



The International Lesbian, Gay, Bisexual, Trans and Intersex Association

Clustered interactive dialogue with: - Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

35th HRC Session - 6 June 2017

Opening Remarks of the Independent Expert on Sexual Orientation and Gender Identity

- The IE thanked the many stakeholders that contributed to the report
- He stated that everyone has a sexual orientation and a gender identity and explained briefly its concepts.
- Persons with a diverse sexual orientation and gender identity are target for diverse kinds of violence and discrimination. The report is based on the believe that diversity of SOGI is important and that everyone, regardless of their SOGI are entitled of human rights.
- The report was made by consultation with stakeholders and visits to countries. He stated the he followed closely the instructions contained in the resolution 32/2
- Key elements: implementation of international instruments with identification of gaps; awareness of violence and discrimination; engagement and consultation with stakeholders and different countries; identification of intersectional discrimination; support for international cooperation; action against violence and discrimination.
- There is no advocacy effort from the mandate holder for new rights for specific groups.
- The international human rights bodies have been affirming the protection of persons regardless of distinction of sexual orientation and gender identity.
- The mandate is guided by international instruments and also by the SDGs and its aim to “leave no one behind”.
- Underpinnings of the report: a) decriminalization of same-sex relations; b) effective anti-discrimination measures; c) legal recognition of gender identity; d) de-stigmatization and de-pathologization of SOGI; e) social-cultural inclusion f) promotion of education and empathy.

Honduras

- The state representative stated that the country recognizes that the violence which occurs in the state effects in special vulnerable groups as migrants, children, LGBTI persons, human rights defenders and indigenous peoples.

Pakistan

- The statement was delivered on behalf of OAC
 - The OAC group does not recognize the mandate of the IE and therefore the states will not cooperate or interact with the mandate holder. The states reinforced the resolution on traditional and family values. It also stated that the coalition believes that the
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mandate is underpinned on controversial notions based outside the agreed human rights standards, contradicting the fundamentals of universality.

- It also alleged that the IE had gone beyond the terms established in the mandate.

Chile

- The statement was delivered on behalf of Argentina, Brazil, Chile Colombia, Costa Rica Mexico and Uruguay
- The state welcomed the report and mentioned that the report reflexes the reality of several regions of the world and shows what needs to be done to ensure the fulfilment of the universal declaration of human rights.
- The report is a very good starting point to understand that violence and discrimination based on SOGI is a global phenomenon that require international action.

European Union

- It welcomed the report and highlighted the commitment of the European union to the rights of all people regardless of sexual orientation and gender identity
- The EU remains deeply concerned about the alarming rates of violence and discrimination against LGBTI persons worldwide and appreciates the work of the IE as a tangible means to better protect and promote the human rights of all individuals. In line with the EU LGBTI Guidelines and EU Council Conclusions on LGBTI Equality, it will seek ways to enable UN human rights mandate holders, in particular the IE to make progress in having access to a wide range of countries, as well as to foster a climate of dialogue.
- It asked the IE to elaborate on ways to foster dialogue with a view to contribute for the much-needed progress in law and in practice across regions.

Netherlands

- The statement was delivered on behalf of the 33 members of the Equal Rights Coalition.
 - It welcomed the report and stated that it is a very valuable starting point for the IE's important work and also supported the approach and methodology the IE has chosen.
 - The Equal Rights Coalition consults with civil society and the LGBTI-community to ensure their individual and combined international efforts adhere to the principle of "Do No Harm". Their aim is to avoid undermining or further marginalizing LGBTI-persons or other persons in vulnerable situations and instead create an enabling environment in which their human rights can be respected, protected and promoted.
 - Recognizing that also in their own countries there is room for improvement, they declared to be ready to learn from legislative processes and other positive examples
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aimed at strengthening the protection and promotion of equal rights for LGBTI persons and to share their experiences in repealing discriminatory laws, improve responses to hate-motivated violence, and promoting legal protection from discrimination on the basis of sexual orientation and gender identity.

Iceland

- The statement was delivered on behalf of the Nordic countries.
- Iceland welcomed both of the reports presented and regretted that more than 70 countries still criminalize same-sex relations. It also stated that violence and discrimination against LGBTI persons represents a serious challenge in the quest for universal human rights.
- Question: How does the IE envisages cooperating with other thematic as well as country specific mandate holders?

Sierra Leone

- It aligned itself with the statement of the African Group and welcomed the report of the IE.

United States of America

- USA welcomed the report and stated that some countries uses their traditions as ways to oppose to concepts of SOGI and make excuses to discriminate people for just being themselves.
- It also welcomed the IE's focus in key areas such as decriminalization of same sex conduct, anti-discrimination efforts, recognition of gender identity and his approach to address issues in every part of the world.
- Question: How the IE will engage countries to press for decriminalization of same sex conduct, which remains a crime in over 70 countries?

