

SOGIESC OPPORTUNITIES IN THE 42nd HUMAN RIGHTS COUNCIL SESSION
September 9 – 27, 2019

This report contains SOGIESC issues mentioned in the reports that will be presented during the 42nd Human Rights Council Session.¹

The objective of this report is to identify opportunities for engagement or participation at the Human Rights Council.

The structure of the report is based on the Items of the agenda of the Human Rights Council.

For more information on what happened during this session please check our [webpage for this session](#).

¹ **Searched key words:** Sexual orientation, gender identity, gender expression, sex characteristics, LGBTI, SOGIESC, HIV, lesbian, gay, bisexual, trans, intersex, homosexual, sexual minorities, same-sex and sex.



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AGENDA OF THE 42nd HUMAN RIGHTS COUNCIL SESSION

PROGRAMME OF WORK FOR THE 42ND SESSION OF THE HUMAN RIGHTS COUNCIL September 9 – 27, 2019

	WEEK 1 9 September		WEEK 2 16 September		WEEK 3 23 September	
M O N D A Y	09.00	ITEM 2 - Oral update by the HC	10.00	General Debate on ITEM 3 (cont'd)	09.00	General Debate on ITEM 7
	12.00	ITEM 3 - Clustered ID with: - SR contemporary forms of slavery - WG on use of mercenaries	13.00	ITEM 4 - ID with Commission on Human Rights in South Sudan (oral update)	12.00	General Debate on ITEM 8
	12.00	ITEM 3 - Clustered ID (cont'd) ITEM 3 - Clustered ID with:	13.00	BREAK	12.00	General Debate on ITEM 8 (cont'd)
	15.00	- SR on water and sanitation - SR on hazardous wastes	15.00		15.00	ITEM 9 - ID with WG African Descent
15.00	ITEM 3 - Clustered ID (cont'd)	15.00	- ID with Commission on Human Rights in South Sudan (oral update) (cont'd)	15.00	ITEM 9 - ID with WG African Descent (cont'd)	
18.00		18.00	- ID with SR on Myanmar (oral update) - ID with Fact-finding Mission on Myanmar	16.00 16.00 18.00	ANNUAL DISCUSSION ON INTEGRATION OF A GENDER PERSPECTIVE (HRC res. 6/30)	
	10 September		17 September		24 September	
T U E S D A Y	09.00	ITEM 2 - General Debate on the oral update by the HC*	09.00	- ID with Fact-finding Mission on Myanmar (cont'd)	10.00	Presentation of reports of the HC and Ad Hoc Committee, followed by General Debate on ITEM 9
	12.00	General Debate on HC update (cont'd)	12.00	- ID with Commission of inquiry on the Syrian Arab Republic	13.00	
	15.00	- Enhanced ID on HC report on Nicaragua	15.00	- ID with Commission of inquiry on Burundi	13.00 15.00	BREAK
15.00	Presentation of report of International Investigative Mechanism on Myanmar, HC oral update on COI Gaza (res.40/13) & HC oral update on Venezuela, followed by General Debate	15.00	General Debate on ITEM 4	15.00	ITEM 10 - ID on HC oral update on Ukraine - Enhanced ID on OHCHR report on the Democratic Republic of Congo	
18.00		18.00		18.00		
	11 September		18 September		25 September	
W E D N E S D A Y	09.00	-ID on HC report on Yemen	9.00	General Debate on ITEM 4 (cont'd)	09.00	ITEM 10 - Enhanced ID on OHCHR report on the DRC (cont'd)
	12.00	ITEM 3 - Clustered ID with: - WG on enforced disappearances - SR on truth, justice and reparation	12.00 15.00	ITEMS 3 & 5 - Clustered ID with: - SR on the rights of indigenous peoples - EMRIP		
	12.00	ITEM 3 - Clustered ID (cont'd) ITEM 3 - Clustered ID with:	15.00	ITEM 5 - ID with Advisory Committee - ID with ASG on SG report on reprisals	12.00	- ID on HC oral update on Libya (cont'd)
	15.00	- IE on the rights of older persons - SR on the right to development	16.00		15.00	- ID with SR on Cambodia
15.00	ITEM 3 - Clustered ID (cont'd)	16.00	ANNUAL PANEL DISCUSSION ON RIGHTS OF INDIGENOUS PEOPLES (HRC res. 18/8 and 39/13) accessible	15.00	- ID with IE on Somalia - ID with IE on Sudan	
18.00		18.00		18.00		
	12 September		19 September		26 September	

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	13 September	20 September	27 September	
T H U R S D A Y	10.00	BIENNIAL PANEL ON HUMAN RIGHTS AND UNILATERAL COERCIVE MEASURES (HRC res. 27/2 and 40/3)		ITEM 10
	12.00		ITEM 5 - ID with ASG on reprisals (cont'd) General Debate on Item 5	- ID with IE on the Central African Republic
	12.00	ITEM 3 - Clustered ID with:		General Debate on ITEM 10, including on other HC/SG country reports (Cambodia, Georgia, Yemen)
	13.00	- IE on international order		
	13.00	- SR unilateral coercive measures	ITEM 6 - UPR outcomes**	ITEM 1
	15.00	BREAK	Norway, Albania, Democratic Republic of the Congo, Cote d'Ivoire, Portugal, Bhutan, Dominica	- Decisions and conclusions
	18.00	ITEM 3 - Clustered ID (cont'd)		- Decisions and conclusions
F R I D A Y	10.00	ITEM 3 - Individual ID with WG on arbitrary detention	ITEM 6 - UPR outcomes (cont'd)**	ITEM 1
	13.00		Democratic People's Republic of Korea, Brunei Darussalam, Costa Rica, Equatorial Guinea, Ethiopia, Qatar, Nicaragua	- Decisions and conclusions (cont'd)
	13.00	BREAK		- Decisions and conclusions (cont'd)
	15.00		General Debate on ITEM 6	- Decisions and conclusions (cont'd)
	15.00	Briefing by ECOSOC President; presentation of SG/HC thematic reports, reports of WG right to development and WG private mil. sec. companies, followed by General Debate on ITEM 3		- Election of Advisory Committee members
	17.00		Complaint procedure (closed meeting)	- Appointment of a SP mandate holder
	18.00			- Adoption of the session report



ITEM 1: ORGANIZATIONAL AND PROCEDURAL MATTERS: N/A

ITEM 2: ANNUAL REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND REPORTS OF THE OFFICE OF THE HIGH COMMISSIONER AND THE SECRETARY-GENERAL

- [A/HRC/42/18. Report of the United Nations High Commissioner for Human Rights. Situation of human rights in Nicaragua.](#)

(...) IV. Rights to freedoms of expression and association

Freedom of expression

17. Media workers, journalists, human rights defenders, peasants, LGBTI persons, students and members of the catholic clergy continued to be subjected to attacks, criminalization, seizure of their assets, intimidation, threats, harassment and smear campaigns by authorities and/or pro-Government elements. Relevant authorities did not take measures to prevent, investigate, prosecute and sanction such acts. In some cases, State authorities publicly blamed human rights defenders for having been instrumental in the “coup attempt”.² This situation had a deterrent effect on the exercise of their right to freedom of expression and association.

(...) Rights to freedom from torture and to humane conditions of detention

33. Although Law 473 on the Penitentiary Regime and Execution of the Sentence does not explicitly authorize and regulate intrusive searches, the majority of the men and women deprived of liberty in the context of the protests interviewed by OHCHR indicated they were subjected to unjustified and degrading visual inspection of their body cavities during routine strip searches. They would undergo such searches almost every time they left their cells, in front of same-sex detainees and staff who sometimes verbally mocked them.

34. As acknowledged by the Government, transgender women deprived of liberty were detained in the same cells as male detainees, since penitentiary legislation does not recognize transgender people in accordance with their gender identity.³ They were therefore subjected to visual inspection of their body cavities during routine strip searches in front of male detainees.

² Oral intervention of the State of Nicaragua during the 33rd UPR session, available at: <http://webtv.un.org/meetings-events/security-council/watchbr%20/watch/nicaragua-upr-adoption-33rd-session-of-universal-periodic-review-/6038140075001/?term=&sort=popular>.

³ Communication from the Ministry of Foreign Affairs of Nicaragua in response to the OHCHR questionnaire, *supra*, pp. 36-37.



