



Sociaal Economische Raad
Social Economic Council

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LETTER OF ADVICE

The Honorable Minister of General Affairs/ Prime Minister, Ms. Silveria Jacobs
Government Administration Building
Soualiga Road no. 1
Philipsburg
St. Maarten

Philipsburg, June 21st, 2022

Our reference: SER/2022/CB/07

Re: Letter of advice requesting the SER to conduct a study on the availability of contraceptives on St. Maarten.

Honorable Prime Minister Jacobs,

On January 10th, 2022, the Social Economic Council (hereafter: SER) received the solicited advice request reference DIV no. 113808-B21 from your office. The advice request originated in Parliament from the faction the Party for Progress (PFP) and was requested by the Honorable Member of Parliament (hereafter: MP), Ms. Melissa Gumbs. The solicited advice required the SER to conduct a study on the availability of contraceptives on St. Maarten. The SER kindly request the Government to provide MP M. Gumbs with a copy of the advice.

The advice was compiled including the following points:

1. The availability of contraception (birth control pills, IUD, etc.) to the wider population of St. Maarten.
2. Challenges faced by women in the community with obtaining contraceptive methods on St. Maarten, i.e., lack of coverage by insurance.
3. The socio-economic impact that the lack of access to these methods may have on lower-income communities.

The research conducted by the SER includes an analysis of the socio, economic and legal aspects of making contraceptives more available to the broader population. The SER's findings were discussed in the board meetings of Thursday, March 31st, Thursday, June 16th, 2022.

On behalf of the Honorable MP, Ms. Melissa Gumbs, the Government, in its request¹, provided the following reasons substantiating the need for a study to be conducted on the availability of contraceptives on St. Maarten:

1. Based on the participatory approach of the Government to achieve the implementation of the UN sustainable Development Goals (hereinafter: "SDG") by 2030, this Government views the

¹ Solicited advice request "Study on the Availability of Contraceptives" received from the Prime Minister.



execution of a study on the availability of contraceptives, beneficial to the National Interest of St. Maarten.

2. The need for the public to have access to modern contraception has been consistently discussed on the floor of parliament.
3. Conducting a study on the availability of contraception will allow for the SER to assess, what issues women may face in obtaining contraception, and thus executing their intrinsic human²rights to family planning³, their right to gender equality and health.
4. Conducting a study on the Availability of contraception will allow the SER to assess to what extent, St. Maarten currently provides an environment for women that allows for them to thrive, personally, professionally, and health-wise as it relates to reproductive health⁴ care and gender equality.

Background:

On September 25th, 2015, the General Assembly of the United Nations (hereinafter: "UN"), by way of resolution, implemented the 2030 Agenda for Sustainable Development.⁵ A resolution in which member states of the United Nations commit to 17 SDG, that targets eradicating issues across a variety of topics, such as ending poverty, education, and health by 2030. Amongst the 17 goals, SDG 3 focuses on health, of which target 3.7 specifically aims to ensure universal access to sexual⁶ and reproductive health-care services. A target which includes family planning, access to information and education on reproductive health, and the integration thereof into national strategies and programs.⁷ SDG 5 focuses on gender equality and within that realm, targets to ensure that women are granted equal economic opportunities like their male counterparts.⁸ As a constituent state within the Kingdom of the Netherlands, St. Maarten is bound to various human rights treaties, such as the Convention on the Elimination of All Forms of Discrimination against Women.⁹ Taking the aforementioned into account in conjunction with our government's participatory approach¹⁰ to obtaining the SDG goals, St. Maarten has not only committed itself but should aspire to address these issues. Considering the above, Honorable MP, Ms. Melissa Gumbs, has requested the SER to conduct a study on the availability of contraceptives on St. Maarten. The study aims to provide a better understanding of where St. Maarten currently stands as it pertains to

² Specifically, this right has been laid down in article 16 paragraph 1 sub e of the Convention on the Elimination of All Forms of Discrimination against Women. As the Kingdom of the Netherlands is party to this convention and as a constituent state of the Kingdom of the Netherlands that has declared the convention applicable, St. Maarten is responsible to protect these rights.

³ UN Rapport, 2012, By Choice not by Chance, p. 1-5.

⁴ Following the World Health Organization, Reproductive health is defined as a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health implies that people have the capability to reproduce and the freedom to decide if, when and how often to do so.

⁵ United Nations, A/RES/70/1, Resolution on the Implementation of "the 2030 Agenda for Sustainable Development", 25th September 2015.

⁶ In 2006 the World Health Organization defined "Sexual Health" as a state of physical, emotional, mental, and social well-being in relation to sexuality; it is not merely the absence of disease, dysfunction, or infirmity, but it requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination, and violence. For sexual health to be attained and maintained, the sexual rights of all persons must be respected, protected, and fulfilled.

⁷ Sustainable Development Goal 3.

⁸ Sustainable Development Goal 5.

⁹ Article 16 paragraph 1 sub e of the Convention on the Elimination of All Forms of Discrimination against Women.

¹⁰ Solicited advice request "Study on the Availability of Contraceptives" received from the Prime Minister.



neutralizing inequalities for persons wanting to engage in family planning services and improving overall access to sexual and reproductive health-care services on St. Maarten.

Summary

The SER understands that ensuring all women have access to a method of contraception reinforces several human rights. Rights which include the right to freedom, the right to health, the right to obtain an education and the right to work. As such, granting women the right to decide freely and responsibly the number and spacing of their children and access to information and education to do so, results in more equal opportunities to improve their social and economic standing within a society. Pregnancy prevention can allow a woman to break the cycle of poverty through education and thus ultimately allowing for more opportunities to partake in this country's economy.

As a constituent state within the Kingdom of the Netherlands, various international human rights treaties, obligate¹¹ St. Maarten to provide women with equal rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.¹² A key aspect in making family planning services accessible includes providing a full range¹³ of modern contraceptives¹⁴ and the information on how to use and obtain these modern contraceptives. The SER has established that for modern contraceptives to be accessible, the products must first be made available. The availability of modern contraceptives contributes to contraceptives being accessible, however ensuring accessibility can be hampered by several various obstacles. These obstacles may range from financial, social, to economic restraints restricting a person from obtaining the product.

In its research, the SER has established, that a wide range of modern contraceptives are made available to the population of St. Maarten.¹⁵ Additional factors that have substantially increased access to contraceptives are preventative coverage for contraceptives for civil servants and persons on financial aid¹⁶, significant educational efforts being taken granting adolescents information on contraceptives¹⁷, the low cost of contraceptives¹⁸, the waiving of consultation fees for repetitive birth control prescriptions by our health care professionals and pharmacies¹⁹. However, contributing factors that have significantly limited access to contraceptives on St. Maarten are the limited legal framework ensuring health insurance coverage of preventative and medical use of modern contraceptives across the board²⁰, the lack of educational efforts geared towards adults with a focus on de-stigmatization of contraceptive use²¹ and

¹¹ St. Maarten declaration of application of the Convention on the Elimination of All Forms of Discrimination against Women in the official treaty database.

