

**Universal Periodic Review of the Netherlands**

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**&**

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**Executive Summary**

1. This report is submitted by Rutgers and the Sexual Rights Initiative (SRI) and focuses on sexual and reproductive health (SRH) rights in The Netherlands. In general, SRH rights in the Netherlands are well respected, however, challenges remain with regards to the provision of comprehensive sexuality education, the persistence of sexual violence and access to information, education and services for marginalized groups.
2. In June 2016, the Minister of Health proposed that medical abortion up to 45 days would fall under the same regulatory laws as abortion in a later stage of a pregnancy resulting in restricted access.
3. In 2012, the Government made sexuality education obligatory in primary and secondary schools, however, the quality and amount of sexuality education lessons in schools varies a lot. As rates of sexual violence is high in The Netherlands it is essential that sexuality education is comprehensive and includes negotiation skills, gender equality and human rights, so that young people are empowered to protect themselves and respect the rights and boundaries of others.
4. In recent years The Netherlands has seen an increase in the number of refugees and asylum seekers. Special attention is needed for vulnerable groups like unaccompanied minors and female asylum seekers. Many have undergone serious traumas and sexual abuse or have experienced sexual intimidation. There are indications of child, early and forced marriages and incidents of sexual and gender related violence. With the increased number of refugees and asylum seekers, SRH rights issues remain highly challenging. Medical doctors and other health care professionals need support to deal with specific needs of vulnerable groups of refugees in a culturally sensitive way.
5. In The Netherlands gender inequality remains a subject in public and policy debates. Equality between men and women will not be reached until men and boys can take equal responsibilities in caregiving and domestic work. As The Netherlands is taking a leading role in international debates on SRH rights, human rights and gender equality, the Government should take a more leading role in implementing this nationally. An equal level playing field for men and women is needed. Policies around paternity leave should be extended.

**Progress and gaps in the implementation of recommendation from 1<sup>st</sup> & 2<sup>nd</sup> cycle of UPR**

6. During its first review in April 2008, and the second review in May 2012 the Netherlands received the following recommendation from India: **Fully implement the measures regarding violence against women as outlined in its UPR interim report and consider implementing the recommendations of the Special Rapporteur on violence against women and CEDAW.** As the response of the Government was unclear on this official recommendation of India, it is still unknown if and which actions the Government has taken. No measures have been put in place regarding violence against women as addressed in the UPR interim report as well as no specific actions are taken with regard to the recommendations on the Special Rapporteur.

## Background

7. In general, SRH rights in the Netherlands are well respected. 90% of youth used a contraception method to protect themselves against pregnancies and 75% used a condom during their first sexual intercourse.<sup>1</sup> And 4 out of 5 of Dutch youth always use a contraceptive method during sex. The number of teenage pregnancies is decreasing over the years, as well as the number of abortion among teenagers<sup>2</sup>. In general, women and teenagers have good access to reliable contraceptives, safe abortion, information and services.
8. Contraceptives are free of charge under basic health insurance for women until the age of 21. Above the age of 21, women have to pay for their contraceptive use. Only parts of these costs can be reimbursed if women have additional insurance, however there is a €385 deductible (*eigen risico*) which women must pay before receiving reimbursement.
9. In 2014, the number of people newly diagnosed with HIV at STI clinics decreased by 9 per cent (from 358 cases in 2013 to 323 in 2014)<sup>3</sup>. Chlamydia is the most common STI and in 2013 the number of infections increased by 7% and 19% of young people between 15 and 19 years who had a consult at a centre for sexual health was diagnosed with Chlamydia<sup>4</sup>.
10. In cases of unintended or unwanted pregnancy, abortion is allowed until 24 weeks. Abortion is still part of the political and public debate. Since 2008 the overall number of abortions slightly declined. At present, medical abortion in the first 45 days (*overtijdsbehandeling*) is allowed in registered abortion clinics or hospitals who have a special permit. It falls under less restrictive laws and legislation and there is no requirement for the 5 day waiting period for women as with abortions at later stages. In June 2016, the Minister of Health proposed that family doctors may provide medical abortions up to 45 days, which seems an expansion of the existing regulations. However, it is proposed that the treatment by the family doctor will fall under the same legislation (*Wet Afbreking Zwangerschap*) as abortion in a later stage of a woman's pregnancy. Subsequently, this implies that family doctors should apply for a special permit in order to provide the medical treatment for abortion up to 45 days. It is likely that not all family doctors will apply of this and thereby equal accessibility of women is not assured. In Dutch civil society there is strong opposition on this proposal.
11. In The Netherlands 40% of women and 13% of men experience some form of unwanted (physical) sexual behaviour, ranging from unwanted touching to rape, at least once in their lifetime. 14% of women has been raped at least once.<sup>5</sup> 17% per cent of female and 5% of male youth age 12 to 25 years

