YOUTH SUBMISSION

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CHOICE FOR YOUTH AND SEXUALITY
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CHOICE FOR YOUTH & SEXUALITY

1. INTRODUCTION

CHOICE for Youth and Sexuality is a youth-led and youth-serving organization based in the Netherlands, implementing programs on the sexual and reproductive health and rights of all young people across 9 countries in Africa and Asia, and the Caribbean sub-region.

As the OHCHR does not have a consensus definition on youth, we wish to highlight that the information reflected in our submission below is in line with the CHOICE definition of youth, namely persons from 16-29 years old.

As youth are minimally discussed in the Council, with only 34% of Special Procedures addressing youth in more than one sentence in their 2018 reports to the Human Rights Council, the objective of this report is to submit information pertaining to your call specifically from a youth perspective.

This submission aims to shed light on the mistreatment and violence that women face when accessing reproductive health care, especially focusing on the challenges that young women and girls face. The submission is built upon CHOICE's 21 years of experience conducting youth-led programming on the sexual and reproductive health and rights of young people.

2. CASES OF VIOLENCE AND MISTREATMENT AGAINST WOMEN SEEKING REPRODUCTIVE HEALTH CARE, ESPECIALLY YOUNG WOMEN AND GIRLS

Precedent
Already in 2002, researchers established that violence against women in health care facilities was a problem on the rise.[1] Though certainly not exhaustive; neglect, verbal violence, physical violence and sexual violence were among the most frequent types of violence that was inflicted on women seeking reproductive health care or during childbirth. Yet, in 2015, scholars identified that there still was no universal policy on how to detect and measure these events.[2]

United Nations Human Rights Council Resolution 11/8 on Preventable maternal mortality and morbidity and human rights already stipulates that every woman has the right "to be equal in dignity, to education, to be free to seek, receive and impart information, to enjoy the benefits of scientific progress, to freedom from discrimination, and to enjoy the highest attainable standard of physical and mental health, including sexual and reproductive health."[3] However, in practice we see this is often not the case.

Safe, available, accessible, acceptable, quality and effective[4] SRHR and HIV health services
Young women seek "friendly, nonjudgmental service providers, privacy, [and] cheap but quality [health] care", yet often experience a variety of mistreatment while trying to access youth-friendly health services. In a study conducted by CHOICE for Youth and Sexuality about sexual and reproductive health and rights and HIV health services for young people, 13% of 480 respondents identified the cost of health services as a key barrier to their access. 12% of youth reported facing age-based stigma and discrimination in healthcare settings, which impeded their access to sexual and reproductive healthcare services. States have a progressive responsibility to realize the highest attainable standard of health and well-being, including access to quality care that is free from discrimination, yet young people feel their right is not being realized. Stigma from health workers continues to be a significant barrier to seeking STI or HIV health services.

[1] d'Oliveira, Diniz, and Schraiber, "Violence against Women in Health-Care Institutions."
[2] Bohren et al., "The Mistreatment of Women during Childbirth in Health Facilities Globally."
[3] United Nations Human Rights Council, Resolution 11/8. Preventable maternal mortality and morbidity and human rights.
[4] The prescribed standard of care as recognized by CESCR General Comment 14 and 22.

As described in a 2000 study on adolescent contraceptive choices, "Better communication with adolescents—within families, at school, and within the medical system—can help them overcome these barriers. Clinicians usually don't bring up the issues of sexually transmitted diseases and contraception, but these are subjects that most teens would like to discuss with their providers."[5]

3. FULL AND INFORMED CONSENT FOR ANY TYPE OF REPRODUCTIVE HEALTH CARE

Family and community pressure and medical advice

Young women and girls are more susceptible to pressure from their family and community. This impedes their right to make a fully informed, consensual decision about their reproductive health care. A 2015 study on adolescent contraceptive use in South Africa and Nigeria finds that young women and girls often do not have freedom of choice when it comes to their preferred method of contraceptives, because they are regarded incapable of making such a decision.[6] This starkly contradicts young women and girls' bodily autonomy and presumption of competence to make decisions about their own sexual and reproductive health.