¹² Article 16 paragraph 1 sub e of the Convention on the Elimination of All Forms of Discrimination against Women.

¹³ As women do not respond equally to various contraceptives, a wide range of modern contraceptives should be made accessible.

¹⁴ Defining modern contraceptive methods and traditional contraceptive methods. United Nations, Data booklet Contraceptive use by method, 2019 and World Health Organization, Factsheet Modern contraceptive methods.

¹⁵ Chapter 1.2. Availability of Contraceptives on St. Maarten (Pharmacies).

¹⁶ Chapter 2.4.2. The Social and Health Insurance Fund (SZV).

¹⁷ Chapter 2.5. Access to Education on Contraceptives on St. Maarten.

¹⁸ Chapter 2.6. Access to Low-cost Contraceptives on St. Maarten.

¹⁹ Chapter 2.7. Access to Family Planning health care services/ Health Care providers on St. Maarten.

²⁰ Chapter 2.3. Limited Legal Framework on St. Maarten.

²¹ Chapter 2.5. Access to Education on Contraceptives on St. Maarten.



the limited access to health insurance coverage for preventative contraceptives and in some cases medical use²². In conducting its research, the SER has established that currently less than 48% of the female population of St. Maarten is insured for medical contraceptive and less than 14% of the female population of St. Maarten is insured for preventative contraceptive use. A reality, the SER hopes will change.

Finally, whilst conducting its research the SER was informed of additional issues, local and specifically young women face in addition to limited access to contraceptives. The SER has been made aware of the ongoing unsafe pregnancy termination procedures taking place in non-medical facilities, which have led to the SER aiming to initiate a discussion on the regulation and or the legalization of pregnancy termination on St. Maarten beyond solely medical grounds.²³

The SER would like to emphasize the following concerns pertaining to the availability and accessibility of modern contraceptives on St. Maarten:

1. St. Maarten currently does not have any laws or policies in place legally obligating stakeholders to grant insurance coverage, medical, let alone preventative modern methods of contraception.
2. Following the above, as action is taken to improve access to modern contraceptives, equal access must be ensured. The SER notes that a wide range of modern contraceptives should be opted for as not all female bodies respond the same to a certain type of contraceptive.
3. The SER has established that coverage of contraceptives for medical purposes is currently not covered by private insurance companies. As such, less than 14% of the reproductive female population is currently insured for preventative contraceptive use.
4. The SER has established that currently only civil servants and persons qualifying for medical aid (registered persons) are covered for preventative contraceptive use, therefore excluding a significant portion of the persons that stem from lower-income communities. Namely, unregistered migrants that (legally) cannot work and registered persons that do not qualify for financial aid as they earn just above the financial aid threshold, which is a fraction of the legal minimum wage.
5. The SER has established that access to emergency contraceptives is greater than preventative contraceptives as the intervention of a health care professional forms an additional threshold. Women are not using Emergency Contraceptives (Hereafter ECs) in greater numbers compared to preventative contraceptives however excessive use amongst adolescents was established by health care providers and pharmacists.²⁴
6. The SER has established the lack of a public approach to create awareness on the availability and the proper use of contraceptives for adults, aiming to significantly de-stigmatize the use of contraceptives and ultimately aiming to eliminate gender inequalities.
7. In doing its research, the SER has been informed of the execution of unsafe pregnancy termination practices in non-medical facilities and distribution of illegal pregnancy termination pills and substances.

²² Chapter 2.4. Limited Health Insurance Coverage for Contraceptives on St. Maarten.

²³ Chapter 4. Regulation of safe pregnancy terminations practices on St. Maarten beyond medical grounds

²⁴ It has been established by the World Health Organization that "Frequent use of emergency contraception can result in increased side-effects, such as menstrual irregularities, although their repeated use poses no known health risks." Reference is made to various scientific studies carried out on the over excessive use of EC's.



Advice:

As the request for a study on the availability of contraceptives only focuses on establishing the current status with regards to the accessibility of contraceptives on St. Maarten, the SER considers providing advice points on such an important topic an obligation that falls within the advisory role of the SER. As such the SER has provided several advice points to improve the quality of life of the population of St. Maarten:

1. The SER advises implementing a legal basis ensuring that private insurance companies include coverage for preventative and medical contraceptive use in their private health insurance packages, as this is currently not covered. The SER has established that less than 14% respectively 48% of the female population on St. Maarten has health insurance coverage for preventative and medical contraceptive use.
2. The SER advises implementing a legal basis ensuring that the Social and Health Insurance fund (Hereafter the Dutch abbreviation SZV) includes coverage for preventative contraceptive use in all health care packages in order to eliminate disparity between civil servants' insurance coverage and the remainder of the female population. As the SER has established that less than 14% of the female population on St. Maarten currently has health insurance coverage for preventative contraceptive use and taking into consideration that the remainder of the uninsured group falls within the ZV fund or has private health insurance, the SER finds that the implementation of a legal obligation will allow for an increase of the cover ratio.
3. Following the above, the SER strongly advises to continue to uphold this standard by including the coverage of preventative and medical contraceptives in the envisioned General Health Care package. General Health Care aims to cover the most principal health care needs of a population, including persons from lower income communities. Taking into consideration that these persons are considered more susceptible to the numerous social and economic benefits a community stands to gain from making contraceptives more accessible, the SER finds it should be included in the future.
4. The SER advises initiating a broad-based awareness campaign that focuses on the destigmatization of modern contraceptives, their use and accessibility. From the SER's findings, it can be concluded that the educational efforts currently provided are solely geared towards young adolescents and as a result adults show an insufficient level of knowledge of the topic or excessive use of other means. It is also an attempt to destigmatize the use of contraceptives amongst persons limited by religious, cultural, or other gender discriminatory constraints.
5. The SER advises to open a discussion on the regulation and or the legalization of pregnancy termination on St. Maarten and in doing so aim to regulate and provide the legal framework within which safe pregnancy termination practices can be provided to all women on St. Maarten. The SER is of the view that in the current economic and social setting aiming to neutralize gender inequalities and increase women's rights, the law on pregnancy termination should be revisited.



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We trust to have informed you sufficiently herewith.

Should you require any additional information after reading the above, please feel free to contact us at your earliest convenience.

