

**30<sup>th</sup> UPR WORKING GROUP SESSIONS  
SOGIESC RECOMMENDATIONS  
(7 MAY – 18 MAY 2018)**

*This report contains a summary and the SOGIESC recommendations of the 30<sup>th</sup> UPR Working Group Sessions.*

*The structure of the report includes SOGIESC remarks made by the State under Review, advanced questions from Member States and recommendations of Cycle II and III.*

*The report is based on the draft report submitted by the Working Group and notes taken by ILGA during the Working Group Sessions.*

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## AZERBAIJAN UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 15 MAY 2018, 9:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 17 MAY 2018, 16:30—18:00

*During the 30<sup>th</sup> UPR Working Group Sessions, Azerbaijan received 8 SOGIESC recommendations. It noted all the 8 recommendations.*

### A. SOGIESC Information

#### National Report

N/A

#### Compilation of UN Information

10. The Human Rights Committee expressed concern that the existing anti-discrimination legal framework did not explicitly prohibit discrimination based on sexual orientation and gender identity. It also expressed concern about discrimination and violence against persons based on their sexual orientation and gender identity. In October 2017, several United Nations experts made a statement urging Azerbaijan to act on reports of abuses, including arbitrary arrests and ill-treatment, torture and forced medical examinations of gay and transgender persons. The United Nations High Commissioner for Human Rights called for the release of anyone detained on the basis of their sexual orientation or gender identity.

#### Summary of Stakeholder's Information

4. Joint Submission 3 (JS3)<sup>1</sup> noted that there were indications that several transsexual sex workers were arrested by the police and that gay and transsexual people had been arrested in their apartments. It recommended that Azerbaijan put an end to the government supported smear campaigns against lesbian, gay, bisexual, and transgender persons and prevent their arbitrary detention.

5. Women and Modern World reported that about 150 homosexuals and transgender people were detained in Baku during police raids in mid-September 2017. More than a third of them were arrested for up to 30 days and transgender women who were engaged in sex work in the streets suffered the highest level of abuse from both law enforcement bodies and society. Gender reassignment surgeries and hormonal therapy were not available in Azerbaijan, which considerably limits transgender women's access to employment. It recommended that Azerbaijan conduct proper investigations on police blackmailing, harassment and violence against LGBT people, duly punishing those responsible and setting up administrative and legal frameworks to eradicate such practices as well as to develop a legal and medical system, which would allow transgender people to change their bodies and legal papers in accordance with their gender identity.

<sup>1</sup> Joint Submission 3 submitted by: Election Monitoring and Democracy Studies Centre, Human Rights Club, Legal Education Society, Human Rights House Foundation.



33. According to Women and Modern World, most lesbian, gay, bisexual and transsexual persons (LGBT) live with their families because of family pressure and the social norm that a child should live with their family until marriage. Very few LGBT people tell their families about their sexual orientation or gender identity fearing being disowned or forcibly married.

## **B. SOGIESC Advanced Questions for Azerbaijan**

- **Belgium:** What measures does Azerbaijan take to ensure that the work of Human Rights Defenders, including women defenders and LGBTI defenders, is recognized and these HRDs are given effective protection against gender-specific threats and violence they face because of their work or their real or perceived identity?
- **United States:** What steps is the Government taking to prevent and address detentions, abuses, and mistreatment of LGBTI persons by law enforcement officials?
- **Uruguay:** Uruguay would like to receive information on any concrete measures that Azerbaijan has taken to fight discrimination based on sexual orientation and gender identity as well as hate speeches.

## **C. Azerbaijan's Working Group Session**

- **Closing Remarks:** In September of last year, there was a detention of representatives of sexual minorities allegedly. I would like to state that in fact this did not take place. In actual fact, persons were detained following cases of minor hooliganism against foreign tourists.

## **D. Recommendations for Cycle III (2018)**

### **a) Remarks of States**

- **Canada:** Canada encourages Azerbaijan to further strengthen protections for civil society, women and LGBTI people.

### **b) The following recommendations have been examined by Azerbaijan and have been noted by Azerbaijan**

- **Argentina:** Take the necessary measures to combat the acts of violence and discrimination, such as stigmatization against persons pertaining to the LGTBI community, and encourage Azerbaijan to deepen the measures to ensure the investigation and sanctioning of those acts (141.16).
- **Canada:** Ensure LGBTI people are protected against all forms of discrimination and violence in both law and practice (1.41.17).
- **Chile:** Adopt a legal comprehensive framework against discrimination based on sexual orientation and gender identity (141.18).
- **Costa Rica:** Take measures to eradicate torture, ill treatment and arbitrary arrests in line with the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition, strengthen public policies and education to combat discrimination and violations of the rights of the LGBT community (141.29).
- **Honduras:** Thoroughly review its applicable legislation, in line with its international obligations and commitments, in order to eliminate and combat discrimination based on any ground, including sexual orientation and gender identity (141.19).
- **Iceland:** Ensure that the existing anti-discrimination legal framework does explicitly prohibit discrimination based on sexual orientation and gender identity (141.20).

- **Mexico:** Incorporate the prohibition of discrimination on the grounds of sexual orientation and gender identity in the current legal framework (141.22).
- **Spain:** Protect persons from arbitrary detentions and ill-treatment that they face for any personal consideration, including their sexual orientation and gender identity, ensuring their full social integration in the same footing (141.30).

**E. SOGIESC Recommendations Shared by HRDs During ILGA’s UPR Advocacy Week in Geneva**

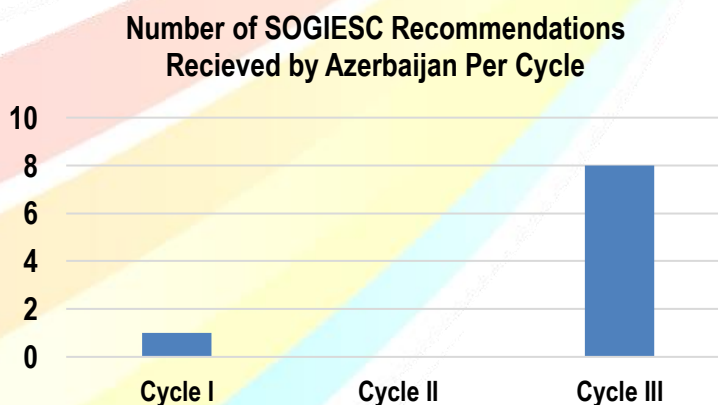
Nefes LGBT Alliance Azerbaijan and Minority Azerbaijan

- Adopt comprehensive national anti-discrimination laws against discrimination based on sexual orientation and gender identity;
- Update the Gender Equality Law and National Program of Action to include the principles of equality and non-discrimination for people with diverse sexual orientations and gender identities;
- Repeal imprecisely worded laws that are used to carry out arbitrary arrests;
- Cease subjecting people to forced or coerced medical tests and exams and disclosing their health records publicly, which violates the absolute prohibition on torture and ill-treatment and the rights to health and privacy of individuals;
- Investigate promptly and thoroughly all allegations of torture and ill-treatment and ensure that perpetrators are prosecuted and, if convicted, punished with adequate sanctions;
- Conduct comprehensive human rights education towards all civil servants, including law enforcement officers, with an aim to promote gender sensitivity, inclusion and non-discrimination on the basis of sexual orientation, gender identity and expression;
- Take concrete steps, through education and public policies, to combat deeply entrenched negative social perceptions, misconceptions and prejudice against people based on their sexual orientation or gender identity, in order to tackle the root causes of violence and discrimination perpetrated against them;
- Adopt effective hate speech legislation against vulnerable groups including sexual orientation and gender identity with appropriate measures for retribution.

**F. Recommendations for Cycle II (2013)**

N/A

**G. Graphic Comparison Between Cycles (1—3)**





## H. Video of Azerbaijan's UPR Working Group Session

### I. **SOGIESC Mentions During Azerbaijan's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)**

- COC – Nederland: welcomed all the recommendations made by states, especially those regarding SOGIESC issues. However, expressed their regret due to the fact that Azerbaijan's government took note of most of those recommendations.

## BANGLADESH UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 14 MAY 2018, 9:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 17 MAY 2018, 16:30—18:00

*During the 30<sup>th</sup> UPR Working Group Sessions, Bangladesh received 11 SOGIESC recommendations. It noted all 11 recommendations.*

### A. SOGIESC Information

#### National Report

43. In the current financial year, the number of recipients for old age allowance has been increased from 3.15 to 3.50 million. Total 1.27 million widow & destitute women and .825 million disabled persons are receiving special allowances. A special grant worth BDT 110 million has been made for the transgender persons.

61. HIV prevalence rate is very low in Bangladesh. The number of potential HIV patients is 11,700. New HIV infections among adults (15–49 years) remained less than 0.01 percent. This was possible for early initiatives such as, the HIV/AIDS Prevention Project (HAPP) 2004-2007 which was aimed at controlling the spread of HIV infection within high-risk groups (i.e. children, sex workers, clients of sex service, and the transgender) as well the general population.

123. In order to empower the underprivileged sections of society (*Dalits, Harijans, Bede, Tea Plantation Workers, Transgenders, etc.*) and put an end to all sorts of discrimination against them, the Law Commission has prepared the Anti-discrimination Bill, 2014, which is now under active consideration of the government.

124. In 2014, the GoB officially recognized the gender identity of the transgender persons distinctively. In view of this development, the EC is taking steps to register the transgender persons by their own gender identity in the electoral roll.

#### Compilation of UN Information

14. The Human Rights Committee was concerned that the anti-discrimination bill 2015 had not been adopted; at discrimination and attacks against groups such as women, religious minorities, indigenous peoples and people from so-called lower castes; at the criminalization under section 377 of the Criminal Code of consensual sexual acts between same-sex couples and stigmatization of and harassment and violence against lesbian, gay, bisexual, transgender and intersex persons; and at barriers preventing transgender persons from gaining assistance in seeking employment. The country team noted that certain groups, including sex workers and transgender persons, faced high levels of sexual and gender-based violence. UNESCO encouraged it to accelerate the bill's adoption.

15. The country team stated that alternative mechanisms should be introduced to protect lesbian, gay, bisexual, transgender and intersex persons and recommended that Bangladesh acknowledge the existence of sexual and gender minorities and abolish section 377.



32. The country team remained aware of possible restrictions that the Foreign Donations (Voluntary Activities) Regulation Act 2016 might impose on civil society organizations. It recommended that Bangladesh amend the Act and noted that organizations working on issues relating to lesbian, gay, bisexual, transgender and intersex persons found it difficult to expose them publicly due to threats from religious extremists and recent killings of activists on those issues.

### Summary of Stakeholder's Information

12. JS13<sup>2</sup>, JS12<sup>3</sup>, JS11<sup>4</sup>, JS9<sup>5</sup>, AI, NHRC, Roopbaan and Steps reported that LGBTI people are among the most marginalised groups in Bangladesh and face both state and non-state harassment and violence. They recommended repealing and amending laws like Section 377 as Bangladesh noted this recommendation in its previous UPR. Steps reported that the draft Anti-Discrimination Law contains strong protection for transgender people. JS13, JS11, JS9, NHRC, Roopbaan and Steps noted that transgender identities or hijra continue to face discrimination despite being recognized as a third gender, while the rights of persons of diverse sexual orientations and gender identities is still not recognised and subjected to police arrests, as well as sexual and physical abuses. They reported that police was unsuccessful in investigating the murders of LGBT persons and refused to provide protection to their events. Dozens of LGBT leaders, volunteers or people associated with civil society organisations leave Bangladesh or hide in fear of further attacks. They recommended Bangladesh to acknowledge the existence of sexual and gender minorities and review laws and policies to recognise diversity; guaranteeing basic security for every citizen irrespective of their class, ethnic identity, gender, sex characteristics and sexual orientation. Roopbaan also recommended bringing the murderers of Roopbaan publisher Xulhaz Mannan and general secretary K. Mahbub Rabbi Tonoy to justice.