Estonia

- It aligned itself with the statement of the EU.
 - Estonia stated that the mandate of the IE is a reminder of the fact, that the existing human rights law includes the duty to promote and protect the human rights and fundamental freedoms of all persons also regardless of their sexual orientation or gender identity.
 - It expressed its concern on the allegation about the discrimination, arbitrary detention, torture and killings of members of the LGBTI community in Chechnya
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- It we It called upon all States to fully cooperate with the Independent Expert, including providing all information requested and responding favorably to request for country visits, allowing the mandate holder to fulfil his mandate.
- Question: which solutions does the IE sees for the online hate speech related to SOGI?

Greece

- It aligned itself with the statement of the EU and congratulated the IE for the reports.
- It considers the mandate of IE a landmark at the HRC and for the protection of human rights of every person regardless of SOGI.
- It affirmed the commitment of the country in ensuring the rights of LGBTI persons.

Austria

- It aligned itself with the statement of the EU.
- Austria strongly believes that the creation of your mandate can effectively support States and the UN system in combatting discrimination and violence faced by LGBTI-persons in countries in all parts of the world, and it will support the IE's efforts over the coming years
- It asked the IE to elaborate on how social media has a twofold significance as combating stereotypes but also being a platform for hate speech.

Czech Republic

- It aligned itself with the statement of the EU and reiterate the strong support of the mandate.
- It stated that no new rights were developed in the report, which uses core human rights for its development.
- It asked the IE if he perceived the five key underpinnings of the report as consequent steps or if they require a holistic approach.

Montenegro

- It welcomed both of the reports and emphasized that as a member of the Group of Friends of the SOGI Resolution and a member state of the Equal Rights Coalition, Montenegro is strongly committed to support the work of the Independent Expert and further actions of the HRC on this issue.
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- Montenegro strongly condemns all forms of violations based on sexual orientation and gender identity, many of them recognized in the report, and calls member states to cooperate and continue to keep this issue on the HRC Agenda.

Canada

- Canada highlighted the variety of experiences faced by LGBTI persons and welcomed the intersectional approach adopted by the IE.
- It recognized that the mandate of the IE faced opposition and redoubled its commitment with it.
- Canada asked what strategies the IE will use to increase state-level engagement, regardless of their position on the mandate.

Cuba

- Cuba thanked both of the mandate holders for their reports.
- It asked the IE how he plans to work towards a bigger consensus regarding SOGI diversity in order to create a more promote a balance treatment of this giving the various opinion on the matter.

Belgium

- It aligned itself with the statement of the EU and reiterates the full support of the mandate.
- It welcomed the focus on decriminalizing consensual same-sex relations. It emphasized the roles of national parliaments in developing the protection of LGBTI persons and asked the IE to elaborate on the role of intergovernmental parliaments on the matter.

Spain

- Spain welcomed both of the reports. Regarding the report of the IE.
- It commented on the efforts of Spain's government to implement rights of LGBTI persons and also on the fact that Madrid will host the Europride 2017.

Chile

- It welcomed the report and commented on the efforts made by Chilean government to implement rights of persons with diverse SOGI. It called on all members of the council to collaborate with the mandate holder. It also highlighted the key role of civil society.
 - Question: How can international cooperation can be an instrument of eliminating discrimination and violence based on SOGI?
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Germany

- Germany aligns itself with the statement of the European Union and considers the establishment of the IE mandate a major achievement.
- It stated that in many countries LGBTI persons who are seeking help from government institutions become victims a second time due to police acts.
- It pointed out the dangerous backlash against LGBTI rights defenders occurring in many countries.
- It commended efforts made worldwide to fight hatred and discrimination.
- Question: Do you plan to look into the role of the educational sector in explaining the progress and the backlash we see in different countries around the globe?

Australia

- Australia welcomed the report of the IE and agreed that discrimination against LGBTI persons must be based on existing human rights protection.
- It concurred that states should follow effectively the UPR and treaty body recommendations regarding SOGI
- It also agreed that NHRI should support national actions to advance on the situation of LGBTI persons linking it with international commitments.
- Question: What steps States can take to increase international action on this issue?

Mexico

- Mexico welcomed the report of the IE. It stated that it will continue to support the mandate of the IE and urged other countries to do the same.
- It reinforced the country's commitment to ensure that all persons enjoy equal opportunities without discrimination of SOGI.
- Question: What are your proposals to strengthen the cooperation in the adoption of national and international measures to ensure the respect for diversity of SOGI inside the international human rights framework?