Respectfully,

Ir. Damien D.E. Richardson
Chairman

Gerard M.C. Richardson
Secretary-General

Cc: The Honorable MP, Ms. M. Gumbs



Introduction

The SER understands that ensuring all women have access to a method of contraception reinforces several human rights. Rights which include the right to freedom, the right to health, the right to obtain an education and the right to work. As such, granting women the right to decide freely and responsibly the number and spacing of their children and access to information and education to do so, results in more equal opportunities to improve their social and economic standing within a society. Pregnancy prevention can allow a woman to break the cycle of poverty through education and thus ultimately allowing for more opportunities to partake in this country's economy.²⁵ According to the World Health Organization an estimated 1.1 billion women between the ages 15-49, have a need for family planning, of these 842 million are using contraceptive methods, and 270 million have an unmet need for contraception in 2019.²⁶ Although there has been an increase in its usage, it remains stagnant. The number of women of reproductive age, that have had their need for family planning satisfied has increased from only 73.6% in 2000 to 76.8% in the 2020.²⁷ The stagnant increase indicates that women are still encountering various limitations where access to modern contraceptives is concerned. These limitations may include a limited choice of methods, limited access to services, specifically amongst adolescents, lower income and unmarried people; fear of side-effects or cultural or religious beliefs.²⁸ SER research has shown that the stagnant growth of the use of modern contraceptives can be linked to lack of knowledge and the stigmatization of contraceptive use amongst a religious community and limited health insurance coverage and therefore the lack of a legal basis to ensure preventative and medical coverage of modern contraception methods are guaranteed.

Layout

Based on the above, this advice will focus primarily on the legal and socio-economic aspects of limited access to modern contraceptives may have on persons from lower income communities on St. Maarten. The study will focus on researching the legal framework implemented for ensuring access to modern contraceptives on St. Maarten, followed by establishing the level of health insurance coverage St. Maarten's insurance companies and SZV, provides. The research will furthermore aim to establish the availability of modern contraceptives within St. Maarten's Pharmacies, which will include prices and brands analysis of the various contraception methods to ensure that a range of modern contraceptives are widely available to the public of St. Maarten. Furthermore, this study will touch on the various barriers people are encountering in order to obtain contraceptives. The research will go on to establish the social economic impact the lack of access to contraceptives may have on the population. Finally, the research has been expanded to include the lack of access to pregnancy terminations, as this service is currently illegal but tolerated on St. Maarten. In conducting this research special attention will be given to adolescents and persons from low-income backgrounds as these groups can be considered a vulnerable group of persons that may be disproportionately negatively impacted due to the lack or limited access to contraceptives.

²⁵ Center for Reproductive Rights, March 2012, R. Kross, Access to Contraceptives in the European Union.

²⁶World Health Organization, 2020, Factsheet Family planning/contraception methods.

²⁷ Ibid.

²⁸ Ibid.



Methodology

The outcome of this study was compiled based on literature research, interviews of various stakeholders, and data collection by way of a questionnaire.

- To determine the level of availability of contraceptives to the broader population of St. Maarten, a questionnaire was prepared and distributed amongst 8 of the 13 operational pharmacies on the island. The pharmacies were selected at random and evenly dispersed geographically. Of the 8 pharmacies approached, 5 responded. The data collected was explored to determine the level of variety in terms of brand and type of contraceptives available at local pharmacies. Pharmacies were also posed questions regarding their supply chain and stock levels.
- To determine what obstacles women face in accessing contraceptives, various stakeholders were identified and questioned about any obstacles women may encounter in obtaining contraceptives. Institutions approached include health care professionals, the Hospital Center Louis Constant Fleming, the St. Maarten Medical Center (SMMC), pharmacies, the Aids Foundation, the Care teams from various high schools, Ministry of Public Health, Social Development and Labor, Civil Registry Department, SZV and private health insurance companies. The data was then compared to studies conducted by international organizations on the barriers women may face on an international level.
- To determine the social economic effects limited access to contraceptives may have on lower income communities, interviews were held with stakeholders in contact with groups of vulnerable (adolescent) women. Data compiled is then compared to internationally established socio-economic consequences lack of access to contraceptives may have. Such stakeholders include the Aids foundation, Care Teams from the various local high schools and the Ministry of VSA, Health Care Professionals and the Pharmacies.

Exclusions

In this study, research and data geared towards access to male condoms has not been included in this report. As the study is geared towards gender neutralizing family planning, and the options for women are currently less accessible compared to for example male condoms, this study focuses on contraceptives geared toward the female reproductive system such as the birth control pill. Such contraceptives allow women to equally partake in the decision to actively refrain from having children, whereas the condom focuses on the male counterpart.

1. The Availability of contraception (birth control pills, IUD, etc.) to the wider population of St. Maarten.

1.1. Availability vs Accessibility

The SER points out that the term accessibility and availability of contraceptives has been used interchangeably amongst each other. Therefore, The SER understands that in order to properly understand the outcome of the study on the availability of contraceptives, the differentiation between the two terms must be elaborated on.



For contraceptives to be accessible, the product must first be made available. Availability can be considered as one of the factors that play a role in ensuring the accessibility of contraceptives. The availability of contraceptives contributes to contraceptives being accessible, however ensuring accessibility can be hampered by several various obstacles. Not just availability. These obstacles may range from financial, social, to economic restraints abstaining a person from obtaining the product. Examples include having no or limited health insurance coverage, insufficient knowledge on how and where to obtain the product, insufficient financial capabilities or religious or cultural restraints. As such, the SER understands that the first point, based on which this study will be compiled, focuses on the availability of contraceptives, whereas point 2 and 3 focus on accessibility in its entirety. For clarity's sake, the SER has opted to uphold the structure of the advice request as presented by the honorable member of Parliament, Ms. Melissa Gumbs.

1.2. Availability of Contraceptives on St. Maarten (Pharmacies)

The SER has established that on St. Maarten the sole distributors of contraceptives are the Pharmacies on St. Maarten. In conducting the study, the SER gathered data from 38% of the Pharmacies operational on St. Maarten. Pharmacies were provided with a questionnaire and posed questions about their variety (brands and types), their stock and supply chain. From the data collected, the SER has established that of the pharmacies that were questioned, all pharmacies carry a wide range of contraceptives with regards to brand²⁹ and type³⁰. Furthermore, no significant issues regarding stock and/or their supply chain were noted. In the event a pharmacy runs out of stock, the pharmacy is always able to provide an alternative. In addition, an out-of-stock item may be out of stock for a maximum period of 2 weeks before it is restocked, suggesting that the pharmacies do not encounter any long-term issues regarding their ability to supply contraceptives on the island. As such the SER has determined that on St. Maarten, a wide range of contraceptives are readily made available to the broader population of St. Maarten.

The table seen below provides an overview of the various contraceptives currently available on St. Maarten. The data has been gathered from various surveys conducted at local pharmacies and interviews with local medical professionals.

