

The status of the Economic, Social and Cultural rights of intersex persons in the Netherlands



NNID

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NGO submission by:

NNID – Netherlands expertise center for sex diversity

NGO submission for the 78th Session of the Committee on
Economic, Social and Cultural Rights (CESCR)

Kingdom of The Netherlands

This report is co-signed by COC Nederland, Transgender Netwerk and Bi+
Nederland



trans
gender
network



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Key Words

Discrimination, full consent, healthcare, intersex, physical integrity, rights of the child, self-determination, sex characteristics

Executive summary

Under its international and domestic obligations, the Kingdom of the Netherlands is required to guarantee the economic, social and cultural rights of intersex persons in the Kingdom of the Netherlands. This NGO report suggests recommendations to the Netherlands concerning its compliance with its obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) to respect and protect the human rights of intersex persons. Specifically, this report will focus on the Netherlands' obligations to guarantee the enjoyment, without discrimination on the grounds of sex characteristics, of the following rights: the right to work (articles 6 and 7); the right to an adequate standard of living (article 11); the right to health (article 12).

Summary of suggested recommendations

We encourage the Committee of Economic, Social and Cultural Rights to include the following recommendations to The Kingdom of the Netherlands:

- a) The committee recommends that the State party submits disaggregated data in its next periodic report on the position and daily life of intersex people, specifically in the areas of work and housing.
- b) The Committee recommends that the State party introduces legislative measures to ban the practice of early surgery and medical interventions on intersex children, to make sure that they are mature enough to be consulted on their preferred treatments on the basis of their informed choices and consent.
- c) The Committee recommends that the State party provides redress for those affected by unnecessary surgery or treatments without free and fully informed consent.

I. Introduction

1. This NGO report has been compiled by NNID (Netherlands expertise center for sex diversity) and is a joint submission by NNID, Transgender Netwerk, Bi+ Nederland and COC Nederland. The report serves as a basis for dialogue during the 78th session of the Committee of Economic, Social and Cultural Rights.
2. Every chapter of this report introduces specific problems of discrimination against intersex persons in the Netherlands, provides the related and relevant articles of the International Covenant on Economic, Social and Cultural Rights (ICESCR), describes the steps taken by the government of the Kingdom of the Netherlands, and introduces suggested recommendations for the State Party.
3. Under its international and domestic obligations, the Kingdom of the Netherlands is required to guarantee the economic, social and cultural rights of intersex persons in the Kingdom of the Netherlands. This NGO report suggests recommendations to the Netherlands on how to comply with its obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) to respect and protect the human rights of LGBTI persons. Specifically, this report will focus on the Netherlands' obligations to guarantee the enjoyment, without discrimination on the grounds of sexual orientation, gender identity, gender expression or sex characteristics, of the following rights: the right to work (articles 6 and 7); the right to an adequate standard of living (article 11); the right to health (article 12).

II. Rights to work and an adequate standard of living

Discrimination and inequality in work (art. 6 & 7) Indications of an inadequate living standard (art. 11)

4. There are very few figures showing the situation of intersex people in the Netherlands. Yet there is no inclusion in the figures on unemployment provided by the government of the Netherlands in their state report. The figures that are available from other sources show a stark reality. 44% of intersex respondents from the Netherlands said they experienced discrimination in the 12 months prior to the survey. 21% experienced discrimination at work or when looking for work, and 22% of intersex persons when looking for housingⁱ. Unfortunately, for trans persons we similar percentages. As these, and the numbers above, indicate worrisome tendencies, more research into the work situation of intersex and trans persons is desperately needed. Although the State has started including the experiences of intersex persons in the Lhbtika+-monitorⁱⁱ, the extremely low number of respondents means that no conclusions can be drawn from the results.

Suggested recommendation:

- a. The committee recommends that the State party submits disaggregated data in its next periodic report on the position and daily life of intersex persons, specifically in the areas of work and housing.

