliarity of many teachers with anti-bullying protocol at the schools where they work in May 2013 the State Secretary, responding to parliamentary questions, pledged to develop the

²⁸ From a discussion with Ruth Kaufmann, sexologist (Dutch Sexology Association) and sexological educator at Transvisie Zorg, 24 April 2013

²⁹ From a discussion with Sophie Schers, policy officer at the Netherlands Transgender Network, 14 May 2013

³⁰ House of Representatives, session 2012–2013, 29 240, no. 52 (parliamentary papers 29240-52)

³¹ www.rijksoverheid.nl, 'Schools legally obliged to tackle bullying' 25 March 2013,

³² House of Representatives, session 2012–2013, 29 240, no. 61 (p.p 29240-61), p. 23

teaching module "handling differences and bullying" for primary and secondary school teacher training and as a refresher course for qualified teachers.

The Dutch government calls on schools to use methods that have proven to be effective. These do not yet exist, although one method currently being tested is the Finnish anti-bullying program Kiva, which will be made available to schools for the 2014-2015 school year ³³. It is unclear whether the Kiva method also guarantees the social safety of LGBTI school children, and this an area that requires further study.

Registering violent incidents and discrimination

Bullying at school often happens out of the sight of teachers. This presents a significant obstacle for tackling bullying based on sexual orientation. Geert-Jan Edelenbosch, COC Netherlands project leader for youth and education: "Not only must teachers must not only be aware of bullying, but also the refusal of LGB victims, whether victims of bullying or not, to be open about their sexual orientation."³⁴ The Ministry of Education has commissioned a study every two years to monitor the feelings and experiences of social safety of LGB school children. The new anti-bullying approach for schools means the planned law on registering incidents of violence and discrimination will not come into force.³⁵ This is a concern, because schools already have such limited awareness of bullying based on sexual orientation and gender diversity, and it is vital to have an overview of the nature and the extent of bullying of LGBTI school children. Otherwise, an improvement in the social safety of LGBTI school children cannot be demonstrated. The Netherlands must make registration of incidents at school compulsory and must stimulate this.

LGBT pilot schemes at government schools

In 2012 and 2013 the Ministry of Education carried out a pilot scheme at 140 schools. The project was intended to offer a guide to selected schools for implementing the new attainment targets. The schools were selected based on the order of registration. The schools themselves chose what actions to apply over the duration of the pilot scheme. To this end, the schools received funding which they could freely allocate. The Netherlands Institute for Social Research will assess whether implementing an action has any effect compared with taking no action. Qualitative studies at schools can also provide possible indications about what sort of conditions (including the type of school and type of approach) play a role here.³⁶ The results of the pilot scheme will be published in 2014.

2. The efforts and voice of LGBTI school children

Diversity must be normal

In Dutch youth culture there is a lot of emphasis on 'being yourself', and great store is placed on 'authenticity'. This brings many challenges for LGBT school children. For example, it appears that gay, lesbian or bisexual youth are generally considered by their heterosexual peers as individuals who

³³ From discussions with Geert-Jan Edelenbosch, COC Netherlands project leader for youth and education, 5 March 2013

³⁴ *ibid*, 5 March 2013

³⁵ "That is why we do not consider that his legislative proposal [Parliamentary Papers II, 2010/2011, 32 857, nr. 2] provides added value for the desired anti-bullying approach." from: Plan of action against bullying, 25 March 2013, annex to parliamentary papers 29240-52, pp. 7-8

³⁶ From email correspondence with Freek Bucx, The Netherlands Institute for Social Research, 4 July 2013

are *not* themselves³⁷ These ideas can be challenged if heterosexual young people have more contact with for example their homosexual peers, they can see the courage required from these young people to come out of the closet or have a relationship with someone of the same sex. As a result these heterosexual young people are truly 'being themselves' in the eyes of heterosexual young people. LGBT youth themselves want homosexuality and bisexuality to be treated normally. One in six young people interviewed expressed the hope that whatever initiatives for emancipation that are taken, must in any case result in homosexuality being seen as *normal*, and not as *special* or *weird*. Transgender youth would like to see the same situation in terms of gender diversity. A 13 year-old transgender questionnaire respondent stated that "being a boy or a girl shouldn't be an issue." Although no data is available, it is highly likely young people with an intersex condition would like to see the same situation.

The classroom information lessons also emphasise the normality of LGBT people, which is sometimes contradicted by the stereotypical images during Gay Pride and famous extravagantly gay Dutch people.³⁸ The fact that the success of the Gay Straight Alliance (see below) sometimes hinges on the involvement of the 'popular heterosexual boys and girls' and not to be seen as member of the group stigmatised due to homosexuality, underlines the dilemma faces by LGBT school children if they wish to come out of the closet *normally*.³⁹ LGBT school children rightfully call for a more varied image of LGBT people in the media.⁴⁰ Moreover, the one-dimensional image of homosexuality and bisexuality portrayed in the media hinders greater acceptance of sexual diversity in general and also makes it more difficult for people to come out.

School children's own efforts

To improve the climate in schools and devote more attention to sexual diversity, the voice and efforts of young people are vital. This is guaranteed by the child's right to participation and to be heard (Article 12, CRC). Actions in schools can involve assigning young people an interactive role or supporting and encouraging them to act. The methods used to respect the child's right to participation and to be heard.

The literature study and information gathered through interviews have been limited. Examples of methods include the *MijnID* campaign of Edudivers (www.edudivers.nl), which included participation by school children, and the Gay Straight Alliances, whereby young people can themselves decide how to improve the situation at school. The GSA method has since been employed at 505 of the 700 schools in the Netherlands. A GSA is a group of students and teachers who want to ensure safety for everyone at school.

Students can independently set up a GSA at their school. COC Netherlands then offers support them and teachers by providing advice, information, a Facebook page, guides and information days using the 'inside-out' method. This method has often been tested in the United States and has proved to be effective, resulting in fewer homophobic comments; staff intervened more often when these comments

³⁷ *Wees jezelf, maar wees niet anders* (Be yourself, but don't be different) 2010, p. 73

³⁸ Mooij, T. and D. Fettelaar, *Voorlichtingslessen seksuele diversiteit in het Voortgezet Onderwijs, Pilotonderzoek: observatie van LHBT-voorlichting*, ITS, Radboud University Nijmegen, 2012

³⁹ Velden, van der C., Gay Straight Alliance, *Een kwalitatief onderzoek naar de impact van GSA's op scholen in Nederland*, (A qualitative study into the impact of GSA at Dutch schools) NJR het Bureau, 2011, p. 28

⁴⁰ SameFeelings 2010, p. 203

were made; the students felt safer and were less often victims based on discrimination of their sexual orientation and gender expression.⁴¹

The Dutch GSA method is currently being tested for approval by the The RIVM (National Institute for Public Health and the Environment) Centre for Healthy Living. It is not clear how many transgender young people are active in GSAs, but it is likely to be low. To be able to take action that is also focussed on transgender children, more knowledge is required about what they want themselves and what they require, and the same applies to their peers with an intersex condition.

The continuity of every initiative taken by young people to improve their school climate is a concern. The school must provide a support structure to prevent initiatives coming and going. If there is negativity towards sexual and gender diversity, it can be reported to COC Netherland's *Roze Olifant* (Pink Elephant) desk, which can then talk to the board of the school in question. Discrimination and endangered social safety of LGBTI school children can also be reported to the Ombudsman for Children.

3. Teacher's limited ability to act

In practice, teachers sometimes have a limited ability to act. Anniek Verhagen, head of the Gay & School project financed by the Ministry of Education, Culture and Science succinctly defines the problem: "you can have brilliant teaching methods, but if you don't know how to respond properly to a statement like "all gays must die ", where does that leave you?"⁴²

The 2013 emancipation policy presented by the Dutch government states "there will be a greater focus on professional development and the inability to provide adequate support among teachers."⁴³ Anniek Verhagen confirmed that many teachers have significant difficulties integrating sexual diversity in school life: "Attention to the subject in the classroom does not mean the subject is also discussed in the staff room or with the team."⁴⁴

Teachers are even more limited in their ability to provide support to transgender children. They may direct any questions to Transvisie Zorg, the gender diversity support centre, who also hear stories from transgender children themselves. Teachers lack the knowledge and the ability to provide positive attention to transgender children. Transvisie Zorg is aware that teachers do not talk to children about their differences, and they do not share their observations in this respect with parents. Many parents have uncertainties about their children and also do not talk to the school about this situation.⁴⁵ Teachers have even less knowledge about providing support to children with intersex conditions, and we do not know about their ability to act in this respect. It is recommended that attention is paid to this area in future policy, partly as a result of the exploratory study commissioned by the Netherlands Institute for Social Research into the emancipation of people with an intersex condition.

Teachers' limited power to act is the result of a lack of knowledge and skills in the area of gender and sexual diversity, but also due to their own preconceptions. As a result they are not able to discuss the subject of sexual diversity and create a safe environment for discussion, and to offer children a

⁴¹ Kosciw, Joseph G. et al., The 2011 National School Climate Survey, The Experiences of Lesbian, Gay, Bisexual and Transgender Youth in Our Nation's Schools, Gay, Lesbian & Straight Education Network, New York, 2012, p. xvi

⁴² From discussions with Anniek Verhagen, Head of Gay & School Project, 21 June 2013

⁴³ House of Representatives, session 2012–2013, 30 420, nr. 180 (parliamentary papers 30420-180), p. 23

⁴⁴ From discussions with Anniek Verhagen, Head of Gay & School Project, 21 June 2013

⁴⁵ From discussions with Ruth Kaufmann, Transvisie Zorg, 24 April 2013

learning environment that is free from discrimination. Different teachers have different skills and the question is whether all teachers should be able to do everything.⁴⁶ That is all the more reason to include homosexuality, sexual diversity, gender diversity and intersex condition as a compulsory element of teacher training. Teachers should be trained in how to discuss sexuality and sexual diversity, and how to act in order to ensure the social safety of LGBTI young people.