- [A/HRC/42/22. Local government and human rights – Report of the United Nations High Commissioner for Human Rights.](#)

Laws, policies and programmes to promote and protect human rights at the local level

12. Through municipal laws and policies, local governments help to protect and promote the rights of lesbian, gay, bisexual, transgender and intersex persons. For example, in the Plurinational State of Bolivia, Autonomous Municipal Law No. 311 on the “promotion of and respect for the human rights of persons of differing sexual orientations or gender identities in the Municipality of La Paz” applies to municipal policies on non-discrimination. In Trinidad and Tobago, Municipal Law No. 247/2018 declares 17 May the day against homophobia and transphobia in the Municipality of Trinidad. In the Mexican state of Coahuila de Zaragoza, the reform of the State’s Civil Code introduced equal marriage and eliminated obstacles to same-sex couples adopting children. The city of Amsterdam has adopted a “pink agenda 2015–2018”; its new policy on lesbian, gay, bisexual, transgender and intersex rights aims to increase the social acceptance of lesbian, gay, bisexual, transgender and intersex persons. In Italy, the city authorities of Naples have established a register of same-sex civil unions, while in the city of Vienna, an anti-discrimination office advocates the rights of same-sex and transgender lifestyles and combats discrimination against lesbian, gay, bisexual, transgender and intersex persons.

(...) How are local governments connected with the United Nations?

50. Working alongside United Nations entities can help local governments to deliver on their human rights responsibilities. For instance, the work performed by the state of Coahuila de Zaragoza with OHCHR Mexico, civil society and academia led to the drafting of a State human rights programme and the decision of Coahuila de Zaragoza to join the “Free and Equal” campaign to counter discrimination against the lesbian, gay, bisexual, transgender and intersex community. The city of Graz (Austria) engages with the United Nations Educational, Scientific and Cultural Organization on several different programmes, including in relation to human rights cities.⁸² In Hungary, the city of Budapest worked in partnership with the International Organization for Migration to establish a migrant information service. The technical assistance provided by OHCHR Uganda delivered human rights capacity-building, awareness-raising and human rights mechanisms strengthening to local governments. The UNDP decentralization and local governance project is fostering cooperation between local government and local stakeholders to facilitate the effective promotion and protection of human rights in Pakistan by, inter alia, supporting provincial governments in developing human rights policies, and local government capacity-building.

- [A/HRC/42/23. Draft plan of action for the fourth phase \(2020-2024\) of the World Programme for Human Rights Education. Report of the Office of the United Nations High Commissioner for Human Rights.](#)

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D. Principles for human rights education activities

10. Educational and training activities within the World Programme shall:

(b) Foster respect for and appreciation of diversity, and opposition to discrimination on the basis of race, colour, sex, age, language, religion, political or other opinion, national, ethnic or social origin, property, birth, place of residence, disability, sexual orientation and gender identity, and other bases;

(...) 2. Teaching and learning processes and tools

27. With regard to content, in line with the United Nations Declaration on Human Rights Education and Training, human rights education fosters knowledge, skills and attitudes empowering young people to exercise their rights and respect and uphold the rights of others. Competencies in these areas include:

(ii) Respect for and appreciation of diversity, including through the use of inclusive language and attitudes, and opposition to discrimination on the basis of race, colour, sex, age, language, religion, political or other opinion, national, ethnic or social origin, property, birth, place of residence, disability, sexual orientation and gender identity and other bases;

- [A/HRC/42/24. Expert meeting to discuss good practices, gaps and challenges in the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal mortality and morbidity in humanitarian settings](#)

C. Discrimination and inequality

64. Further, experts observed that in humanitarian settings, affected populations are often framed as a homogeneous group when in fact there is a need to zoom in on the individuals. When it comes to preventable maternal mortality and morbidity, within these “population groups” one can identify women and girls who are particularly at risk of being discriminated against and left behind. In this context, gender-based discrimination intersects with discrimination on other grounds related to, among other things, age, disability, sexual orientation, gender identity, health status, ethnicity, nationality, caste, poverty, urban/rural residence, refugee/migrant/internally displaced status and sex work, and whether one was a victim of gender-based violence, a victim of trauma, living inside/outside camp settings, displaced/not displaced and an established/new arrival.



- [A/HRC/42/25. High-level panel discussion on the question of the death penalty- Report of the Office of the United Nations High Commissioner for Human Rights.](#)

Opening remarks and statements

6. The High Commissioner noted that some persons were sentenced to death simply for having expressed an opinion, for membership of a political group, for exercising their freedom of religion, which included the freedom to leave a religion, or for being part of the lesbian, gay, bisexual, transgender and intersex (LGBTI) community. Condemning a person to death for conduct that should not be criminalized was never compatible with a State's human rights obligations. Women faced gender discrimination in the application of the death penalty, and a recent report by the Cornell Center on the Death Penalty Worldwide showed that they were judged not only on the basis of their crime, but because they were perceived to have betrayed traditional gender roles.¹ Some women were sentenced to death for perceived moral transgressions, such as adultery, or even for witchcraft. Women sentenced to death for murdering their partners had often been victims of severe and repeated domestic abuse for years, and had lived in fear for their lives, but the law in their countries recognized self-defence as a legal defence only in the case of direct and imminent lethal threat.

(...) 8. In his opening remarks, Mr. Reynders, speaking on behalf of a group of co-sponsors of Human Rights Council resolution 36/17,² congratulated the Gambia for ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and welcomed the recent announcement that Malaysia would abolish the death penalty, joining the some 170 States which had either abolished the death penalty or imposed a moratorium on its use for more than 10 years. It was regrettable that the death penalty was still applied in a minority of countries, including for apostasy, blasphemy, adultery or consensual same-sex relations, which did not qualify as "most serious crimes" under international law. Such application of the death penalty was particularly discriminatory, targeting certain groups simply for exercising their fundamental rights, and should not exist in the twenty-first century.

9. Mr. Reynders drew attention to the inextricable link between poverty and the death penalty, noting that beyond legal expenses, every step of the judicial process incurred costs, whether for obtaining or photocopying documents, the appearance of witnesses or commissioning independent experts. Furthermore, the poorest often lacked social capital and knowledge of their rights in the judicial process or of how to obtain the assistance they needed. The death penalty was disproportionately applied against members of racial and ethnic minorities, foreign nationals, sexual minorities, and women. Sometimes that was a result of discriminatory or arbitrary application of the law, but too often the discrimination was structural and enshrined in law. For those reasons, the co-sponsors



decided that this panel discussion should focus on the rights to non-discrimination and equality.

(...) 14. Mr. Shany noted that, in its general comment, the Committee underscored the need to narrowly construe the conditions under which the death penalty might be applied. It considered the “most serious crimes” only as serious crimes involving intentional killing and emphasized that such crimes could never include offences whose very criminalization violated freedom of expression, freedom of religion and other civil and political freedoms. That was reflected in Council resolution 36/17, in which the Council urged States to ensure that the death penalty was not imposed as a sanction for specific forms of conduct such as apostasy, blasphemy, adultery and consensual same-sex relations. The Committee underscored that all international due process safeguards must be observed, and cruel, inhuman or degrading methods of execution were prohibited.

(...) Summary of the discussion

27. During the interactive phase of the panel discussion, the following delegations spoke: Argentina, Australia, Bangladesh, Brazil,³ Chile,⁴ Ecuador, Fiji, France, Greece, Iceland,⁵ India, Iran (Islamic Republic of), Iraq, Italy, Luxembourg, Malaysia, Mexico, Montenegro, New Zealand,⁶ Pakistan, Saudi Arabia, Singapore⁷ and Slovenia. The following intergovernmental organizations, national human rights institutions and non-governmental organizations also took the floor: Center for Global Nonkilling, Commission on Human Rights of the Philippines, Ensemble contre la peine de mort, European Union, Friends World Committee for Consultation, International Federation of Action by Christians for the Abolition of Torture, and International Lesbian, Gay, Bisexual, Trans and Intersex Association

(...) Discrimination against members of vulnerable or marginalized groups

34. Delegates expressed deep concern at the disproportionate application of the death penalty against members of ethnic, religious or sexual minorities, foreign nationals, the poor and economically vulnerable, members of the political opposition, human right defenders, persons with psychosocial or intellectual disabilities, and the socially marginalized.