Contraceptives	Modern /Traditional method of contraception ³¹	Description of functioning	Purpose (e.g., medical treatment like PCOS, birth control, both)	frequency of use (e.g., daily, monthly, annual, etc.)	Effective	Medical intervention	Comments
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²⁹ All pharmacies carry a significant number of the mainstream contraceptives as is registered in the Netherlands. Brands include Microgynon 30, Depo-Provera, Mirena, Yasmin, copper IUD, Diane-35, Levonorgestrel, just to name a few.

³⁰ All Pharmacies carry a various range of types of contraceptives. Types include the oral contraceptive, patches, vaginal rings, injections, and the hormonal and non-hormonal IUD's.

³¹ " Modern methods of contraception include female and male sterilization, the intra-uterine device (IUD), the implant, injectables, oral contraceptive pills, male and female condoms, vaginal barrier methods (including the diaphragm, cervical cap and spermicidal foam, jelly, cream, and sponge), lactational amenorrhea method (LAM), emergency contraception and other modern methods not reported separately (e.g., the contraceptive patch or vaginal ring). Traditional methods of contraception include rhythm (e.g., fertility awareness-based methods, periodic abstinence), withdrawal and other traditional methods not reported separately."



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Birth Control Pills	Modern	Prevents the release of eggs from the ovaries.	PCOS, birth control	take daily	91%	Prescription required	Most prevalent amongst women on St. Maarten
Intrauterine device (IUD)	Modern	Copper component damages sperm and prevents it from meeting the egg, regular: Thickens cervical mucous to block sperm and egg from meeting.	birth control	3-12 years	99%	Prescription required	Most effective and convenient in preventing pregnancy
Birth control Patch	Modern	Prevents the release of eggs from the ovaries.	endometriosis, birth control, PCOS	replace weekly	91%	Prescription required	
Birth control Vaginal Ring	Modern	Prevents the release of eggs from the ovaries	endometriosis, birth control, PCOS	once a month	91%	Prescription required	
Birth Control Implant	Modern	Thickens cervical mucous to block sperm and egg from meeting and prevents ovulation.	birth control	up to 5 years	99%	Prescription required	Most effective and convenient in preventing pregnancy
Birth Control injection	Modern	Thickens cervical mucous to block sperm and egg from meeting and prevents ovulation.	birth control	every 3 months	94%	Prescription required	
Diaphragm	Modern	Forms a barrier to prevent sperm and egg from meeting.	birth control	every time	88%	Prescription required	
Female condom	Modern	Forms a barrier to prevent sperm and egg from meeting.	birth control/STD	every time	79%		
Cervical Cap	Modern	Forms a barrier to prevent sperm and egg from meeting.	birth control	every time	71-86%	Prescription required	
Spermicide	Modern	chemicals that prevent sperm from reaching the egg.	birth control	every time	72-86%		
Sterilization	Modern	Eggs are blocked from meeting sperm.	birth control	lasts for a lifetime	99%	Procedure carried out by a doctor	Most prevalent amongst women in the Caribbean



Fertility Awareness (FAM)	Traditional	Tracking of ovulation cycle.	birth control	track daily	76-88%		
Lactational amenorrhea (LAM)	Traditional	The body stops ovulating when breastfeeding every 3-4 hours.	birth control	every 3 hours	98%		
Abstinence	Traditional	No intercourse.	birth control/STD	every time	100%		
Male							
Contraceptives		Description of functioning	Purpose (e.g., medical treatment, birth control, both)	frequency of use (e.g., daily, monthly, annual, etc.)	Effective	Medical intervention	Comments
Condoms	Modern	Forms a barrier to prevent sperm and egg from meeting	birth control/STD	every time	85%		Most prevalent amongst men
Vasectomy	Modern	Keeps sperm out of ejaculated semen	birth control	lasts for a lifetime	99%	Procedure carried out by a doctor	
Withdrawal	Traditional	Tries to keep sperm out of the woman's body, preventing fertilization	birth control	every time	78%		

2. Challenges faced by women in the community with obtaining contraceptive methods on St. Maarten, i.e., lack of coverage by insurance.

2.1. Accessibility

Accessibility to contraceptives is determined by several factors. Contraceptives are considered accessible insofar as there are no direct or indirect barriers hampering persons from obtaining contraceptives. In the following section a brief overview will be provided of various barriers women face on preventing women from gaining access to contraceptives, followed by the barriers that have been encountered on St. Maarten. Discussing the various barriers on an international and local level will provide more context as to where St. Maarten stands as it pertains to the accessibility of modern contraceptives.

2.2. Internationally Established Barriers

The SER points out that despite the stagnant increase in the need for family planning being satisfied, women are still faced with numerous barriers preventing women from obtaining modern contraceptives.



Numerous studies³² carried out on the accessibility of contraceptives establish barriers such as a relatively excessive cost of modern contraceptives, especially in countries where contraceptives are not covered by health insurance, the lack of adequate sexual and reproductive health education, the lack of adequate provision of family planning services provided by health professionals, limitation to the use of condoms, sporadic stock³³ and the lack of laws and policies that prevent provision to (unmarried) women or those under a certain age. The SER notes that even in countries where there are no legal barriers, a country's culture can prevent health care professionals from providing contraceptives and women seeking to obtain contraceptives from their doctors.³⁴ Barriers that may specifically prevent young adolescents from obtaining contraception is social pressure due to pressure to conceive soon after marriage, the stigma surrounding contraception for women in unstable relationships which are perceived as "loose", inconsistent use amongst adolescents and preference for male condoms as they are more accessible. However, studies³⁵ show, although condoms are more accessible, condom use tends to decrease over time within a stable partnership, leaving their female counterparts susceptible to unwanted pregnancies.

2.3. Limited Legal Framework on St. Maarten

As a constituent state within the Kingdom of the Netherlands, various international human rights treaties, obligate St. Maarten³⁶ to provide women with access to equal rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights. A key aspect in making family planning services accessible includes providing a full range of modern contraceptives³⁷ and the information on how to use and obtain these modern contraceptives.³⁸ However, international courts have provided countries with a margin of appreciation³⁹, when upholding international human rights laws. Specifically, a wide margin of appreciation is granted to countries when implementing social and economic policies.⁴⁰ Therefore, it is at the countries discretion how they are implemented, but to what extent that right is protected, is laid down in the convention. Nevertheless, as research shows that, St. Maarten currently does not have any laws or policies in place legally obligating insurance companies and or funds to cover any form of preventative or medical contraceptives or initiate any awareness campaigns, the SER considers the nonexistence of such, an infringement upon that right.⁴¹ Therefore, the SER advises implementing a legal basis ensuring that both the Social Health Insurance Fund and Private insurance packages cover both preventative and medical contraceptive use across the board, as the focus lies on making contraceptives more accessible to the entire population.⁴²

³² Chandra-Mouli et al. 2014, Reproductive Health Journal.