Switzerland

- Switzerland welcomed the report of the IE and expressed its concern with the violence and discrimination contained in the report.
 - Question: What measures do you recommend establishing a constructive dialogue with all states on the necessity of protection against violence and discrimination based on SOGI? Do you have any specific recommendations for the Council to enforce the protection of human rights defenders working with SOGI?
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Argentina

- Argentina thanked the visit made by the IE in the country which was very effective.
- Regarding the report, Argentina commended the work of the IE and also his trajectory on the defense of human rights specially regarding SOGI issues.
- It commented on the regional report of good practices regarding protection LGBTI persons made by the reunion of high authorities of Mercosul.

Remarks of the Independent Expert on Sexual Orientation and Gender Identity

- Responding the OAC, the IE stated that he does respect that there is a diversity of opinions in the matter and he hopes that with respect a good dialogue will be possible. The IE also reinforced that he had followed the mandate very strictly. He also recognizes the cultural and religious particularities but called attention to the Vienna Platform of Action which provides the duty of states to ensure human rights even with such particularities. The IE also commented on the fact that in some countries of the group the situation regarding SOGI is good and he hopes that the countries will share these practices.
 - Responding the European Union, the IE stated that is important to build bridges not only with the executive, but with the plurality of stakeholders in each country, e.g., the judiciary, civil society and NHRI.
 - Responding the Nordic countries: the IE stated that some actions had already been made with cooperation with other mandate holders and agencies, e.g. the global call to protect trans children.
 - Responding the USA: The IE recall on the importance of checks and balances and on the fact that actions regarding SOGI may arise from different branches.
 - Responding Estonia and Austria: The IE mentioned 4 possible interventions: 1) necessity of some law against hate speech following the obligation enshrined in article 20 of the ICCPR; 2) Codes of conduct by internet providers making possible to take down hostile messages; 3) Co-regulation between the government and non-governmental organizations; 4) Good social response, positive counter-speech.
 - Responding Czech Republic: The IE recalled the underpinnings of his report, especially the inclusive and comprehensive approach.
 - Responding Canada and Cuba: The IE recall on the pillars of the report and on the importance of checks and balances considering the diverse national institutions that may take action.
 - Responding Belgium: The IE stated that interparliamentary union and related organization may take important actions regarding SOGI.
 - Responding Chile: There are several measures to face discrimination, as law, policies, programs, cases, mechanism, education and mobilization.
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- Responding Australia, Mexico: The IE recall the key elements, underpinnings and approaches of the report.
- Responding Switzerland: In regard to protection for human rights defenders, the IE called attention to the importance of accountability for the attacks suffered by them and stated that actions are already being taking on the matter.

Malta

- Malta aligned itself with the statement of the EU
- Malta reaffirms its commitment to support the mandate of the Independent Expert and to help combat all forms of discrimination and hate crime, including on grounds of SOGI.

France

- France aligned itself with the statement of the EU and affirmed the full support to the mandate.
- It commented on the alarming levels of violence against LGBT persons and encourage the IE to work towards decriminalization of same-sex relations.
- Question: How to combat discrimination against children and youth based on SOGI?

Slovenia

- Slovenia aligns itself with the EU statement and remains a strong supporter for the mandate.
- It commented on the importance of the mandate to provide contributions to raising awareness on violence and discrimination against LGBTI persons
- It called the attention to civil society and in particular to human rights defenders in the area of LGBTI rights.

Venezuela

- It stated that Venezuela has implemented the principle of equality for LGBTI people through administrative and judicial acts.

Brazil

- Brazil congratulated the IE for his report and encouraged the IE to continue his efforts to engage in constructive and inclusive dialogue with all countries and relevant actors
 - It reaffirmed its unwavering commitment and support for the full discharge of the mandate of the IE.
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Thailand

- Thailand thanked the report of the IE, welcomed his efforts and stated that it stands ready to engage with him.
- Question: How capacity-building human rights education can help to protect people against discrimination and violence based on SOGI?

Colombia

- Colombia welcomed the report and restated its commitment to combat violence and discrimination based on SOGI.
- It highlighted the necessity to ensure equality of opportunity of education, labor market, health services, politics and access to justice.
- It commented on the importance of the peace agreement and on the fact that LGBTI persons are one of the groups victims of the armed conflict.

Honduras

- Welcomed the report of the IE and affirmed the commitment of Honduras in combating discrimination and violence based on SOGI. It also commented on the fact that the country is part of the Equal Rights Coalition.

Latvia

- Latvia aligned itself with the EU statement and commended the work of the IE.
- It encouraged all the stakeholders to cooperate with the mandate holder.
- Question: We would welcome if you could elaborate more specifically on what can be done to avoid what you refer to as a “protection deficit and vacuum”?