32. JS13, JS10 and CIVICUS noted that Bangladesh received 23 recommendations relating to civic society space, freedom of expression, but the government has failed to address unwarranted restrictions on civic space. JS15, JS13, JS12, JS10, AI, CSW, HRW, NHRC, and RSF reported that media outlets and professional journalists, bloggers and writers were subjected to physical and judicial harassment by local authorities and religious groups. The government has failed to protect them or hold perpetrators accountable. JS13 reported that murders of journalists, bloggers and HRDs increased in the period under review. CSW recommended Bangladesh to create an enabling environment in which dissent and critical opinion can be expressed without fear. JS10, CSW and RSF stated that to publish or transmit anything on a website or in electronic form that hurt religious belief is an offence under the ICT Act, which the government used to block news websites arbitrarily. JS10, AI and Roopbaan reported that it also poses a critical threat to freedom of expression of LGBT communities.

## **B. SOGIESC Advanced Questions for Bangladesh**

- **Belgium:** Does Bangladesh intend to abolish article 377 of the Penal Code, which criminalizes consensual sex between same-sex partners?
- **Belgium:** What is the current state of play of the 2015 anti-discrimination bill? Does this project provide a framework for protection against discrimination and attacks against specific groups

<sup>2</sup> Joint Submission 13 submitted by: Article 19, England (United Kingdom); and Research Initiatives Bangladesh, Dhaka (Bangladesh).

<sup>3</sup> Joint Submission 12 submitted by: Center for Social Activism (CSA), New York (United States of America); and Association for Progressive Communication (APC), Melville (South Africa).

<sup>4</sup> Joint Submission 11 submitted by: Ain o Shalish Kendra (ASK) – Forum Secretariat; Acid Survivors Foundation (ASF); Association of Land Reforms and Development (ALRD); Bangladesh Adivasi Forum; Bangladesh Dalit and Excluded Rights Movement (BDERM); Bangladesh Institute of Labor Studies (BILS); Manusher Jonno Foundation (MJF); Nagorik Uddyog; Nijera Kori; and Transparency International Bangladesh (TIB), Dhaka (Bangladesh).

<sup>5</sup> Joint Submission 9 submitted by: The Asian Pacific Resource & Research Centre for Women (ARROW), on behalf of Rights Here Right Now, Kuala Lumpur (Malaysia) and Sexual Rights Initiative (SRI), Geneva (Switzerland).



such as women, religious minorities, indigenous peoples, persons belonging to so-called lower castes, the LGBTI community?

- **United States:** What is the Government doing to protect members of vulnerable groups, including atheists, ethnic and religious minorities, indigenous groups, girls and women, and LGBTI activists? Will the Government condemn attacks on them without implying their identities justify violence against them?

### C. Bangladesh's Working Group Session

- **Opening Remarks:** We have officially recognised the gender identity of the *hijra* community and allocated social security benefits for them. To ensure the citizen's right to social security for the unemployed, disabled, widows, orphans and elderly, the government has adopted the National Social Security Strategy in 2015. We have initiated the lifecycle-based social security agenda in order to equally and inclusively to cover all age group people in the social security net. The beneficiaries of social security programme of the government include destitute and deserted women, old women, including widows and oppressed disabled persons, transgenders and other socially excluded populations.
- **Closing Remarks:** At the same time, I would like to stress upon the fact that while considering the human rights situation of a country, we must not lose sight of the specific social, political, cultural, economic and demographic situation of the country. Therefore, as a democratic government, reflecting the will of the people, our efforts need to be aligned with the people's views and opinions, as well as the social, cultural and religious values of our people. Most specifically, issues like death penalty or same-sex relations evoke sensitivities that could not be disregarded. It is quite clear from ongoing consultations.

### D. Recommendations for Cycle III (2018)

#### a) Remarks of States

- **Slovenia:** Lastly, we would like to express our concerns over the situation of the LGBTI persons in Bangladesh, who are facing stigmatization, discrimination, harassment and attacks against them practically on a daily basis.
- **United States:** We remain concerned about government limits of freedoms of association and expression, targeting the political opposition, the media, civil society, LGBTI individuals and workers.

#### b) The following recommendations have been examined by Bangladesh and have been noted by Bangladesh

- **Argentina:** Take the necessary measures to repeal from its legislation the criminalization of consensual sexual acts between people of the same sex (8.32).
- **Belgium:** Ensure that threats and violence against human rights defenders, and in particular women defenders and LGBTI defenders, because of their work or perceived or actual gender identity, are effectively prosecuted and do not go unpunished (8.34).
- **Brazil:** Take measures to fight violence against LGBTI persons (8.26).
- **Canada:** Take effective steps to include LGBTI persons in human rights legislation recognizing the many dangers and challenges faced by the community, including the *hijra* (8.27).
- **Chile:** Repeal section 377 of the criminal code and include sexual orientation and gender identity as a protected category in the new anti-discrimination law (8.30).

- **Germany:** End impunity by conducting thorough investigations and criminal prosecutions of human rights violations and abuses against human rights defenders, journalists, bloggers and LGBTI (8.54).
- **Honduras:** Decriminalise in the criminal code relations between same-sex adults (8.33).
- **Italy:** Take further steps to fight all forms of violence and discrimination, in particular against women, children and LGBTI persons (8.56).
- **Mexico:** Protect and promote the rights of LGBTI persons through a broad legal framework, that includes the revision of laws that may be discriminatory, such as section 377 of the Penal Code (7.31).
- **Norway:** Establish effective protection against discrimination, harassment and violence against sexual minorities (7.28).
- **Slovenia:** Acknowledge the existence of sexual and gender minorities in the country, and furthermore abolish the section 377 of the Criminal Code and thus decriminalize consensual sexual acts between same-sex couples (7.29).

#### **E. SOGIESC Recommendations Shared by HRDs During ILGA's UPR Advocacy Week in Geneva**

##### Boys of Bangladesh and Roopbaan

- Conduct a proper, transparent and expedited investigation into the murders of LGBTQ activists Xulhaz Mannan and Mahbub Rabbi Tonoy and bring the perpetrators to justice;
- Ensure freedom of expression, association and assembly by allowing LGBTQ groups to form association, organize and publish;
- Repeal section 377 of Bangladesh penal code and other discriminatory acts to protect gender and sexual minority communities;
- Sensitize law enforcers, civil servants and law-makers on the issues of sexual orientation and gender identity;
- Depathologize hijra identity and enact adequate law to protect the human rights of hijra and transgender community;
- Enact an anti-discrimination act with sexual orientation and gender identity included as a protected category.

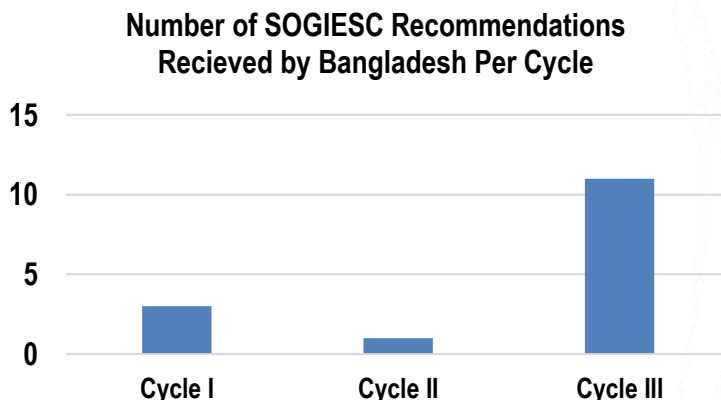
#### **F. Recommendations for Cycle II (2013)**

##### **a) Noted Recommendations**

- **Chile:** Consider repealing article 377 of the Criminal Code.

#### **G. Graphic Comparison Between Cycles (1—3)**





#### H. Video of Bangladesh's UPR Working Group Session

##### **I. SOGIESC Mentions During Bangladesh's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)**

- **Bangladesh Government (opening remarks):** In order to empower the underprivileged sections of the society and to put an end to all sorts of discrimination against them, the Government has taken measures to improve their conditions. We have officially recognized the gender identity of the Hijra community and allocated social security benefits for them. The beneficiaries of social security programme of the Government include destitute and deserted women; old women including widow and oppressed, disabled persons, transgenders and other socially excluded population.

**BURKINA FASO  
UPR SOGIESC RECOMMENDATIONS**

**DATE AND TIME OF THE REVIEW: 7 MAY 2018, 14:30—18:00**  
**DATE AND TIME OF THE ADOPTION OF THE REPORT: 11 MAY 2018, 15:00—18:00**

*During the 30<sup>th</sup> UPR Working Group Sessions, Burkina Faso received 4 SOGIESC recommendations. It noted 4 recommendations.*

**A. SOGIESC Information**

**National Report**

N/A

**Compilation of UN Information**

14. The Human Rights Committee was concerned about the stereotyping of lesbian, gay, bisexual and transgender persons and about reports of discriminatory acts and hate speech aimed against them, including by politicians. It recommended that Burkina Faso legally prohibit discrimination based on sexual orientation or gender identity.

**Summary of Stakeholder's Information**

8. ISHR<sup>6</sup> regretted that requests for the legal registration of LGBT organisations had been repeatedly refused by the authorities without providing an explanation.

**B. SOGIESC Advanced Questions for Burkina Faso**

- **Belgium:** How does the Burkinabe government promote the work of women human rights defenders and LGBTI advocates?

**C. Burkina Faso's Working Group Session**

N/A

**D. Recommendations for Cycle III (2018)**

**a) Remarks of States**

N/A

**b) The following recommendations have been examined by Burkina Faso and have been noted by Burkina Faso**

- **Chile:** Consider the adoption of a general law sanctioning acts of discrimination on any grounds, including sexual orientation and gender identity (8.4).

<sup>6</sup> International Service for Human Rights.

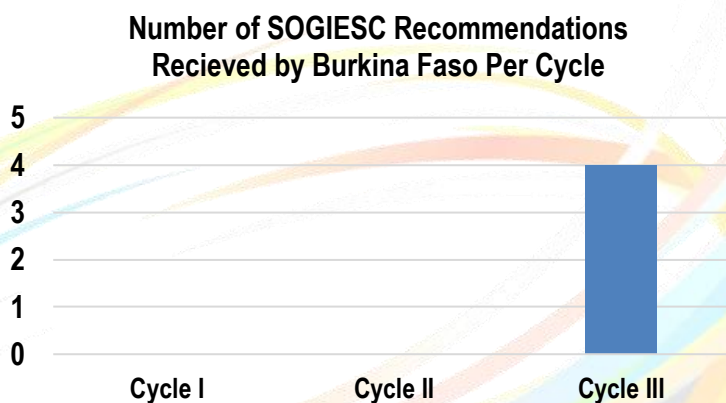


- **Honduras:** Adopt a comprehensive legislation to prevent and combat all forms of discrimination based on all grounds, including sexual orientation and gender identity (8.5).
- **Iceland:** Decriminalize sexual relations between consenting adults of the same sex (8.6).
- **Iceland:** Legally prohibit discrimination based on sexual orientation or gender identity (8.7).

**E. Recommendations for Cycle II (2013)**

N/A

**F. Graphic Comparison Between Cycles (1—3)**



**G. [Video of Burkina Faso's UPR Working Group Session](#)**

**H. SOGIESC Mentions During Burkina Faso's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)**

N/A

## CAMEROON UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 16 MAY 2018, 9:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 18 MAY 2018, 17:00—18:00

*During the 30<sup>th</sup> UPR Working Group Sessions, Cameroon received 12 SOGIESC recommendations. It noted 12 recommendations.*

### A. SOGIESC Information

#### National Report

N/A

#### Compilation of UN Information

16. The Committee on the Rights of the Child remained concerned about the persistent discrimination against children in marginalized and disadvantaged situations.<sup>19</sup> It referred to the rejection by Cameroon of the identity of lesbian, gay, bisexual, transgender and intersex children and to the discrimination experienced by such children. It urged Cameroon to adopt and implement comprehensive legislation to protect all children against discrimination.