35. Many delegates noted that gender bias in criminal legal systems could lead to women being sentenced to death not only for their crime, but due to perceived transgressions of gender norms. In this regard, it was noted that women’s and girls’ history as survivors of gender-based violence, child marriage and harmful traditional practices was often not taken into account as a mitigating factor.

(...) Discriminatory laws



41. Many delegates deplored the existence of laws imposing the death penalty for conduct that should not be criminalized, including behaviours classified as apostasy, blasphemy, adultery and consensual sexual relations between persons of the same sex, and called upon States to immediately repeal such laws. In this regard, delegates referred to the definition of “most serious crimes” in article 6 (2) of the International Covenant on Civil and Political Rights, general comment No. 36 of the Human Rights Committee and Human Rights Council resolution 36/17.

42. It was noted that the threat of the death penalty for consensual same-sex relations in some States, even where laws were not enforced, had a significant chilling effect, and often prevented the establishment and development of LGBTI organizations, the provision of services to LGBTI communities, as well as human rights advocacy.

(...) Conclusions

49. The panel welcomed consensus among speakers that the death penalty, if applied, could be applied only for the most serious crimes, and reminded participants that the Human Rights Committee had clarified in its general comment No. 36 that the term “most serious crimes” must be read restrictively, and appertained only to crimes of extreme gravity involving intentional killing. The panel noted that no one should be put to death for whom they love. Consensual same-sex relations and other so-called crimes of conduct, such as *zina*, apostasy and blasphemy, should be struck from the statute books.

50. There was strong concern throughout the debate about discrimination in the application of the death penalty, including on the basis of poverty, economic vulnerability, political opinion, sexual orientation or gender identity, sex, psychosocial disability, and other grounds. The panel noted that a first step towards addressing bias and discrimination was to determine its extent, which required published, disaggregated, quantitative data as well as a continuous review of the impact and consequences of the death penalty. The panel observed that the availability of quality data showing how the death penalty was applied in practice was often associated with a sharp decline in public support for capital punishment.

- [A/HRC/42/26. High-level panel discussion on the question of the death penalty – Report of the Office of the United Nations High Commissioner for Human Rights.](#)

B. Interactive discussion

34. For the same reason, statements by the following organizations were not delivered: Aid Organization, the Asian-Pacific Resource and Research Centre for Women (in a joint statement with the Asia Pacific Forum on Women, Law and Development, the Beyond Beijing Committee, the Buddhist Tzu Chi Foundation, the Federation of American



Women's Clubs Overseas (FAWCO), SERAC-Bangladesh, Marie Stopes International and Rutgers), Association of World Citizens, International Lesbian and Gay Federation-Europe (in a joint statement with the International Lesbian and Gay Association and the Swedish Federation of Lesbian, Gay, Bisexual and Transgender Rights), the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities, International Human Rights Association of American Minorities, International-Lawyers.Org, International Organization for the Elimination of All Forms of Racial Discrimination, Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco, Kayan - Feminist Organization, Maat Foundation for Peace, Development and Human Rights, Organisation pour la Communication en Afrique et de Promotion de la Cooperation Economique Internationale, Partners For Transparency, Plan International Inc., Sikh Human Rights Group and Verein Südwind Entwicklungspolitik.



ITEM 3: PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

****For complete information with regards the Communications report of Special Procedures please check [this link](#)**

- [A/HRC/42/20. Human rights in the administration of justice. Report of the United Nations High Commissioner for Human Rights.](#)

Torture, ill-treatment and sexual violence

8. Acts of sexual and gender-based violence committed by staff of detention facilities continue to be a cause of concern⁴ and their widespread prevalence has been highlighted by the Committee against Torture both in criminal detention and in immigration detention settings.⁵ The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has also described custodial rape as constituting torture.⁶ The Committee on the Elimination of Discrimination against Women has repeatedly denounced gender-based violence, including sexual harassment and assaults against female prisoners by male penitentiary staff and police officers.⁷ Lesbian, gay, bisexual, transgender and intersex persons are also more vulnerable to ill-treatment in detention. Sexual violence may also be used against male detainees in order to punish, humiliate and assert control over them.⁸ Children who are arrested or detained are also victims of sexual violence.⁹

(...) 16. Several human rights mechanisms have also expressed serious concern at the prevalence of sexual violence in situations of deprivation of liberty, including in immigration detention.¹⁰ Widespread inter-prisoner violence also leads persons deprived of their liberty to exchange sexual favours for protection. Women and girls in detention are extremely vulnerable to sexual violence when they are not detained separately from men and boys. Lesbian, gay, bisexual, transgender and intersex detainees, as well as inmates with a history of mental health problems, are among the persons most exposed to sexual violence and victimization from fellow inmates.¹¹

⁴ See CAT/TKM/CO/2.

⁵ See CAT/USA/CO/3-5.

⁶ See A/63/175.

⁷ See CEDAW/C/MNE/CO/2; CEDAW/C/ARG/CO/7; CEDAW/C/GMB/CO/4-5; CEDAW/C/PNG/CO/3; CEDAW/C/ERI/CO/5.

⁸ Submission of the Comisión de Derechos Humanos del Distrito Federal (Mexico).

⁹ See CRC/C/BRA/CO/2-4; CCPR/C/LKA/CO/5.

¹⁰ See CAT/USA/CO/3-5; CCPR/C/CYP/CO/4.

¹¹ See A/HRC/36/28; CAT/USA/CO/3-5; CAT/NAM/CO/2.



(...) 21. Overcrowding and understaffing are also conducive to inter-prisoner violence.¹² Understaffing can make both the management of prisons by prisoners and the exponential rise in the use of violence related to it unavoidable.¹³ An insufficient ratio of staff to detainees can make it difficult for staff to supervise inmates effectively and results in a lack of security for themselves, making it difficult to protect detainees from inter-prisoner violence.¹⁴ The unavailability of personnel trained in the management of inter-prisoner violence is also a contributing factor.¹⁵ Overcrowding not only leads to riots,¹⁶ but also hinders the efforts of prison staff to monitor densely populated cells and common spaces and impedes the effective segregation of detainees.¹⁷ Lack of segregation between different categories of detainees further contributes to inter-prisoner violence. This includes the failure to separate pretrial detainees from convicted prisoners,¹⁸ exposing the former to a greater risk of violence. The risk of sexual violence is significantly higher for women and girls in mixed-sex detention,¹⁹ for transgender women placed together with male detainees²⁰

(...) Data collection

51. Some States effectively gather data on deaths and injury of detainees in custody, including data on causes of self-inflicted injuries, such as cuts, ingestion of foreign objects, poison, blows, stabbing and suicide,²¹ or the type of inter-prisoner violence and the related injuries.²² The availability of data about the use of force, violence, death and injury, disaggregated by age, ethnicity, gender, sexual orientation and, in criminal justice detention, by crime or type of crime the victim was accused or found guilty of, allows for a thorough examination and identification of trends by the authorities, even after several years, which may in turn allow for the adoption of mitigating circumstances.

(...) 65. States should, in addition to exploring the possibility of implementing some of the good practices mentioned throughout the present report, consider the following recommendations:

¹² See CAT/C/BGR/CO/4-5; CAT/C/LTU/CO/3; CAT/C/CZE/CO/4-5; submission of the Defensor del Pueblo de la Nación (Argentina).

¹³ See A/HRC/8/3 and A/HRC/8/3/Corr.1; Penal Reform International, *Global Prison Trends 2019*.

¹⁴ See A/HRC/13/39/Add.2.

¹⁵ See CAT/C/IRL/CO/1.

¹⁶ Submission of Penal Reform International.

¹⁷ See A/HRC/8/3 and A/HRC/8/3/Corr.1.

¹⁸ Submission of the Defensoría del Pueblo (Ecuador).

¹⁹ See CEDAW/C/CAN/CO/7; CEDAW/C/BDI/CO/4; CCPR/C/MEX/CO/5.

²⁰ See CAT/C/NAM/CO/2.

²¹ Submission of Slovenia.

²² Submission of the Ombudsman (Luxembourg).