4. Education and teaching methods

Actions taken

All actions at schools are posted on the website 'gayandschool.nl' (supported by the Ministry of Education, Culture and Science). Since the introduction of the new attainment targets, these actions have multiplied dramatically. The aims of the methods on the website vary, and those that are suitable for meeting the new attainment targets or bullying are not mentioned. There is also nothing stated about the quality of the interventions. In 2013 Movisie carried out a quick scan of all actions taken in the Netherlands to promote the acceptance and emancipation of LGBT people in the Netherlands, some of which were oriented towards education and school children. The conclusion was that most actions are focussed on increasing the social tolerance of LGBT people and making sexual diversity open to discussion. There were few interventions found that were focussed on equipping LGBT people, for example, to deal with minority stress. Another important conclusion of the quick scan is that little is known about the evaluation and impact study of the interventions.⁴⁷

Raising awareness

LGB school children consider raising awareness as a key means for stimulating the acceptance of homosexuality. Eighty-one percent think that more information and education would help considerably.⁴⁸ It is also necessary to broaden the means for this at school, as many young people leave secondary school without having received education about homo and bisexuality and gender diversity.⁴⁹ Education also involves meeting LGBT people, which is why it is often very important to have a personal coming-out story,⁵⁰ as hearing these can change attitudes. Volunteers from regional COCs and other local LGBT organisations also provide information on sexual diversity in schools. Sometimes, members of a GSA will themselves take initiatives to raise awareness via the COC. The regional information groups have their own recruitment and training programmes and can make use of COC Netherlands' national support structure. Having contact with LGB people can change the attitudes of young people. The raising of awareness at schools is however rarely structurally embedded in education.⁵¹ It comprises a few incidental lessons, with no clear goal in mind.

The subject of transgender is being increasingly discussed at COC regional information groups across the country. The various COC groups also have active transgender people among their staff which

⁴⁶ Kedde, H. e.a., *Een kwestie van persoonlijkheid? Aandacht voor homoseksualiteit in het voortgezet onderwijs*, (a question of personality? Attention for homosexuality in secondary education) Rutgers Nisso Groep, 2009, pp. 18-19

⁴⁷ Summary of report *Regenboog onder de loep, Een verkenning voor LHBT-emancipatie*, (Rainbow under scrutiny, A study of LGBT emancipation) Movisie 2013, p. 3

⁴⁸ SameFeelings 2010, p. 204

⁴⁹ In 2010 the SCP reported that 60% of LGB children had received education in this area at secondary school.

⁵⁰ Mooij, T. and D. Fettelaar, *Voorlichtingslessen seksuele diversiteit in het Voortgezet Onderwijs, Pilotonderzoek: observatie van LHBT-voorlichting*, ITS, Radboud University Nijmegen, 2012, p. 28

⁵¹ ibidem

means the subject can be more readily discussed. The various methods are also tailored and those responsible for providing the information also receive training. This is done independently by local COC branches but is also part of the national information support provided by the COC Netherlands. Every year Transvisie Zorg provides information at 50 schools attended by transgender students. As a result, this information reaches the teachers and classmates of the transgender student. The organisation also provides professional development training at schools. The school project currently being implemented by Transvisie Zorg is intended to make this area a subject for discussion at schools and to identify the correct form of support. It is desirable that this is linked to the compulsory anti-bullying approach.

Awareness through lesson materials

In addition to the prevention of bullying and the *empowerment* of school children themselves, it is important (and mandatory) for the social safety of children that attention is provided to sexual diversity during lessons. It is of great support to teachers if sexual and gender diversity is included in text books and classroom materials. This can increase the ability of teachers to act.

The Netherlands Institute for Social Research also emphasizes the importance of highlighting sexual diversity within a social context, while in schools it is primarily placed in the framework of sexuality, health and the body.⁵² In view of the prevailing stigma that is attached to being different in terms of sexual orientation, gender identity and expression and sexual characteristics, it is good to discuss this in connection with citizenship education and human rights education. Hanneke Felten, researcher, trainer and developer of interventions in this area: "the word 'homosexuality' creates direct associations with sex, but increasing acceptance is about how dealing with people respectfully and not about sex. Discussing LGBT solely in the context of sexuality can fuel stigma. It is first and foremost about ensuring school children are more tolerant to people who might be different than themselves." She also therefore recommends that attention to sexual and gender diversity should be connected to citizenship education or social studies.⁵³

There has since been a broad consensus that it is good to include sexual diversity in regular subjects and existing teaching methods. This is also reflected in the outline paper for the 2013-2016 Emancipation policy which states that "a scan is performed to identify the extent to which the sexual diversity appears in existing learning resources."⁵⁴ Hopefully, the scan will also reveal what the learning objectives of the various lessons are and in which subjects attention to sexual and gender diversity can be paid (such as care, biology, civic education, mathematics, social science, cultural and artistic education, religious studies, etc).

For example, mathematics assignments can easily refer to a family with two mothers and a child, instead of a father and a mother. These are subtle modifications that have a major effect on making homosexuality normal in the eyes of school children and help teachers become more assured in their ability to act. The Ministry of Education, Culture and Science must stimulate educational publishers to include sexual and gender diversity in all lesson material. With respect to intersex conditions, it is also important to discuss diversity in sexuality, sexual development and sexual characteristics in biology lessons.

5. Challenges for respect and social safety

⁵² SameFeelings 2010, p. 204

⁵³ From discussions with Hanneke Felten, researcher, trainer and developer of interventions at Movisie, 28 March 2013

⁵⁴House of Representatives, session 2012–2013, 30 420, nr. 180 (parliamentary papers 30420-180), p. 23

Denominational education

In the Dutch education system, denominational education (*bijzonder onderwijs*) refers to a separate category of education distinct from both public and private education, in which a school is administered by an independent board, as opposed to a government authority, while still receiving government funding. Often, these schools are grounded in a particular religious denomination, such as Christianity or Islam. The requirement to integrate sexual diversity in the curriculum poses a particular challenge for these schools. A reasonable number of Christian schools therefore already started providing information before attention to sexual diversity was made compulsory.

Research among young people in Amsterdam shows that school children with a Turkish or Moroccan background are four to five times more likely to have a negative attitude towards homosexuality than their peers with a Dutch background.⁵⁵

Urgent attention and efforts are required to ensure that attention for this negative attitude is part of education, the core targets, the anti-bullying approach, and citizenship education.

Raising awareness at Christian schools

In the field of Christian education there is an alliance of Christian organisations (LCC Plus projects) that have developed a lesson plan to make homosexuality a topic of discussion at Protestant Christian schools (<http://homoindex.nl>). This method also makes use of the personal stories told by homosexual people. Attitudes among schoolchildren and teachers are steadily improving. It is often a term that is open to discussion precisely due to the uncertainty about whether homosexuality is permitted. This does not however offer a complete solution.

Mariecke van den Berg, coordinator of the LCC Plus projects: "It is sometimes a case of velvet oppression. There is an emphasis on respect for people and love for fellow human beings. School children must however also know that it is possible for Christians to be homosexual."⁵⁶ Particularly at reformational schools (of which there are approximately 10 in the Netherlands) it is not an option to be either homosexual or bisexual if one is a Christian. Even if reformational schools are able to guarantee the safety of LGB schoolchildren, if they hear the Bible does not permit the practice of homosexuality, it can feed a negative self-image.

Abolition of the 'sole fact' construction

The Netherlands used to offer certain schools the opportunity to exclude both children and teachers who are openly homosexual. This was referred to as the 'sole fact' construction (*enkele-feitconstructie*), included in the Equal Treatment Act (*Algemene Wet Gelijke Behandeling*). The exclusion was not based on sexual orientation (the sole fact), but on 'additional circumstances'. In November 2011 a homosexual teacher successfully challenged his dismissal from a reformation primary school.

The district judge ruled that in this case there were no 'additional circumstances' for which a homosexual teacher could be dismissed under the law.⁵⁷ The fact that this could happen under other circumstances was of great concern. A private member's bill was tabled to amend the law and not allow any further room for discrimination. On the basis of the *Roze Stembusakkoord* (Pink Ballot

⁵⁵ Vuuren, van L. e.a., *Zo gezond zijn Amsterdamse jongeren! Stadsrapport Amsterdamse Jeugdgezondheidsmonitor voortgezet onderwijs 2010-2011*, GGD Amsterdam, October 2012

⁵⁶ From discussions with Mariecke van den Berg, project coordinator for the social acceptance of homosexuality in Christian circles, 21 February 2013

⁵⁷ www.coc.nl 'Homodocent wint eerste rechtszaak', (Homosexual teacher wins first case) 1 November 2011,

Agreement), government parties agreed to do so before 3 September 2013.⁵⁸ The Dutch House of Representatives ultimately voted to abolish the 'sole fact' construction on 27 May 2014.

Respect versus social safety

Respect for LGBTI people from a specific religious or philosophical viewpoint can sometimes be at considerable variance with offering social safety. In 2010 the Dutch government spoke out against the 'identity declarations' that schoolchildren and staff at reformatory schools have to sign, which contains a ban on having homosexual relationships. At the same time, the government considered that teachers may be asked to follow the fundamental principles of the school and not engage in homosexual relations.⁵⁹ If the ban on homosexuality is removed from the declaration, but sexuality is named as an unbreakable commitment in a marriage between a man and woman, then homosexuality is in any case *indirectly* rejected.

There are also teaching methods for sexual education from a Christian perspective, in which the distinction is emphasised between homophilia and homosexuality and bisexuality, and respectively *being* homosexual or bisexual and *acting* on it. There is the legitimate question of whether an environment in which the "behaviour" of homosexual and bisexual people is not accepted, is a socially safe place for LGB school children and is conducive to their welfare. Teaching methods and identity declarations that create an environment in which LGB people are not accepted should not be permitted. Within the framework of compulsory attention for sexual diversity, there is a role for the Inspectorate of Education to address this.

6. Toilets and changing rooms

Separate toilets and showering after gym lessons are a major issue for many transgender youth. Four of the young people who completed the questionnaires called for mixed or genderless lavatories as something they would like to see at school, and three respondents wanted a solution to the gym. A 14 year-old transgender young person expressed the wish that "changing rooms for gym should be done differently; I don't know how, but I find it very hard." Transvisie Zorg regularly meets children who don't drink anything at school so they do not have to go to the toilet. They do not dare to choose the girls and boys toilets, because they are scared of getting comments from other children if they do that.⁶⁰ When including LGBT issues in the anti-bullying approach, attention should be devoted to practical matters such as toilets and changing rooms for transgender schoolchildren.

⁵⁸ www.coc.nl/jouw-belangen/lijsttrekkers-willen-heikele-homozaken-binnen-jaar-regelen '*Historisch Moment: Lijsttrekkers tekenen Roze Stembusakkoord*' (Historical Moment: Party leaders sign Pink Ballot Agreement), COC Netherlands; 'abolition of the sole fact construction in which openly homosexual schoolchildren and teacher can be excluded from school'

⁵⁹ www.coc.nl "*Scholen mogen geen 'niet-homoverklaring' laten tekenen*", (Schools must not require signing of 'non-homosexual declaration' 18 January 2010,

⁶⁰ From discussions with Ruth Kaufmann, sexologist (Dutch Sexology Association) and sexological educator at Transvisie Zorg, 24 April 2013

Education on human and children's rights

LGBTI children's rights

- Children have the right to education that is directed to, inter-alia, the development of the child, respect for human rights and sexual equality. LGBTI children may not be obstructed in their development and education must be directed towards respect for sexual diversity, gender diversity and diversity in sex characteristics (CRC Article 29, aims of education).
- In 2009 the UN Committee on the Rights of the Child recommended that the Netherlands set up a systematic educational and training programmes that raise awareness of children's rights among children, parents and professionals that work with children.