#### Summary of Stakeholder's Information

11. JS5<sup>7</sup> documented multiple harassment and intimidation of LGBT people in Cameroon. It reported various cases of arbitrary arrest and abuse by police for consensual same-sex conduct. It recommended that Cameroon release all prisoners who are currently detained on the basis of sexual orientation. It also urged the government to ensure that police receive a human rights training related to sexual orientation and gender identity and to investigate and prosecute the human rights abuses committed by the police. Amnesty International had similar concerns and further recommended that Cameroon decriminalize consensual same-sex relations.

12. JS5 noted that LGBT persons are denied access to justice, health and education. It urged Cameroon to decriminalize consensual same sex conduct, to ensure the right of health care for LGBT people and to investigate cases of denial of treatment based on sexual orientation. It recommended that the government investigate expulsions from school based on sexual orientation and conduct an awareness campaign on discrimination based on sexual orientation and gender identity.

13. Humanity First Cameroon (HFC) denounced the country's repressive laws on lesbian, gay, bisexual and transgender persons and the increase in acts of violence and discrimination against such persons.

14. HFC stated that these acts of violence are a direct result of laws that criminalize sexual relations between persons of the same sex. It strongly denounced the practice of subjecting homosexual persons to anal examinations. It recommended that the practice of anal examinations should be prohibited and that consensual relations between persons of the same sex should be decriminalized.

<sup>7</sup> Joint Submission 5 submitted by: Advocates for Human Rights Minneapolis (USA).



HFC recommended that the authorities should prosecute police officers who commit abuses against lesbian, gay, bisexual or transgender persons, should release all prisoners who are currently detained on the basis of their sexual orientation and should take steps to raise public awareness of the rights of such persons.

## **B. SOGIESC Advanced Questions for Cameroon**

- **Belgium:** In the previous UPR, Belgium recommended that Cameroon investigate cases of police violence against people because of their actual or perceived sexual orientation, what measures have the Cameroonian authorities taken in this regard?

## **C. Cameroon's Working Group Session**

N/A

## **D. Recommendations for Cycle III (2018)**

### **a) Remarks of States**

- **Australia:** Australia remains concerned about the continuing prosecution of individuals engaging in consensual same-sex relations.
- **Ireland:** Ireland is also concerned by the reports that human rights defenders – including those working on LGBTI issues, journalists and other civil society actors are targeted for carrying out their legitimate activities.
- **Spain:** Lastly, Spain is concerned by the criminalisation of same-sex consensual relations.
- **Switzerland:** Finally, Switzerland is concerned about the hostile environment for LGBTI people.
- **United States:** We continue to closely monitor the violence and discrimination targeting vulnerable groups, including LGBTI persons and LGBTI civil society leaders.

### **b) The following recommendations have been examined by Cameroon and have been noted by Cameroon**

- **Argentina:** Take the necessary measures to protect and prevent the discrimination of lesbian, gay, bisexual and transgender people, as previously recommended (6.84).
- **Australia:** Decriminalize consensual same-sex relations (6.80).
- **France:** Decriminalize homosexuality, punished under Article 347 bis of the Penal Code (6.74).
- **Germany:** Decriminalize same-sex relationships by replacing Art. 347-1 of the Criminal Code and initiate a campaign to raise awareness in the public concerning homosexuality (6.75).
- **Ireland:** Decriminalize consensual same-sex conduct between adults and take all necessary steps to protect the LGBTI community from all forms of discrimination and violence (6.76).
- **Italy:** Consider repealing provisions that criminalize homosexuality (6.52).
- **Mexico:** Decriminalize consensual sexual relations between people of the same sex and combat discrimination and violence against LGBTI people (6.78).
- **Netherlands:** Eliminate discrimination on the basis of sexual orientation and gender identity and to protect the LGBTI-community from violence and harassment (6.83).
- **Spain:** Review Criminal code with the view to decriminalize homosexuality (6.77).
- **Switzerland:** Ensure the protection and security of LGBTI people and human rights defenders committed to their cause (6.81).
- **United States:** Decriminalize consensual same-sex sexual relations and immediately cease targeted discrimination and violence against LGBTI persons (6.82).

- **Uruguay:** Decriminalize consensual sex between adults of the same sex, as well as any other discriminatory practice based on sexual orientation and gender identity, protecting LGBTI persons and guaranteeing their fundamental rights (6.79).

## E. SOGIESC Recommendations Shared by HRDs During ILGA's UPR Advocacy Week in Geneva

### Humanity First Cameroon

- Decriminalize consensual same-sex relationships by revoking section 347-1 of the Penal Code;
- Cease immediately the practice of forced anal examinations on gay and bisexual men as it is prescribed in the Convention Against Torture that Cameroon has ratified
- Repeal article 83 of the Penal Code related to Cybercrime and Cyber Security, which strengthens penalties on homosexuality;
- Immediately release all prisoners currently detained on the basis of their sexual orientation;
- Guarantee the protection of LGBT rights defenders by granting them a legal status at the National Commission on Human Rights and Freedoms;
- Train authorities such as police, military and judiciary on sexual orientation and gender identity;
- Ensure that the Ministry of Public Health develops strategic documents in consultation with LGBT persons which take into account the right to health and access to health care for LGBT persons;
- Include SOGI's issues in curricula of training of health professionals, policemen and juridical corps;
- Allow the National Commission on Human Rights and Freedoms to take into account violations of the rights of LGBT persons and collaborate with civil society's organizations in order to follow-up reported cases of violations.

## F. Recommendations for Cycle II (2013)

### a) Accepted Recommendations

- **Belgium:** Investigate police violence that took place on persons because of their actual or perceived sexual orientation.

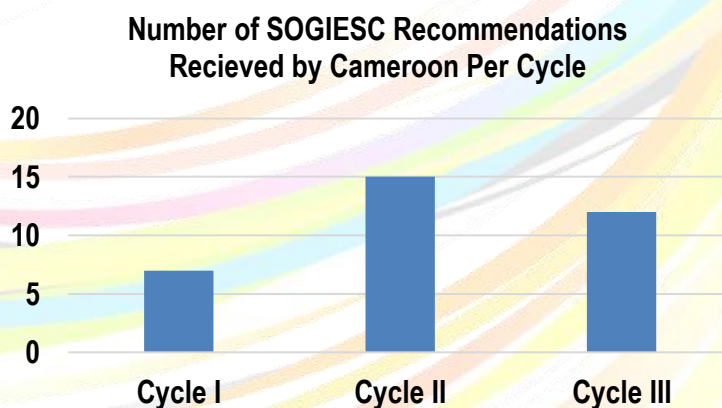
### b) Noted Recommendations

- **Argentina:** Establish a moratorium on the implementation of Article 347bis of the Penal Code that "shall be punished by imprisonment of six months to five years and a fine a person who has sexual relations with a person of the same sex" and encourage non-violence towards all, regardless of sexual orientation, as well as the protection of defenders of these rights, including their lawyers.
- **Argentina:** Adopt necessary measures to avoid discrimination, and to protect and integrate the LGBT population.
- **Australia:** Urgently repeal legislation criminalising consensual homosexual activity and release from detention individuals convicted of those offences.
- **Belgium:** Take all necessary measures, including legislative and administrative, to prohibit and eliminate all discriminatory treatment based on sexual orientation.
- **Belgium:** Ensure adequate protection of defenders of human rights that help LGBT persons.
- **France:** Decriminalize consensual sexual relations between adults of the same sex.



- **Germany:** Decriminalize same-sex relationships, protect LGBTI from violence from other members of the society and fight against prejudices against LGBTI persons by awareness raising campaigns.
- **Mexico:** Decriminalise consensual sexual acts among adults of the same sex and adopt measures to eliminate social prejudices and stigmatization of homosexuality.
- **Netherlands:** Reiterate its recommendation made during the UPR in 2009 calling for decriminalization of homosexuality in Cameroon.
- **Spain:** Reform the Penal Code to eliminate homosexuality as a criminal offence.
- **Spain:** Undertake public actions aimed at eliminating discrimination based on sexual orientation.
- **United States:** Respect article 12 of the Constitution, which protects privacy, and eliminate abuses of this article that lead to arbitrary arrests and prosecutions on charges related to consensual same sex relations.
- **Uruguay:** Adopt measures to decriminalise consensual sexual acts among adults of the same sex so as to adapt its legislation to the International Covenant on Civil and Political Rights.
- **Uruguay:** Adopt appropriate measures to tackle social prejudices, stigmatization, harassment, discrimination and violence against individuals because of their sexual orientation.

#### G. Graphic Comparison Between Cycles (1—3)



#### H. [Video of Cameroon's UPR Working Group Session](#)

#### I. SOGIESC Mentions During Cameroon's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

**ILGA:** Despite the fact that Cameroon accepted the recommendation on the last cycle asking to stop arresting people on the grounds of sexual orientation, 137 arrests were documented on the last 5 years. It also highlighted the fact that the law criminalizing same-sex relations just had its number changed and that a new law criminalized the exchange of e-mails between persons of the same sex. It condemned the intimidation of human rights defenders of sexual minorities and regretted the fact that the country noted all the 12 recommendations regarding SOGI issues.

**Amnesty International:** Regretted that Cameroon rejected all the recommendations to decriminalize same-sex relations. It also stated that LGBTI persons continue to face discrimination, intimidation and harassment.

**Rencontre Africaine pour la defense des droits de l'homme:** Regretted the occurrence of abuses and violence perpetrated against women and sexual minorities.





## CANADA UPR SOGIESC RECOMMENDATIONS

**DATE AND TIME OF THE REVIEW: 11 MAY 2018, 9:00—12:30**

**DATE AND TIME OF THE ADOPTION OF THE REPORT: 15 MAY 2018, 16:30—18:00**

*During the 30<sup>th</sup> UPR Working Group Sessions, Canada received 2 SOGIESC recommendations. It accepted 2 recommendations.*

### A. SOGIESC Information

#### National Report

43. It's Time: Canada's Strategy to Prevent and Address Gender-Based Violence (GBV) is based on three pillars: prevention; support for survivors and their families; and promotion of responsive legal and justice systems. A GBV Knowledge Center will coordinate initiatives across the federal government, enhance data collection and research on GBV, and strengthen coordination and knowledge sharing across jurisdictions and sectors. It will also fill gaps in support for diverse populations, including: women and girls, Indigenous people, lesbian, gay, trans, bisexual, queer, two-spirited (LGBTQ2) and gender non-binary people, those living in northern rural and remote communities, people with disabilities, newcomers, children and youth, and seniors.

44. The Government of Québec's 2016-2021 Strategy to Prevent and Counteract Sexual Violence targets two problems: sexual assault and sexual exploitation. It comprises three interdependent, complementary themes:

- Prevent;
- Intervene with respect to the psychosocial, medical, legal, police and correctional dimensions; and
- Develop knowledge and share expertise to act more effectively.

45. The actions in the Strategy take into consideration that certain groups in the population are more vulnerable to such violence; for example, persons with disabilities, Indigenous Peoples, refugees, immigrants or members of the ethnocultural minorities, seniors, prostitutes, and lesbian, gay, bisexual and trans individuals (LGBT).

46. Nova Scotia's Sexual Violence Strategy supports better delivery of prevention and support services, increased education, and the creation of community networks. It specifically references marginalized populations, including African Nova Scotians, First Nations and the LGBTQ community.

47. Newfoundland and Labrador's Working Together for Violence-Free Communities: An Action Plan for the Prevention of Violence in Newfoundland and Labrador 2015-2019, sets out four strategic priorities:

- Increasing Public Awareness and Positively Changing Attitudes and Behaviours Towards Violence and Abuse;
- Addressing Violence Against Indigenous Women and Children;
- Increasing Participation and Leadership: Engaging and Mobilizing Communities; and

- Strengthening Research, Policies, Programs and Services.

48. The Action Plan targets women, children and youth, Indigenous women and children, older persons, persons with disabilities, persons of varying race or ethnicity, LGBT persons, and persons of varying economic status.

