

32<sup>nd</sup> session of the Human Rights Council

**Item 3 - Interactive dialogue with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**

**Joint statement by the International Lesbian and Gay Association, Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit – COC Nederland, and the Swedish Federation of Lesbian, Gay, Bisexual and Transgender Rights – RFSL**

*Delivered by Helen Nolan*

Mr. President,

This statement was drafted in consultation with Global Action for Trans\* Equality (GATE), interACT: Advocates for Intersex Youth, Organisation Intersex International Australia (OII Australia), Organisation Intersex International Europe (OII Europe), and Support Initiative for People with congenital Disorders (SIPD) Uganda.

We warmly welcome the thematic and country visit reports presented by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

In his report on sports and healthy lifestyles, the Special Rapporteur highlights that levels of homophobia, transphobia, and discrimination against intersex people remain high in competitive sports. Persons who are perceived to fall outside dominant gender and heteronormative standards, including lesbian, gay, bisexual, transgender and intersex (LGBTI) people, continue to face discriminatory restrictions in sport, as well as harassment and violence, and a lack of safe and welcoming spaces for participation.

These situations are correctly identified as human rights violations preventing individuals from achieving the highest attainable standard of health, and we encourage States to implement the concrete recommendations made by the Special Rapporteur.

Mr President,

We commend the Special Rapporteur's particular focus on the situations of trans and intersex persons. Trans and gender non-binary individuals are often deliberately or effectively denied the possibility of participation in professional sport. Lack of gender recognition laws based on self-identification, and laws criminalising trans people (either directly or indirectly), greatly restrict access to sport. Severe problems are posed by sex segregation policies, as well as arbitrary and unwarranted classifications of male and female. Policies must reflect international human rights norms, and should not require irrelevant clinical data or unnecessary medical procedures as a precondition to full participation. On a more practical level, States must remove barriers to participation, such as poorly designed changing rooms, requirements to wear clothing that might cause individual discomfort or hinder bodily movement, and restrictions on the use of sex-segregated bathrooms.

We welcome the call for consensus to be reached among all international sporting bodies and national governments on trans and gender non-binary participation in sporting competitions to reflect international human rights norms and do away with medical procedures as a precondition to full participation.

For intersex persons, a variety of “sex tests” conducted to avoid the supposed risk of participating under an assumed gender to obtain a competitive advantage, are a grave problem. No single test determines gender, and there is insufficient clinical evidence to establish that, for example, women with higher levels of testosterone have a “substantial performance advantage” justifying their exclusion. These tests lead to stigmatisation, provide a false basis for exclusion from competitive sport, and have led to women athletes being forced or coerced into “treatment” for hyperandrogenism, including unnecessary, irreversible and harmful surgeries amounting to female genital mutilation. Sporting organisations must act to ensure that their policies prohibit such practices, and States must guarantee this aspect of intersex persons’ health rights.

Mr President,

In the report regarding adolescents, the Special Rapporteur highlights that adolescence is an especially important time for exploration and understanding of sexuality, sexual orientation and gender identity. States should respond to the specific challenges faced by LGBTI adolescents, and mandatory school curriculum should include comprehensive and inclusive sexuality education, based on scientific evidence and human rights, with special attention given to sexuality, gender identity – including non-conforming gender identities – and sex characteristics.

Health services for adolescents, in particular those for sexual and reproductive health, must be sensitive to gender identity, sexual orientation and sex characteristics. They must be non-judgemental, treating all teenagers with dignity and respect to ensure that LGBTI adolescents do not suffer stigma, discrimination, violence, rejection by families, criminalisation and other human rights violations when seeking sexual and reproductive health services. We welcome the call to reform National Health information systems to include human rights concepts and variables, such as lesbian, gay, bisexual, intersex status. However we emphasise that transgender status should also be included.

The report notes that LGBTI adolescents are at heightened risk of mental ill-health, not least because of continued use of abusive “conversion therapies” and “treatments.” We join the Special Rapporteur’s call on States to eliminate such practices and to repeal all laws criminalising and discriminating against individuals on the basis of their sexual orientation, gender identity and expression, and sex characteristics.

We are pleased to note the Special Rapporteur’s reference to the specific hardships that intersex adolescents often experience due to irreversible and non-consensual genital and reproductive surgeries performed during their early childhood because of the natural development of their bodies. These situations may be compounded by discrimination within the family and society, and by healthcare providers, who often also lack awareness of the needs of this population and that these irreversible childhood surgeries constitute human rights violations.

Mr President,

We ask the Special Rapporteur whether he agrees that States should provide trans adolescents with access to gender transition-related services, affirmative counselling, balanced

information and support, age-appropriate hormones and puberty blockers, and progressive steps towards self-identification of their genders.