Summary

The Netherlands has the international obligation to promote human and children's rights. Education about children's rights and human rights education which also includes the rights of LGBTI people is vital for the *empowerment* of LGBTI children and promoting their social safety. The Netherlands should implement this as soon as possible.

LGBTI education on human and children's rights

Attention for sexual and gender diversity in the framework of human rights and citizen education prevents stigmatisation of LGBTI school children and can empower them.⁶¹ It also meets the wish of LGB school children to treat homosexuality and bisexuality 'normally' and can increase the power of teachers to act. The National Human Rights Institute (*College voor de Rechten van de Mens*) states, "issues that call for special attention, like LGBT emancipation and bullying, can be better integrated in

⁶¹ Velden, van der C., Gay Straight Alliance, *Een kwalitatief onderzoek naar de impact van GSA's op scholen in Nederland*, NJR het Bureau, 2011, p. 28. This study into GSAs concluded that learning about human rights provides schoolchildren with a feeling of empowerment.

education when they are linked to human rights.”⁶² The Ombudsman for Children report draws the same conclusion.⁶³

The Inspectorate of Education has for some time already addressed sexual and gender diversity in relation to various educational objectives, as evidenced in two publications in 2008 and 2009 about sexual diversity and discussions with school going youth about heterosexuality and homosexuality. It is not clear whether these efforts have led to monitoring the activities of school in the area of sexual diversity. In citizenship education the emphasis is still on cultural diversity, while human rights education in the Netherlands is virtually absent. Of all the children in Europe, the highest proportion who have not heard about the Convention on the Rights of the Child are from the Netherlands.⁶⁴

The Netherlands fails to meet commitments

The failure of the Netherlands to comply with the CRC obligation on human and children’s rights has already rightfully been pointed out. In 2009 the Committee recommended ensuring that education on human rights and rights of the child is included in educational curricula at all levels.⁶⁵ In addition to the children’s rights education, the Netherlands made a commitment to human rights education by signing the UN resolution on the World Programme for Human Rights Education and the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education. In its report, the Dutch Children’s Rights Collective noted: “The Ministry of Education, Culture and Science interprets the development of civic citizenship as being a non-compulsory school subject under ‘active citizenship and social inclusion’, instead of ‘democratic citizenship and human rights education’, as expressed in the directive of the Council of Europe and the UN Convention on the Rights of the Child.”⁶⁶

In its 2012 annual report the Netherlands Institute for Human Rights recommended that human rights to be explicitly included in the attainment targets for Dutch primary and secondary education. The Ministry of the Interior and Kingdom Relations responded that it would be “sympathetic to this consideration”, but did not make any pledges.⁶⁷ In view of the urgency to improve the welfare and social safety of LGBTI school children and the international commitments, the Netherlands cannot afford to wait any longer with the promoting human and children’s rights education — whether or not this is part of citizenship education — in which the rights of LGBTI people receive considerable attention.

⁶² Human Rights in Netherlands 2012, Annual report of the Netherlands Institute for Human Rights, p. 139

⁶³ 2013 Children’s rights monitor, 2013 Children’s Ombudsman, p. 128 “Education on human rights can also support work to prevent discrimination and bullying, such as that involving lesbian, homosexual, bisexual and transgender children and children with an intersex condition.”

⁶⁴ <http://mensenrechten.nl/mensenrechteneducatie> Netherlands Institute for Human Rights, ‘*Wat speelt er in Nederland?*’ (What’s the situation in the Netherlands?)

⁶⁵ CRC/C/NLD/CO/3, 30 January 2009, p. 4

⁶⁶ Children’s rights in the Netherlands, 2008 – 2012, Children’s Rights Collective, p. 16

⁶⁷ Government response to the annual report of the Netherlands Institute for Human Rights, 9 September 2013, The Ministry of the Interior and Kingdom Relations, p. 20 (2013-0000528852)

Access to information, young people's activities and role models

LGBTI children's rights

- The government shall take measures to uphold all rights and must ensure that every child is protected against discrimination based on the grounds of sexual orientation, gender identity and expression and sex characteristics (Article 2 CRC non-discrimination).
- LGBTI Children have the right to access information and materials from different sources and in particular information and materials that promote their well-being and health. The government should stimulate the production and dissemination of these materials and should ensure that children are protected from information that is damaging to them. (Article 17 CRC right to information).
- Children have the right to rest and leisure, to engage in play and recreational activities, and to participate in arts and culture. The government ensures that every child has equal opportunities to realize this right and promotes recreational, artistic and cultural facilities for children. (Article 31 CRC recreation).

Summary

LGBTI children require contact with each other and must be able to exchange information. Access to information and positive role models are important for their well-being. Parents, schools and counsellors play a role in facilitating that information. Good websites specially focused on the needs of LGBTI youth are very important in this respect. LGB young people who want to play sports face a lack of acceptance at sports clubs, while transgender children also come up against possible barriers for even at all being able to play sports at clubs. The obstacles faced by children and young people with an intersex condition have not yet been identified. LGBTI children have the right to a sporting environment and club participation that is free from discrimination and violence.

Association and contact with each other

Contact with other members of their peer group can offer LGB young people recognition, understanding and support. The majority of LGB young people need this. The 'Same Feelings' study reveals concerns for the youngest group of respondents (aged 16-18), as they reported having the greatest need for contact with other gay young people, while they have the least amount of experience.⁶⁸ In 2012 The Dutch National Youth Council (*Nationale Jeugdraad* - NJR) published a study of organisations and initiatives for LGBT young people. The study revealed that most of these are set up in the Randstad, and that there are blank spots in rural areas. This is partially due by the number of LGBT young people, but this does not offer a complete explanation. COC Netherlands, Movisie, NJR, Expreszo and De Kringen cooperate on the project 'On the right track' to strengthen initiatives for young LGBT people in the Netherlands.

In August 2013 Movisie published a study into the requirements for supporting LGBT youth initiatives with the success and failure factors in the establishment, continuation and the support of initiatives for and by young LGBT people. The study detailed research and initiatives for young people aged 16 and older (of which 5% of the respondents to the questionnaire were transgender). It is recommended that initiatives for young people are stimulated, also for those under the age of 16. The 'Jong&Out' meetings offer young people from the age of 12 to 18 the opportunity to have contact with one another, or to organise meetings themselves. COC Netherlands and the regional COC provide support in this respect. In October 2013 an incident took place that was very distressing to the young people in the Utrecht branch of Jong&Out. The Evangelical Congregation of Utrecht (*Evangelische Gemeente Utrecht* - EGU) refused to hire a hall to this COC group for LGBT young people.⁶⁹ Later that month, the COC Central Netherlands organisation asked the Netherlands Institute for Human Rights to assess whether the Evangelical Congregation of Utrecht had discriminated and had wrongly refused to allow the COC Jong&Out working group to use the hall on the grounds of sexual orientation. The progress of this case and the verdict of the Netherlands Institute for Human Rights are unknown at the time of writing this report.

There are too few opportunities for transgender children and young people to meet with each other, even though there is a pressing need for this, as it offers an environment where no questions are asked about being transgender. It is important for children and young people to experience that they are not the only ones in this situation, and they are able to exchange experiences about being transgender. For young transgender people, Berdache, a working group of parents of children involved in the Transvisie Patient Organisation) arranges play afternoons where children under the age of fourteen are allowed to be themselves for a few hours. Transvisie Zorg offers discussion groups to two groups of young people (12-16 years and 16-24 years) and organises a weekend youth camp once a year. Furthermore, transgender children and young people are able to connect with each other via online groups. Initiatives aimed at LGBT young people do not reach all transgender young people and do not meet all of their needs.

The needs of children with an intersex condition have not yet been identified, and it is not yet known whether they benefit from activities that are overarching for LGBTI youth children and young people or which solely involve other individuals with an intersex condition. The patient organisations may already offer platform for contact. More initiatives can come from children and young people, and support is needed in this respect. The development of a website and online forum for children and young people with an intersex condition is recommended and the Dutch Intersex/DSD Network can best advise on the implementation and planning of this specific and feasible goal.

Access to information

⁶⁸ SameFeelings 2010, p. 151

⁶⁹ www.coc.nl: 'Kerk weigert LHBT-jongeren', (Church refuses LGBT youth), 11 October 2013

Access to information on sexual diversity, transgender and intersex conditions is very important for LGBTI children. This particularly applies to transgender children, as they often think they are the only ones in this situation.⁷⁰ Access to information is also important, as most adults in the environment of the children have no regard for the possible LGBTI identity of children and/or have a limited ability to act. Information should be easily accessible, but children also have the right to discover things themselves in private.

LGBTI children can come into contact with information through their parents, TV, internet — which also presents the risk of negative and harmful information — and at school through leaflets, websites, books in the library and information lessons. LGB children and young people can access information on websites such as Sense.info and Jong&Out. There is much less information available for transgender children and young people, and for those with an intersex condition there is none at. The inclusion of sexual and gender diversity and variation in sexual development in biology classes, for example, is also important, as reflected in the questionnaire completed by the transgender young people. Because the impact of the norm among children who start puberty is large, it is important to ensure biology lessons also provide information on sexual orientations, gender diversity and variations in the development of, for example, sex characteristics.

When an LGBTI child wants to ask a question that goes further than just information, then it's necessary for the child to have access to a confidential counsellor with knowledge about sexual diversity and the LGBTI social landscape. It may also be the case that it is not initially clear if the child's question relates to sexual orientation or gender identity. Movisie helps counsellors to deal with this, give the right referral and provide information. At school the child should be able to approach at least one person, such as a care coordinator, school social worker or someone in the ZAT (Care and Advisory Team). It must in any case be someone with expertise. Anniek Verhagen, Gay & School Project leader, emphasises that in order to break down barriers, the name of the person should also be explicitly mentioned in the school guide.⁷¹

Role models and outlook for the future

It is important for LGBTI children and young people to have role models, famous people or people in their immediate environment that set a positive example in being different from the norm. The fact that LGB children and young people see for example that same-sex couples can have children, provides them with a more positive outlook for their own future and their own opportunities to make choices. They have also expressed the desire for a more varied portrayal of homosexuality in the media which does not confirm stereotypes. Role models and the visibility of gender diversity are also important for transgender children and young people: "Examples and role models are important for young people to find timely information and the right words to explain who they are or what they believe in. These examples are often one-dimensional," said Sophie Schers, policy officer at the Netherlands Transgender Network.⁷² The questionnaire for transgender young people includes questions on what their role models are and who is important for them. Friends and parents are by far the most frequently cited, respectively 16 and 10 times. The transgender role models mentioned are: Valentijn (model), Lee Machetti (drag king), Andrej Pejić (model), Bastiaan (youth counsellor at Transvisie Zorg), Coyote Grace (a band with a trans man), Quentin Crisp (writer), Louise (Transvisie Zorg youth counsellor). A 19 year-old transgender individual writes: "For me it would have to be Roel van Velzen (singer songwriter known for his short stature). Because he's shown you can achieve something even if you're different."