This notion affects young women's freedom of choice in terms of reproductive health care in multiple ways. Firstly, when parental consent is necessary, young girls are at risk of receiving a type of family planning that is not their preferred method, and in turn, this might have adverse effects on their reproductive health. Various studies have pointed to regular religious practice as being a factor in adolescent contraceptive use, finding that French adolescents who report regular Catholic practice are 50% less likely to use an effective method of family planning.[7] Although broader research into the effects of religious practice on young people's reproductive health choices is lacking, it is evident that there is a link between the two variables. A potential solution to this problem might be medical confidentiality - if a medical professional can ensure that a young woman's contraceptive choice remains confidential, this removes the possible negative impact that parents may have on her sexual and reproductive health.

Secondly, a doctor's opinion may also have an impact on the freedom of reproductive choice of a young woman. Young people are more likely to see the opinion of a doctor as the single right option for them, with little room for negotiation. In the Netherlands, general practitioners often simply prescribe the most commonly used contraceptive pill without informing the patient of other options, such as an IUD, implant, or non-hormonal alternatives. This is despite the fact that it is well-known that young women increasingly report suffering from mental health issues as a result of hormonal imbalance subsequent to using hormonal contraceptives. Young women are less likely to argue with their doctor due to a perception of authority, and in turn, they may end up using a method of family planning that is not right for them. Moreover, there have been instances reported of doctors and gynecologists unwilling to provide women with emergency contraceptives or abortion on non-medical grounds.[8] A medical professional in the Netherlands is allowed to refuse an abortion request at any time, given that they refer the patient to a second practitioner, who can then refer the patient to an abortion clinic. Despite the fact that refusal is relatively rare, the fact remains that a doctor's personal beliefs may pose a barrier for a young woman to receive quick and adequate health care of her choice.

[5] Davtyan, "Contraception for Adolescents."
[6] Savage-Oyekunle and Nienaber, "Female Adolescents' Evolving Capacities in Relation to Their Right to Access Contraceptive Information and Services: A Comparative Study of South Africa and Nigeria."
[7] Moreau, Trussell, and Bajos, "Religiosity, Religious Affiliation, and Patterns of Sexual Activity and Contraceptive Use in France."
[8] Van der Vlugt, "Afbreking zwangerschap via huisarts is geen 'gemaksabortus.'"

4. ACCOUNTABILITY MECHANISMS WITHIN HEALTH FACILITIES TO ENSURE REDRESS FOR VICTIMS OF MISTREATMENT AND VIOLENCE

The Dutch context

All health centers in the Netherlands are bound by a law that addresses quality, complaints and disputes in health care (Wet kwaliteit, klachten en geschillen zorg).[9] The law, which entered into force in 2016, has the goal to ensure transparency about complaints and unwanted events and learning from them, to improve health care collaboratively. This law applies to all health facilities and providers in the country. Moreover, violence in all its forms between a health care provider and a patient have to be reported to the Dutch Health and Youth Care Inspectorate.[10] The law also includes measures for reparation to victims of violence in health care. However, chances that a young victim of mistreatment in health facilities takes legal measures are slim. Although there is a form for complaints on every health facility's website, knowledge of the law is required to actually receive reparation. This procedure is not youth-friendly. Still, the law is in place, and has a specific focus on violence against young people. In this regard, the Netherlands exemplifies a comprehensive policy against violence in health care. Additionally, there are regulations in place for medical professionals who refuse to provide certain reproductive health care services.

Access to safe and legal abortion

In the Netherlands, too, women and girls are unjustly faced with the types of mistreatment presented under point 3. An emerging problem is the harassment of women seeking care at abortion facilities. Protesters approaching and intimidating women at the facility entrance have always been present, but recently abortion facilities have reported a spike in the number of protesters and are taking measures to keep them at a distance, though with difficulty.[11,12]

These protesters often call on the claim that many women and girls who choose to terminate their pregnancy, regret their choice afterwards. However, data show that less than 5 percent of women actually have second thoughts about or regret their decision. More importantly, irrespective of women's sentiments after the procedure, they have the right to make a decision free of harassment and humiliation.

Dutch Minister of Health, Wellbeing and Sports Mr. Hugo de Jonge has pledged to restrict protesters outside abortion clinics to a significant distance. Moreover, he has stated he will not allow vans with anti-abortion messages to drive around clinics, though this measure has not been put into action yet.