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<sup>1</sup> Graaf H de, Kruijer H., Acker van J., and Meijer S. *Seks onder je 25e* [Sex under the age of 25]. In opdracht van de Rutgers Nisso Groep en Soa Aids Nederland. Delft: Eburon, 2012.

<sup>2</sup> Inspectie voor gezondheidszorg, Jaarrapportage 2014 van de Wet afbreking Zwangerschap, Utrecht: 2015.

<sup>3</sup> Rijksinstituut voor Volksgezondheid en Milieu

[http://www.rivm.nl/en/Documents\\_and\\_publications/Scientific/Reports/2015/juni/Sexually\\_transmitted\\_infections\\_including\\_HIV\\_in\\_the\\_Netherlands\\_in\\_2014](http://www.rivm.nl/en/Documents_and_publications/Scientific/Reports/2015/juni/Sexually_transmitted_infections_including_HIV_in_the_Netherlands_in_2014)

<sup>4</sup> Rijksinstituut voor Volksgezondheid en Milieu

[www.rivm.nl/Documenten\\_en\\_publicaties/Algemeen\\_Actueel/Nieuwsberichten/2014/Percentage\\_positieve\\_soatesten\\_in\\_2013\\_licht\\_gedaald](http://www.rivm.nl/Documenten_en_publicaties/Algemeen_Actueel/Nieuwsberichten/2014/Percentage_positieve_soatesten_in_2013_licht_gedaald)

<sup>5</sup> Haas, S. de (2012). Haas, S. de (2012). Seksueel grensoverschrijdend gedrag onder jongeren en volwassena in Nederland.

*Tijdschrift voor Seksuologie*, 36(2), 136-145.

old has had experience with sexual violence or sexual coercion. Sexual violence has severe physical, psychological and social implications. Sexual violence is rooted in unequal power relationships and gender norms. Harmful gender stereotypes which usually disadvantage women still exist. Women and girls in the Netherlands are confronted with double sexual standards, including women and girls from ethnic and religious groups.<sup>6</sup> In general it can be stated that a girl has to behave sexy but should not be sexually active.<sup>7</sup> And that boys experience more sexual freedom and privileges compared to girls.

12. Since 2015, The Netherlands is experiencing an increased number of refugees and asylum seekers. The COA refugee centers (*Centraal Orgaan opvang Asielzoekers*), civil society organizations and the Government are increasing their attention to safe living environments and of the human rights of refugees and asylum seekers. Special focus is needed for vulnerable groups like unaccompanied minors and female asylum seekers. Many are sexually abused or have experience with sexual intimidation, some became pregnant or have given birth under bad conditions. Lesbian, gay, bisexual and transgendered (LGBT) refugees sometimes feel unsafe and are confronted with homophobia. There are indications from professionals working with refugees and asylum seekers of child, early and forced marriage and incidents of gender related violence. Unfortunately, there is a lack of reliable data or research on these topics. With the increased number of refugees and asylum seekers, SRH rights issues remain highly challenging. Medical doctors and other health care professionals need support to deal with specific needs of vulnerable groups of refugees in a culturally sensitive way. There is also a strong need for comprehensive sexuality education of young refugees, because of a lack of information and education on this in their countries of origin.