⁷⁰ From discussions with Ruth Kaufmann, sexologist (Dutch Sexology Association) and sexological educator at Transvisie Zorg, 24 April 2013

⁷¹ From discussions with Anniek Verhagen, Gay & School Project Leader, 21 June 2013)

⁷² From discussions with Sophie Schers, policy officer at the Netherlands Transgender Network, 14 May 2013

Sports clubs

Sport promotes health, well-being and development of children, but for LGBTI children, access to sporting activities is not a matter of course. Research shows that young people face a lack of acceptance of homosexuality at sports clubs. More than one in ten gay sports club members refer to the atmosphere there as being unfriendly towards homosexuals.⁷³ LGBTI children and young people are entitled to participate in sports in an atmosphere that is free from discrimination.

The lack of acceptance of LGBTI people in sport is reasonably well-known. The Dutch Football Association, the KNVB, has taken several initiatives to increase acceptance of gays and bisexuals in the sport. There is also a Fair Play Alliance between NOC*NSF, Dutch Sport Alliance (NSA), John Blankenstein Foundation (JBF), COC Netherlands and Movisie which is coordinated by the Gay Union Through Sports (GUTS), the interest organisation for LGBT athletes. Bodies such as Mulier Institute also report on sexual diversity in sport. Within these activities, no attention is given to sport as a right of LGBTI children. The obstacles for those LGBTI children who want to play sports must be removed. In August 2013 there was furore in the media when a presenter claimed there were no gays in football. He said that at a certain point homosexual boys stop playing football and go to work in a hair salon. If young people hear this, it confirms both a feeling of social insecurity and the stereotypical image of homosexuality.⁷⁴ Footballers who come out of the closet are therefore needed to show that things can be done differently. In addition to the negative attitudes of fellow participants into gender diversity, gender specific teams and changing rooms are an obstacle to sporting transgender youth. The obstacles faced by children and young people with an intersex condition differ per condition, but have not yet been identified.

⁷³ SameFeelings, SCP 2010, p. 160

⁷⁴ Felten, H., *Homo's in de sport: 'Je gaat het pas zien als je het doorhebt'* (Gays in sport: you'll only see it when you already know), 21 August 2013, www.movisie.nl; also appearing in Trouw.

Self-determination

LGBTI children's rights

- All rights apply to all children, without exception. The government takes measures to uphold these rights and ensure every child is protected against discrimination based on sexual orientation, gender identity and expression and sex characteristics (CRC Article 2, non-discrimination).
- The best interests of children must be the primary concern in all measures that affect them. (Article 3 CRC the best interests of the child).
- The government should take all necessary measures to protect the rights of children (Article 4 CRC protection of children's rights).
- Children have the right to determine their own gender and/or sexual identity (CRC Article 8, identity).
- The government shall ensure that LGBTI children can freely express that view, and that it will be listened to (CRC Article 12, participation and the right to be heard).
- Children have the right to give their view on all matters affecting them. This also applies to medical treatment of transgender children and children with an intersex condition (Article 12 CRC participation and the right to be heard).
- Children have a right to privacy. Transgender children have a right to privacy concerning their own gender identity (CRC Article 16 privacy).

Summary

LGBTI children and young people are negatively affected by the prevailing idea in the Netherlands of what men and women and boys and girls are supposed to be, even if that idea does not fully match what they see in their environment. LGBTI children and young people benefit from a successful emancipation policy that challenges gender stereotypes. For transgender children and children with an intersex condition, a legal and medical element is also involved, in addition to a social side. This for example relates to the gender registration and the statutory declaration for gender recognition. The lack of acceptance of gender diversity in society influences the rights of LGBTI children. Facilitating the legal process to more easily change one's gender or even completely abolishing gender registration would help many children.

Lack of acceptance of gender diversity

In the Netherlands the gender of children is registered at birth. In the eyes of the law, the two legal

categories of men and women are equal. Nonetheless, in the Netherlands the (economic) position of men is stronger than that of women, and in an historical sense there are (unconscious) standards for men and women, which can make it difficult to achieve full equality. The Netherlands has an emancipation policy that underlines gender differences: it refers to 'men' and 'women', 'girls' and 'boys'. Under the UN Convention on the Elimination of All Forms of Discrimination Against Women, the Netherlands is required to combat stereotypical male and female gender images and roles.⁷⁵ Many Dutch 'males' and 'females' fail to meet the unwritten rules for a 'male' or 'female' appearance or behaviour. Nonetheless, binary thinking about gender obstructs acceptance of gender diversity. Ensuring that children do not care whether they are born as a boy or a girl is a complex challenge. Yet it is this acceptance of gender diversity that is important for the development of a positive self-image of transgender children and gender diverse children who do not require medical treatments. LGB children also suffer from a lack of acceptance of gender diversity, as 'masculinity' and 'femininity' are firmly attached to norm of heterosexuality, and this makes them invisible or vulnerable to bullying.

Sex registration of children with an intersex condition

Doctors determine the gender of the child in the first weeks after birth. Under to Article 1:19d of the Dutch Civil Code, gender can be left open for the first three months of a child's life. Then, within this period a new birth certificate can be prepared on the basis of a medical certificate. If no medical declaration is submitted, the new birth certificate must state that gender could not be established. This means within the current Dutch legal framework, certain children may grow up without a registered gender.⁷⁶ It is not clear if that actually occurs or whether there is a predominant tendency to determine the sex of a child as soon as possible. It is recommended that this is researched. If a 'mistake' is made, then the 'error' can be corrected subject to authorisation of the prosecutor (Dutch Civil Code, Article 1:24a).

Sex registration with the desire to change gender

Transgender children are unable to change their gender as the prevailing legislation (Dutch Civil Code, Article 1:28 BW) establishes a medical requirement that they are unable to meet. A bill proposing a change in the law⁷⁷ which is currently before the Senate for approval, provides 16 and 17 year-old transgender children with the opportunity to legally change their sex on the basis of an expert statement from a doctor or a psychologist. It is not clear when the new law will enter into force. Government parties have in the basis of the *Roze Stembusakkoord* (Pink Ballot Agreement)⁷⁸ that this would be settled in September 2013, but this did not occur.

No gender recognition

Children who wish to change their sex encounter many problems. One of the most common problem areas relates to public transport. Sophie Schers, policy officer at the Netherlands Transgender Network: "It would already make so much difference if Dutch Railways would make changes to public transport cards on which the gender of the card owner is stated."⁷⁹ The photo on the public transport card also leads to problems for young people, as it no longer corresponds to their appearance at all. During ticket inspections this can lead to uncomfortable situations or even to fines. Ruth Kaufmann of

⁷⁵ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Article 5(a), <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

⁷⁶ Controlling Bodies, Denying Identities, Human Rights Violations against Trans People in the Netherlands, Human Rights Watch, 2011, p. 81

⁷⁷ Government Gazette 2012 no. 17963, 5 September 2012

⁷⁸ 'www.coc.nl/jouw-belangen/lijsttrekkers-willen-heikele-homozaken-binnen-jaar-regelen' *Historisch Moment: Lijsttrekkers tekenen Roze Stembusakkoord* (Historical Moment: Party leaders sign Pink Ballot Agreement); "simple recognition of gender identity of transgenders"

⁷⁹ From discussions with Sophie Schers, policy officer at Netherlands Transgender Network, 14 May 2013

Transvisie Zorg explains: "The fact that they are then labelled as 'offenders' can be a huge blow which affects them very negatively."⁸⁰

It is unnecessarily hurtful for transgender youth to have their sex and/or first name incorrectly stated on their travel passes and documents. This not only applies to the Municipal Personal Records Database (*Gemeentelijke Basis Administratie* - GBA), but also to the registration systems of institutes and schools. In the questionnaire, a 22 year-old transgender individual suggested that the school should have its own administration that is not linked to the GBA. Behind every system there are people, and they must be prepared to offer solutions to the problems experienced by transgender youth. It can also be the case that teachers address these children by the wrong gender.⁸¹

Young people want to be able to legally change their sex

The vast majority (80%) of transgender young people wanted to change the sex on their passports before their 16th birthday. Eight out of ten young people under the age of 16 replied that they would want to do this and there was one yes/maybe. Twenty three of the twenty nine young people above the age of 16 would have liked to do this before their sixteenth birthday. As a 23-year-old transgender individual writes: "Having a passport with your old sex on creates a lot of stress when you have already started a transition, but have not yet been operated on. Each time you have to present your ID there is an unpleasant confrontation, which can lead to complicated situations."

Young people are also faced with the dilemma of what they would most like, the reactions of society and the medical possibilities. For example, a 22-year-old transgender person writes: "I would liked to have done it before my 16th, but I think it's good that the limit stays at 16. After that you can take irreversible steps such as hormones." There is one 18-year-old transgender person in the youth groups who proposed a solution to the dilemma: "it would be good to not have to choose a gender on the passport."

Lowering the age limit for legally changing sex

It is unclear what the age limit for legally changing sex will be under the new law, although 16 has been proposed. Children must be able to identify themselves as of the age of 14. Transgender children can in consultation with their parents decide from the age of 12, and if necessary earlier, to use puberty inhibitors. As of that time the child lives with a different gender. The fact that they must then wait until they are 16 to legally change their sex is a violation of their children's rights for recognition of their gender identity. In 2013 a motion to make it possible for children, with the consent of their parents, to legally change their sex as of their 12th year was defeated at the House of Representatives. There seems to be a fear in society concerning the abuse and premature application of the law. This is not necessary. Children make the decision in consultation with their parents, and should it emerge that the child nonetheless prefers the other gender, than the question is how serious a problem that is.

If children are convinced they are walking around with the wrong gender indicated on their ID, then that undermines their security and self-confidence, which are exactly the qualities that are most needed for dealing with their transgender feelings. It is an example of how gender diversity is not accepted in the Netherlands – but the situation could be different. The Gender Identity Law in Argentina presently receives the most praise from human rights organisation, as it allows citizens to change gender or birth names on official documents without having to seek approval from a doctor or

⁸⁰ From discussions with Ruth Kaufmann, sexologist (Dutch Sexology Association) and sexological educator at Transvisie Zorg, 24 April 2013

⁸¹ A 20-year-old transgender person states in the questionnaire: "No teachers who call you a *she*, while you feel you're a *he* (and they've never known you as a girl, otherwise it would be quite understandable)"

a judge. In 2013 the Argentinean Children, Youth and Family Secretary approved a request for a 6 year-old girl to change the gender on her identity documents. The children's rights organisation Senaf asserted that the failure to recognise the girl's gender identity would violate her rights as a child.⁸² The Dutch State Secretary for Security and Justice pledged to include the age limit in the evaluation of the law, which will occur five years after it enters into force. It is recommended this evaluation takes into account the opinions and experiences of transgender young people.