(e) Collect, compile and analyse data about the use of force, violence, death and serious injury in detention, disaggregated by age, ethnicity, gender, sexual orientation, cause of death and type of offence the victim was accused or found guilty of;

- [A/HRC/42/28. Capital punishment and the implementation of the safeguards guaranteeing protection of the rights of those facing death penalty – Yearly supplement of the Secretary-General to his quinquennial report on capital punishment.](#)

Restriction of the use of the death penalty to the most serious crimes

13. A number of States have expanded the application of the death penalty to conduct the criminalization of which may already be in breach of the International Covenant on Civil and Political Rights, such as adultery, consensual same-sex relations, blasphemy and apostasy. Implementation of the death penalty for such cases could thus constitute arbitrary deprivation of life.²³ Mauritania reintroduced the mandatory death penalty for blasphemy in 2018.²⁴ In 2019, Brunei Darussalam introduced the death penalty for offences including adultery, sodomy and insult or defamation of the Prophet Muhammad.²⁵ Even if the Government of Brunei Darussalam has announced that a moratorium will remain in place, such laws can have a significant chilling effect on the legitimate exercise of human rights, in particular by religious or sexual minorities.²⁶

(...) Impact of calls for resumption

35. When politicians or other high-profile individuals make public calls for the resumption of the death penalty for conduct such as blasphemy or consensual same-sex relations, this carries a risk of increasing the rate of hate crimes, in particular against religious or sexual minorities.²⁷ The re-emergence of the death penalty as an actual or threatened punishment for conduct that should not be criminalized not only impairs the

²³ Human Rights Committee, general comment No. 36, para. 36.

²⁴ Criminal Code of Mauritania, as amended, art. 306.

²⁵ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24432&LangID=E.

²⁶ Communication OL BRN 1/2019 to Brunei Darussalam from the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on violence against women, its causes and consequences and the Working Group on the issue of discrimination against women in law and in practice.

²⁷ See, for example, Amnesty International, *“As Good As Dead”: The Impact of the Blasphemy Laws in Pakistan* (London, 2016).



right to life but could also affect the enjoyment of the freedoms of religion, expression and association, as well as the right to privacy.²⁸

(...) Conclusions and recommendations

46. States parties to the Covenant that have not yet abolished the death penalty may only impose it for the “most serious crimes”. The Human Rights Committee has expressed the view that this means crimes of particular gravity involving intentional killing. States should remove from national laws any application of the death penalty to crimes not involving intentional killing, such as drug-related offences or terrorism-related crimes not involving intentional killing. The death penalty should especially not be imposed as a sanction for forms of non-violent conduct such as apostasy, blasphemy, adultery and consensual same-sex relations.

- [A/HRC/42/37. Rights of indigenous peoples – Report of the Special Rapporteur on the rights of indigenous peoples.](#)

Challenges faced by indigenous peoples in the ordinary justice system

32. In addressing the challenges faced by indigenous peoples in the ordinary justice system, the impact of intersecting grounds of discrimination in relation to sex, age, disability, or sexual orientation and gender identity, among others, must also be addressed.

Changes in indigenous customary practices and rules

102. State and indigenous leaders should work together to develop common strategies aimed at raising awareness of the importance of human rights, including the accountability of decision makers, the participation of women in dispute resolution and judicial decisions, the protection of the rights of women and children, the protection of persons with disabilities, the promotion of lesbian, gay, bisexual and transgender persons, knowledge of State constitutional law and international human rights law principles, and identification of minimum standards of rights protection.

- [A/HRC/42/38. Right to development – Report of the Special Rapporteur on the right to development.](#)

111. States should collect disaggregated data. Data disaggregation efforts need to draw on a human rights-based approach to data. The aim of such an approach is to evaluate not

²⁸ Joint submission of Advocates for Human Rights and the World Coalition against the Death Penalty.



only the outcomes of policies but also the structures and processes that lead to those outcomes. Specifically:

(b) Respondents should be able to self-select how they identify in terms of ethnicity, sexual orientation, gender identity and disability status;

- [A/HRC/42/39/Add. 1. Visit to Bhutan – Report of the Working Group on Arbitrary Detention](#)

Detention of members of the lesbian, gay, bisexual, transgender and intersex community

51. The Working Group notes that the Penal Code criminalizes homosexuality, which is a punishable offence under the law (sects. 213–214). In that regard, it recalls its earlier jurisprudence, in which it found that similar domestic provisions violated the Universal Declaration of Human Rights. More specifically, sexual orientation is a prohibited ground of discrimination under existing international human rights law and any detention resulting from such discrimination is considered arbitrary.

52. During its visit, the Working Group called upon the Government to amend the Penal Code to decriminalize consensual same-sex relations between adults. It was informed that the National Assembly had passed a Penal Code amendment bill to remove sections 213 and 214 criminalizing homosexual acts. The bill would be sent to the National Council for review and adoption.

(...) 90. The Working Group recommends that the Government take the following measures in relation to its national legal framework:

(b) Ensure that the Penal Code amendment bill is enacted to decriminalize consensual same-sex relations between adults.

- [A/HRC/42/43/Add.1. Visit to Uruguay – Report of the Independent Expert on the enjoyment of all human rights by older persons.](#)

34. In 2018, Act No. 19580 on gender-based violence against women was approved. The Act aims to guarantee to all women, including trans women, the right to a life free of gender-based violence, regardless of age, sexual orientation or gender identity, socioeconomic situation, territorial affiliation, beliefs, cultural and ethnic-racial origin, or disability. The Act recognizes different types of violence, including physical, psychological and emotional violence, and puts in place mechanisms, measures and integrated policies for prevention, care, protection, punishment and redress (A/HRC/WG.6/32/URY/1, para. 22).



- [A/HRC/42/45. Promotion of truth, justice, reparation and guarantees of non-recurrence – Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.](#)

Reparation for victims in vulnerable situations

108. Reparation programmes should acknowledge that not all victims are in the same situation. They do not experience the same harm and do not face the same consequences. While domestic reparation programmes are unable to provide reparation according to the harm suffered by each victim, they can take measures to respond adequately to those most in need, such as children, including children born out of rape, victims of sexual violence, internally displaced persons, refugees, the elderly, persons with disabilities, and members of the lesbian, gay, bisexual, transgender and intersex community.

- [A/HRC/42/47. Human Rights to water and sanitation in spheres of life beyond the household with an emphasis on public spaces – Report of the Special Rapporteur on the human rights to safe drinking water sanitation.](#)

4. However, recognition of the relevance of the human rights to water and sanitation in many spheres beyond the home is evidently lacking and few States have adopted measures to ensure the realization of those rights. As a result, for many, water and sanitation in spheres beyond the home are not adequately available, accessible, acceptable, safe or affordable and either people who rely on such services are invisible for monitoring purposes.² Despite the focus of State water and sanitation policies falling largely on improving access at the household level, the importance of access to water and sanitation in many spheres outside the home has been largely recognized by the mandate of the Special Rapporteur in country visit reports and through communication letters. During his official visits, the Special Rapporteur has encountered numerous individuals, groups and communities whose need for access to water and sanitation extends beyond the household and whose lives are negatively impacted when such access is inadequate. In India, owing to the insufficient number of public toilets, he discovered street vendors who had no choice but to pay the guards of nearby buildings to access their facilities (A/HRC/39/55/Add.1, para. 23). In Malaysia, he learned of the difficulties faced by transgender and gender non-conforming persons when accessing sanitation amenities in their workplaces, owing to their employers forcing them to only use toilets which match the gender they were assigned at birth (A/HRC/42/47/Add.2, para. 58).

(...) Sustainable Development Goals and the spheres of life beyond the household

15. Finally, in the Goals and targets in which an end to discrimination is sought and inclusion and equality promoted, States are arguably also required to ensure the adequate provision of water and sanitation in spheres beyond the household. They include target



5.1, in which an end to “all forms of discrimination against all women and girls everywhere” is called for, and target 10.2, whereby States are required to “empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status”. As will be shown, poor access to water and sanitation in places outside the household can generate considerable inequality and lead to the economic and social disempowerment of numerous marginalized groups, particularly women, persons with disabilities and lesbian, gay, bisexual, transgender and intersex persons. Accordingly, promoting access to water and sanitation facilities in spaces outside the household represents a vital piece of the puzzle in achieving an end to inequality and discrimination.