Albania

- Albania reiterated its strong support to the mandate of the IE and commended the report.
- It encouraged all States to cooperate with the IE.
- Question: how do you envisage to approach the broad spectrum of violence and discrimination deriving from the diverse identities concerned by this mandate? What concrete steps do you recommend for opening dialog with all States and advancing recognition regarding the need for specific attention on violence and discrimination based on SOGI?

Netherlands



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- Netherlands aligned itself with the statement of the EU and stated that aims to work together with the IE.
- It also stated that violence and discrimination based on SOGI are horrific violations of human rights.
- It emphasized the importance of the IE's work and of his cooperation with civil society, academia, parliamentarians, private sector and private citizens.

Portugal

- Portugal welcomed the report and stated that fully support the IE's mandate.
- It commented on Portugal's efforts on promoting and protecting human rights of LGBTI persons.
- Question: How can we best help you in combatting such underpinnings?

Israel

- Israel welcomed the IE for the report presented and stated that the country supported the mandate both in Geneva and in New York.
- Israel is committed to work both at the national level, as well as through international cooperation to address the underpinnings of the report.
- It called the attention of the mandate holder to actions carried out by non-state actors.

Liechtenstein

- It re-iterates its full support for his mandate.
- It commented that only by fighting discrimination and violence is possible to achieve the commitment of "leave no one behind" contained in the Agenda 2030.
- It expressed worries that members of the council has expressly said that will not cooperate with the work of the IE.
- Question: How does the Independent Expert plan to overcome the ideological barrier in order to foster dialogue and cooperation amongst all members of the Human Rights Council?

Costa Rica

- Costa Rica endorsed the statement of Chile and welcomed the report of the IE.
 - It commented on the request of an advisory opinion to the Inter-American Court of Human Rights regarding protection of LGBTI persons.
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Ecuador

- Ecuador welcomed the report of the IE. It believes that approaching SOGI from the human rights norms is a key element to combat violence and discrimination.
- It commented on the efforts of the country to ensure rights to LGBTI persons.

Bolivia

- It welcomed the report of the IE and commented on its national efforts to ensure the wellbeing and protection of every individual.

Luxembourg

- Luxembourg aligned itself with the statement of the EU and welcomed the report of the IE.
- It stated that human rights defenders of LGBTI equal rights must receive all the necessary protection.
- It fully supports the recommendations made by the IE in his report.

Georgia

- Georgia supports the resolution of the HRC that established the mandate of the IE and reiterated its commitment to further cooperate with the IE on SOGI

Ireland

- Ireland aligns itself with the EU statement and commended the importance of the mandate of the IE.
- Questions: We would be interested to hear more on the concrete plans you have for cooperation with other Special Procedures of this Council, both thematic and country-specific, in fulfilment of your mandate; as well as with other bodies and agencies in the UN. We would welcome further information on the opportunities for cooperation which you see in connection with the SDGs. How can we as States best assist and engage with you in the task of achievement of those Goals?

Lithuania

- It aligned itself with the statement delivered by the EU and expressed its strong support for the mandate of the IE.
 - Lithuania regretted the violence and discrimination suffered by LGBTI persons and mentioned the situation in Chechnya.
 - It encouraged all states to promote and cooperate with the IE's mandate.
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United Kingdom of Great Britain and Northern Ireland

- The UK supports the work of the IE. It expressed its deeply concern with the reports of detention, torture and killings of LGBT persons in Chechnya.
- Question: How can states support both mandate holders to work collaboratively on matters of shared concern?

New Zealand

- New Zealand reaffirmed its strong support for the mandate and its concern with the violence and discrimination based on SOGI worldwide.

Uruguay

- Uruguay thanked the report of the IE.
- It highlighted how the issues of SOGI are usually related to misunderstandings, prejudices and fears. It also expressed the fact that the mandate is not related to the creation of new rights, but to ensure that everyone enjoy the established human rights.
- It further stated that the IE can rely on Uruguay's cooperation.

Responses of the Independent Expert on Sexual Orientation and Gender Identity

- Responding to Malta: next step is the General Assembly Report
 - Responding to France: The starting point with the children protection is already being taken by UNESCO and the Idaho Statement.
 - Responding to Slovenia: It is difficult to point the root cause, but it basicly dealing with unbalance of power.
 - Responding to Thailand: Anti-bullying is an important point, education against sexual violence, human rights education at large and health education.
 - Responding to Latvia: Recall the pillars of the report
 - Responding to Albania: Recall the open dialogue and question of checks and balances.
 - Responding to Liechtenstein: Stated the necessity of de-ideologize.
 - Ireland: The IE is already engaging with other mandate holders and agencies and exploring the SDGs, specially the SDG 16.
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