Expert statement for 16 and 17-year-old

The forthcoming amendment of Article 1:28 of the Dutch Civil Code introduces the possibility for transgender people who are 16 and above to be able to change the gender on their birth certificate registered with their municipality. A discussion has arisen as to whether the expert statement honours the right of self-determination of the transgender person to determine their own gender identity. The explanatory notes to the law emphasise 'informed consent', which means that you receive a declaration when you express the wish for an 'expert' and confirm that you have understood what the legal change of sex entails.⁸³ The Ministry of Security and Justice asked The Genderdysphoria Knowledge and Care System (*Kennis-en Zorgcentrum voor Genderdysforie* - KZcG) of the VU University Medical Center Amsterdam to prepare a protocol on designating experts. Designating a medical professional to interpret this right to self-determination, without allowing the involvement of transgender interest organisations, effectively medicalises this protocol. This detracts from the Depathologization of gender identity recognition and the self-determination of transgender people. Furthermore, the experts are limited to doctors and psychologists affiliated with a gender team or who are trained or active in gender dysphoria.

It is unclear what the law means for 16-and 17-year-old transgender people who wish to change their legally registered sex. According to the new law, it should be possible on your 16th birthday to have the municipality change the sex registered on your birth certificate. This should not pose a problem for young people receiving treatment from a gender team. However, for those who are not in treatment, or who do not yet want to undergo treatment, the situation becomes more difficult. The task of the doctor and/or the psychologist will be to provide informed consent, and not to judge whether "gender dysphoria" applies. It is recommended that the Ombudsman for Children's is alerted to this and to take action in the event of any complaints.

Sex registration for gender variant people

It is not known how many gender variant youth do not consider themselves boys or girls. This is in any case extremely rare for younger transgender individuals who register with gender teams. There are some young people who register with the gender teams and Transvisie Zorg, who don't place themselves in the category of male or female. The wishes of gender variant children who ultimately choose not to receive medical or psychological support have not been identified. The 2011 Human Rights Watch report confirms that, according to Article 3 of the Yogyakarta Principles, the Netherlands has not been able to respond to how the gender identity of gender diverse people must be recognised. Furthermore, reference is made to Article 8 of the European Convention on Human Rights, which provides the right to privacy and thereby protects the physical and psychological integrity of that person.⁸⁴ The UN Convention on the Rights of the Child should apply Article 8 (preservation and identity) and Article 16 (protection of privacy) to recognising the gender identity of gender diverse children. Further study is needed to ascertain whether these are legal arguments for making gender

⁸² 'Child allowed gender change on official documents', CRIN mail 1347, Child Rights Information Network, 2 October 2013

⁸³ From discussions with Sophie Schers, policy officer at Netherlands Transgender Netwerk Nederland, 14 May 2013

⁸⁴ Elements such as, for example, gender identification, name, and sexual orientation and sexual life fall within the personal sphere, protected by Article 8." Ibidem, p. 75

identity recognition of transgender and gender diverse children possible, such as lowering the age limit or lifting the legal requirement for gender registration.

Decision to undergo medical treatment

The Medical Treatment Contracts Act (*Wet op de Geneeskundige Behandelingsovereenkomst - WBGO*) states that young people may take the decision to undergo medical treatment without the permission of their parents as of the age of 16. Between the ages of 12 and 15 the permission of both the child and the parents is required. Article 7:447 of the Dutch Civil Code establishes that persons of or above the age of 16 can decide for themselves whether to undergo medical treatment, whereas Article 7:465 of the Dutch Civil Code refers to the possibility of age 12 if children are aware of their own interests.⁸⁵ The input of the child relates to the child's right of participation. In the CRC this relates to Article 3 (the interests of the child) and Article 12 (the opinion of child). The major question in this respect is how the voice of the child must be considered and how that is applied in practice.⁸⁶

Input of transgender children in the decision to undergo medical treatment

In 2011 Human Rights Watch reported that the VU University Medical Centre gender team applies the age limit of 18 for consent to treatment in view of the fact that the treatment is part of medical, experimental studies.⁸⁷ This has no longer been confirmed. The age limit of 16 is applied for making independent decisions about the decision. The two gender teams (Amsterdam and Leiden) follow the protocol that the child must have a sufficient social support, such as from the parents and other relatives, that the gender teams has spoken to both parents at least once, also for 16- and 17 year olds. For some young people who do not receive permission from their parents to undergo treatment, about which Human Rights Watch reported, this situation continues to pose a problem for children's rights.

If there are differences of opinion between the child and the parents, or if the child has insufficient social support, then the treating physician decides what is in the best interests of the child. Transvisie Zorg, which provides psychological support to transgender people and their relatives, also has the protocol of informing parents if approached by young people on their own under the age of 18. The chapter on health and welfare further elaborates on the accessibility of transgender care.

The treatment of transgender children is based on diagnostics. The children must meet the characteristics of having a 'psychiatric disorder' to be considered for treatment. Although adult transgender people disapprove of the classification in the DSM (Diagnostic and Statistical Manual of Mental Disorders), there are no signs that children have any problems with this. One factor in this respect is that the children are not aware of what it means.⁸⁸

Input of children with an intersex condition in the decision to undergo medical treatment

Some children who are born with an intersex condition require medical attention because of a life-threatening situation, while in other cases this does not apply. Sometimes, decisions on gender confirmation can be taken with the consent of the parents. The long-term effects of medical treatment requires greater and constant research. The issues relating to medical treatment are not black or white and therefore require discussion based on the perspective of patient, human and children's rights.

⁸⁵ Ibidem, p. 66

⁸⁶ Martine de Vries at the Children's rights and health care conference, 24 January 2013

⁸⁷ Controlling Bodies, Denying Identities, Human Rights Violations against Trans People in the Netherlands, Human Rights Watch, 2011, p. 66

⁸⁸ From discussions with Sophie Schers, policy officer, Netherlands Transgender Network, 14 May 2013

If a medical procedure is carried out just after birth, then the child involved does not provide informed consent. This is justifiable in a life-threatening situation. However, there are also situations in which the treatment can be postponed until the children themselves can provide an input. The right to self-determination is possibly more prominent in the Netherlands Institute for Social Research 2013 study to identify research areas that affect people with an intersex condition. It is good to know that mature people with an intersex condition look back on decisions made in their childhood, and how this is regarded at the time by parents of children with an intersex condition.

Doctors act in the best interests of the child. However, medicine is not separate from gender patterns in society, and doctors also have gender-normative views. It is therefore also necessary to include sexual and gender diversity in medical training. Medical students could do with more knowledge about both intersex conditions, gender diversity and bi- and homosexuality.

Developments In Europe regarding intersex

European cooperation in this respect has recently become more visible in the form of international fora and even organisations under the umbrella term of intersex. In June 2011 the European Commission published a report on discrimination against transgender persons and persons with an intersex condition in Europe.⁸⁹ In June 2013 the EU Foreign Affairs Council adopted guidelines to protect the human rights of LGBTI people, in which included people with an intersex condition for the first time.⁹⁰ In October 2013 the Council of Europe passed a resolution to protect the physical integrity of children, including children with an intersex condition.⁹¹ The resolution refers to Article 3 of the CRC. Although the recommendations are not negative (awareness, training, public debate, promoting research), it is striking to see that they do not include the voice of the child. Promoting children's physical integrity and the right to self-determination cannot occur without the participation and the right to be heard (Article 12 CRC) in as many decisions about medical treatment as possible as well as the policy that is developed for them.

Abolishing gender registration

During discussions in 2013 in the House of Representatives on the new law for transgender people to legally change the gender indicated on their identity documents, the State Secretary for Safety and Justice pledged to carry out a study to examine the possibility of abolishing the requirement for transgender people to legally change their sex. In this way, the rights of transgender people who do not feel themselves to be (wholly) male or female. Interest groups have pointed out the fact that creating a 'non' option (quickly referred to by the general public as a 'third' option) does not improve the social position of transgender people. The privacy and self-determination would be safeguarded only if everyone had the possibility of not choosing a gender. In the Netherlands in recent years there have been increasingly louder calls from interest groups and political working groups to abolish gender registration. Legally, there is no use in having to register gender as there is no longer a distinction between males and females in for example the tax system, redundancy rights and family law.⁹²

Abolishing gender registration would prevent a great deal of stress and suffering. Transgender and gender variant children and young people would no longer have to experience stress about having the wrong gender in their official documents. There is legal pressure to choose a gender as soon as possible after birth. This could also mark the beginning of social change, such as less emphasis on the

⁸⁹ Trans and intersex people, Discrimination on the grounds of sex, gender identity and gender expression, European Commission, Directorate Justice, June 2011

⁹⁰ "Protection of LGBTI human rights officially part of EU foreign policy", 24 June 2013, www.ilga-europe.org

⁹¹ Resolution 1952 (2013), Parliamentary Assembly, Council of Europe

⁹² * *Verplicht veld? Pleidooi voor verkennen van mogelijkheden voor afschaffen van geslacht als juridisch onderscheid*, (Required field? Plea for studying the possibilities of abolishing gender as a legal distinction) FEMNET, 2011, p. 7

apparent definitions of 'men' and 'women', increasing gender diversity and promoting equality. Apart from the assumption that abolishing gender registration would in any case not have any negative effects on LGBTI children and young people, one can ask oneself why the government concerns itself with the contents of citizen's underpants.⁹³ Gender registration may violate the right of all Dutch people to self-determination and privacy. It is recommended that the public debate about abolishing compulsory gender registration and the study the legal possibilities in this respect is stimulated.

⁹³ "*De overheid moet uit ons ondergoed blijven* (The government must stay out of our underwear) - Vreer, Amsterdam, 7 maart 2011 in *DE OVERHEID MOET UIT ONS ONDERGOED BLIJVEN (CONTROLLING BODIES, DENYING IDENTITIES)*, Human Rights Watch, 2011, p. 1

Health care and welfare

LGBTI children's rights

- The government shall take measures to uphold all rights and must ensure that every child is protected against discrimination on the grounds of sexual orientation, gender identity and expression and sex characteristics (CRC Article 2, non-discrimination).
- Children have the right to express their opinion on all matters affecting them. The government shall ensure that LGBTI children are listened to on health care issues that affect them (CRC Article 12, participation and the right to be heard).
- Children have the right to access information and materials from different sources and in particular information and materials that promote their well-being and health. The government should stimulate the production and dissemination of these materials and should ensure that children are protected from information that is damaging to them. (CRC Article 17, right to information).
- Children have the right to be protected from all forms of physical and psychological abuse and neglect both within and outside the family. The government should take measures to prevent and report this and to provide care and treatment. (CRC Article 19, protection from all forms of violence).
- Children have the right to the highest attainable standard of health and health care facilities. The government shall ensure that no child is deprived of his or her right to access these facilities (CRC Article 24, health care).
- All Children have the right to a standard of living that is sufficient to meet their physical, mental, moral and social development. (CRC Article 27, standard of living).