49. Government strategies take a multi-sectoral approach to prevention and responding to family violence. Initiatives are aimed at vulnerable populations, including Indigenous women and girls, youth, seniors, persons with disabilities, immigrant and refugee women, and the LGBTQ2 community.

58. Relevant initiatives adopted by governments include:

- Beginning in October 2016, the Government of Canada reconstituted the independent Judicial Advisory Committees (JACs) in each province and territory that recommend candidates for federal judicial appointment, taking into account the diversity of Canadian society. Membership of JACs is now marked by greater gender balance and diversity than before. Since that time, of 74 judges appointed, 37 were women, 3 self-identified as Indigenous, 9 as a visible minority, 15 as members of an ethnic/cultural group, 1 as a person with a disability, and 4 as LGBTQ2.

65. The Prime Minister appointed a Member of Parliament as his Special Advisor on LGBTQ2 issues in November 2016, whose role includes working with LGBTQ2 organizations to promote equality for LGBTQ2 communities, protect the rights of its members, and address discrimination against them.

66. The Prime Minister issued a formal apology in the House of Commons to individuals harmed by federal legislation, policies and practices that led to the oppression of and discrimination against LGBTQ2 people in Canada. The Prime Minister apologized for the historical unjust treatment of LGBTQ2 public servants, including those in the Canadian Armed Forces, and of LGBTQ2 Indigenous Peoples. As part of addressing historical wrongs, the Government of Canada introduced legislation to establish a process to permanently destroy the records of convictions for offences involving consensual sexual activity between same-sex partners that would be lawful today. In addition, the Government of Canada introduced legislation to eliminate section 159 of the Criminal Code that pertains to anal intercourse and has been used to criminalize homosexuality.

67. All governments have either enacted or introduced amendments to include gender identity and (in most jurisdictions) gender expression as prohibited grounds of discrimination in their anti-discrimination legislation. In addition, in 2017, Parliament amended the Criminal Code to protect against hate propaganda and hate crimes on the basis of gender identity or expression.

68. Governments are also making changes to how they collect, use and display sex and gender information to reduce the risk of trans and non-binary people facing harassment or discrimination. For example:

- Québec's Loi modifiant le Code civil en matière d'état civil, de successions et de publicité des droits, Newfoundland and Labrador's Vital Statistics Act, 2009, and Yukon's Vital Statistics Act, allow persons to change the designation of sex on their birth certificate without requiring sex reassignment surgery;
- Under Ontario's 2017 policy on gender and sex information on government forms and IDs, gender identity will be the default information on government forms and IDs. When gender identity information is displayed on an ID, customers will have the option to choose male 'M'; female 'F', or 'X' which includes Trans, Non-Binary, Two-Spirit, and Binary people and people who don't want to disclose their gender identity;



- Federally, as of 2015, supporting documentation is no longer required for anyone requesting a change to their gender designation in the Social Insurance Register. Providing sex/gender information is optional, and three options are allowed (male/female/3rd option) for any sex/gender question. Since August 2017, passports, citizenship and immigration documents may include an indication that sex should read as “X” or unspecified.

69. Another notable initiative is Alberta’s legislation to support students to create or join gay-straight alliances in schools.

70. The Government of Québec has adopted the Plan d’action gouvernemental de lutte contre l’homophobie et la transphobie 2017-2022 : Pour un Québec riche de sa diversité. This plan aims to promote respect for the rights of sexual minorities and to increase public awareness of their realities. Special attention is given to the most vulnerable groups such as youth, seniors, trans people and Indigenous people, as well as to those in regions and settings with fewer resources.

83. In 2016, the FPT Ministers Responsible for Seniors Forum developed the Social Isolation of Seniors Toolkit. FPT Ministers also identified the social inclusion of seniors as a priority and directed officials to do further work to respond to the needs of three specific communities of seniors at high risk of being socially isolated: recent immigrant and refugee seniors, Indigenous seniors, and LGBTQ2 seniors.

### Compilation of UN Information

N/A

### Summary of Stakeholder’s Information

6. Vulnerable populations with diverse sexual orientations, or gender identities or expressions experienced discrimination in many facets of life. Specifically, trans, two-spirit and gender non-binary individuals faced disadvantage in employment, in the provision of housing and medical care, and when seeking and using identity documents.

17. Egale noted that disaggregated data collection was paramount to help ensure informed decisions and policies that further advanced Lesbian, Gay, Bisexual, Trans, Queer, Intersex, and Two Spirit (LGBTQI2S) human rights.

52. Egale indicated that Canada should amend the *Employment Equity Act* to include LGBTQI2S communities as designated groups protected from employment discrimination.

65. CFUW<sup>8</sup> reported that violence against women continued to be a major tragedy and that statistics showed no significant reduction of the problem. Indigenous women, young women, women with disabilities, women with mental health issues, and women belonging to the LGBTQI2S community experienced higher rates of violence. Being homeless or a student also increased vulnerability to violence. Funding to address violence against women had increased since the last UPR but there was a lack of clear targets and timelines to measure the Government’s progress. AI recommended adopting a comprehensive, measureable, well-resourced, time-bound National Action Plan to address all forms of violence against women and girls.

## **B. SOGIESC Advanced Questions for Canada**

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<sup>8</sup> Canadian Federation of University Women.

- **Spain:** We congratulate Canada on the progress made in the area of non-discrimination on the basis of gender and sexual identity, in particular for the introduction of the gender-neutral 'X' option on national passports. Do you have in mind other gender-neutral measures to be applied to the specific sectors of education, health care or work environment?

### C. Canada's Working Group Session

- **Opening Remarks:** Canada is also proud of its agenda to promote equality for the LGBTQ2 people, protect their rights and advance violence and discrimination against them, both historic and current. In November of 2017, Prime Minister Justin Trudeau issued a formal apology in the House of Commons to individuals harmed by federal legislation, policies, practices that led to the oppression of and discrimination against LGBTQ people in Canada. In addition, in 2017, Parliament enacted the Canadian Human Rights Act and the Criminal Code to protect against discrimination and hate crimes based on gender identity and gender expression. At the provincial and territorial levels, all governments have added gender identity, gender expression or both as prohibited grounds of discrimination in their anti-discrimination legislation. Governments across Canada continue to take steps to ensure that LGBTQ persons are able to live full and open lives, free from discrimination and ill-treatment. For example, the Government of Alberta strengthened legislation that supports students who wish to create or join gay-straight or queer-straight alliances to ensure welcoming, caring, respectful and safe environments for students and staff.
- **Intervention Made After 59 Interventions:** The Government of Canada has made changes to the Superior Court's judicial appointments process to increase openness, transparency and diversity of Canada's judiciary. In 2017 alone, there were 100 judicial appointments announced, half are women, 4 are indigenous and 16 have self-identified as a member of a visible minority population, LGBTQ2 or person with disability.

Trafficking in persons is explicitly prohibited by 6 criminal code indictable offences. Other general offence provisions may also be used to address trafficking-related conduct, for example aggravated sexual assault, forcible confinement and kidnapping. In the area of prevention, we have continued to develop information and awareness programmes aimed at our most at-risk populations, including indigenous women and girls, LGBTQ2 youth, persons with disabilities, runaways, farm workers and those who are socially and economically disadvantaged.

Since 2016, Canada has made significant investments to prevent and address gender-based violence, including for shelters and transition houses for those fleeing family violence. In 2017, the Government of Canada announced 'It's Time: Canada's Strategy to Address and Prevent Gender-Based Violence' which focuses on prevention, support for survivors and their families, and promotion of responsive legal and justice systems. The strategy will fill important gaps and support for specific groups of the population, such as indigenous peoples, LGBTQ2 and gender non-binary persons, those living in rural, northern and remote communities, people with disabilities, newcomers, children and youth and seniors.

- **Closing Remarks:** Canada's law enforcement and security intelligence officials investigate threats to national security and criminality based on available intelligence and information and do not target any particular community, group or faith. More specifically, bias-free policing means equitable treatment of all persons by all police officers in the performance of their duties. This is done in accordance with the law, and without abusing their authority, regardless of an individual's race, national or ethnic origin, colour, religion, gender, sexual orientation,



marital status, age, mental or physical disability, citizenship, family status, socio-economic status or a conviction in which a pardon has been granted.

I am very honoured to be representing Canada and Canadians, and I know that in terms of Canadians, and I think people all over, we are most confident about our future when we believe and are comfortable in the knowledge that we live in a caring and compassionate society, under a legal and political system that will protect us, regardless of our race, regardless of our sexual orientation, our faith or our gender.

#### D. Recommendations for Cycle III (2018)

##### a) Remarks of States

- **Australia:** Australia applauds Canada's formal apology to, and reparations for, historical discrimination against Canada's LGBTIQ community and commends Canada for its prospective Recognition and Implementation of Indigenous Rights Framework.
- **Brazil:** We take this opportunity to commend Canada for its commitment to gender equality and its engagement in the promotion and protection of the rights of LGBTI people.
- **Chile:** Chile recognises Canada's leadership in implementing policies to protect all persons from discrimination based on sexual orientation or gender identity. Thus, we'd like to know what measures Canada has taken to protect the physical integrity of intersex boys and girls, ensuring their full and informed consent.
- **Israel:** We take good note of Canada's important strategy to prevent and address gender-based violence, aiming to fill gaps in support of diverse populations, including LGBTQ2 people.
- **Netherlands:** The Netherlands welcomes the importance Canada attaches to inclusion, diversity, sexual orientation and gender identity. Taking into account the progress that has already been made in those areas, we note that other steps can still be taken.

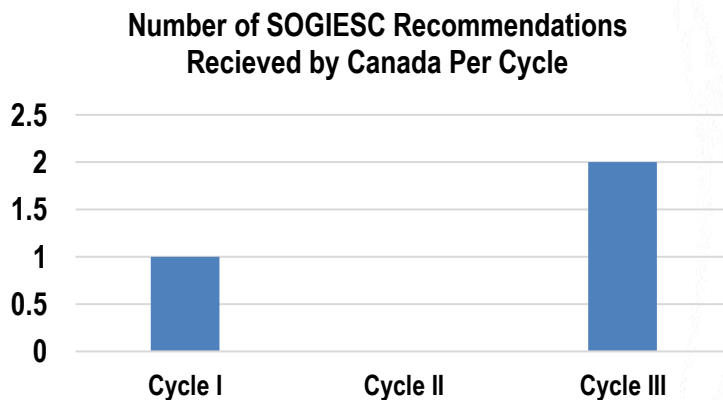
##### b) The following recommendations have been examined by Canada and enjoy the support of Canada:

- **Argentina:** Strengthen measures to combat structural discrimination against Canadian Africans, indigenous peoples, LGTBIQ persons and religious minorities, in particular by establishing effective mechanisms of investigation and punishment of authors of acts of discrimination and violence against them (6.57).
- **South Africa:** Continue strengthening efforts in promoting the rights of LGBTI persons (6.83).

#### E. Recommendations for Cycle II (2013)

N/A

#### F. Graphic Comparison Between Cycles (1—3)



### **G. Video of Canada's UPR Working Group Session**

#### **H. SOGIESC Mentions During Canada's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)**

**Canadian NHRI:** It commended the fact that Canada has made efforts to put human rights in its government agenda. It commented on the initiatives on protecting vulnerable groups, as LGBT persons.

**Chile:** Recognize that Canada is a country that has active promoted policies against discrimination against women, persons with disabilities and the LGBTI community.

**Action Canada for Population and Development:** It commented on the barriers to access the right to abortion that may arise from the intersection of other oppressions and sexuality. It also highlighted the need of a comprehensive sexuality education.