## **Problem identification**

### *Comprehensive sexuality education.*

13. During the second UPR cycle, both in the stakeholder summary as well as in the UN compilation, recommendations were made to The Netherlands concerning the strengthening of sexuality education. In 2012 the Government decided to make sexuality education obligatory in primary and secondary schools. Sexuality and sexual diversity are explicitly embedded in the Governmental policy *kerndoelen* (key goals in education). Nevertheless, schools have a great freedom to fill in these objectives themselves and choose their own methods. Rutgers and SOA Aids Nederland deliver evidence based and comprehensive sexuality education programs for schools, but not all of the collaborating partners (e.g. municipal and Public Health Centers who support schools with information and tools and organize trainings for the teachers) have the skills and capacity to implement the programs in schools in their own region. Therefore the quality and amount of sexuality education lessons in schools varies considerably. The fact that sexuality education is at this moment still dependent on the school that a student attends is in violation of General Comment 4 of the UN Committee on the Rights of the Child, which states that 'it is the obligation of States parties to ensure that all adolescent girls and boys, both in and out of school, are provided with, and not denied, accurate and appropriate information on how

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<sup>6</sup> The double sexual standard is especially strong in Moroccan and Turkish communities, see: De graaf, H., Egten, C. van, Hoog, S. de, Berlo, W. van (2009). *Seksualisering: aandacht voor etniciteit. Een onderzoek naar verbanden met opvattingen en gedrag van jongeren* [*Sexualisation: attention for ethnicity. A research into the relation with attitudes and behaviors of young people*], Utrecht: Rutgers WPF

<sup>7</sup> Cense, M. & Van Dijk, L. (2010). *Niet zomaar seks. Jongeren over seks en grenzen*. Utrecht: Rutgers Nisso Groep.

to protect their health and development and practice healthy behaviors.’<sup>8</sup> As well it is a denial of international and regional agreements on the right to comprehensive sexuality education<sup>9,10</sup>.

14. Since the Government has agreed to include sexuality and sexual diversity in school curricula, promotions and assistance, monitoring and evaluation of implementation is necessary. However, Rutgers and SOA Aids Nederland found that according to young people<sup>11,12</sup>, the majority of schools are educating still only the bodily and more technical aspects of sexuality education and thereby missing out on the comprehensiveness of sexuality education which is so essential in the preparation for adult life. Youth need information and skills to be empowered to express boundaries and their wishes. They have a right to freely make informed choices concerning their sexuality and sexual life and the information, education and the means to do so. Freedom, mutual respect and equality are important in making such choices. Recent research of Rutgers shows that parents are still the most important persons for children between 9 and 12 to ask questions about love, sexuality and their body. Therefore it is crucial to include parents in interventions too.
15. In our multicultural society special attention must be paid to topics as sexual diversity, sexual rights, gender equality and the right to choose your own partner, so that young people are empowered to protect themselves and respect the rights and boundaries of others. Additionally, there must be special attention for the implementation of comprehensive sexuality education to youth and adolescents with intellectual and physical disabilities and youth with diverse cultural backgrounds, including refugees and asylum seekers. Recent research shows that these particular groups have limited knowledge on sexuality, have less skills to articulate their boundaries and have more conservative attitudes towards gender equality and sexual diversity<sup>13</sup>.
16. In order to make the implementation of comprehensive sexuality education effective and sustainable, current and future school teachers must have the skills, confidence and be knowledgeable to teach the mandatory lessons on comprehensive sexuality, including sexuality and sexual diversity. This must also be embedded in the long term vision and agreements on education in *Onderwijs2032*.

#### *Access to contraceptives*

17. As of January 2011, contraceptives are free of charge under basic health insurance for women until the age of 21. Above the age of 21 women have to pay for their contraceptive use. Only parts of these

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<sup>8</sup> United Nations Committee on the Rights of the Child on CRC/GC/2003/4, 1 July 2003. Adolescent health and development in the context of the Convention on the Rights of the Child (CRC)

<sup>9</sup> The right to comprehensive and non-discriminatory sexuality education is based on rights protected by human rights agreements, including *inter alia* the Convention on the Rights of the Child; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of Persons with Disabilities. And the implementation of comprehensive sexuality education is safeguarded in the Sustainable Development Goals under target 3.7 and 5.6 (indicator 5.6.1).