(...) Accessibility

43. A particularly salient consideration that must be borne in mind when determining how to guarantee accessibility is the promotion of access to groups that are usually marginalized and who live in vulnerable situations, including persons with disabilities, the elderly, children and members of the lesbian, gay, bisexual, transgender and intersex communities. In order to be deemed physically accessible, water and sanitation facilities in public spaces must meet the needs of all of those groups on an equal footing with everyone else.

44. Accessibility concerns are, for instance, highly prevalent for members of the transgender community. Studies on the experiences of people who are transgender show that they are commonly denied access to public toilets which match their gender identity, forcing them to use those that match the gender they were assigned at birth. That denial of access can have a negative effect on their mental health and may put them at risk of attack and abuse.³⁰ To combat that risk, a number of States have sought to ensure greater accessibility for marginalized people seeking access to public toilets. In Canada, an act to amend the Canadian Human Rights Act and the Criminal Code, passed in 2017, facilitates the prohibition of discrimination based on “gender identity or expression” thereby enabling transgender people to utilize public toilets that match their gender identity.³¹ In Nepal, third-gender public toilets have been introduced to provide facilities for transgender and non-binary people, and are preferred to gender-neutral toilets because the complete exclusion of men in third-gender toilets helps to promote the safety of transgender and non-binary users.³² Studies in relation to the Nepali experience note that users of third-gender public toilets in Kathmandu are broadly satisfied by the facilities, particularly when they are placed in public locations, such as near bus stops, as it is felt that decreases the risk of discrimination and attacks.

(...) Acceptability, privacy and dignity



51. In the context of access to water and sanitation in public spaces, the provision of facilities that meet the requirements of acceptability, privacy and dignity means that they must be designed, constructed and maintained in ways that conform to the personal and cultural needs of users. Many communities and cultures have particular and important norms regarding sanitation practices and these can vary between and within cultures. Accordingly, determining how to provide culturally acceptable water and sanitation facilities in public spaces may require States to engage in meaningful consultations with target populations regarding their requirements. Privacy and dignity should always be ensured, in particular by considering the needs of vulnerable and marginalized users, including women and people who are transgender, when determining the design of water and sanitation facilities in public spaces.

- [A/HRC/42/47/Add.1. Visit to Lesotho – Report of the Special Rapporteur on the human rights to safe drinking water and sanitation.](#)

Leaving no one behind

50. Another category of people that are left behind is gender non-conforming persons. In general, the impression of the Special Rapporteur was that Basotho society viewed a variance in sexual orientation, gender identity and gender expression as a non-existent issue and perhaps against Basotho culture. He would like to stress that people who are non-conforming in terms of sexual orientation and gender are entitled to the same rights as any other Basotho, particularly in access to water and sanitation services. In particular, transgender persons should be treated with the same respect as others and targeted measures should be taken to ensure their dignity and privacy and choice of the use of public toilets, without the risk of being mocked or harassed, let alone assaulted. The Special Rapporteur believes that the issue of gender should be on the discussion table and respectfully suggests that Lesotho start a discussion on the access of gender non-conforming people to toilets in schools, workplaces and public spaces.

(...) V. Monitoring and reporting

77. Data disaggregation is fundamental for monitoring human rights compliance and the Special Rapporteur encourages the authorities to apply other levels of disaggregation to the data related to water, sanitation and hygiene. Data broken down according to variables related to access to water and sanitation services and comparisons of national figures with access to water in households including orphans, people living with HIV/AIDS, lesbian, gay, bisexual, transgender or intersex persons, or persons with disabilities will provide insights as to the level of inequality in access to services.

- [A/HRC/42/47/Add.2. Visit to Malaysia – Report of the Special Rapporteur on the human rights to safe drinking water and sanitation.](#)



Transgender and gender non-conforming persons

56. Lesbian, gay, bisexual, transgender and intersex persons in Malaysia often face structural and systemic discrimination. Particularly under the civil and State-administered Sharia laws, there are many laws that criminalize persons based on sexual orientation, gender identity and gender expression. In his report on gender inequality in 2016, the Special Rapporteur emphasized that restrictive gender recognition laws not only severely undermined the ability of transgender persons to enjoy their rights to basic services, they also prevented them from living safely, free from violence and discrimination (A/HRC/33/49, para. 9).

57. Water and sanitation facilities must be safe, available, accessible, affordable, and socially and culturally acceptable, provide privacy and ensure dignity for all individuals, including transgender and gender non-conforming persons. These elements should be particularly prioritized in public spaces and the work environment. The Special Rapporteur heard that several transgender persons were often instructed by their employers to use toilets based on their sex assigned at birth, mostly due to complaints by co-workers or clients. As a result, transgender persons cannot use the closest toilet but are forced to use toilets on other floors in other buildings or in public spaces. According to a 2017 online survey on access to toilets by transgender persons in Malaysia by Justice for Sisters, 40 of the 97 transgender respondents had encountered discrimination of some form when using a public toilet, while 26 of the 97 respondents had experienced restrictions on access to toilets at the workplace. Fifteen of the transgender respondents reported having been forced to use toilets based on their sex assigned at birth.⁶

58. Working in such environments not only adds stress, anxiety and isolation, but also increases health risks, such as urinary tract infections, due to restricted use of toilets. In the above-mentioned survey, 42 per cent of the respondents reported that they felt emotional stress about using the toilet, whereas 39 per cent of them battled with self-esteem issues because of discriminatory experiences encountered when going to the toilet. In many cases, workplaces do not have policies that are inclusive of diversity. Furthermore, the Special Rapporteur is concerned about the sexual harassment and violence that transgender persons face in educational institutions. Several transgender persons recalled their experiences of being teased by boys in the toilets during their school years. The Special Rapporteur recommends that the Government monitor how gender inequalities in access to toilets, including among lesbian, gay, bisexual, transgender, intersex and gender non-conforming persons, manifest in extra-household settings (A/HRC/33/49, para. 72).

- [**A/HRC/42/48. Promotion of a democratic and equitable international order - Report of the Independent Expert on the promotion of a democratic and equitable international order.**](#)



Importance of ensuring effective public participation in global decision-making processes

26. Regardless of the structure and functioning of the global governance space, public participation is a core value that should be upheld to ensure that the work of the groupings contributes to a democratic and equitable international order. “Public participation” is understood in the present report to be participation by all segments of society that do not relate to the State: civil society in general including NGOs, academia, labour unions, mass movements, and groups that are marginalized or discriminated against, including women, children, youth, older persons, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons, members of minorities, indigenous peoples, migrants and refugees.

(...)

Inclusivity

Within decision-making processes

57. Identifiable engagement by organizations of lesbian, gay, bisexual, transgender and intersex persons in global governance spaces was reportedly lacking, possibly owing, inter alia, to a lack of capacity among those organizations for meaningful engagement, a lack of entry points for engagement, a lack of awareness in global governance spaces of lesbian, gay, bisexual, transgender and intersex issues, and a lack of trust in these spaces.

(...) 78. In the spirit of continuing the constructive dialogue that he has held with various stakeholders since the beginning of his tenure, echoing the OHCHR guidelines on the effective implementation of the right to participate in public affairs, and with reference to the additional findings contained in his thematic report to the General Assembly on the same topic, the Independent Expert recommends that global governance spaces and their respective member States and non-State members:

(d) Ensure that engagement with civil society is diverse and inclusive, in particular in relation to individuals and groups that are marginalized or discriminated against, including women, children, youth, older persons, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons, members of minorities, indigenous peoples, migrants and refugees, and treat all engagement groups equally;



ITEM 4: HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S ATTENTION

- [A/HRC/42/51. Report of the Independent International Commission of Inquiry on the Syrian Arab Republic.](#)

91. During the period under review, rape and other forms of sexual violence continued to occur. Sexual violence has played a prominent role in the conflict, owing to the fear and threat of rape and the violence committed.²⁹ The Commission is currently reviewing reports of rape and sexual violence against women, including returnees, men and lesbian, gay, bisexual, transgender and intersex civilians that have allegedly been perpetrated in government-controlled areas. Investigations are ongoing.



ITEM 5: HUMAN RIGHTS BODIES AND MECHANISMS

- [A/HRC/42/30. Cooperation with the United Nations, its representatives and mechanisms in the field of human rights – Report of the Secretary General.](#)

Malaysia

64. On 10 May 2019, special procedures mandate holders addressed the summoning for questioning of Mr. Numan Afifi, a human rights defender of the lesbian, gay, bisexual, transgender and intersex community, in connection with his participation in the Human Rights Council in Geneva (MYS 2/2019). It was further reported to OHCHR that Mr. Afifi and Mr. Rizal Rozhan, of Persatuan Kesedaran Komuniti Selangor (EMPOWER), had been harassed online for delivering a statement during the deliberation of the outcome session of the universal periodic review of Malaysia.