³³ As previously mentioned, the availability of contraceptives has been discussed in chapter 1.

³⁴ Chandra-Mouli et al. 2014, Reproductive Health Journal.

³⁵ Ibid.

³⁶ Article 16 paragraph 1 sub e of the Convention on the Elimination of All Forms of Discrimination against Women.

³⁷ As women do not respond equally to various contraceptives, a wide range of modern contraceptives should be made accessible.

³⁸ 2012, UN Rapport By Choice not by Chance, p. 1-5.

³⁹ " The margin of appreciation is a judicial doctrine whereby international courts allow states to have a measure of diversity in their interpretation of human rights treaty obligations."

⁴⁰ EHRM 8 July 2003, 36022/97, (Hatton and Others v. the United Kingdom), paragraph 97.

⁴¹ 2012, UN Rapport By Choice not by Chance, p. 1-5.



2.4. Limited Health Insurance Coverage for Contraceptives on St. Maarten

2.4.1. Two types of coverage

The SER has learned that on St. Maarten, contraceptives are used for two purposes. As a preventative measure in order to prevent unwanted pregnancies or due to medical reasons, to treat certain health issues women may suffer from such as polycystic ovarian syndrome (PCOS) or endometriosis.⁴³ A medical indication is considered a valid medical reason to use a certain medication, such as steroidal contraceptives, to treat a medical condition. Cases of medical conditions include women that suffer from PCOS and endometriosis. For the patient to obtain the contraceptive free of charge due to a medical condition, the doctor must provide a prescription along with a carefully substantiated letter substantiating the need for treatment using contraceptives. Local pharmacists and doctors have informed the SER that submitted claims are often rejected as the claim needs to be significantly motivated for the use of contraceptives.

2.4.2. Private Insurance Companies

In its research, the SER has established that, as there is no local legal framework in place, preventative nor medical contraceptives are currently covered by private insurance companies on St. Maarten.

2.4.3. The Social and Health Insurance Fund (SZV)

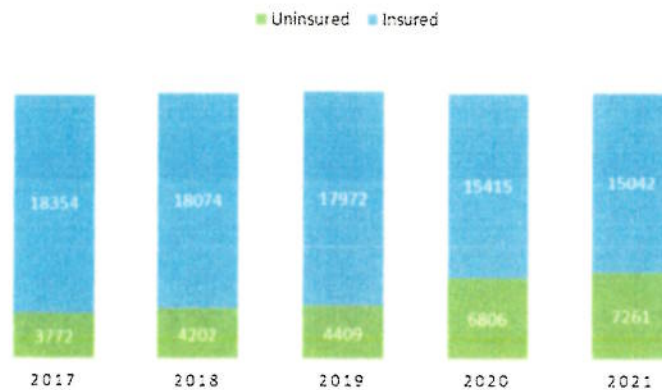
The SER has established that preventative contraceptives are also not covered within the regular ZV health insurance coverage offered through SZV. However, medical contraceptive use is covered by ZV insurance, in the case of a qualified medical indication. Women suffering from PCOS, or endometriosis qualify for health insurance coverage of hormonal contraceptives, insofar the medical indication has been substantiated by a gynecologist. Furthermore, it was brought to the SER's attention that preventative contraceptives such as "the birth control pill" and the intrauterine device (IUD) are completely covered for women that are covered under the "OZR (in Dutch: "Overheid Ziektelasten Regeling") and the "PP" (in Dutch: Pro Pauper) card. The OZR is applicable to civil servants that work for (semi) governmental institutions. Persons receiving financial aid can qualify for the OZR arrangement and will receive a "PP" card.

The following graphs depict the number of women between the reproductive ages of 10-60 years, covered for medical and preventative use of modern contraceptives on St. Maarten in 2017 up until 2021. Between 2017 and 2021, less than 14% of the reproductive female population of St. Maarten is covered for preventative contraceptives and 48% covered for medical use of contraceptives. The total number of women, within this age bracket, between 2017-2021, that is covered was provided by SZV. The covered packages include women covered within the OZR insurance and the ZV insurance as discussed above. The numbers also include women receiving financial aid, as these women enjoy the same OZR insurance package granted to civil servants. The total number of women within this age bracket registered on St. Maarten was provided by St. Maarten's Civil Registry. As the numbers provided by the St. Maarten's Civil Registry do not include the undocumented and undocumented persons can fall within the ZV category once they are working, the below tables can only provide an estimate.

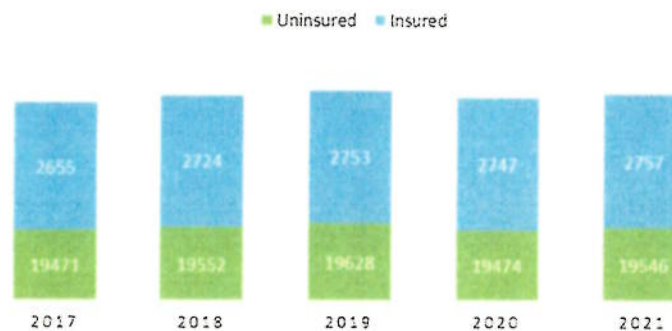
⁴³ World Health Organization, 2020, Factsheet Endometriosis.



MEDICAL COVERAGE 48% IN 2021



PREVENTATIVE COVERAGE 14% IN 2021



2.4.4. General Healthcare Insurance

The SER notes that currently no general healthcare insurance has been implemented on St. Maarten. In discussions with the Ministry of VSA, the ministry has indicated that plans are being made to implement such an insurance package in the future. As this study notes the significance of equal access to family planning health services, which includes preventative contraceptives, the SER would like to recommend including the coverage of contraceptives in a general healthcare package in the future. In doing research, the SER has been made aware, although the use of preventative contraception is not covered by health insurance in St. Maarten, countries such as the Netherlands have included preventative contraception coverage by the Sickness Fund (in Dutch: "Ziekenfondspakket") since 1971.⁴⁴

2.5. Access to Education on Contraceptives on St. Maarten

The SER understands that in order to fulfil a person's sexual reproductive health rights, they require information. Information on the accessibility of contraceptives, procedure to obtain the product, its usage, advantages, and its disadvantages. Ultimately allowing a person to make an informed decision. As such the SER has contacted various organizations that provide education on this topic, such as the high schools and the Aids Foundation.

⁴⁴ Nederlandse Tijdschrift Geneeskunde, E. Ketting, 2000.



The Aids Foundation executes various educational programs named “Girl Power” and “Real Talk” geared at teaching young adults about the use of condoms, teenage pregnancy, the consequences thereof, abusive relationships, peer pressure and self-esteem at the various high schools on St. Maarten. However, limited information is provided on the use of and or access to contraceptives, as the main message focuses on abstinence. These presentations are given at schools each year.