Summary

The welfare of LGBTI children and young people benefits from special attention in assistance and health care. LGBTI children are a blind spot in social work, youth care, sexual health, medical care and mental health care. LGBTI children are not sufficiently listened to and child participation needs to be improved. Also, parents and care providers have a limited ability to act in the areas of sexual orientation, gender diversity and intersex conditions. The lack of knowledge can sometimes be damaging and foster homophobia and transphobia. In 2013, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment released a report on 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 informed consent of the person concerned.⁹⁴ Transgender children and children with an intersex condition in the Netherlands require specialist medical care and psychological support. The accessibility to care for transgender children is deficient. There needs to be more research into accessibility for children with an intersex condition. It is strongly recommended that the rights and situation of LGBTI children in the field of health care and welfare are further identified and that policy is formulated in this area.

⁹⁴ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Human Rights Council, United Nations, 1 February 2013 (A/HRC/22/53)

'Therapies' to change sexual orientation

It is not known to what extent LGB children are exposed to violence by Christian organisation that deal with feelings of homosexuality by seeking to 'cure' this. In 2013, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment called on states to outlaw these forms of treatment.⁹⁵ In 2012 the Minister of Health ended the reimbursement of expenses for psychiatric treatment provided to lesbian, gay and bisexual people by Christian support foundation Different. Partly due to controls by the Health Care Inspectorate⁹⁶ the deficient psychiatric diagnoses could no longer be used as a basis for reimbursing expenses. According to the Inspectorate, there was no treatment offered to 'cure' homosexuality, but they concluded that the foundation's vision influenced the substance and nature of the treatment, namely to provide support for 'mental suffering'. Five Christian LGB organisations did not think the Minister had put an end to these harmful practices for LGB Christians. Different was set up to discourage people from homosexual relationships or even to pressurize people into having a so-called 'healthy' heterosexual relationship.⁹⁷ Although this form of treatment may no longer be reimbursed through the basic health insurance package, it is still possible to partially or wholly reimburse costs through an additional insurance arrangement with the Christian insurer Pro Life.⁹⁸ It is the government's responsibility to be alert to exposure of Christian LGB children to this form of psychological violence. If that is the case, the Netherlands has the international responsibility to prohibit these therapies.

Specialist care for transgender children and young people

The Netherlands offers transgender children unique medical support, including puberty inhibitors. This has an immediate and positive effect on the psychological welfare of transgender children, who have a strong and permanent wish to be a different gender.⁹⁹ Every year approximately 100 children visit the gender teams. The length of the waiting list for diagnosis and treatment can however be up to one year take. This is too long and must be reduced. The children (and parents) who visit the gender teams mainly do so at an early stage, and the 'gender dysphoria' is apparent. They are supported by parents and receive the extra assistance they require. The treatment protocol requires children to have sufficient social support, such as from the parents and other relatives. Involvement with the gender teams is more difficult for young people who do not have the support of their parents, or who may even face their opposition¹⁰⁰. Practical support, travelling distance and financial resources play a role in this.¹⁰¹

Transvisie Zorg offers psychological support to transgender children and their relatives. The gender team does this to a lesser extent as it focuses on diagnostics. These children often suffer from comorbidity (a combination of problems), such as autism, depression and /or anxiety disorders.

⁹⁵ Ibidem, p. 23

⁹⁶ Ministry of Health, Welfare and Sport, Inspectorate of Health, Inspection report on visit to Different on 19-01-2012, 's Hertogenbosch

⁹⁷ '*Besluit Schippers over Different reikt niet ver genoeg*', (Schippers Decision is not far-reaching enough), COC Netherlands, 6 June 2012, www.coc.nl

⁹⁸ <http://www.totheildesvolks.nl/different/wat-doen-we>

⁹⁹ From discussions with Annelou de Vries en haar onderzoek 'Gender Dysphoria in Adolescents. Mental Health and Treatment Evaluation, 2010

¹⁰⁰ Trouw, '*Transgenders hebben profijt van vroege behandeling*' (Transgenders benefit from early treatment), interview with Peggy Cohen-Kettenis, 7 June 2013: "*We krijgen nog steeds telefoontjes van jongeren de dag na hun achttiende verjaardag, omdat ze voorheen door hun ouders werden tegengehouden.*" (We still receive calls from young people the day after their eighteenth birthday, as until then they have been prevented by their parents).

¹⁰¹ From discussions with Sophie Schers, policy officer at the Netherlands Transgender Netwerk, 14 May 2013

Transvisie Zorg also supports the gender variant children who do not qualify for treatment from a gender team. They no longer receive medical care from the gender team, but they do require support at school.

It is estimated that approximately 120 to 150 children register with Transvisie Zorg every year, either by themselves or with parents. Transvisie Zorg offers support to children and young people by counselling, discussion groups and support to parents and schools. The regular care services have insufficient knowledge and expertise to provide psychological support for transgender and gender diverse children. They not only refer cases on, but can also cause harm by providing the wrong treatment. Transvisie Zorg is regularly approached for information by other care providers who have no experience with dealing with clients with gender identity questions.¹⁰²

There are too few places in the Netherlands for transgender children to turn to. There are only two places in the Netherlands that offer diagnoses to transgender children and young people (the academic hospitals in Amsterdam and Leiden). Transvisie Zorg is mainly active in Amsterdam. The Dutch government supports a care alliance for the purposes of improving the chain of care for transgender people, and in this respect more attention should be paid to the children's rights of transgender children. Under the Dutch Social Support Act, psychological support can be provided locally. Both psychosocial support, specialist care (diagnostics) as well as psychological treatment of transgender children will be involved in transition of the Dutch youth care system. Due to the lack of knowledge among policy officers and administrators, transgender youth threaten to become even more invisible than they were already. Furthermore, the gender teams and Transvisie Zorg see very few transgender children of Moroccan, Turkish or Antillean descent, or of a Conservative Christian background. This is concerning, as there are undoubtedly transgender children among these groups.

The perspective of the patient is becoming increasingly important in the quality assurance of transgender care. Children and parents may direct complaints to Transvisie Zorg and the Transvisie patient organisation, and this does happen in practice. The Transvisie patient organisation represents the interests of patients, including those of children. It is important to include the input of children in improving the quality of transgender care.

Youth policy and youth care

LGBTI children and young people are invisible in both youth policy and youth care. Children and young people are not aware of the lack of knowledge and experience of care workers. As Rutger WPF concludes: "In terms of support, LGB young people expect regular care workers to be able to respond well to their needs. Experts are more pessimistic in this regards, and suspect that not all regular care workers have sufficient expertise about the particular experiences of LGB-young people."¹⁰³

Movisie provides guides, training and information sessions in order to maintain awareness of LGBTI children among organisations and care workers. This process is very slow and requires a great deal of effort. With support from the Dutch government, COC Netherlands and Movisie developed the suicide prevention website 'iedereenisanders.nl' (everyone is different) for LGBT young people and for professionals. Under the '*Koplopergemeenten*' initiative, the government provided funding to those municipalities who support sexual diversity (41 municipalities in the period 2012 – 2014). More municipalities should devote attention to LGBTI children's rights in their policy.

¹⁰² From discussions with Ruth Kaufmann, sexologist (Dutch Sexology Association) and sexological educator at Transvisie Zorg, 24 April 2013

¹⁰³ Doorduyn, T. and L. de Lee, *GAAT HET OOK OVER MIJ? De behoeften van LHBT-jongeren aan informatie en hulpverlening rondom seksuele gezondheid*, (IS IT ALSO ABOUT ME? The needs of LGBT young people for information and assistance on sexual health) Rutgers WPF, Utrecht, 2013, p. 2

The Netherlands Youth Institute and the Netherlands Organisation for Health Research confirm the blind spot with regard to assistance for LGBTI children. The Dutch government should stimulate the development of knowledge and expertise in youth policy about this group of children. Virtually no interventions are developed for this group or interventions tested which are suitable for the problems facing for LGBTI children and young people. More interventions and research into the effectiveness of the interventions are required. It is also necessary for training courses to devote more attention to this subject.

From the beginning of 2015 the Dutch government will decentralise youth care from the provinces to the municipalities. A new Dutch youth law will be introduced for this purpose. There are many concerns in response to this development, and it is unclear what the change will specifically entail for the situations of children and young people in vulnerable positions.¹⁰⁴ Renewed and stronger efforts are needed for the visibility and the support of LGBTI children. Improving the situations of LGBTI children and young people in youth care and youth work requires the efforts from various bodies including Youth and Family Centres, VNG (the Association of Dutch Local Authorities), the Dutch Youth Health Centre, the Child Care and Protection Board, the William Schrikker Group, the General Pedagogical Knowledge Centre, Youth Care Netherlands, the Foundation for Homeless Youth in the Netherlands and juvenile detention centres.

Sexual Health

The sexual health of LGBTI children calls for additional attention in the general policy of the government regarding the sexual health of children and young people. In this respect, attention is also required for the differences between L, G, B, T, I, gender, the religious and cultural backgrounds of LGBTI children and young people and any physical limitations.

>> In terms of sexual problems and risks, there is virtually no difference between bisexual and lesbian girls and their heterosexual peers. For boys, there are striking differences in the area of sexual problems, sex against their will, and pressure to have sex. (Sex under 25, 2012)

>> 21% of heterosexual and 33% of lesbian and bisexual girls have been pressured into having sex; while this is true for 4% of heterosexual boys and 14% of homosexual and bisexual boys. (Sex under 25, 2012)

>> Compared to 2005, in 2012 there was a small increase in the feeling of sexual attraction towards members of the same sex, particularly in the 12-14 age group. (Sex under 25, 2012)

>> Men who have sex with men are a high risk group for sexually transmitted diseases and HIV. Homosexual and bisexual test themselves much more frequently, but it is not known whether they have more of these diseases. (Sex under 25, 2012)

>> A medical transition can have a great impact on the sexual satisfaction of transgender young people, sometimes positively, but also sometimes negatively. (*GAAT HET OOK OVER MIJ? [IS IT ALSO ABOUT ME?]*, 2013)

>> Transgender young people ask themselves whether they could even have a relationship at all with someone else. (*GAAT HET OOK OVER MIJ?* 2013)

¹⁰⁴ Press releases "*Commissie bezorgd over jeugdzorg*" (Commission concerned about youth care), 20 June 2013 and "*Jeugdwet leidt tot problemen*" (Youth law leads to problems), 3 September 2013), www.nos.nl

>> Transgender young people face specific risks in terms of sexually objectionable behaviour. For example, they would like to have a relationship, they do not recognise themselves in standard sexual education and there are people who have a specific sexual interest in transgender bodies. (GAAT HET OOK OVER MIJ? 2013)

>> There is still little awareness about the visibility of sexual health of children and young people with various intersex conditions.

