



**42<sup>nd</sup> Human Rights Council Session**  
**September 26, 2019**  
**Item 10 – General Debate**  
**Statement by the International Lesbian and Gay Association**

*Delivered by: Diana Carolina Prado Mosquera*

Thank you, Mr. President,

We have seen progressive measures taken to protect lesbian, gay, bisexual, trans and intersex (LGBTI) persons in the past months. In the capacity-building spirit of Item 10, we would like to share some of those best practices.

With 27 member states voting in favor, the **41<sup>st</sup> session of this Council saw the renewal of the mandate of the Independent Expert on violence and discrimination on the basis of sexual orientation and gender identity.**<sup>1</sup> With the adoption of this resolution the Human Rights Council showed that violence and discrimination on the basis of sexual orientation and gender identity are not tolerated by this Council.

We welcome the **dialogue in Cambodia**<sup>2</sup> between government leaders, local authorities and LGBTIQ community as well as the message by the Prime Minister who stated that the government stands against all types of discrimination against LGBTIQ. These types of dialogues are a step further on achieving equality and non-discrimination.

In June, **Ecuador's** Constitutional Court upheld the right to **same-sex marriage** in the country, ruling in favor of two gay couples who had sued after their request to be married was denied by the country's civil registry.<sup>3</sup> Similarly, in **Peru** a court in Lima ordered the National registry **to register the marriage of a Peruvian same-sex couple** who had married overseas. This victory will strengthen everyone's fundamental rights to equality and non-discrimination, irrespective of their sexual orientation or gender identity.

In June we celebrated that **Botswana's** Gaborone High Court **decriminalized consensual same-sex relations.**<sup>4</sup> No one should be harassed, discriminated or criminalized because of their sexual orientation, as said by the Gaborone's court "*Human dignity is harmed when minority groups are marginalized... Sexual orientation is not a fashion statement. It is an important attribute of one's personality.*" We call on the remaining 69 countries that still criminalize consensual same-sex relations.

**Though South Africa was the first African country to explicitly include intersex people in anti-discrimination law, Kenya** has become the **first country in Africa to collect data on intersex people** in its national population census, in a major victory for rights activists.<sup>5</sup> We welcome this initiative as it will help people understand the challenges that intersex people face.

<sup>1</sup> <https://ilga.org/UN-renews-crucial-IESOGI-mandate-sexual-orientation-gender-identity>

<sup>2</sup> <https://www.phnompenhpost.com/national/govt-promises-support-lgbtqi-community>

<sup>3</sup> <https://www.europapress.es/internacional/noticia-corte-constitucional-ecuador-aprueba-matrimonio-personas-mismo-sexo-20190612225045.html>

<sup>4</sup> <https://www.reuters.com/article/us-botswana-lgbt/botswanas-high-court-decriminalizes-homosexuality-idUSKCN1TC1EP>

<sup>5</sup> <https://www.reuters.com/article/us-kenya-lgbt-rights/in-a-first-for-africa-kenya-census-to-count-intersex-people-idUSKCN1VA1VM>

We also welcome the landmark decision by **Kazakhstan** Supreme Court to uphold the privacy of a lesbian couple as the Supreme Court overturn a decision by the Court of Appeal, saying it had committed a substantial and gross violation of the rights to self-image of a lesbian couple. In January 2018, two young women were filmed kissing at a shopping mall and a video with incitement to hate was posted on Facebook and became viral hitting over 60 000 views, faces of both women were fully identifiable and they were subsequently harassed on the streets and cyberbullied.<sup>6</sup>

In September the Equality Court ruled that prisons in **South Africa** have the right to protect and allow trans persons their right to freedom of expression, human dignity, safety and overall the right to freely express their gender identity. We welcome this groundbreaking judgement as it is an important development of the South African jurisprudence on the rights to gender identity and gender expression, and a significant step towards greater protection and realisation of the human rights of transgender and gender diverse people in South Africa.<sup>7</sup>

We hope that governments continue to engage in constructive dialogue and share their best practices in this arena to ensure that the momentum surrounding sexual orientation, gender identity and expression and sex characteristics (SOGIESC) issues continues to grow.

I thank you Mr. President

<sup>6</sup> <https://ilga-europe.org/resources/news/latest-news/ilga-europe-welcome-landmark-decision-kazakhstans-supreme-court-uphold>

<sup>7</sup> <https://www.iol.co.za/news/south-africa/transgender-inmate-wins-right-to-express-her-gender-in-male-prison-33487690>. Direct quote from press release Gender Dynamix and Iranti.