The high schools provide classes on sexual health to the 1st form, 2nd form and 4th form teens. These classes are called “Care” and “Guidance” and extensively cover the various contraceptives, their use and how to obtain the contraceptives. In conversations with the Care teams of the high schools, the SER was informed that the students are adequately informed as it pertains to its existence and how to obtain contraceptives. However, note was made that the students are inadequately informed about the gravity and real-life consequences of not preventing teenage pregnancy. In addition, Care teams, health care professionals and pharmacies brought forward the need to educate young adolescents on the use of emergency contraceptives (EC’s) vs preventative contraceptives. Many stakeholders encounter excessive use of EC’s as they are more accessible than regular oral contraceptives, due to the fact that there is no requirement for a prescription. As such, young women are provided more anonymity as they request a friend or boyfriend to obtain the EC (Emergency Contraceptives). Although ECs are more expensive than regular birth control pills, stakeholders still witness an excessive use of EC’s, suggesting that financial capabilities may not be the issue, limiting the use of contraceptives.

The SER is currently unaware of any educational programs geared towards adults⁴⁵, more specifically on reaching persons from low-income communities on modern contraceptives and overall sexual health. All educational programs are provided in high schools and geared towards young adolescents. In principle adults have the option to make an appointment with their personal care physician, to gather the necessary information. However, this approach only targets persons that are aware of its existence and are willing to use contraceptives. The SER notes that as there currently is no initiative to reach persons that are unaware of modern contraceptive methods and their uses, an increase in the willingness to use contraceptives amongst this group may remain limited. Taking into consideration that the community largely consists of persons from various religious and cultural backgrounds with a sizable portion living in low-income communities, the SER recommends initiating a large-scale marketing campaign that focusses on providing awareness. The campaign should pay special attention to the de-stigmatization of modern contraceptives, their use and accessibility.

⁴⁵ The Ministry of Public Health, Social Development and Labor, SZV and our health care physicians have informed the SER that there currently no initiatives and or programs related to educating adults on sexual health.



2.6. Access to Low-cost Contraceptives on St. Maarten.

Prices of contraceptives range NAF 3,00 - 7,20⁴⁶ per month and may go up to NAF 540,00⁴⁷, depending on the type of contraceptive opted for. The price of NAF 3,00 covers a generic brand of oral contraceptive pill. There is currently no financial aid of any kind provided to those who cannot obtain contraceptives. However, persons that qualify for financial aid through the government fall within a health insurance class, PP, covered through SZV, which includes coverage for preventative and medical use contraceptives. As such, people with limited financial capabilities that qualify for financial aid do have access to contraceptives. In addition, the cheapest form of contraceptive, which are the oral contraceptives that range from NAF 3,00 - 7,20 per month, are always in stock. From discussions conducted with various organizations that caters to vulnerable persons, the SER was informed that a request for financial aid can take up to 3 months and as such can significantly delay access to health care for these vulnerable groups of persons. The Ministry of Public Health, Social Development & Labor has responded that it aims to respond within the allotted time of 1 month, however this may not always be the case.

2.7. Access to Family Planning health care services/ Health Care providers on St. Maarten.

The SER understands that the first step a person can take in obtaining contraception lies with our local health professionals. A very first consultation is required to obtain a prescription to receive a contraceptive from one of the distributors, a pharmacy. Patients are required to cover these initial doctors' consultation fees. However, local pharmacies and health care providers have come to an agreement allowing patients to request a repetitive prescription (in Dutch: "*herhaalrecept*"), to avoid patients from having to cover consultations costs for each monthly renewal of their contraceptive. This system does not vary from a similar system implemented in the Kingdom of the Netherlands, ultimately geared at lowering costs for obtaining local contraceptives. Furthermore, the SER has noted that currently access to contraceptives to specifically young adolescents (15-24) has increased as health care professionals are now willing to provide a prescription to these women, without parental intervention. From a medical perspective, these women's rights to sexual health and protection from health risks related to teenage pregnancies and illegal pregnancy terminations is of a higher importance.

3. The Socio-economic impact the lack of access to contraceptives may have on the lower income community.

The lack of access to family planning services through contraceptives can have a range of social and economic consequences for a community. In this paragraph the most significant social and economic impacts that the SER has recognized have been elaborated on.

3.1. Impact on Health

Enabling a person to exercise their right to family planning can have far-reaching effects. Access to family planning plays a key role in improving the lives and health of a woman, as such it reduces overall fertility, the numbers of unintended and or risky pregnancies, which in turn reduces the number of maternal mortality and long-term morbidity. Access to family planning can also lead to optimal birth spacing, which in turn lowers the number of cases of maternal depletion syndrome. Furthermore, the SER notes that the health benefits of family planning are particularly significant for younger women and adolescents, as

⁴⁶ Price of Birth Control Pill.

⁴⁷ Price of an IUD excluding the cost of the procedure to insert the IUD. The cost of permanent sterilization is not included in these prices.



women between the ages of 15 – 19 are twice as likely to die from maternal causes as older women due to an increased risk for complications.⁴⁸

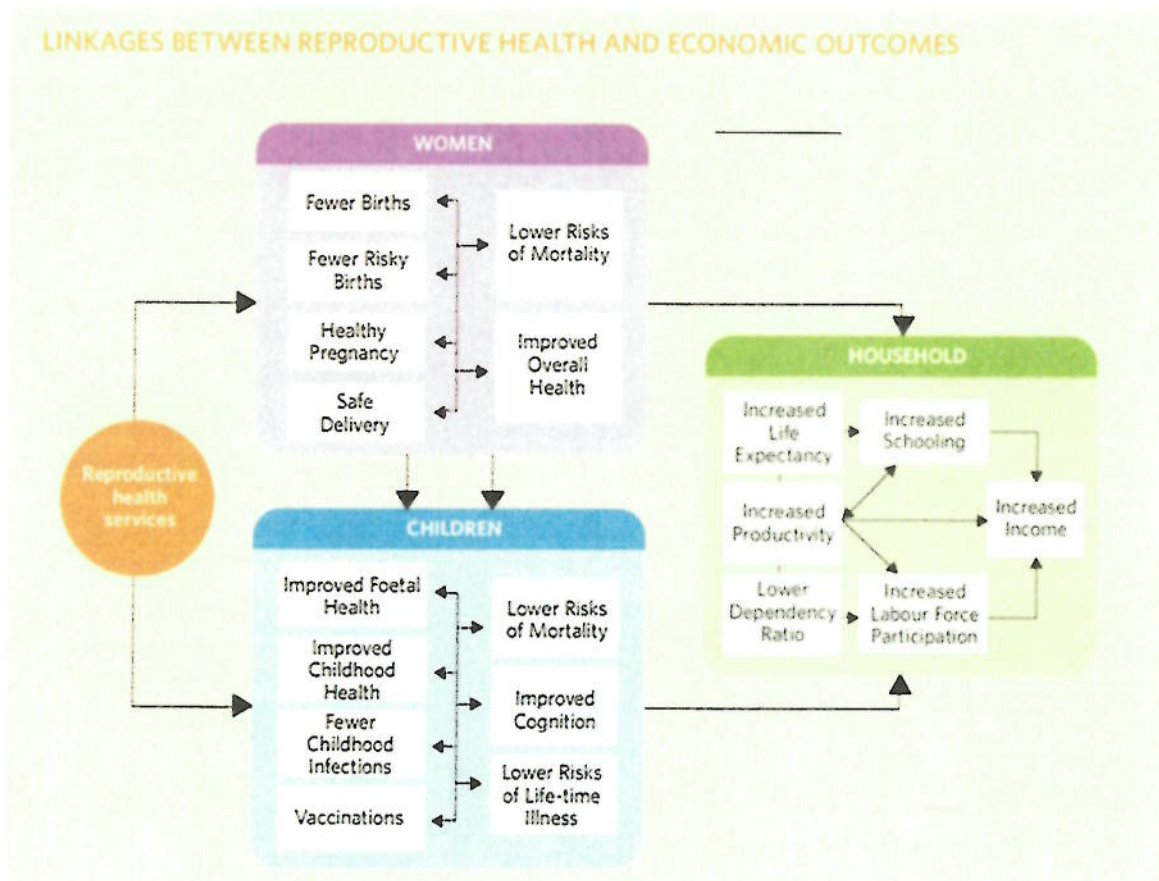
3.2. Impact on Educational Opportunities