**CABO VERDE  
UPR SOGIESC RECOMMENDATIONS**

**DATE AND TIME OF THE REVIEW: 8 MAY 2018, 9:00—12:30**  
**DATE AND TIME OF THE ADOPTION OF THE REPORT: 11 MAY 2018, 15:00—18:00**

*During the 30<sup>th</sup> UPR Working Group Sessions, Cabo Verde received 1 SOGIESC recommendation. It accepted 1 recommendation.*

**A. SOGIESC Information**

**National Report**

7. The II National Human Rights and Citizenship Plan (2017-2022) was approved in 2017 (Resolution No 127/2017, November 17) and foresees: (i) the implementation of a national strategy for human rights education through existing sectoral policies, covering all educational levels; (ii) the dissemination of a human rights culture in public administration, especially among justice staff and security agents, as well as for civil society and media professionals, through the promotion of education in human rights, including continuous training on ratified Conventions, that are binding, while making this knowledge a requirement for admission to public administration, the justice and security systems; (iii) positioning human rights as guidelines for the development of national policies and external policy; (iv) the conformation of CNDHC to the Paris Principles; (v) the establishment of a national preventive mechanism against torture, among many other measures, including towards vulnerable groups (older persons, persons with disability, immigrants, LGBTI persons).

47. Social communication is required to abstain from discrimination based on race, religion, sex, sexual orientation, disabilities, illnesses, political convictions and social conditions, while declarations found to incite to hatred are liable for criminal sanctions (Law 70/VII/2010, Law 71/VII/2010, Law 73/VII/2010, published 16 August, and Law no90/VIII/2015, published 4 July). The legislation also foresees the duty of sector professionals to combat, through the practice of the profession, intolerance, racism, crime, drug abuse, and attacks on public health and the environment.

**Compilation of UN Information**

N/A

**Summary of Stakeholder's Information**

N/A

**B. SOGIESC Advanced Questions for Cabo Verde**

N/A

**C. Cabo Verde's Working Group Session**

N/A

#### D. Recommendations for Cycle III (2018)

##### a) Remarks of States

- **Australia:** Australia welcomes measures to protect and promote the rights of LGBTI persons in the national action plan. However, continued efforts are necessary to remove discrimination based on sexual orientation or gender identity.
- **Canada:** Canada commends Cabo Verde for its efforts to strengthen human rights, particularly with respect to the LGBTI community. In particular, we congratulate Cabo Verde's decision to join the Equal Rights Coalition as the first African member.
- **Germany:** We further welcome the efforts to improve the rights of LGBTI persons, including by joining the Equal Rights Coalition in March 2018.
- **United States:** We are pleased with Cabo Verde's decision to join the Equal Rights Coalition, a grouping of over 35 nations that work to promote and protect the human rights of LGBTI individuals.

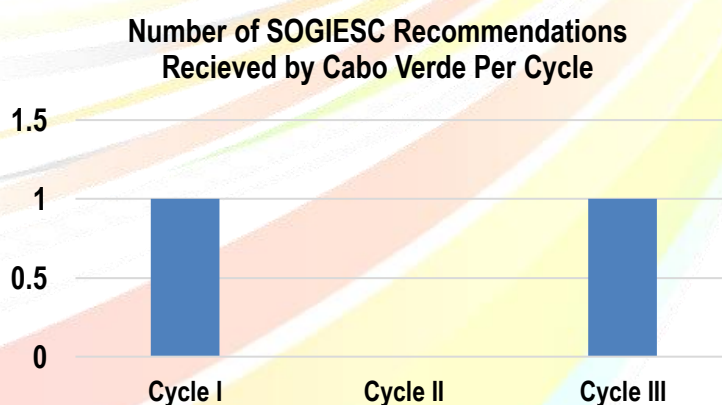
##### b) The following recommendations have been examined by Cabo Verde and enjoy the support of Cabo Verde

- **Australia:** Continues to work with national bodies and NGOs to promote and protect the rights of LGBTI persons through programs such as the United Nations Free and Equal campaign (6.35).

#### E. Recommendations for Cycle II (2013)

N/A

#### F. Graphic Comparison Between Cycles (1—3)



#### G. [Video of Cabo Verde's UPR Working Group Session](#)

#### H. SOGIESC Mentions During Cabo Verde's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

**Cabo Verde (Opening remarks):** The Second National Plan of Cape Verde has been reformulated and contains provision to assist and protect victims of discrimination based on sexual orientation and gender identity.



**Rencontre Africaine pour la defense des droits de l'homme:** Congratulated the government for the acceptance of the recommendations and commended the efforts made by the country to the protection of human rights, including the rights of the LGBTI community.

## COLOMBIA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 10 MAY 2018, 09:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 15 MAY 2018, 16:30—18:00

*During the 30<sup>th</sup> UPR Working Group Sessions, Colombia received 3 SOGIESC recommendations. It accepted 3 recommendations.*

### A. SOGIESC Information

#### National Report

17. Colombia is a member of the New York core group, which promoted the adoption by the Human Rights Council and the General Assembly of the United Nations of resolutions that were to lead to the establishment of the mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.

31. Vital contributions were made to the subcommittee's work by 16 leaders of women's organizations, 10 Colombian female experts on sexual violence, 36 women victims (part of a group of 60), the lesbian, gay, bisexual, transgender and intersex community and female ex guerrillas from various parts of the world. Spaces were created for civil society participation, yielding a total of 7,172 contributions from more than 301 women's organizations. This resulted in a proposal to incorporate a gender perspective in the Framework Plan on the Implementation of the Peace Agreement.

51. According to the Single Register of Victims, as of December 2017, the number of registered victims stood at 8,625,631,23 including 4,271,327 men, 4,289,790 women and 2,472 persons who self-identify as lesbian, gay, bisexual, transgender or intersex. Sixty- four per cent of the cases reported since the entry into force of the Victims and Land Restitution Act (hereinafter the "Victims Act") relate to events that occurred before 2012.

80. The Government has implemented the RedConstruyendo strategy to facilitate women's access to justice. To this end, the following steps were taken between August 2013 and October 2017:

Nineteen psychosocial support circles were held in Tumaco, Barranquilla, Quibdó and Pasto, with the participation of approximately 100 members of the public with diverse sexual orientations and gender identities who had been the victims of sexual violence during the armed conflict.

97. Colombia has made progress in protecting and guaranteeing the human rights of the lesbian, gay, bisexual, transgender and intersex community and of persons with diverse sexual orientations and gender identities; nevertheless, the Government recognizes the challenges that exist in fully guaranteeing the right to equality and non-discrimination.

98. The Constitutional Court issued decisions approving equal marriage (Decision SU- 214/2016) and adoption by same-sex couples (Decision C-683/2015). The Government issued Decree No. 1227/2015, which regulates citizens' access to identity documents in accordance with their identity construction.



99. Medical procedures for the purpose of body modification are legally protected under the right to health, and the Government is moving forward with the joint drafting of a road map for the humane care of transgender persons, in the light of the challenges that they face in terms of access to services.

100. Awareness-raising and capacity-building initiatives are under way to promote recognition of the rights of the lesbian, gay, bisexual, transgender and intersex community, including workshops for administrative staff, guards, warders and (male and female) inmates in prisons throughout the country.

### Compilation of UN Information

12. The Human Rights Committee recommended that Colombia continue and step up its efforts to combat stereotypes regarding, and prejudice against, lesbian, gay, bisexual, transgender and intersex persons.

30. The Human Rights Committee was concerned by the persistence of serious prison overcrowding, as the total rate in the country's detention centres was 55 per cent and had reportedly reached over 400 per cent in two centres. The Committee was also concerned by reports that instances of ill-treatment of persons deprived of their liberty, including members of the lesbian, gay, bisexual, transgender and intersex population, continued to occur. The Committee against Torture recommended that Colombia adopt effective measures, as a matter of urgency, to reduce prison occupancy rates, primarily by making use of alternatives to deprivation of liberty, in accordance with international standards.

41. OHCHR reported in detail about killings, attacks, threats, arrest and detentions, infringements of the rights to privacy, enforced disappearances and sexual violence affecting male and female human rights defenders, journalists, trade unionists, leaders of lesbian, gay, bisexual, transgender and intersex groups, and social and human rights activists. It noted that the departments most affected by all types of aggression were Cauca, Bogotá, North Santander, Valle del Cauca, Meta and Antioquia. The Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee against Torture and the ILO Committee of Experts on the Application of Conventions and Recommendations raised similar concerns.

### Summary of Stakeholder's Information

21. JS20<sup>9</sup> indicated that since the previous universal periodic review, there had been considerable progress in the recognition of the rights of lesbian, gay, bisexual and transgender persons, including the development of a large body of legislation and case law, but that there were obstacles to the enforcement of the law.

22. JS18<sup>10</sup> stated that despite progress in the legal recognition of the rights of lesbian, gay, bisexual and transgender persons, public officials were prejudiced, and the rights of transgender people were still not guaranteed.

<sup>9</sup> Joint Submission 20 submitted by: Colombia Diversa; Caribe Afirmativo; Santamaría Fundación – (Colombia).

<sup>10</sup> Joint Submission 18 submitted by: Asociación Colombiana de Objetores y Objektoras de Conciencia (ACOOOC); Centro de Estudios para la Justicia Social Tierra Digna, Coalición Colombiana Contra la Tortura (CCCT); Coalición Colombiana para la Implementación de la Convención sobre Derechos de Personas con Discapacidad, Coalición Contra la Vinculación de Niños, Niñas y Jóvenes al Conflicto Armado en Colombia (COALICO); Colectivo de Abogados José Alvear Restrepo (CAJAR); Colombia Diversa, Comisión Colombiana de Juristas (CCJ); Comité de Solidaridad con los Presos Políticos (CSPP); Comité Permanente por la Defensa de los Derechos Humanos (CPDH); Comunidad de Juristas AKUBADAURA, Conferencia Nacional de Organizaciones Afrocolombianas (CNOA); Coordinación Colombia Europa Estados Unidos (CCEEU); Corporación Jurídica Libertad, Corporación Jurídica Yira Castro (CJYC); Corporación Reiniciar; Corporación Sisma Mujer; Escuela Nacional Sindical; Lutheran World Federation; Fundación Karisma; JUSTAPAZ; La Alianza de Organizaciones Sociales y Afines, Organización Nacional Indígena de Colombia (ONIC); Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo (PCDHDD) – (Colombia).

23. JS6<sup>11</sup> reported that lesbian and bisexual women continued to suffer from a lack of protection and support from the State and that “corrective” rapes, administered as a “cure”, were still common.

30. JS20 reported that 440 lesbian, gay, bisexual and transgender persons had been murdered between 2013 and 2016. At least 148 of those murders had been motivated by prejudice against the victim’s sexual orientation. There had also been 365 cases of police violence against lesbian, gay, bisexual and transgender persons.

36. JS20 stated that lesbian, gay, bisexual and transgender persons deprived of their liberty were victims of multiple forms of discrimination and violence and were faced with a health system that did not address their specific needs.

40. JS27<sup>12</sup> noted that as part of the implementation of the peace agreement, the Government had issued a decree-law that had reduced staffing levels at the Attorney General’s Office considerably, a reduction that made it difficult to break up paramilitary groups. JS20 stated that the Attorney General’s Office had launched a programme to encourage investigations into crimes against lesbian, gay, bisexual and transgender persons, although there had as yet been no significant progress.

54. AI noted that the Colombian protection mechanism, headed by the National Protection Unit, had provided protection measures to thousands of people in situations of risk, and made progress in adopting a protocol for implementing a collective protection plan. JS18, for its part, observed that the Unit had not adjusted its risk assessment indicators, was characterized by bureaucratic procedures that hindered action and had no protection programmes suited to the needs of the population at risk. CCUKGL stated that the national protection scheme was inadequate to protect lawyers. Caribe Afirmativo stated that lesbian, gay, bisexual, transgender and intersex leaders had not been provided with effective protection.

75. JS20 stated that the only way for transgender persons to gain access to safe methods of physical transitioning within the health system was to accept a psychiatric diagnosis of gender dysphoria.

80. Caribe Afirmativo indicated that the education secretariats of several departments had no plans for the prevention of discrimination on grounds of sexual orientation, gender identity or gender expression.

## **B. SOGIESC Advanced Questions for Colombia**

- **Belgium:** What concrete measures are being taken to combat stereotypes and prejudices against the LGBTI community?