68. On 10 May 2019, five special procedures mandate holders raised concerns about the summoning for questioning of LGBT+ human rights defender Mr. Numan Afifi in connection with his participation in the 40th session of the Human Rights Council in Geneva (MYS 2/2019). Mr. Numan Afifi is associated with the PELANGI Campaign and has worked with the Coalition of Malaysian NGOs (COMANGO) during Malaysia's UPR process. On 14 March 2019 in Geneva, Mr. Numan Afifi made a statement in the Human Rights Council on behalf of 12 Malaysian organizations working on sexual orientation and gender identity. On 16 April 2019, Mr. Numan Afifi was summoned for interrogation by the Classified Criminal Investigation Unit (D5) and asked to present himself to the Royal Malaysia Police (PDRM) headquarters in Bukit Aman on 26 April 2019, where he was questioned with a lawyer present.

69. It was further reported that Mr. Numan Afifi and Mr. Rizal Rozhan, of Persatuan Kesedaran Komuniti Selangor (EMPOWER), who delivered a statement on behalf of the International Service for Human Rights (ISHR) on 14 March 2019 during the deliberation of Malaysia's UPR outcome session, were harassed and criticized online for 'interfering' in issues of freedom of religion and belief in Malaysia and spreading incorrect information at the Human Rights Council. On 21 April 2019, the Islamic Development Department of Malaysia (JAKIM), a unit of the Religious Affairs Ministry under the Prime Minister's Office, released a statement denying claims made by Mr. Afifi and aligning itself with statements made by the Prime Minister to the effect that the lifestyles of LGBT+ persons will not be accepted in Malaysia.

(...) Conclusions and recommendations

91. I have noted previously that women and lesbian, gay, bisexual, transgender and intersex persons are exposed to gender- or sexual orientation-specific barriers, threats and violence in their engagement with the United Nations. Threats of rape, online smear



campaigns, sexual assault in detention, and humiliating and degrading treatment have been reported. Unacceptably, those working on the rights of women and lesbian, gay, bisexual, transgender and intersex persons, including sexual and reproductive rights, seem to be particularly targeted. In our efforts to improve reporting and be more sensitive to allegations and the consequences of reprisals, we must examine, investigate and document intimidation and reprisals in a gender-responsive manner.

- [A/HRC/42/55. Annual report of the Expert Mechanism on the rights of Indigenous Peoples.](#)

(...) Study on indigenous peoples in the context of borders, migration and displacement

42. The Chair-Rapporteur noted that the study also identified the socioeconomic factors that led to migration in other circumstances, such as disproportionate rates of poverty, a lack of land and structural factors, including inequality and access to health, education and housing. The different forms of forced movement caused by non-recognition of indigenous peoples were additional challenges examined in the study. As for movement across international borders, the detention of indigenous peoples and the separation of children from their parents was a major challenge. Border authorities often lacked understanding of indigenous peoples, a situation which could create distrust and conflict between the authorities and indigenous migrants. Furthermore, the often-vulnerable situation of women, children, persons with disabilities and lesbian, gay, bisexual, transsexual and intersex persons was stressed, including their exposure to multiple and intersecting forms of discrimination in the context of migration and border issues.



ITEM 6: UNIVERSAL PERIODIC REVIEW

If you want to know exactly what happened or find updated information on the Working Group Sessions and the UPR outcomes, check out ILGA's complete and updated Report for the [33rd UPR Working Group sessions](#).

ITEM 7: HUMAN RIGHTS SITUATION IN PALESTINE AND OTHER OCCUPIED ARAB TERRITORIES: N/A

ITEM 8: FOLLOW-UP AND IMPLEMENTATION OF THE VIENNA DECLARATION AND PROGRAMME OF ACTION: N/A



ITEM 9: RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED FORMS OF INTOLERANCE, FOLLOW-UP AND IMPLEMENTATION OF THE DURBAN DECLARATION AND PROGRAMME OF ACTION

- [A/HRC/42/58. Report of the Ad Hoc Committee on the Elaboration of Complementary Standards on its tenth session.](#)

58. She then told the Committee about “dead naming” that targeted the trans-sexual community. Dead naming occurred when someone, intentionally or not, referred to a person who was transgender by the name they used before they transitioned. The practice could be seen in the context of extortion. In that practise parents, relatives and friends of LGTB people were being informed about their – not yet public – sexual orientation. Blackmailing based on sexual images was another major problem for many youth.

- [A/HRC/42/59. Report of the Working Group of Experts on People of African Descent on its twenty-third and twenty-fourth sessions.](#)

Recommendations

84. The Working Group calls on Member States to mitigate algorithmic bias in commercial, military and government products and tools. Care must be exercised with respect to people in a situation of vulnerability who are frequently targeted, misidentified or ignored, when developing computer-based algorithms. Algorithmic bias particularly affects people of African descent intersectionally, including women, persons with disabilities and lesbian, gay, bisexual, transgender and intersex persons.

- [A/HRC/42/59/Add.1. Visit to Belgium – Report of the Working Group of Experts of People of African Descent.](#)

Multiple forms of discrimination

63. The Working Group found that people of African descent in Belgium often faced multiple forms of discrimination on the grounds of their race, colour, gender, sexual orientation and religious beliefs. The Working Group heard considerable testimony from civil society representatives and community members on intersectionality. People who meet the criteria for multiple marginalized groups may be particularly vulnerable and face extreme violence and harassment, yet they often remain invisible or deprioritized even within communities of African descent. This is particularly true for undocumented people of African descent; whose lives are particularly precarious and who have lacked regularization for years. In addition, women of African descent, particularly recent migrants, have faced challenges pursuing justice, social support and even shelter from domestic violence.



- [A/HRC/42/59/Add.2. Visit to Argentina – Report of the Working Group of Experts of People of African Descent.](#)

Multiple forms of discrimination

46. The Working Group learned that people of African descent in Argentina often faced inequalities and multiple forms of discrimination on the grounds of their race, colour, gender, sexual orientation and religious beliefs. Afro-Argentine women, women of African descent and African women lived in very poor conditions and felt excluded from society. The Working Group was also informed of the high number of adolescent mothers who are forced to leave school in order to look after their children. Women of African descent experience additional human rights concerns that relate to their job opportunities and the risk of being harassed and a victim of violence. Domestic workers, who are predominantly women, are invisible and subjected to long hours of work with no safeguards against abuse.

47. In that context, the Working Group acknowledges the adoption of Law No. 26.485 of 2009 on violence against women and Law No. 4.355 instituting the Day of the Afro Woman on 25 July in Buenos Aires. The Working Group also noted the “Spotlight initiative” of the United Nations in Argentina, which contributes to efforts to reduce violence against women and girls, and the work of the National Institute against Discrimination, Xenophobia and Racism, in conjunction with other agencies, to address the multiple forms of discrimination faced by women of African descent.

48. At the same time, the national law against discrimination is antiquated and needs to be reformed. The Working Group recommends that it include the criminalization of discriminatory acts based on sexual orientation and gender identity and reverse the burden of proof in support of the victims. The definition of racial discrimination should conform to international standards. It is recommended that special attention be paid to the needs and interests of groups that suffer multiple forms of discrimination and specific policies implemented, including production and dissemination of data and statistics on the situation of those groups, promotion of their participation in decision-making spaces and full access to their rights.



ITEM 10: TECHNICAL ASSISTANCE AND CAPACITY-BUILDING

- [A/HRC/42/31. Role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights – Report of the Secretary-General.](#)

Enhancing participation and protecting civic space

17. OHCHR continued to build the capacity of Cambodian civil society organizations. Through six training sessions it trained 139 male, 76 female and 10 transgender civil society members, including grass-roots and land activists and trade unionists, from Kratie, Odor Meanchey, Banteay Meanchey, Battambang, Preah Vihear, Siem Reap, Kampong Speu, Svay Rieng, Kampong Cham and Koh Kong Provinces. Participants were trained on monitoring methodology, preparation of submissions to international mechanisms and advocacy. OHCHR supported six training sessions to assist civil society organizations with their submissions to the third universal periodic review of Cambodia; 384 people participated, 123 of them women. OHCHR conducted two training sessions on basic aspects of human rights to 25 young people (15 of them female), members of a youth organization, in Battambang and Phnom Penh.