Limited access to family planning results in unintended pregnancies. Unintended pregnancies mainly obstruct adolescent women from furthering and obtaining educational achievements. In developing countries, the likelihood of an adolescent mother finishing high school is between 24%-37%. The result of not completing high school can significantly limit a woman's skill development, employment and ultimately her income.⁴⁹

3.3. Impact on the woman's labor force participation

Access to reproductive health services, including family planning and therefore contraceptives, also improves a woman's opportunity to enter the labor force. Due to the ability to control the timing of births, women can increase their participation in the local labor markets.

The following graph depicts the various links between reproductive health and economic outcomes.⁵⁰



⁴⁸ 2012, UN Rapport By Choice not by Chance, p.73.

⁴⁹ Ibid, p.73.

⁵⁰ Ibid, p.72.



3.4. Impact of family planning services on the wellbeing of boys and men

Access to family planning services does not directly provide for significant health issues for men. However, preventing unintended pregnancies or delaying births can have an impact on a boy's schooling and their employment opportunities, as they are obliged to take responsibility for the woman's pregnancy. The aforementioned also impacts their ability to generate income as they may be forced to accept offers which are less than ideal or fitting and or limited education. In addition, studies show that those that experience unintended pregnancies are more likely to suffer from mental health problems such as depression and physical abuse.⁵¹

3.5. Impact of access to family planning services on the wellbeing of children

These problems do not only affect the parents, but also hamper the development of existing children as current resources need to be divided amongst more people. Unintended pregnancies in households allow for an increased rate of divorce, lower household incomes and a variety of negative psychosocial⁵² effects on child development.

3.6. Impact on lower income communities

Studies show that a decrease in fertility through access to family planning allows for the alleviation of poverty. As both woman and men obtain a better education, which lead to proportionately higher wages in combination with a better nutritional status and therefore in better condition to be productive, allowed for households with greater assets.⁵³ Furthermore, having access to family planning services, through contraceptives allows a woman already in poverty to prevent an unintended pregnancy, therefore increasing her chances of breaking the generational cycle of poverty, as a person born into poverty will have more opportunities to escape from poverty without children to provide for.

3.7. Microeconomic Impact

The SER understands that the direct economic impact of access to contraceptives is much more visible at the level of a household and not directly visible on a micro and macro-economic level, as many different factors can play a role. Factors such as the influence of policy, natural disasters, wars, or other major political, social, and economic events. However, studies have been able to determine a link between a decline in fertility amongst especially adolescents and the age-structure of the population.

The rapport *By Chance and not by Choice* states, that as the number of adolescent births decreases, over the years the number of income-generating adults grows relative to the number of people who depend on them for support, thus creating more favorable conditions for economic growth and sustainable development.⁵⁴

The following graph depicts the link between the level of development of a country and the number of children per woman. The graph shows that the more developed a country is, the lower the number of children a woman has, therefore showing the significance of providing women with the tools to control births.

⁵¹ Ibid, p. 82.

⁵² Social factors relating to individual thought and behavior. Ibid, p. 82.

⁵³ Ibid, p.80.

⁵⁴ Ibid, p. 83.



ESTIMATES OF TOTAL FERTILITY

2010-2015 MEDIAN PROJECTION

Region	Total fertility (children per woman), 2010-2015
World	2.45
More developed regions	1.71
Less developed regions	2.57
Least developed countries	4.10
Less developed regions, excluding least developed countries	2.31
Less developed regions, excluding China	2.86
Africa	4.37
Eastern Africa	4.74
Middle Africa	5.16
Northern Africa	2.75
Southern Africa	2.46
Western Africa	5.22
Asia	2.18
Eastern Asia	1.56
South-Central Asia	2.86
Central Asia	2.46
Southern Asia	2.57
South-Eastern Asia	2.13
Western Asia	2.85
Europe	1.59
Eastern Europe	1.49
Northern Europe	1.86
Southern Europe	1.49
Western Europe	1.69
Latin America and the Caribbean	2.17
Caribbean	2.25
Central America	2.41
South America	2.06
Northern America	2.04
Oceania	2.45

4. Regulation of safe pregnancy terminations practices on St. Maarten beyond medical grounds

4.1. Introduction

In conducting its research on the availability of contraceptives, the SER has received various responses from the community to address the legal restriction of pregnancy termination and regulation of unsafe pregnancy termination practices. In analyzing these responses, the SER finds that the right to equal access to family planning services should not only include broad access to contraceptives but should also include regulated access to safe pregnancy termination services on grounds that go beyond solely medical.

The SER has been made aware of an increase of unsafe pregnancy termination practices taking place on St. Maarten. The SER finds that these unsafe pregnancy termination practices pose a significant health risk to the community and specifically young adolescents as these are most often the victims of these practices. As the discussion on gender neutralization of family planning services is notably taking place all over the world, pregnancy termination is still considered a criminal offence on the Dutch side of the island, in practice however, termination of a pregnancy termination under medical reasons is still tolerated. Nevertheless, women with unintended pregnancy and the desire to terminate must resort to illegal practices in non-medical facilities or head towards the French Side, where pregnancy termination of up to 12 weeks is legal.