<sup>10</sup> EU Council Conclusions on Gender Action Plan 2016-2020 (2015), Brussel: Council of the European Union, <http://www.consilium.europa.eu/en/press/press-releases/2015/10/26-fac-conclusions-gender-development/>

<sup>11</sup> Graaf, H. de, Kruijjer, H., Acker, J. van, & Meijer, S. (in press). ‘Seks onder je 25e 2: Seksuele gezondheid van jongeren in Nederland anno 2012’, Delft: Eburon

<sup>12</sup> Graaf, H. de (2016) ‘Hoe denken kinderen van 9 tot 12 jaar over seks?’, Utrecht: Rutgers, [http://www.rutgers.nl/sites/rutgersnl/files/PDF/Resultaten\\_onderzoek\\_Rutgers\\_NOS\\_Jeugdjournaal\\_2016.pdf](http://www.rutgers.nl/sites/rutgersnl/files/PDF/Resultaten_onderzoek_Rutgers_NOS_Jeugdjournaal_2016.pdf)

<sup>13</sup> Pharos Expertisecentrum Gezondheidsverschillen (2016), ‘Kennissynthese gezondheid van nieuwkomende vluchtelingen en indicaties voor zorg, preventie en ondersteuning’, Utrecht: Pharos.

costs can be reimbursed if women have an additional insurance however women must pay a €385 deductible (*eigen risico*) before receiving reimbursement. The amount of the *eigen risico* is increasing over the years from a no claim bonus of €255 in 2006 to deductible costs of €385 in 2016. This is a worrying trend especially for people in low income groups, where financial reasons could be a barrier in the consistent use of contraceptives. This financial barrier is especially relevant for long acting contraceptives as women need to pay a higher amount all in once. It is indicated that vulnerable groups of women and girls (e.g. homeless women, women drug users, women from diverse cultural backgrounds, women with financial problems, women with limited knowledge of the Dutch language and women with intellectual disabilities) experience limitations in accessing contraceptives, they are not able to make an informed choice about contraceptives and/or they are not able to use contraceptives consistently. Therefore, it is requested the Government should consult with these groups to better meet their needs.

18. Special attention should be paid to particular groups of girls and women. Surinamese and Antillean girls and girls with less access to education are more at risk of early pregnancy and repeat abortions compared to other girls<sup>14</sup>. Young asylum seekers are also at risk of early pregnancy because they lack access to comprehensive sexuality education, do not have access to free contraceptives and are confronted with taboos on sexuality<sup>15</sup> however there is no research or data collected on pregnancy rates for this group. Information which is available about sexuality and sexual health does not yet fully address the different backgrounds of young people and an improvement should be made in the accessibility of reliable and effective information for these groups. A more integrated SRH rights approach in cooperation with the health care workers (Sense, family doctors and mid wives) public health centres and ethnic minorities can contribute to the prevention of early and unwanted pregnancies.

### *Sexual Violence*

19. As agreed upon in international and regional agreements<sup>16</sup> as well as in the recently formulated Sustainable Development Goals,<sup>17</sup> all forms of violence should be eliminated. In the Netherlands, the rate of sexual violence is relatively high with 40% of women ever experienced any form of physical sexual violence, compared to the global percentage of 35% published by WHO<sup>18</sup>. 17% of adolescent

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<sup>14</sup>Lee, L., van, & Wijzen, C. (2008). Landelijke Abortus Registratie 2007. Utrecht: Rutgers Nisso Groep.

<sup>15</sup> The double sexual standard is especially strong in Moroccan and Turkish communities, see: De graaf, H., Egten, C. van, Hoog, S. de, Berlo, W. van (2009). *Seksualisering: aandacht voor etniciteit. Een onderzoek naar verbanden met opvattingen en gedrag van jongeren* [Sexualisation: attention for ethnicity. A research into the relation with attitudes and behaviors of young people], Utrecht: Rutgers WPF.

<sup>16</sup> i.e. the Convention on the Elimination and Discrimination against Women (CEDAW): general recommendation no. 19; Declaration on the Elimination of Violence against Women: article 1; The Beijing Declaration and Platform for Action; The International Conference on Population and Development

Programme of Action; the Council of Europe Convention on preventing and combating violence against women and domestic violence (2011) ('the COE Convention'); Council Conclusions on Gender Action Plan 2016-2020

<sup>17</sup> Sustainable Development Goals, target 5.2.