(...) Human rights information and communication

64. OHCHR, together with the country team, launched a three-month campaign to celebrate the seventieth anniversary of the Universal Declaration of Human Rights. The campaign began in September 2018 and continued until the end of December 2018 and included human rights education programmes with schools in three provinces, online and offline materials and a large celebratory event to mark Human Rights Day. The overarching message for the campaign was “I am a human rights champion” and the target audience was Cambodian youth. The campaign used traditional and social media to promote human rights education and understanding of the Universal Declaration of Human Rights. A music video promoted freedom of expression, diversity and inclusion, regardless of gender, sexual orientation, income or other factors and reached over one million views on Facebook.¹² Among other social media products, a social media influencer promoting lesbian, gay, bisexual and transgender rights attracted 81,000 views and a social media influencer promoting the rights of persons with disabilities attracted 90,000 views.

(...) Mainstreaming human rights within the United Nations framework

67. OHCHR, together with the United Nations country team, continued to promote equal rights for lesbian, gay, bisexual, transgender and intersex persons, within and beyond the



global Free and Equal campaign. OHCHR disseminated English and Khmer versions of the global campaign videos on its social media platform, reaching a total of 4,582 people. OHCHR helped translate, print and promote “Revealing the rainbow: the human rights situation of South East Asia’s LGBTIQ communities and their leaders”, a report by Destination Justice, which helped foster conversation in preparation for the universal periodic review on Cambodia to be held in January 2019. Together with the Joint United Nations Programme on HIV/AIDS, UN-Women and others, OHCHR also supported an “advocacy dialogue on LGBT social inclusiveness”, organized by KHANA Purple, bringing together activists and development partners to discuss advocacy strategies to promote inclusion in national policies. This was followed in May 2018 by the National Public Policy Dialogue, which brought policymakers from the Ministry of Information, the Ministry of Women’s Affairs, the Ministry of Labour and Vocational Training, the Ministry of Justice and the General Department of Identification of the Ministry of Interior together with over 70 LGBT activists, representatives from civil society organizations and United Nations agencies, and helped bring the challenges faced by LGBT people to the attention of government actors with a view to encouraging the prohibition of discrimination based on sexual orientation and gender identity. In 2019, and with support from Free and Equal, OHCHR, together with the United Nations country team, is producing a video to challenge stereotypes and combat discrimination against LGBT persons, which will be released in June.

- [A/HRC/42/34. Report of the United Nations High Commissioner for Human Rights on cooperation with Georgia.](#)

Administration of justice and law enforcement

12. OHCHR continued to support the justice sector, focusing on building the awareness and capacity of judges and court staff, especially of the Supreme Court, to apply international human rights standards. Activities focused on economic rights, equality and combating discrimination (especially on the basis of religion and sexual orientation) and access to justice for persons with disabilities.

(...) Combating discrimination

19. In her submission to OHCHR, the Public Defender highlighted improvements in the anti-discrimination legislation, namely the inclusion of harassment and sexual harassment as forms of discrimination, in February 2019, and amendments adopted on 3 May 2019 strengthening the anti-discrimination mechanism in the private sector and extending the term for filing complaints with national courts in alleged cases of discrimination. The legislative changes broadened the mandate of the Public Defender and would more generally enhance the effectiveness of the mechanism to fight against discrimination.



20. At the same time, the Public Defender stressed that deeply rooted societal stereotypes, negative perceptions and misconceptions persisted, reinforcing discrimination against vulnerable groups. In 2018, her Office had considered 158 newly submitted cases of alleged discrimination, with discrimination or incitement to discrimination established in 22 cases, while 63 cases had been terminated on various legal grounds. The largest share of the complaints concerned alleged discrimination on the grounds of gender, religion, political or different opinion, ethnicity, sexual orientation and gender identity, disability and citizenship. Discrimination was most frequently alleged in the public sector and in the context of pre-contractual and labour relationships. The Public Defender reported that the most vulnerable groups in terms of realization of the right to equality remained women, persons with disabilities and lesbian, gay, bisexual and transgender persons. Religious minorities had also frequently had recourse to her Office regarding alleged hate crimes.

21. As previously mentioned, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity visited Georgia during the reporting period, from 25 September to 5 October 2018. In his end-of-mission statement, he noted that virtually all conversations held during the visit had led him to presume that physical and psychological violence and discrimination against lesbian, gay, bisexual and transgender people were pervasive in Georgia.¹⁵ In its submission to OHCHR, the Women's Initiatives Supporting Group stated that the number of cases of hate crimes against lesbian, gay, bisexual, transgender, queer and intersex individuals, as documented by non-governmental organizations, exceeded the official statistics by many times. The Group noted that the Law on the Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence did not consider an intimate partner to be a family member and thereby failed to regulate violence committed by such partners.¹⁶ It also noted that transgender people could not change the gender marker on their identity documents since the mechanism for legal recognition of gender identity was not regulated by law.

22. In 2019, the lesbian, gay, bisexual and transgender community decided to cancel the annual rally it had held in recent years on 17 May, on the occasion of the International Day against Homophobia, Transphobia and Biphobia, as the Georgian Orthodox Church had declared 17 May to be Sanctity of Family Day. Part of the community expressed interest in holding a Tbilisi pride week, including a public march, later in 2019, while expressing concern about the safety of participants.

(...) 91. OHCHR makes the following recommendations to the Government of Georgia:

(b) Step up efforts to combat discrimination, including on grounds of gender, sexual orientation, religion or belief, and disability, in particular by:



(iii) Ensuring the right of everyone, including lesbian, gay, bisexual, transgender and intersex individuals, to peaceful assembly;

- [A/HRC/42/60. Situation of human rights in Cambodia – Report of the Special Rapporteur on the situation of human rights in Cambodia.](#)

33. Beyond geographical differences, attention will also need to be paid to specific groups that are most at risk of being left behind. In her previous reports the Special Rapporteur has focused in particular on non-discrimination and equality and identified a range of individuals and groups most likely to be left behind (see A/HRC/36/61 and A/HRC/39/73). They include, women, children, indigenous peoples, asylum seekers and refugees, persons in street situations, drug and substance users with dependency issues, persons in detention, persons with disabilities, people who have been evicted from their land or homes, the Cham and ethnic Vietnamese and Khmer Krom communities. To them should be added lesbian, gay, bisexual and intersex persons, informal sector workers, migrant workers and older persons. It is also relevant to identify the poor and the near-poor as people at risk of being left behind. Attention is further drawn to several of these groups in the addendum to the present report (A/HRC/42/60/Add.1).

- [A/HRC/42/60/Add.1. Assessing protection of those at risk of being left behind – Report of the Special Rapporteur on the situation of human rights in Cambodia.](#)

LGBTIQ persons

56. The Cambodian government has reiterated its willingness to engage with LGBTIQ issues and have presented Cambodia as a country safe for and open to all persons. In 2017 a committee was created to observe and receive complaints on discriminatory content in the media. Pride celebrations have been organized in Cambodia since 2009, with increasing visibility and participation. CCHR's 2017 survey encouragingly highlights that rainbow families report high levels of acceptance from their communities.⁹³ In 2017, the Ministry of Education, Youth and Sport, in partnership with NGOs, developed a proposed new "Life Skills" curriculum that offers inclusive instruction on LGBTIQ issues, sexual education and gender-based violence. It is scheduled to be part of the curriculum nationwide by 2023.

57. In Cambodia, there is no legislation which supports or proscribes transgender people's right to be legally recognized according to their self-defined gender. The Cambodian Constitution determines that marriage is between a "husband" and a "wife", which effectively excludes the possibility of same-sex marriage. Due to rainbow couples' inability to get legally married, they are also denied numerous rights and privileges arising from marriage, including in relation to joint ownership of property, custody of children, taxation, inheritance and protection from domestic abuse.