The Dutch government has renewed their funding to an organization called Siriz to provide impartial support to young women on their abortion decisions, despite the public upheaval concerning Siriz' public participation in anti-abortion campaigns. There is a very realistic concern that Siriz' support to young women aims to influence them not to have an abortion, impeding with women's bodily autonomy in such complex situations.

Mistreatment against intersex children

Moreover, in 2018, the Kingdom of The Netherlands was under review at the Committee Against Torture (CAT) for alleged torture practices in relation to non-consensual and not-medically necessary treatment of intersex persons.[13] For the past decades, it has been standard procedure in the Netherlands for surgeons to perform medical interventions on intersex infants and children, in order to adjust their sex characteristics to be in line with societal norms of 'male' and 'female'. These non-necessary medical procedures are performed without prior, fully informed consent of the intersex person, and at an age where they cannot give effective autonomous consent. This goes against their rights to autonomy, self-determination and physical integrity. While in 2006 the practice of "normalization", where intersex children were automatically assigned a sex, was abandoned, the practice is still not illegal. Parents of intersex children are presented

[9] Ministerie van Algemene Zaken, "Wet kwaliteit, klachten en geschillen zorg (Wkkgz) - Kwaliteit van de zorg - Rijksoverheid.nl."
[10] Ministerie van Algemene Zaken.
[11] Schravesande, "Abortus: De Strijd Tussen Het 'Kind' En de 'Vrucht' Laait Op."
[12] De Zeeuw, "Bufferzones Bij Abortusklinieken Moeten Activisten Op Afstand Houden."
[13] CAT/C/NLD/CO/R.7, para 53.

with the choice to have their child undergo 'corrective' surgery. In several specific forms of intersex, these procedures have the potential to severely impact the person's reproductive health organs - at times leading to infertility, reduced experiences of sexual pleasure, and mental health impacts.

In its Concluding Observations, the CAT stated that the Netherlands, among other things, should take measures to ensure that no intersex person is subjected to "non-urgent medical or surgical procedures intended to decide the sex of the child without his or her informed consent".[14] The CAT also stipulated that the Netherlands should "Take the legislative, administrative and other measures necessary to guarantee the respect for the physical integrity and autonomy of intersex persons and to ensure that no one is subjected during infancy or childhood to non-urgent medical or surgical procedures intended to decide the sex of the child without his or her informed consent […] and that non-urgent, irreversible medical interventions are postponed until a child is sufficiently mature to participate in decision-making and give effective consent."[15] Dutch Ministers have been questioned a result of these observations, but so far no legislative changes have been made to incorporate the CAT's recommendations.

Recommendations

For young women and girls to have a pleasant and youth-friendly sexual and reproductive health care experience, the following needs to be in place:

- Freedom of choice: access to the full range of modern contraceptives and sexual and reproductive health care services of their choice.
- Information: unrestricted access to youth-friendly, comprehensive information regarding sexual and reproductive health care. This includes comprehensive information from health care providers.
- Decision-making power: the power to make an informed choice with regard to sexual and reproductive health care services, respecting confidentiality and without needing the consent of an adult.
- Freedom of discrimination and/or stigma: the ability to decide on, access and use sexual and reproductive health services without facing any type of discrimination from relatives, community, or health care providers, whether on the basis of social norms, religious norms, or personal beliefs. This includes personal beliefs of medical professionals and health care providers.

Against this backdrop, CHOICE recommends that states undertake the following essential steps:

1. Call for global consensus on how occurrences of mistreatment of and violence against women and girls seeking reproductive health care are defined, measured, documented, and prevented.
2. Explore drivers of mistreatment of and violence against women and girls seeking reproductive health care, including childbirth.
3. Improve sexual and reproductive health services to better meet the specific and unique needs of young people in terms of access, information about reproductive health care options, freedom of choice and age discrimination.
4. Adopt special legislation to tackle and report cases of violence against young women and girls seeking sexual and reproductive health care, including childbirth.

For questions about this submission, please contact the CHOICE office

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[14] CAT/C/NLD/CO/R.7, para 53.
[15] CAT/C/NLD/CO/R.7, para 53.

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