## **C. Colombia’s Working Group Session**

- **Opening Remarks:** As regards to protecting the rights of the LGBT population, a key issue, and we got a question from Belgium on this, and that we accepted recommendations in the second cycle made by Iceland and Argentina, progress has been made. Recently, we adopted our public policy for LGBT persons which is a fundamental step to combat discrimination. We’d like to highlight the decisions of our Constitutional Court with the approval of equal or egalitarian marriage and adopting on the part of couples of the same-sex. Our commitment as a State is to not go back in terms of protecting rights.

<sup>11</sup> Joint Submission 6 submitted by: Equipo Colombiano de Investigacion en Conflicto y Paz; Iniciativa por los Derechos Sexuales (AKAHATA) – (Buenos Aires).

<sup>12</sup> Joint Submission 27 submitted by: Consultoría para los Derechos Humanos y el Desplazamiento (CODHES); Taller de Vida – (Colombia).



- **Intervention Made After 30 Interventions:** In addition, bearing in mind the UN recommendations, we modified our penitentiary code, as well as the regulation governing the National Prison Institute, to change the healthcare model in prisons, to implement new measures of house arrest and incorporate a differentiated approach in order to address the needs of the LGBT detainee population.
- **Intervention Made After 69 Interventions:** Dear delegates, Colombia, in line with a range of recommendations assumed voluntarily has stepped up its actions, measures and promotion of human rights and fundamental rights programmes for the LGBT community. We now have a national public policy to guarantee their rights. We have also what is known as Urgent Cases Bureau to deal with cases of violations of right to life and integrity. It also follows-up and improves the quality of life of the LGBT sectors.

Women played a key role in the process of negotiation and now in the follow-up to the peace agreement, through a special gender body with representatives from the Afro-descendent, indigenous victim, campesina and LGBT communities.

#### **D. Recommendations for Cycle III (2018)**

##### **a) Remarks of States**

- **Chile:** Chile would be interested in hearing about measures with regard to LGBTI.
- **Cyprus:** We recognise the efforts made as regards to gender equality, and the rights of persons within the LGBTI group.
- **Czechia:** We appreciate Colombia's efforts in several human rights areas, such as the launch of specialised programmes to prevent forced recruitment of children into armed groups, and steps taken to recognise the rights of LGBTI persons.

##### **b) The following recommendations have been examined by Colombia and enjoy the support of Colombia**

- **Czechia:** Take further steps and effectively implement the existing measures aimed at protecting LGBTI persons from discrimination and violence (6.23).
- **Iceland:** Continue and step up efforts to combat stereotypes regarding, and prejudice against, LGBTI persons (6.24).
- **Mexico:** Establish mechanisms to obtain disaggregated data on ethnicity, disability, gender, sexual orientation and gender identity making it possible to design effective public policies that are non-discriminatory and meet the needs of marginalized population groups (6.25).

#### **E. SOGIESC Recommendations Shared by HRDs During ILGA's UPR Advocacy Week in Geneva**

##### **Colombia Diversa**

- Guarantee the principles of progressive realization and non-regression for the rights of LGBT persons, openly committing to further consolidating their recognition and guarantees, to effectively implement the existing normative body and legal rulings aimed to protect LGBT persons from discrimination and violence, while objecting to measures that seek to undermine granted rights;
- Ensure the rights to truth, justice, reparation and non-repetition of LGBT victims of the armed conflict, strengthening the investigation and clarification of human rights violations and

International Humanitarian Law offences through the Integral System of Truth, Justice, Reparation and Non-Repetition. A transformative perspective should be included to develop and implement actions and reparation mechanisms, promoting policies against stigmatization and in favor of political participation of LGBT persons, as stated in the Second Point of the Final Peace Agreement between the Government and the FARC;

- Ensure access to justice by institutional and financial strengthening of the National Prosecution Office’s programs to further investigate bias based crimes due to the victims’ sexual orientation or gender identity, including human rights violations by State agents, such a police or military forces, and discrimination and violence against imprisoned LGBT persons;
- Guarantee Economic, Social and Cultural Rights of LGBT persons by including needed medical procedures to reaffirm the gender identity of trans population in the Health System Benefit Plan, by also replacing the need of pathologizing requirements with informed consent instead and by strengthening the National System for School Coexistence as stated in the 1620 Law of 2013.

#### F. Recommendations for Cycle II (2013)

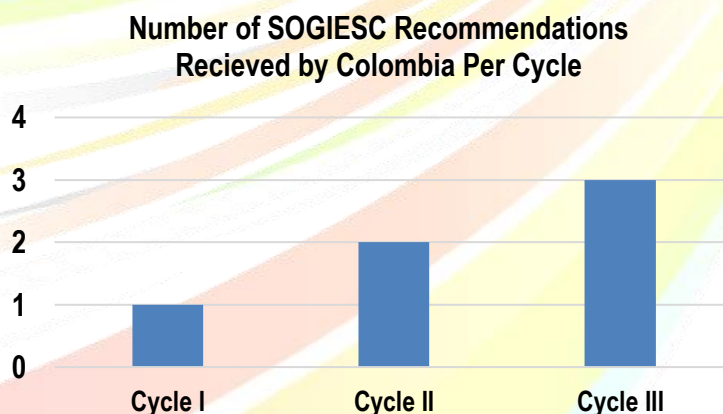
##### a) Accepted Recommendations

- **Argentina:** Consider the possibility of enhancing the necessary measures for the protection and integration of the LGBT population.

##### b) Noted Recommendations

- **Iceland:** Further recognize the rights of same-sex couples by legalizing same-sex marriage and adoption.

#### G. Graphic Comparison Between Cycles (1—3)



#### H. [Video of Colombia’s UPR Working Group Session](#)

#### I. SOGIESC Mentions During Colombia’s UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

**Defensoria del Pueblo de Colombia (NHRI):** Welcomed the initiatives to reduce the gender gap and protect the fundamental right of persons with diverse gender identities.



**UN Population Fund:** UNFPA will continue to support the government on the implementation of policies regarding sexuality, sexual and reproductive rights. It also commented on the policies to ensure young people's rights, especially those in situation of vulnerability, as LGBTI youth.

**ILGA:** ILGA commended on the advances towards LGBT rights made by Colombia. However, it expressed its concern with the lack of enforcement of the norms and judicial decisions that guarantee LGBT rights and also with the level of violence affecting LGBT persons. It also showed concern towards the exclusion of LGBT persons from the gender perspective approach to the peace agreement excluding them of the transitional justice system created to the crimes committed in the armed conflict context.

**Action Canada for Population and Development:** Regretted that information regarding specific kinds of violence, as rape of lesbian women and gay men among others that express the intersection of oppressions has not led to specific recommendations. Asked the government to take an intersectional approach to violence against women, calling attention to the intersection between gender and sexuality.

**Swedish Association for Sexuality Education:** Recognized the Colombian government efforts to protect the LGBTI community and combating stereotypes and violence regarding this group.

## CUBA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 16 MAY 2018, 14:30—18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 18 MAY 2018, 17:00—18:00

*During the 30<sup>th</sup> UPR Working Group Sessions, Cuba received 2 SOGIESC recommendations. It accepted 2 recommendations.*

### A. SOGIESC Information

#### National Report

55. Sustained progress has been made in the fight against discrimination based on sexual orientation. The document on conceptualization of the Cuban economic and social model of socialist development envisages addressing all forms of discrimination, including on the basis of gender identity and sexual orientation, as one of the principles underlying the model. Similarly, the new Labour Code includes non-discrimination based on sexual orientation among the fundamental principles governing the right to work. Equality is a principle in the Cuban legal system that is enshrined in the Constitution.

56. The National Sexual Health and Education Programme, which is coordinated by the National Sex Education Centre of the Ministry of Public Health, has made it possible to develop an ongoing educational strategy to promote respect for freedom of sexual orientation and gender identity.

57. The actions planned include educational strategies, promotion of academic work and scientific research, legal orientation services, sex therapy, care for LGBTI persons and victims of gender violence and child sexual abuse, development of community programmes and production of publications and audiovisual materials, as well as coordination of social networks, online discussions, campaigns to promote respect for freedom of sexual orientation.

58. One of the areas in which the greatest impact was made at the national and international levels was a 10-day series of workshops on combating homophobia and transphobia that was organized in the context of International Day against Homophobia and Transphobia. This event, which is held every year in Havana and in one provincial venue, includes critical actions aimed at promoting the right to sexual orientation and gender identity and providing opportunities for political and social activism, as well as for raising awareness and educating the public on these issues. The National Commission for Comprehensive Services to Transsexual Persons, which was established by the Ministry of Public Health, has done a commendable job in providing health services for these persons.

#### Compilation of UN Information

N/A

#### Summary of Stakeholder's Information



14. JS5<sup>13</sup> observed that progress had been made in the recognition of sexual diversity in laws and public policies. However, it noted that discriminatory practices persisted in institutions and in society and recommended that sexual orientation and gender identity be included as grounds of non-discrimination in article 42 of the Constitution.

25. Joint Submission 12 (JS12)<sup>14</sup> pointed out that, in the 2013 universal periodic review of Cuba, the State had rejected the recommendations to repeal legislation relating to “pre- criminal social dangerousness”. It stated that this concept was used to harass, threaten and prosecute human rights defenders, who were branded as subversives or terrorists, and was also applied to women and men who worked as prostitutes, members of the lesbian, gay, bisexual, transgender and intersex community and young persons who were not studying or employed.

29. JS5 noted that police officers were among the most frequent perpetrators of acts of violence against members of the lesbian, gay, bisexual and transgender community and recommended, inter alia, establishing protocols for the police on the treatment of such persons and setting up a special body within the police to deal with cases of that kind.

82. JS5 recommended incorporating the principle of non-discrimination on grounds of sexual orientation and gender identity in school curricula and activities.

#### **B. SOGIESC Advanced Questions for Cuba**

- **Brazil:** What measures Cuba has taken to guarantee the rights of the LGBTI community?

#### **C. Cuba’s Working Group Session**

- **Opening Remarks:** There has also been progress with the support of government institutions on preventing and combating discrimination based on sexual orientation and gender identity.
- **Intervention Made After 120 Interventions:** Discrimination on any grounds that violates human dignity are prohibited. This includes discrimination for sexual identity or gender identity. We have continued to expand the space for dialogue and discussing these issues and, with government support, we have been diversifying the efforts at awareness-raising and outreach that’s carried out by a group of public institutions and civil society organisations on the rights of LGBTI persons, a theme in which we will continue to make further progress on.

#### **D. Recommendations for Cycle III (2018)**

##### **a) Remarks of States**

- **Australia:** Australia recognizes Cuba’s progress on human rights, especially efforts to advance gender and LGBTI equality.
- **Costa Rica:** We exalt the access of the Cuban population to a system of health and quality education, and we urge them to continue with actions to combat racial discrimination and for reasons of sexual orientation and gender, as well as trafficking in persons.
- **Greece:** Furthermore, we welcome Cuba’s remarkable efforts to promote gender equality and its significant progress in combating discrimination based on sexual orientation and gender identity.

<sup>13</sup> Joint Submission 5 submitted by: Alianza Manos (Integrada por: Arco Iris Libre de Cuba; Red Trans Fantasia; Universitarios Diversos — Universos).

<sup>14</sup> Joint Submission 12 submitted by: Movimiento Dignidad (Cuba); Cubalex (United States of America); Fundación para los Derechos Humanos en Cuba (United States of America).

- **Netherlands:** We call on Cuba to protect all persons who are targets of intimidation or violence, in particular LGBTI persons.
- **Norway:** Norway welcomes Cuba's continued efforts to promote economic, social and cultural rights and its efforts to promote the social inclusion and rights of the LGBTI community.