58. However, research has indicated that many LGBTIQ persons are in fact discriminated against. The Human Rights Committee has expressed concern about reports of discrimination against lesbian, gay, bisexual and transgender persons, in particular in employment and healthcare settings. It noted with concern the lack of legislation expressly prohibiting discrimination on the grounds of sexual orientation or gender identity.⁹⁴

59. A 2016 report based on empirical research suggests that many transgender women are subject to high levels of discrimination including verbal, physical abuse and sexual harassment in public places.⁹⁵ The Ministry of Women's Affairs notes that this was a small-scale survey of 135 persons. In 2014, The Ministry of Women's Affairs' five-year strategic plan noted that bisexual women and transpersons are among the most vulnerable groups in society, facing a higher risk of discrimination, stigma and gender-based violence. Almost a third of those interviewed indicated facing discrimination in work.⁹⁶ Violence is also an issue. In a 2016 survey, 92% of transwomen surveyed experienced verbal abuse, 43% physical violence, 31% sexual assault, and 25% rape. In addition 38.7% of transgender women surveyed by CCHR had been arrested by the police at least once, of which 91.67% believed the police arrested them because of their gender identities, and 33.58% reported having been wrongly accused of a crime.⁹⁷

60. LGBTIQ people in Cambodia often work in certain marginalized sectors, which prevents them from escaping the cycle of poverty. This is exacerbated by widespread family rejection and exclusion in schools and the wider community. CCHR's study and other research also indicated these narrow career sector choices might also partially result from internalized self-limitation developed by transgender women within the wider context of social discrimination.

61. LGBTIQ persons in Cambodia are currently marginalised and positive action is needed to ensure that they are not left further behind.

(...) Women

64. Violence against women has been raised in previous reports.¹⁰¹ A third National Action Plan to Prevent Violence Against Women 2019-2023 currently in preparation will continue addressing gaps and challenges.¹⁰² Given the emphasis on a sustainable violence prevention agenda in the SDGs and CSDGs,¹⁰³ further commitments are expected. Some sectors of women remain especially vulnerable to abuse: girls; elderly persons; LGBTIQ persons; women with disabilities; women in street situations; and women in specific areas of work, including sex-workers.

REPORTS THAT DO NOT ADDRESS SOGIESC ISSUES

- A/HRC/42/17. Situation of human rights in Yemen, including violations and abuses since September 2014. Report of the Group of Eminent International and Regional Experts as submitted to the OHCHR.
- A/HRC/42/19. Report of the United Nations High Commissioner for Human Rights on the rights of indigenous peoples.
- A/HRC/42/21. Impact of civilian acquisition, possession and use of firearms on civil, political, economic, social and cultural rights. Reports of the United Nations High Commissioner for Human Rights.
- A/HRC/42/27. Intersessional high-level panel discussion on the incompatibility between democracy and racism: identifying challenges and good practices – Report of the Office of the United Nations High Commissioner for Human Rights.
- A/HRC/42/29. Right to development – Report of the Secretary-General and the United Nations High Commissioner for Human Rights.
- A/HRC/42/32. Human rights situation and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo – Report of the United Nations High Commissioner for Human Rights.
- A/HRC/42/33. Implementation of technical assistance and capacity building for Yemen in the field of human rights – Report of the United Nations High Commissioner for Human Rights.
- A/HRC/42/35. Report of the Working Group on the Right to Development on its twentieth session (Geneva, 29 April to 3 May 2019).
- A/HRC/42/36. Progress report of the open-ended intergovernmental working group to elaborate the content of an international regulatory framework, without prejudging the nature thereof, to protect human rights and ensure accountability for violations and abuses relating to the activities of private military and security companies on its first session.
- A/HRC/42/37/Add.1. Visit to Ecuador – Report of the Special Rapporteur on the rights of indigenous peoples.
- A/HRC/37/Add.2. Visit to Timor-Leste – Report of the Special Rapporteur on the rights of indigenous peoples.
- A/HRC/42/38/Add.1. Visit to Cabo Verde – Report of the Special Rapporteur on the right to development.
- A/HRC/42/39. Arbitrary detention – Report of the Working Group on Arbitrary Detention.
- A/HRC/42/40. Enforced or involuntarily disappearances – Report of the working group on enforced or involuntary disappearances.
- A/HRC/42/40/Add.1. Follow-up on the visits of the Working Group on Enforced or involuntary disappearance to Peru and Sri Lanka – Report of the Working Group on Enforced or involuntary disappearances.

- A/HRC/42/40/Add.2. Visit to Ukraine – Report of the Working Group on enforced or involuntary disappearances.
- A/HRC/42/40/Add.3. Report of the Working Group on Enforced or Involuntary Disappearances on its visit to Ukraine – Comments by the State.
- A/HRC/42/41. Principles on human rights and the protection of workers from exposure to toxic substances – Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes.
- A/HRC/42/42. Relationship between private military and security companies and the extractive industry from a human perspective – Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.
- A/HRC/42/42/Add.1. Visit to Chad – Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.
- A/HRC/42/42/Add.2. Visit to Austria – Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.
- A/HRC/42/43. Enjoyment of all human rights by older persons – Report of the Independent Expert on the enjoyment of all human rights by older persons.
- A/HRC/42/43/Add.2. Visit to Mozambique – Report of the Independent Expert on the enjoyment of all human rights by older persons.
- A/HRC/42/44. Current and emerging forms of slavery – Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences.
- A/HRC/42/44/Add.1. Visit to Italy – Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences.
- A/HRC/42/44/Add.2. Report of the Rapporteur on contemporary forms of slavery, including its causes and consequences on her visit to Italy – Comments by the State.
- A/HRC/42/46. Negative impact of unilateral coercive measures on the enjoyment of human rights – Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights.
- A/42/46/Add.1. Elements for a draft General Assembly declaration on unilateral coercive measures and the rule of law (updated) – Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights.
- A/HRC/42/47/Add.3. Follow-up on the visit of the Special Rapporteur to Portugal – Report of the Special Rapporteur on the human rights to safe drinking water and sanitation.
- A/HRC/42/47/Add.4. Follow-up on the visit of the Special Rapporteur to El Salvador – Report of the Special Rapporteur on the human rights to safe drinking water and sanitation.

- A/HRC/42/47/Add.5. Follow-up on the visit of the Special Rapporteur to Botswana– Report of the Special Rapporteur on the human rights to safe drinking water and sanitation.
- A/HRC/42/47/Add.6. Follow-up on the visit of the Special Rapporteur to Tajikistan– Report of the Special Rapporteur on the human rights to safe drinking water and sanitation.
- A/HRC/42/47/Add.7. Follow-up on the visit of the Special Rapporteur to Lesotho– Report of the Special Rapporteur on the human rights to safe drinking water and sanitation.
- A/HRC/42/47/Add.8. Follow-up on the visit of the Special Rapporteur to Malaysia– Report of the Special Rapporteur on the human rights to safe drinking water and sanitation.
- A/HRC/42/49. Report of the Commission of Inquiry on Burundi.
- A/HRC/42/50. Report of the Independent International Fact-Finding Mission on Myanmar.
- A/HRC/42/52. Reports of the Human Rights Council Advisory Committee on its twenty-second and twenty-third sessions – Note by secretariat.
- A/HRC/42/53. Negative effects of terrorism on the enjoyment of all human rights and fundamental freedoms – Note by Secretariat.
- A/HRC/42/54. Study by the Human Rights Council Advisory Committee on the possibility of utilizing non-repatriated illicit funds to support the achievement of the 2030 Agenda for Sustainable Development.
- A/HRC/42/56. Indigenous peoples’ rights in the context of borders, migration and displacement: Study of the Expert Mechanism on the Rights of Indigenous Peoples.
- A/HRC/42/57. Efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples- Report of the Expert Mechanism on the Rights of Indigenous Peoples.
- A/HRC/42/61. Human rights situation in the Central African Republic – Report of the Independent Expert on the situation of human rights in the Central African Republic.
- A/HRC/42/62. Report of the Independent Expert on the situation of human rights in Somalia.
- A/HRC/42/63. Situation of human rights in the Sudan – Report of the Independent Expert on the situation of human rights in the Sudan.
- A/HRC/42/64. Election of members of the Human Rights Council Advisory Committee. Note by the Secretary-General.
- A/HRC/42/66. Report of the Independent Investigative Mechanism for Myanmar.
- A/HRC/42/67. Protecting human rights and fundamental freedoms while countering terrorism – Note by the Secretariat.