4.2. Health risk

According to the World Health Organization, 23.000 women die of unsafe pregnancy termination practices each year of which 10.000+ experience significant health complications. Complications that include, severe bleeding, infection, and death. On St. Maarten, the SER has established that unsafe pregnancy termination practices, which include distribution and use of an illegal pregnancy termination pills or similar uncontrolled substances. As this method prohibits any form of pre-medical intervention or supervision, women run an increased risk of additional health risks. Furthermore, the SER notes that doctors are unable to provide adequate patient care in accordance with good medical practice and their professional ethical responsibilities. In addition, the criminalization of pregnancy termination further deters women from seeking post pregnancy termination care in the event of complications due to unsafe pregnancy termination practices or other pregnancy related issues.

4.3. Legal

Pregnancy terminations have been restricted from as early as when St. Maarten formed part of the Netherlands Antilles. Upon receiving its country status in 2010, in 2012, the laws restricting pregnancy terminations were passed over and made to be part of the Criminal code of St. Maarten.⁵⁵ As the implementation of the law stems from an age in which the population was largely religious, the SER has found that in today's economic and social setting, restricting access to safe pregnancy termination practices is considered a direct infringement of a woman's right to health and rights related to reproductive self-determination. Rights that are protected by European and International conventions such as the European Convention on Human Rights⁵⁶ and the Convention on the Elimination of All Forms of Discrimination against Women to name a few. Therefore, the SER is in favor of revisiting its current pregnancy termination laws, to allow for a more contemporary approach to the country's current view of pregnancy terminations.

4.4. Effect of Pregnancy termination restriction

Furthermore, the SER notes that in doing its research, the SER has established that criminalizing pregnancy termination does not actually reduce the number of pregnancy terminations, but instead affects the safety of the procedure. Through the unregulated distribution of pregnancy termination pills and other unsafe uncontrolled substances, the practice of unsafe pregnancy terminations can quickly become St. Maarten's reality.

4.5. Cross border Flow

Finally, as the SER has established that pregnancy termination is legal on Saint Martin, residents from St. Maarten travel to medical facilities located across the border to have the procedure. The SER notes that a country should not rely on another country to respect the rights of its women and/or be dependent on another country's facilities to provide women with a safe environment to undergo such a procedure.

The table below provides an overview of the number of patients that have been treated by the Center Louis Constant Fleming Hospital in Saint Martin. As individual gynecologists carry out these procedures as well, these numbers depict only a fraction of the actual numbers of Dutch side patients that travel to the French side to have a pregnancy termination carried out. Furthermore, out of fear of not being helped,

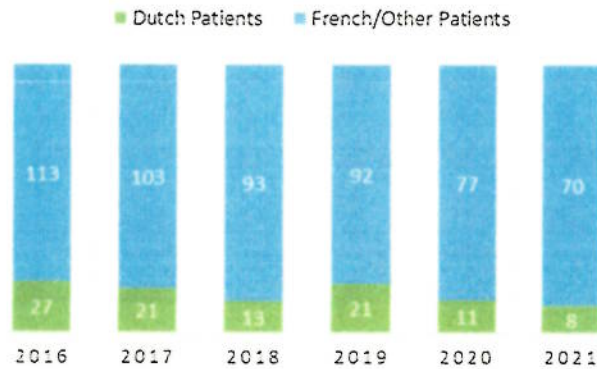
⁵⁵ Criminalization of pregnancy termination can be found in article 270 and 271 of Criminal Code of St. Maarten.

⁵⁶ Taking into consideration that these rights fall within the scope of article 8, 2, 3 and 14 of the European Convention on Human Rights.



many women resort to providing a French address whilst living on the Dutch side. Nevertheless, the table shows a constant flow of patients from one country to the next.

PATIENT CROSSBOARDER FLOW



Year	Dutch	French/other	Total patients
2016	27	113	140
2017	21	103	124
2018	13	93	106
2019	21	92	113
2020	11	77	88
2021	8	70	78
Total	101 (15,6%)	548 (84,4%)	649

As the SER recognizes that St. Maarten's population predominantly stems from a religious background; the SER cannot ignore that fact that the population is increasingly diversifying and developing, and therefore in need of more contemporary laws on pregnancy termination. Consequently, the SER advises to open a discussion on the regulation and or the legalization of pregnancy termination on St. Maarten and in doing so aim to regulate and provide the legal framework within which safe pregnancy termination practices can be provided to all women on St. Maarten. As such the SER advises parliament to invite all relevant stakeholders to a closed-door meeting to further discuss the need to address the issue.



3. Literature List

1. **Solicited advice request** “Study on the Availability of Contraceptives” dated January 10, 2022, ref DIV no. 113808-B21 received from the Honorable Prime Minister Ms. S. Jacobs.
2. **United Nations, 1979** article 16 paragraph 1 sub e of the Convention on the Elimination of All Forms of Discrimination against Women.
3. **United Nations, 2012**, Division UNFPA, Rapport, By Choice not by Chance, Chapter 1: The right to family planning, p.1-5. In 2012, the United Nations issued a report, declaring access to contraception an intrinsic human right.
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29. Data gathered from surveys carried out by the SER with 38% of the pharmacies operational on St. Maarten between February and April 2022.
30. Data gathered from surveys carried out by the SER with 38% of the pharmacies operational on St. Maarten between February and April 2022.
31. **World Health Organization**, Indicator Metadata Registry List. [https://www.who.int/data/gho/indicator-metadata-registry/imr-details/4988#:~:text=Modern%20methods%20of%20contraception%20include,and%20sp onge\)%2C%20lactational%20amenorrhoea%20method](https://www.who.int/data/gho/indicator-metadata-registry/imr-details/4988#:~:text=Modern%20methods%20of%20contraception%20include,and%20sp onge)%2C%20lactational%20amenorrhoea%20method)
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42. **World Health Organization, 2020**, Factsheet Endometriosis. <https://www.who.int/news-room/fact-sheets/detail/endometriosis>
43. **Nederlandse Tijdschrift Geneeskunde, E. Ketting, 2000** 5 februari: 144 (6), "De Invloed van orale anticonceptie op de maatschappij", p.284.
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Sociaal Economische Raad
Social Economic Council

access to contraception an intrinsic human right.

https://www.unfpa.org/sites/default/files/pub-pdf/EN_SWOP2012_Report.pdf.

48. **Ibid.**

49. **Ibid.**

50. **Ibid.**

51. **Ibid.**

52. **Ibid.**

53. **Ibid.**

54. **National Ordinance of 13 December 2012**, entailing the enactment of the new Criminal Code, Book 2, Titel 19, p. 112/153. Criminalization of pregnancy termination can be found in article 270 and 271 of Criminal Code of St. Maarten.