**b) The following recommendations have been examined by Cuba and enjoy the support of Cuba**

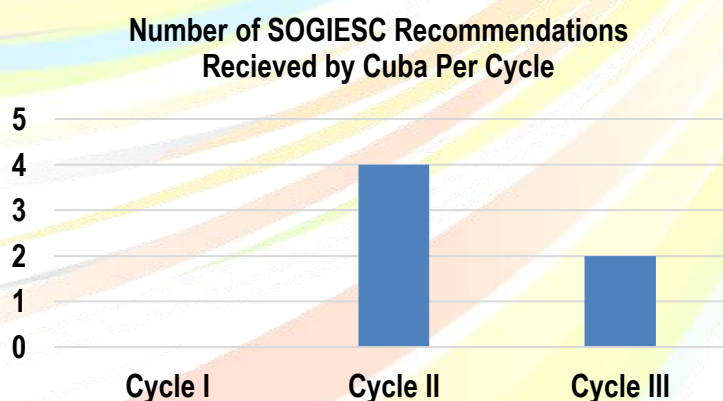
- **Bolivia:** Continue actions to prevent manifestations of discrimination based on sexual orientation and gender identity (6.75).
- **Bolivia:** Maintain awareness-building campaigns on the right to free sexual orientation and gender identity (6.76).

**E. Recommendations for Cycle II (2013)**

**a) Accepted Recommendations**

- **Brazil:** Further expand the opportunities for dialogue on sexual orientation and gender identity.
- **Dominican Republic:** Strengthen the prevention of HIV/AIDS, sexual and reproductive health and sexual diversity.
- **Norway:** Continue to promote the social inclusion and rights of its LGBT community and that the country's experience in this regard is actively shared with countries in the region and globally.
- **South Africa:** Strengthen publicity and awareness campaigns aimed at increasing knowledge among the population about the rights of LGBT people.

**F. Graphic Comparison Between Cycles (1—3)**



**G. [Video of Cuba's UPR Working Group Session](#)**

**H. SOGIESC Mentions During Cuba's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)**

**Amnesty International:** Welcomed the acceptance of the recommendation to prevent discrimination on the basis of SOGI and encourage the country to become the first Caribbean nation to legalize same-sex marriages.



**DJIBOUTI**  
**UPR SOGIESC RECOMMENDATIONS**

**DATE AND TIME OF THE REVIEW: 10 MAY 2018, 14:30—18:00**  
**DATE AND TIME OF THE ADOPTION OF THE REPORT: 15 MAY 2018, 16:30—18:00**

*During the 30<sup>th</sup> UPR Working Group Sessions, Djibouti received 0 SOGIESC recommendations.*

**A. SOGIESC Information**

**National Report**

N/A

**Compilation of UN Information**

N/A

**Summary of Stakeholder's Information**

N/A

**B. SOGIESC Advanced Questions for Djibouti**

N/A

**C. Djibouti's Working Group Session**

N/A

**D. Recommendations for Cycle III (2018)**

N/A

**E. Recommendations for Cycle II (2013)**

N/A

**F. Graphic Comparison Between Cycles (1—3)**

N/A

**G. Video of Djibouti's UPR Working Group Session**

## H. SOGIESC Mentions During Djibouti's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)



## GERMANY UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 8 MAY 2018, 14:30—18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 11 MAY 2018, 15:00—18:00

*During the 30<sup>th</sup> UPR Working Group Sessions, Germany received 8 SOGIESC recommendations. It accepted 4 recommendations and noted 4 recommendations.*

### A. SOGIESC Information

#### National Report

54. Various measures have been implemented to eliminate discrimination against lesbian, gay, bisexual, transsexual and intersexual people:

On 1 October 2017 the Act introducing the right of persons of the same sex to marry entered into force. Under this, a marriage may take place between two persons of the same sex.

On 22 July 2017, the Act to criminally rehabilitate persons convicted of performing consensual homosexual acts after May 8, 1945 entered into force. The Act serves to rehabilitate and compensate those affected by Section 175 of the German Criminal Code (Section 151 of the Criminal Code of the GDR).

The National Action Plan against Racism (see 2.3.2.9) was extended to encompass the subjects of homophobia and transphobia.

From the start of 2015 to the end of 2019, within the framework of the federal “Live Democracy!” programme, measures are being promoted that are designed to increase acceptance of same-sex, transsexual and intersexual lifestyles, eliminate prejudice towards these groups and take a stand against discrimination and violence based on gender, sexual identity and sexual orientation. Currently, nine pilot projects and two nation-wide NGOs are receiving funding for structural development in the field of homophobia and transphobia.

Furthermore, the Federal Government supports numerous other projects to reduce discrimination of lesbian, gay, bisexual, transsexual and intersexual people and works for the protection and recognition of sexual diversity.

In September 2014, an interministerial working group on intersexuality and transsexuality was set up. It focused on national and international research, political decisions, societal debate and findings from hearings with experts and organised participative specialist exchanges. The work of the interministerial working group concluded at the end of the 18th legislative term.

#### Compilation of UN Information

9. While noting the justified concerns of Germany and the action it had taken to combat anti-Semitism, the Committee on the Elimination of Racial Discrimination was concerned that Germany was not

adequately addressing other forms of racial discrimination, including institutional racism against Muslims. It was also concerned at the discrimination experienced by women from minority groups and the intersection between discrimination against lesbian, gay, bisexual, transgender and intersex persons and racial discrimination. The Working Group of Experts on People of African Descent was concerned about the human rights situation of people of African descent, whose lives were marked by racism but who were not officially recognized as a group particularly exposed to racism.

### Summary of Stakeholder's Information

24. JS1<sup>15</sup> called for the inclusion of sexual orientation and gender identify as grounds for discrimination in the Grundgesetz für die Bundesrepublik Deutschland (Basic Law).

26. BVT<sup>16</sup> called for a revision of the transsexual legislation in order to make provision for a quick, transparent and accessible process of gender recognition based on self-determination.

33. Recalling its recommendation from 2013, CoE-ECRI stated that it was regrettable that significant shortcomings remained in the recording and following up to racist, xenophobic, homophobic and transphobic incidents. The police continued to use incorrect terminology and an excessively restrictive definition of hate crime for their statistics. AI also noted inadequacies in the recording of data on hate crime.

34. Referring to a relevant supported recommendation, JS4<sup>17</sup> stated that crime motivated by the sexual orientation of the victims were either not reported or if reported, were incorrectly classified under “other hate-motivated grounds” by the police. LSVD<sup>18</sup> stated that the different backgrounds and manifestations of hate crime based on sexual orientation, gender identity and expression and sex characteristics, directed against LGBTIQ\* persons were ignored.

35. LSVD stated that Section 46 (2) Sentence 2 of the Criminal Code was amended to ensure that hate motivation would play a greater role in determining penalties and to better inform investigations. While an express reference is made to racist motivation, other forms of hate crime are investigated on the basis of “other hate-motivated grounds”. The omission of homophobic- and transphobic-motivated crime from the amended Section 46 (2) Sentence 2 of the Criminal Code was a deliberate, structural exclusion. LSVD stated that a similar problem existed with Section 130 of the Criminal Code, which identifies national, racial or religious groups or groups defined by ethnic origin as potential targets and makes no mention of LGBTIQ\* persons and persons with disabilities.

37. LSVD stated that the national action plan against racism was not forwarding looking and sustainable. It marginalized LGBTIQ\* persons, failed to offer any specific measures and remained non-committal.

76. BVT stated that Germany should introduce regulation to address the healthcare needs of people with gender-nonconforming identities.

<sup>15</sup> Joint Submission 1 submitted by: German Federal Youth Council and European Youth Forum, Berlin, Germany.

<sup>16</sup> Bundesvereinigung Trans.

<sup>17</sup> Joint Submission 4 submitted by: FORUM MENSCHENRECHTE, Berlin, Germany; in cooperation with: ACAT Deutschland, Brot für die Welt, Bundesverband unbegleiteter minderjährige Flüchtlinge (BUMF), Bundesweite AG der Psychosozialen Zentren für Flüchtlinge und Folteropfer (BAFF), German NGO Network against Trafficking in Human Beings (KOK), Deutsche Kommission Justitia et Pax, Deutscher Frauenrat, FIAN Deutschland e.V., Diakonie Deutschland – Evangelischer Bundesverband, European Center for Constitutional and Human Rights (ECCHR), Gemeinschaft für Menschenrechte im Freistaat Sachsen e.V. (GMS), Germanwatch, Gesellschaft für bedrohte Völker, Humanistische Union (HU), Human Rights Watch Germany, Humboldt Law Clinic: Grund- und Menschenrechte, International Physicians for the Prevention of Nuclear War (IPPNW), German Section, Physicians in Social Responsibility, Refugio Munich, Intersexuelle Menschen e.V., Lesben- und Schwulenverband in Deutschland (LSVD), Kindernothilfe, MISEREO, Nuremberg Human Rights Centre, Pro Asyl, Reporters without Borders German Section, TERRE DES FEMMES, terre des hommes, Vereine Evangelische Mission (VEM), Women's International League for Peace and Freedom German Section (WILPF).

<sup>18</sup> Lesbian and Gay Federation in Germany.



77. OII Germany stated that a lack of knowledge and prejudices of healthcare professionals and the policies of health insurance companies impaired access to general health care for intersex people.

78. OII Germany stated that there was a lack of counselling services available to parents and families of intersex infants, children and adults.

80. OII Germany stated that intersex people were not included in any education curriculum. In addition, sex education did not include their existence or their bodily experience and instead, perpetuated the notion that only two sexes existed.

## B. SOGIESC Advanced Questions for Germany

- **Belgium:** Is the Government of Germany considering to amend the Law on Transsexuals by repealing any discriminatory provisions and ensure that a quick, transparent and accessible procedure with respect to the legal gender recognition is in place?
- **Sweden:** What measures is the Federal Government of Germany taking to ensure that the rights of children with gender variations are guaranteed – particularly in cases where their parents decide to apply gender correction?
- **Uruguay:** Uruguay would like to be informed if any measure has been taken to address the situation of transsexual persons in the health care system structure (Ministry of Health) and if any reform has been made to ensure that transsexual persons receive proper treatment in the national health system.

## C. Germany's Working Group Session

- **Opening Remarks:** From the international human rights perspective, one of the most challenging and most important topics for Germany is the fight against racism and discrimination in all areas. For instance, when it comes to hostilities towards groups of the population, be it Jews, be it Roma, Muslims, black people or lesbian, gay, bisexual, transgender or intersex persons. This has also been the object of preliminary questions raised by the United Kingdom and Brazil. Racism and inhumane attitudes are not in line with our legal system and our basic values, and they should not be accepted without protest. The German government in the June of 2017 has revised its National Action Plan against Racism, and has expanded it in order to include homophobic and transphobic hostilities, and this new Action Plan is to be seen in the close context with the new strategy of the German government for extremism prevention and democracy promotion of July 2016. For the German government, especially consulting with civil society initiatives and organisations is most important when it comes to developing this National Action Plan, as well as when it comes to implementing this plan.

The German government wants to work for a society that welcomes sexual and gender diversity — that respects it and accepts it. This is highlighted by the fact that, on 30 June 2017, marriage equality was opened up for same-sex partners as well. The German government systematically has been fighting for gender diversity and dealing especially with the specific situation of transgender and intersex persons.

- **Intervention Made After 55 Interventions:** I would like to first of all speak about the rights of LGBTI persons — lesbian, gay, bisexual, transgender or intersex persons. Different delegations — for instance, Greece, Vietnam, Brazil — were addressing this, and we were asked to further ensure the rights for gender diversity. We can only subscribe to this. It is very

important to the German government to work towards a society that welcomes sexual and gender diversity, that it accepts it and also supports and promotes it. Let me give you one example. Persons who are insured in the statutory health insurance programmes in Germany are entitled to healthcare when this is needed in order to be able to diagnose a disease, to cure it, to prevent exacerbation, or to alleviate symptoms. On a case-by-case basis, this could also include reimbursement for treatment costs in the field of transsexuality and this would then also be reimbursed by our statutory health insurance funds.

Then there was also a question on provisions of a third gender option from Australia and Canada and another delegation. And let me just point out that after the Federal Constitutional Court, our Supreme Court in Germany, ruled last year on this, the coalition agreement of the current German government has now stipulated that this is going to be introduced to our law on personal status — that is, an option for a third gender.