<sup>18</sup> World Health Organisation, Factsheet Violence Against Women (2016), <http://www.who.int/mediacentre/factsheets/fs239/en/>

girls and 5% of adolescent boys are forced to do a sexual act or experienced a forced sexual act<sup>19</sup>. Adolescents with lower levels of education and adolescents with an intellectual disability are at higher risk. Quite a few interventions to prevent sexual violence are developed. However, some groups are still underserved in this respect, for example young people with severe disabilities. In addition, many interventions are not evaluated, or implemented in an adequate way.

### *Paternity leave*

20. Since the foundation of the International Labour Organisation (ILO) in 1919, maternity protection has been a major concern<sup>20</sup>. Maternity protection is a fundamental labour right enshrined in key universal human rights treaties, although implemented in varying levels. The UN convention on the Rights of the Child stipulates that “States shall respect the responsibilities, rights and duties of parents.”<sup>21</sup> Paternity and parental leave for men have not been recognized by an equivalent standard or international agreement<sup>22</sup>. In 2009, the ILOs resolution Concerning Gender Equality at the Heart of Decent Work called for governments and others to create incentivized policies (including paternity and/or parental leave) that support a more equal division of work and family responsibilities<sup>23</sup>.

21. As of 2015, the Dutch government made the Law modernization arrangements for leave and working hours (*Wet modernisering regelingen voor verlof en arbeidstijden*).<sup>24</sup> Maternity leave remained similar and still entails 16 weeks, of which at least 10 weeks is to be used after giving birth. In the Law modernization arrangements the Government has extended paternity leave<sup>25</sup> to 5 paid days by 2017, instead of 2 paid days. This ‘modernization’ cannot fill the gap in gender inequalities in the Netherlands, and cannot be seen as ‘modern’ as the average of paternity leave in Europe is 8 weeks. In the Netherlands women with children spend 2 times more time in caregiving compared to men and women are working 2.5 times less hours in paid jobs<sup>26</sup>. The difference between men and women without children in terms of time spent in paid work is significant lower. Research shows that 60% of fathers would like to spend more time with their children<sup>27</sup>. Paternity leave has the power to contribute significantly to the recognition and redistribution of care work and to transform deeply

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<sup>19</sup> Graaf, H. de, Kruijer, H., Acker, J. van, & Meijer, S. (2012). Seks onder je 25e 2: Seksuele gezondheid van jongeren in Nederland anno 2012. Delft: Eburon

<sup>20</sup> International Labour Organization. Maternity and Paternity at Work: Law and Practice across the World. Geneva, Switzerland: ILO;2014.

<sup>21</sup> The United Nations. (1989) Convention on the Rights of the Child.

<sup>22</sup> International Labour Organization. Maternity and Paternity at Work: Law and Practice across the World. Geneva, Switzerland: ILO;2014.

<sup>23</sup> International Labour Organization. Report VI: Gender Equality at the Heart of Decent Work. Geneva, Switzerland: ILO;2009.

<sup>24</sup> Parliamentary Papers, EK 32.855 A, *Wetsvoorstel Modernisering regelingen voor verlof en arbeidstijden, [Modernization schemes for leave and working hours]*, 14 October 2014.

<sup>25</sup> Paternity leave for fathers is supportive of diverse caregivers and caregiving; including same-sex, opposite-sex, adoptive and single parents.

<sup>26</sup> Centraal bureau voor de statistiek (2014), Emancipatie monitor

<https://www.cbs.nl/NR/rdonlyres/A58ACF46-9D48-4A0F-BC16-4420D714A93E/0/emancipatiemonitor2014web.pdf>

<sup>27</sup> Persbericht Central Bureau of Statistics (CBS), *Ruim vier of de vijf prille vaders nemen verlof, [Over four out of five newly become fathers take leave]*, 4 September 2015. <https://www.womeninc.nl/nieuwsbericht/uitkomsten-onderzoek-de-verdeling-van-zorg-voor-kindern>

rooted inequalities between men and women. These policies can be an effective mechanism for changing the gendered dynamics of caregiving at home and elevating the status of caregiving more broadly. Leave for fathers promotes women's equal pay and advancement in the workforce and men's connectedness at home. It boosts employees' morale and productivity, and reduces turnover<sup>28</sup>. It allows governments to send a clear signal that all parents matter in the lives of their children.