Children and young people have access to information about sexuality online and through education at school. Also, their parents (particularly mothers) are important discussion partners for children and young people. Sex education also needs to devote special attention to LGBTI children and young people without stigmatising them. For children and young people with an intersex condition there is little to no access to information about their sexual development. In sex education at school, homosexuality is often understated.¹⁰⁵ The gender team does not appear to play an important role as a provider of information about aspects of sexuality in the phase following the transition, while this is something that is expected by transgender young people.¹⁰⁶ Regular sex education is almost always based on the identities and bodies of people who are not transgender.¹⁰⁷

The Dutch secondary school educational method '*Lang leve de liefde*' (Long live love) does in any case offer a module on sexual diversity. The website Sense.info provides information about the sexual diversity of young people and since 2013 the information on the website has also been adapted to include transgender young people. The video section of the website Jong&Out contains short films in which LGB young people talk about their experiences, including flirting, being in love and sex. Interventions to promote sexual health should also devote attention to diversity in bodies and sexual development. Discussing sexuality is much less common in primary schools than in secondary education. More attention is required for the methods to discuss homosexuality in primary education. The Internet offers opportunities, but also risks, for all children and young people, including those that are LGBTI.

Sexual problems

Within the group of children and young people who have experienced sexual problems, such as sexually objectionable behaviour and sexual abuse, special attention is required to support LGBTI youth. The LGBTI identity is sometimes a factor in this. Care providers have difficulties discussing sexuality and intimacy and it is important that they are trained to learn about this.¹⁰⁸ The conclusions of the Samson committee, which investigated cases of abuse of children in youth and foster care (2012) have indicated that urgency is required in actually bringing about changes in this area. Efforts should include devoting greater attention to sexual orientation, gender diversity and intersex conditions.

¹⁰⁵ Key conclusion, Sex under 25, 2012, Rutgers WPF/SO AIDS, p. 8

¹⁰⁶ Doorduyn, T. and L. de Lee, *GAAT HET OOK OVER MIJ? (IS IT ALSO ABOUT ME?)* The needs of LGBT young people for information and assistance about sexual health, Rutgers WPF, Utrecht, 2013, p. 39

¹⁰⁷ Ibidem, p. 40

¹⁰⁸ Heemelaar, M., *Seksualiteit, intimiteit en hulpverlening*, (Sexuality, intimacy and care) 2008, Houten, p. 25: "Various bodies and stakeholders have repeatedly stated how important it is for care providers to learn how to discuss sexuality and intimacy"

Foreign policy and international cooperation

LGBTI children's rights

- The government shall take all necessary measures to protect the rights of children and shall via international co-operation assist less developed countries in this respect. (Article 4 CRC, protection of rights).
- International cooperation is necessary for LGBTI children to promote, among others, sexual and reproductive health and rights (Article 24 CRC) and education (Article 28, CRC).

Summary

LGBTI children all over the world face discrimination, violence, limited access to health care and early school leaving. LGBT-human rights and sexual reproductive health and rights (SRHR) are a priority of Dutch foreign policy. There must be more attention for LGBTI children and young people.

Improvements can be achieved by supporting national LGBTI organisations in shadow reports, educational projects and promoting SRHR. The knowledge and efforts of Dutch children's rights organisations operating abroad must be increased, and for future activities they should be advised by national LGBTI organisations.

Global situation

In a global context very little is still done to advocate the rights of LGBTI children and young people, while their position is extremely vulnerable. In countries where homosexuality is criminalised, or where it has low social acceptance, LGBTI children face for example a disadvantaged socio-economic position, limited access to mental health care and early school leaving. In some areas the situation has even deteriorated, for example, in countries where anti-propaganda legislation has been adopted, such as in Russia, or the tightening of a ban on same-sex relationships, such as in Uganda. COC Netherlands provides guidance to foreign national organisations for their work at different United Nations human rights bodies to benefit LGBT-children.

CRC: an important instrument

The CRC is an important tool in countries where 'child protection' is used precisely as an argument to deprive them of their rights. This is the case in Russia. Because any kind of information or support of minors who are struggling with their sexual or gender identity is prohibited, these vulnerable young people are no longer able to call on aid agencies or find support in schools, which can lead to severe isolation and discrimination. Furthermore, Russian legislative proposals have recently been put forward to take children away from LGBT parents, again with the aim of 'protecting' them. It is important to show that this type of legislation seriously harms the rights of children, rather than protecting them.

National LGBTI organisations can use the country evaluations of the Committee on the Rights of the Child to prepare shadow reports denouncing the disadvantaged position of young LGBT children, and to formulate counterarguments against the 'protection of the child' rhetoric. These organisations require the promotion of knowledge and resources necessary for successfully applying this strategy. The Netherlands must promote international cooperation in this respect.

The Netherlands internationally

LGBT human rights and sexual reproductive health and rights (SRHR) are a priority of Dutch foreign policy. As children and young people are a particularly vulnerable group in terms of both sexual and gender diversity and access to SRHR. It is therefore necessary to provide them with additional attention. Internationally-operating Dutch children's rights organisations devote insufficient attention to sexual and gender diversity and the rights of LGBTI children. Taking into account sexual diversity provides added value in the areas in which they work, such as education, violence against children, participation and girls' rights. Advice from local LGBTI organisations is essential for any activities to be carried out in this respect. In those countries where there are no laws against "homosexual behaviour" or "gay propaganda", consideration can be given to supporting educational projects. One example is South Africa, where the Dutch government already supports projects. Sexual education can be provided there, if there are the finances to support capacity building and tackle deeply entrenched social norms and homophobia.

The Dutch government supports projects to promote SRHR for children such as the alliance of Rutgers WPF, dance4life, AMREF Flying Doctors, CHOICE for Youth and Sexuality and Simavi. These organisations are all devoted to LGBT children and young people, but partner organisations operating in the countries themselves lack knowledge and sensitivity, and in some cases may even display homophobia. International cooperation in this respect can be increased in this area. Organisations involved in international efforts to improve children's health, such as Médecins Sans Frontières (Doctors without Borders), must ensure their medical professionals are schooled and they are sensitive in the area of sexual and gender diversity. Alliances with local partners can raise awareness of sexual health among both the LGBTI target group and those who assist them.

Caribbean Netherlands

LGBTI children's rights

- The LGBTI children's rights mentioned in the previous chapters all apply to the Caribbean territories of the Kingdom of the Netherlands (Bonaire, Sint Eustatius and Saba) and Aruba, Curacao and Saint Martin that are included in the periodic reports submitted by the Netherlands. This is in accordance with the recommendations of the Institute for Human Rights on the application of the UN Convention on the Rights of the Child to the Caribbean Netherlands.¹⁰⁹

Summary

Changes to the constitutional order within the Kingdom of the Netherlands in 2010 do not release the Netherlands from its responsibility to improve the situation of LGBTI children on all six Caribbean islands. Recent UNICEF reports indicate the rights of the children on the islands are not sufficiently guaranteed. All parties concerned are working hard to improve the situation. LGBTI youth in the islands are still invisible, while their position remains highly vulnerable. In view of the emerging LGBT emancipation and self-organisation, it is recommended that LGBT organisations are enabled to report on the situations of LGBT children and young people and improve knowledge about intersex conditions.

Geography and politics

Since 2010 the Netherlands has been comprised of four countries of equal status: the Netherlands, Aruba, Curacao and Saint Martin. The three islands of Bonaire, Saint Eustatius and Saba (referred to as the BES islands) form the "Caribbean Netherlands" and their position is largely similar to that of the Dutch municipalities, and as such Dutch policy and legislation on sexual diversity also applies in these islands. Aruba, Curacao and Saint Maarten, which are countries within the Kingdom, have their own responsibilities concerning youth health and welfare on the islands. The Dutch Minister of the Interior and Kingdom Relations emphasised this during the *Koninkrijkskinderen* (Children of the Kingdom) conference in 2013, but added that the Netherlands certainly bears a responsibility for support and cooperation in this respect.

Children's rights

In 2013 UNICEF published six separate reports on Aruba, Curacao and St. Maarten and the BES Islands. The conclusion was that the basic required level of children's rights was not guaranteed on any of the islands. The reports made no mention of sexual and gender diversity or the rights of LGBTI children and young people, while this is a necessary perspective.

LGBTI emancipation

In 2010, representatives of the LGBT community of the BES Islands, Aruba, Curacao and St. Maarten, and COC Netherlands signed the 'Pink Orange' Agreement. This initiative, financed by the Dutch Government, is a partnership to improve the position of LGBT people on the Islands. LGBT interest groups are now active on all six islands. Each of these has its own level of development. One organisation is still in its infancy, while another has already been active for several years, albeit on a small scale. Two of these organisations were established only very recently (October 2013). Their work also takes LGBTI people into consideration from the point of view of health care. The Pink

¹⁰⁹ Recommendation, Equal treatment in the application of the Convention on the Rights of the Child in the Caribbean Netherlands, the Netherlands Institute for Human Rights, March 2013 (Recommendation 2013/04)

Orange network works together with HIV organisations. Current priorities include increasing visibility, access to information, psychosocial support and peer group contact and sexual health.

Religion

Religion has a major influence on the lack of acceptance of homosexuality and gender diversity, and social control also plays a role in this respect. The influence of religion can vary from suppression or concealment of homosexuality, attempts to change feelings and behaviour in this respect, and to 'cure' homosexuality by isolating and even "punishing" young people through violent means. These areas require urgent study.

Education

School is not a socially-safe environment for LGBTI children, although the situation is different to the Netherlands. Bullying is less prominent, as young people keep their sexual identity hidden. Because there is little attention to homosexuality and sexual diversity, it is important to establish the teaching materials, the attitude of teachers towards homosexuality and the information provided. The attitude of teachers towards homosexuality is suspected to be largely negative. Substantial efforts will therefore be required to make sexual diversity part of the curriculum. The new of the attainment targets also applies to the Caribbean Netherlands (BES countries), but in the explanatory notes to the official Decision¹¹⁰ the Minister of Education, Culture and Science states that the date of entry into force of the decision has yet to be set. It is important to establish a date and to monitor progress in the area of sexual diversity, taking into account the current developments to improve education.