III. Highest attainable standard of physical and mental health

Violence against and ill-treatment of intersex children (art. 12)

5. In para. 49 of the Concluding observations on the sixth periodic report of the Netherlands, the Committee on Economic, Social and Cultural Rights recommends that “the State party review the practice of early surgery and medical interventions on intersex children, to make sure that they are mature enough to be consulted on their preferred treatments based on their informed choices and consentⁱⁱⁱ. The Committee on Economic, Social and Cultural Rights asked in the List of Issues prior to reporting in para 27 regarding “Measures, including legislative measures, taken or envisaged to ensure that intersex persons are not subjected to unnecessary medical or surgical treatment without their full and informed consent.”
6. The State’s response, submitted in their report in October 2024^{iv}, entailed several elements. First, it discusses DSD/bull guideline, which is being developed. Although the report states that this guideline was expected in the second quarter of 2024, it has been since delayed multiple times and is still not finished more than a year later. Meanwhile, intersex persons are still subject to unnecessary medical and surgical treatments without their full and informed consent. Additionally, the State’s response references it is conducting a study with stakeholders and healthcare professionals to determine how unnecessary medical treatments without consent of the person itself can be prevented, including looking at the possibility of a legal ban. This study showed in November 2024 that a legal ban was indeed the best way forward^v. Instead of following this recommendation from their own study, the State has chosen to repeat this study.
7. The unnecessary and non-consensual surgical and medical treatments often leave intersex people with lifelong consequences. Physically this may include loss of sensation, problems with urination, pain, infertility, scarring and the need for lifelong hormonal replacement therapy. Psychologically this includes the effects of traumas and lifelong medical suffering. Recent studies have found the detrimental impact of being diagnosed and medical treatments, among other things, on long term mental wellbeing.^{vi} Additionally, intersex people have reported experiencing sexual assault and rape as part of medical procedures^{vii}.
8. In response to the findings and considering the above-described impact, the Dutch parliament passed multiple motions, asking the government to formulate a legal ban on these unnecessary, non-consensual medical treatments^{viii}. Additionally, the Dutch National Coordination Against Discrimination and Racism, Rabin Baldewsingh, joined earlier calls to the Netherlands from other UN-Committees in asking for criminalisation of non-consensual non-necessary treatments of intersex children.^{ix} Over 80 civil society organisations, mainly from the Netherlands, supported this call for the protection of intersex children in a solidarity statement. However, rather than proposing this much-needed law change, the policy response of the responsible ministers was to issue another

exploration together with stakeholders on how this practice can be prevented.^x It will be the third time such an exploration will take place, as one concerning the same question was already held in 2019 in response to the recommendation by CAT and another exploration in 2024. The new study will likely not provide any new answers, as these were already provided in 2019 and 2024 and by all the organisations and human rights bodies mentioned above.

9. By continuing to leave the decisions up to the medical professionals, the Netherlands entirely ignores CESCR's earlier recommendation. Rather than repeatedly exploring the possible ways of preventing these human rights violations taking place – an exploration already executed in 2019 and another one in 2024, which resulted in the same recommendation for a legal ban – the Netherlands should make haste with lawfully protecting intersex children against human rights violations taking place. The 'normalising' treatment of intersex people in the Netherlands, in general, is a breach of art. 12 (2c) of ICESCR, General Comment 22 and the recommendation issued by the Committee in the concluding observations on the sixth periodic report of the Netherlands.

Suggested recommendation:

- b. The Committee recommends that the State party introduces legislative measures to ban the practice of early surgery and medical interventions on intersex children, to make sure that they are mature enough to be consulted on their preferred treatments on the basis of their informed choices and consent.
- c. The Committee recommends that the State party provides redress for those affected by unnecessary surgery or treatments without free and fully informed consent.

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 - ^{iv} Netherlands: Written replies to list of issues. United Nations, International Covenant on Economic, Social and Cultural Rights (31 Oct 2024).
 - ^v ZonMw. *Het voorkomen van niet-noodzakelijke medische behandelingen bij jonge kinderen met DSD/intersekse: Verslag van het rondetafelgesprek*. Den Haag, (september 2024). <https://www.zonmw.nl/sites/zonmw/files/2024-11/Verslag-rondetafelbijeenkomst-nnmb-s-def5.pdf>.
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 - ^{viii} Motie-Westerveld en Kostic (TK 36 600 VIII nr.38)
 - ^{ix} Baldewsingh, Rabin. *Wettelijk Verbod Non-Consensuele, Niet-Noodzakelijke Medische Behandelingen Van Intersekse Kinderen En Volwassenen, 14 April 2023 - 2023-0000205124*. Den Haag: Bureau Nationaal Coördinator tegen Discriminatie en Racisme, 2023.
 - ^x Paul, M.L.J. *Emancipatienota: Veilig Meedoen!* Referentie: 30420-418. Den Haag, 11 juli 2025. <https://www.rijksoverheid.nl/documenten/kamerstukken/2023/07/06/voorkomen-van-niet-medisch-noodzakelijke-non-consensuele-behandelingen-intersekse-kinderen>