22. The current leave system of the Netherlands increases the inequality between men and women in the balance between work and care for their child or children. This forces women back in the more traditional role of caretaker. Equal balance between labour and family duties is one of the main topics in the gender equality debate and the Government should take a more leading role in creating an equal level playing field for men and women by adapting and implementing policies on paternity leave, and thereby contributing to the empowerment and leadership of women.

### **Recommendations for action:**

23. The Dutch Government should strengthen current and future<sup>29</sup> sexuality education on primary, secondary and high schools<sup>30</sup> by ensuring comprehensive sexuality education (that includes topics as sexual diversity, sexual rights, gender equality and the right to choose your own partner, so that young people are empowered to protect themselves and respect the rights and boundaries of others) in the national school curriculum as mandatory as well as in the *Onderwijs2032* policies about future education. The Dutch Government must pay particular attention to the promotion and assistance, monitoring and evaluation of implementation.
24. The Dutch Government should take sufficient efforts to educate current teachers so that they are able to teach all aspects of comprehensive sexuality education to schoolchildren and youth of primary, secondary and high schools.
25. The Dutch Government should make comprehensive sexuality education a mandatory subject for future teachers to get experience with, knowledge of and confidence in during their training.
26. The Dutch Government should strengthen the implementation of comprehensive sexuality education to youth and adolescents with diverse cultural backgrounds, with particular attention to vulnerable groups including refugees and asylum seekers.
27. The Dutch Government should strengthen the support to vulnerable groups of women to ensure that they are able to make informed decisions about contraceptive use and that they are able to use the preferred contraception method in a consistent way.
28. The Dutch Government should undertake in-depth studies and consultations to investigate the needs and barriers of the vulnerable groups while accessing contraceptives.

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<sup>28</sup> MenCare Paternal leave Platform, *10 ways to leave gender inequality behind and give our children the care they need*, <http://men-care.org/wp-content/uploads/sites/3/2016/03/Parental-Leave-Platform-web.pdf>

<sup>29</sup> Referring to current Dutch policies '*Kerndoelen seksualiteit en seks diversiteit*' and future policies around '*Onderwijs2032*'.

<sup>30</sup> Referring to primary, secondary and high schools relates to the schoolsystem of the Netherlands '*basis onderwijs, voorgezet onderwijs, speciaal onderwijs en middelbaar beroepsonderwijs*'.



29. The Dutch Government must increase access to medical abortion by allowing family doctors to provide the treatment up to 45 days of pregnancy, however, this should not be part of the same legislation (*Wet Afbreking Zwangerschap*) as abortion in a later stage of a woman's pregnancy. The 5 day waiting period mandated by (*Wet Afbreking Zwangerschap*) restricts women's rights, should be abolished for all abortions and should not be considered for medical abortion in the first 45 days of pregnancy.
30. The Dutch Government should monitor competencies of professionals in institutions regarding prevention of sexual violence, especially in the care for people with intellectual or physical disabilities.
31. The Dutch Government must invest in research on the effectiveness of interventions regarding prevention of sexual violence including programmes on resilience/empowerment and prevention of sexually aggressive behaviour.
32. The Dutch Government should increase efforts to protect girl and women refugees, as it is suggested that they are particular vulnerable for sexual violence. Particular attention is needed in the care of trauma related to sexual violence, the assurance of safe living environments for girls and women in refugees centres and appointed housing, and education so that people are empowered to protect themselves and respect the rights and boundaries of others.
33. The Dutch Government must ensure and take decisive action that existing protocols to protect girls and women (in particularly within the asylum seeking process) are implemented and executed effectively. Currently, there is limited insight in the prevalence of violence against women and sexual violence in asylum centers. This requires adequate research but also easily accessible, confidential reporting of incidences and assistance in case of an incidence. Information on the non- impact of reporting violence on the asylum seeking process must also be clear.
34. The Dutch Government must undertake adequate action to educate first offenders on sexual violence in order to reduce the rates of recidivism.
35. The Dutch government must invest in gender equality and the empowerment of women by installing paternity leave policies that are adequate in length for each parent (minimum of 12 weeks), that is non-transferable between the parents, that is paid and that follows directly after maternity leave. This leave should be supportive of diverse caregivers and caregiving. This will show the powerful message that the care of children is the responsibility of all and it has the power to establish a new norm around shared caregiving.