Health care and welfare

In view of the situation of many children on the islands, there is urgent need to improve youth care, and welfare and support facilities. This is reflected in the reports submitted by the governments and the UNICEF reports. Integrating the requirements of LGBTI youth is vital in this respect. Sexually reproductive health and rights (SRHR) are a key part of children's rights on the island, and require more attention. Children and young people lack knowledge about sexual diversity and reproductive health. Efforts to address this area can also involve education on sexual diversity. It is recommended identifying how attention for LGBTI children and young people can be incorporated into the developments in psychosocial support and medical care.

¹¹⁰ Decision to amend the Decrees on renewed attainment targets for primary education, first stage of secondary education, expertise centres act (special education), primary education in BES and first stage of secondary education in BES in connection with applying the attainment targets in the area of sexuality and sexual diversity (B02734.K-2) p. 7

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20 November 2012: Presentation of the report “*Worden wie je bent, Het leven van transgenders in Nederland*”, (Be who you are, the life of transgenders in the Netherlands), Netherlands Institute for Social Research, The Hague
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15 May 2013: Presentation by the Dutch Intersex/DSD Network on intersex emancipation, COC Nederland, Amsterdam

23 May 2013: Symposium *Koninkrijkskinderen* (Children of the Kingdom) and UNICEF presentation, Leiden

24 June 2013: Round table on DSD/intersex conditions organised by the Ministry of Education, Culture and Science, Utrecht

11 September 2013: Presentation of "Children's Rights Monitor 2013", Ombudsman for Children, The Hague

9 November 2013: Second round table on DSD/intersex conditions organised by Ministry of Education, Culture and Science and Dutch Intersex/DSD Network

Transgender Youth Questionnaire

1. Age

How old are you?

2. Transgender or another description?

The word 'transgender' is mainly used by adults.

How would you describe yourself?

3. Gender in passport

You can't yet change your gender in your passport or ID.

A new law will soon be introduced (in 2014) allowing people over the age of 16 to change the gender in their passport.

Would you like to be able to change your gender in your passport or ID before the age of 16?

Yes, I want to do that.

No, I don't need to do that.

I am older than 16 and would like to have done so before my 16th birthday.

o I am older than 16 but would not have needed to do this before my 16th birthday.

4. Role models

Who is important for you? Who helps you to be yourself? Who is your role model?

You can mention several people. It can be someone who helps you, but also a famous person or someone you know from the television or internet.

5. How could school be better?

Maybe school is not always pleasant. Not for you or for other transgender children and young people. Imagine you could change anything at school to improve the situation for yourself and them.

What would you change?

You can mention several things.

6. COMMENTS

Leave any comments or additional information here.

International Convention on the Rights of the Child

taken from the 2013 annual report on children's rights by Defence for Children and UNICEF

Article 1 Definition of the child

Every person under the age of eighteen is a child.

Article 2 Non-discrimination

All rights apply to all children, without exception. The government shall take measures to uphold all rights and must ensure that every child is protected against discrimination.

Article 3 Best interests of the child

The best interests of children must be the primary concern in all measures that affect them. The government shall promote the welfare of all children and oversee all facilities for the care and protection of children.

Article 4 Protection of rights

The government shall take all necessary measures to protect the rights of children and shall via international co-operation assist less developed countries in this respect.

Article 5 Parental guidance

The government shall respect the rights and responsibilities of parents and guardians. The parents and guardians shall provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights.

Article 6 Survival and development

Every child has the right to live. The government shall to the maximum extent possible ensure the survival and development of the child.

Article 7 Name and nationality

Children have the right to legally registered name and nationality. Children have the right to know and, as far as possible, to be cared for by their parents.

Article 8 Preservation of Identity

Children have the right to maintain an identity, such as nationality, name and family ties. Where children are deprived of their identity the government shall provide assistance with a view to re-establishing their identity.

Article 9 Separation from parents

Children have the right to live with their parent(s) and to have contact with both parents, unless it is bad for them. In any related proceedings the opinion of the children and parents must be listened to.

Article 10 Family reunification

All children have the right to be reunited with their parents if the child and the parents do not live in the same country. Applications for this should be dealt with by the government in a positive, humane and expeditious manner. Children who live in a different country to their parents have the right to direct and regular contact with the parents.

Article 11 Kidnapping

Children have the right to be protected from being illegally taken out of their own country by a parent. The government shall also take measures to ensure that children are able to be brought back from abroad if they are abducted.

Article 12 Participation and the right to be heard

Children have the right to express their opinion on all matters affecting them. The government shall

ensure that children are able to express this opinion, and that they are listened to. This also applies to judicial and administrative proceedings.

Article 13 Freedom of expression

Children have the right to freely express their opinion, this also includes the freedom to collect, receive and disseminate information, provided this respects the rights of others.

Article 14 Freedom of thought, conscience and religion

Children have the right to freedom of thought, conscience and religion and the freedom to express this. The government shall respect the rights and obligations of parents and guardians to provide direction to children in the exercise of their right in a manner consistent with their age and development.

Article 15 Freedom of association

Children have the right to peacefully meet together, to join associations or to set up an association.

Article 16 Privacy

Children have a right to privacy. The government shall protect them from interference with their privacy, family, correspondence and honour and reputation.

Article 17 Right to information

Children have the right to access information and materials from different sources and in particular information and materials that promote their well-being and health. The government shall stimulate the production and dissemination of these materials and should ensure that children are protected from information that is damaging to them.

Article 18 Parental responsibility

Both parents share responsibility for bringing up their children. The interests of the child is paramount. The government shall respect the primary responsibility of parents and guardians, providing them with support and creating facilities for the care of children, including child care if the parents work.

Article 19 Protection from all forms of violence

Children have the right to be protected from all forms of physical and psychological abuse and neglect both within and outside the family. The government shall take measures to prevent and report this and to provide care and treatment.

Article 20 Children deprived of family environment

Children who are temporarily or permanently deprived of their family environment shall be entitled to special protection. The government shall ensure alternative care if necessary, such as foster care, or if necessary an orphanage.

Article 21 Adoption

The first concern in adoption must be what is best for the child. If no solution is possible for children in their country of origin, international adoption is permitted. The government shall supervise the adoption procedures and take measures to ensure there is no improper financial gain involved.

Article 22 Refugee children

Children who seek asylum or are recognised as refugees are entitled to special protection and assistance regardless of whether they are unaccompanied or with their parents. The government shall try to trace parents or other family members of unaccompanied refugee children. If this cannot be done, the child is entitled to the same protection as any other child without parental care.

Article 23 Children with disabilities

Children who are mentally or physically disabled are entitled to special care. The government shall guarantee the right of the disabled child to a lead a full and decent life whereby the child can actively

participate in society and should provide assistance to ensure access to among other things education, recreation and health care

Article 24 Health care

Children have the right to the highest attainable standard of health and health care facilities. The government should strive to ensure that no child is deprived of his or her right of access to such health care services. There should be additional attention to diminish infant and child mortality, primary health care, adequate food and clean drinking water, pre-natal and post-natal health care for mothers and information about child health and nutrition, breastfeeding and hygiene. The government shall ensure that traditional practices prejudicial to the health of children are abolished.

Article 25 Review of treatment in care

Children that have been placed for the purposes of care, protection or treatment of their physical or mental health, are entitled to a periodic review of their treatment and to assess whether the placement is still necessary.

Article 26 Social security

All children have the right to benefit from social security.

Proviso: the Netherlands does not allow children the right to claim social security but arranges this through the parents.

Article 27 Standard of living

All Children have the right to a standard of living that is sufficient to meet their physical, mental, moral and social development. Parents are primarily responsible for these living standards, but the government shall assist those who cannot afford to provide this, in order that the children at least have sufficient food, clothing and housing.

Article 28 Education

Children have a right to education. Primary education must be compulsory and freely available to all children. The government shall ensure that secondary and vocational education is accessible to all children, in accordance with their level of learning. The government shall take measures to reduce dropout rates. The enforcement of discipline in school should respect human dignity and children's rights. International cooperation is necessary to prevent illiteracy.

Article 29 Aims of education

Children have the right to education directed to: the development of the child; respect for human rights and for their own cultural identity, the national values of the country in which the child is living and of other countries; peace and tolerance; equality of sexes; friendship among all people and groups and respect for the environment. Everyone is free to set up schools as they see fit which comply with these principles and minimum standards established by the government for all schools.

Article 30 Children of minority groups

Children from an ethnic, religious or linguistic have the right to learn about and practice their own culture, language and religion.

Article 31 Recreation

Children have the right to rest and leisure, to engage in play and recreational activities, and to participate in arts and culture. The government shall ensure that every child has equal opportunities to realize this right and promotes recreational, artistic and cultural facilities for children.

Article 32 Protection against child labour

Children have the right to protection from economic exploitation and from work that is dangerous and harmful to their health and development or hinder their education. The government shall establish a minimum age for employment and regulate working hours and working conditions.

Article 33 Protection against drugs

Children have the right to be protected from the use of drugs. The government shall take measures to protect children from being used in the drug trade.

Article 34 Sexual exploitation

Children have the right to be protected from sexual exploitation and sexual abuse. The government shall take measures to prevent child prostitution and child pornography.

Article 35 Trafficking of children

Children have the right to be protected against abduction and human trafficking. The government shall take action to prevent children from being abducted, sold or trafficked.

Article 36 Other forms of exploitation

Children have the right to be protected from all form of exploitation that could harm any aspects of their welfare.

Article 37 Children in detention

Torture or other cruel, inhuman or degrading treatment or punishment of children is prohibited. Children must not be sentenced to death or to life imprisonment. Children may only be imprisoned as a measure of last resort and for the shortest appropriate period of time. If children are imprisoned, the courts must decide as soon as possible whether this is to be permitted. In this case, children have a right to legal assistance. Children must not be imprisoned with adults. All children in detention are entitled to humane treatment and contact with their family.

Proviso: in the Netherlands adult criminal law can be applied to children aged 16 and above.

Article 38 Children in situations of armed conflict

A child in an armed conflict situation has the right to additional protection and care. The government shall ensure that children under fifteen years of age shall not recruited into the armed services.

Article 39 Rehabilitation of child victims

Children who are victims of war or of exploitation, abuse, torture or other cruel, inhuman or degrading treatment or punishment are entitled to special care – in an environment that is good for self-respect, health and dignity of the child – to recover and to reintegrate in society.

Article 40 Juvenile justice system

Any child alleged as, accused of, or recognised as having infringed the penal law shall be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society. Every child is entitled to a fair trial and to legal assistance. The government shall prevent children's involvement in criminal proceedings as far as is possible.

Proviso: in the Netherlands a child sometimes receives no legal assistance for minor violations.

End notes