Then there was a question of hate crime. Let me illustrate that in our penal code there is a stipulation according to which somebody can be punished if somebody is instigating hatred, violence or other extreme measures against parts of the population, or those that are part of a group in the population, or is violating human rights by insulting those people or even promoting slander vis-a-vis those persons. So, parts of the population groups that are addressed in that stipulation would be persons with specific sexual orientations or persons with disabilities. That was pertaining to a question from Australia.

Now on intersex persons. I can only comment that intersex children are better protected against irreversible and not necessary medical interventions. This was addressed in a question by Sweden as well. In the coalition agreement, we led down the introduction of a legal clarification so gender or sex assigning interventions on children would only be justified in very urgent cases where there is a danger to the life and the limb of these persons.

#### **D. Recommendations for Cycle III (2018)**

##### **a) Remarks of States**

- **Australia:** Australia is pleased to work with Germany to combat discrimination and violence against LGBTI persons globally.
- **Brazil:** We congratulate Germany for adopting the act introducing the right of persons of same-sex to marry, as well as other measures to eliminate discrimination against LGBTI persons.
- **Canada:** Canada welcomes the legalization of same-sex marriage and encourages Germany to continue its efforts to implement the ruling regarding the possibility for individuals to choose their gender.
- **Luxembourg:** Moreover, we note with satisfaction the introduction of the right to marriage for people of the same-sex.
- **Montenegro:** We commend the ratification of the Lanzarote and Istanbul conventions that will contribute to better prevention against woman and child abuse, violence and neglect, as well as entering into force of a law granting same-sex couples the right to marry.
- **Netherlands:** We welcome the importance Germany attaches to the anti-discrimination based on sexual orientation, and we are pleased with adoption of 2017 law allowing for same-sex marriages.
- **United Kingdom:** The UK also commends Germany's introduction of legislation to permits same-sex marriage and its continued efforts to eliminate discrimination on the grounds of sexual orientation.



**b) The following recommendations have been examined by Germany and enjoy the support of Germany**

- **Australia:** Further enhance protection of lesbian, gay, bisexual, transgender and intersex persons from discrimination and violence domestically by introducing a third gender category for people who do not identify as either male or female or who are born with an ambiguous sexual anatomy (6.111).
- **Greece:** Continue supporting projects to reduce discrimination of LGBTI people and working for the protection and recognition of sexual diversity (6.109).
- **Mexico:** Adopt legislative and administrative measures to avoid the detention of migrants and allow the early identification of migrants in situations of vulnerability, including transsexuals and victims of torture, with a view to their being considered in the asylum application processes, as well as in the terms of appeal before the expulsion (6.254).
- **Netherlands:** Continue efforts aimed at combatting discrimination based on sexual orientation or gender identity, including by ensuring resources for an autonomy of the Federal Anti-Discrimination Agency and by strengthening anti-discrimination laws (6.110).

**c) The following recommendations have been examined by Germany and have been noted by Germany**

- **Canada:** Recognize under family law unmarried couples in established relationships, both opposite-sex and same-sex (6.167).
- **Israel:** Consider introducing in legislation a third gender option for intersex and non-binary trans people based on self-determination (6.113).
- **Sweden:** Set up a national compensation fund for transsexual persons who were coerced into sterilisation or unwanted gender reassignment treatment in the years 1981-2011 (6.114).
- **Uruguay:** Adopt measures for the protection of the fundamental rights of LGBTI persons, and update the care guide in the health sector, ensuring the inclusion of the rights of trans people (6.112).

**E. SOGIESC Recommendations Shared by HRDs During ILGA's UPR Advocacy Week in Geneva**

**Bundesvereinigung Trans\***

- Initiate a major legislative reform based on the research of the Ministry for Family Affairs. Replace the "Law on Transsexuals" with quick, transparent and accessible procedures based on self-determination. Implement the ruling of the Constitutional Court by creating a third gender option that is open to all non-binary persons regardless of sex characteristics. Ensure full access and recognition also for minors, parents, refugees, detainees, migrants and persons with disabilities;
- To establish a department knowledgeable about and working on trans\* issues in the Federal Ministry of Health to eliminate discrimination against trans\* people in the health care system, ensuring adequate access to trans\* related health care;
- To extend the definition of "vulnerable groups" in the sense of EU Directive 2013/33 EU on a federal level to include trans\* refugees and put according protective measures in place. Ensure access to gender recognition procedures and full health care from the date of application for refugee status;
- To ensure access to qualified counseling on trans\* issues for any person who needs it. Force the Länder to provide counseling by implementing it as a right into federal law. There should be at least one full time counselor to one million people;

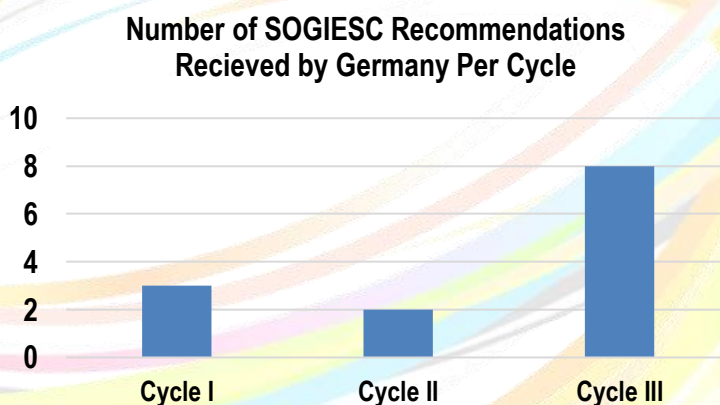
- Set up a national compensation fund for trans\* people who were coerced into sterilization or unwanted gender reassignment treatment or chose to not seek gender recognition because of these requirements between 1981 - 2011.

## F. Recommendations for Cycle II (2013)

### a) Accepted Recommendations

- **Netherlands:** Continue its efforts and continue to take initiatives against hate crimes based on sexual orientation or gender identity. Such advances can be achieved by implementing anti-discrimination laws and strengthening financial resources of investigation authorities and the autonomy of the Federal Agency against discrimination.
- **Norway:** Continue its important efforts to combat hate crime based on sexual orientation.

## G. Graphic Comparison Between Cycles (1—3)



## H. [Video of Germany's UPR Working Group Session](#)

### I. SOGIESC Mentions During Germany's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

**Germany:** The government commented on its efforts to furthering LGBTI rights. It commented that on the last UPR cycle it was pointed that the Country lacked protection to LGBTI persons. It further noticed the German legislation on same-sex marriage approved in 2017 and that it is on the track to recognize the third gender which is addressed to intersex persons.

**Kenya:** It commended Germany's efforts to implement the recommendations, including the adoption of a national action plan in 2017 that included the combat to homophobia and transphobia.

**ILGA:** It stated that while Germany supported Australia's recommendation regarding the introduction to a third gender category, it regrets the fact that the recommendation made by Israel, which stated that the option should include a third gender option for intersex and non-binary trans people based on self-determination, was noted. It also expressed its concerns that German lawmakers continue pathologizing both intersex and trans people.



## RUSSIAN FEDERATION UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 14 MAY 2018, 14:30—18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 17 MAY 2018, 16:30—18:00

*During the 30<sup>th</sup> UPR Working Group Sessions, Russian Federation received 21 SOGIESC recommendations. It accepted 12 recommendations, partially noted 2 recommendations and noted 7 recommendations.*

### A. SOGIESC Information

#### National Report

N/A

#### Compilation of UN Information

12. The Committee on the Elimination of Racial Discrimination regretted that comprehensive anti-discrimination legislation was still absent from the legal order and recommended that the Russian Federation bring the definition of discrimination in article 136 of its Criminal Code into line with the Convention. The Committee on the Elimination of Discrimination against Women raised similar concerns as did the Committee on Economic, Social and Cultural Rights. The latter was concerned about the prevalence of societal stigma and discrimination in particular on the grounds of disability, ethnicity, sexual orientation, gender identity or health status.

13. United Nations experts urged the authorities to end the persecution of people perceived to be gay or bisexual who were living in a climate of fear fuelled by homophobic speeches in Chechnya, and to investigate abductions, unlawful detentions, torture, beatings and killings in that connection.

28. The same Committee was concerned about reports of discrimination, hate speech, violence against lesbian, gay, bisexual and transgender individuals and activists and violations of their rights to freedom of expression and assembly. The Committee on the Rights of the Child recommended that the Russian Federation repeal the laws prohibiting propaganda of homosexuality and ensure that children who belonged to lesbian, gay, bisexual, transgender or intersex groups or children from lesbian, gay, bisexual, transgender or intersex families were not subjected to any form of discrimination.

#### Summary of Stakeholder's Information

17. IBAHRI<sup>19</sup> stated that homophobia is a widespread phenomenon in Russia: homophobic statements or comments made by Russian officials and media contribute to widespread and ongoing intolerance towards the LGBT community. JS6<sup>20</sup> observed that fear to become subject of discrimination among the LGBT community is caused by deep-rooted prejudice from law enforcement officers. IBAHRI recommended that the national legislation be aligned with international obligations to protect individuals from discrimination on the ground of sexual orientation and gender identity. HRW recommended that

<sup>19</sup> International Bar Association's Human Rights Institute, London (United Kingdom of Great Britain and Northern Ireland).

<sup>20</sup> Joint Submission 6 submitted by: Russian LGBT Network, ADC Memorial, Saint Petersburg (Russian Federation).

the Government condemn the use of hate speech regarding to LGBT people and issues related to their lives and health.

18. Intersex Russia (IR) reported that intersex people are experiencing violations of their basic human rights, including the right to full informed consent, physical integrity and self-determination. Medically “normalizing” surgeries are performed on intersex people, often done without their full, free and informed consent. IR recommended ensuring that human rights violations against intersex people are investigated, alleged perpetrators prosecuted, and victims have access to effective remedy, including redress and compensation.

19. JS10<sup>21</sup> reported that Russian law provisions as amended by Federal Law 135-FZ “on Amending certain laws of the Russian Federation with the view to protect children from information propagating the negation of traditional family values” attempted to censor and stigmatise LGBTI people and prevents the free flow of information, including in areas of critical importance such as healthcare and education. JS10 added that authorities frequently refuse permission to public assemblies organised by LGBTI groups. HRW, JS10 and JS6 recommended repealing Federal Law 135-FZ.

20. JS6 reported cases of enforced disappearances and torture of people for homosexuality in Chechnya. IBAHRI recommended that the authorities conduct impartial and effective investigations to allegations of detentions, torture and other ill-treatments of gay men in Chechnya.

## B. SOGIESC Advanced Questions for Russian Federation

- **Belgium:** What measures is the Government of the Russian Federation taking to ensure that acts of violence based on gender, gender identity or sexual orientation are investigated independently across the country, that perpetrators are held accountable and that victims are provided with remedy and reintegration?
- **Norway:** What steps have the federal authorities of the Russian Federation undertaken to investigate the reports of detention, mistreatment and forced outing of alleged LGBTI persons in Chechnya, protect the victims and bring those responsible to justice?
- **Slovenia:** What measures have been adopted so far to eliminate the use of hate speech in regard to LGBTI people? Are there any intentions to repeal the 2013 “gay propaganda” law?
- **Spain:** Spain welcomes the creation of a Working Group led by the Russian Ombudsman to investigate the alleged violations of LGBTI human rights in Chechnya. Could you elaborate further on the results of the investigation?
- **Sweden:** The human rights situation in Russia’s Northern Caucasus region is of great concern, with reported cases of torture and persecution, including against the LGBT society in Chechnya, and recent cases of attacks against the human rights organization Memorial, including the detention of the head of its Chechen office Oyub Titiev. What steps is the Government of Russia planning to take to improve the human rights situation in the region and to end the culture of impunity regarding crimes against human rights defenders?
- **United States:** What is the government doing to combat societal discrimination and violence against members of ethnic and religious minorities and LGBTI persons?

## C. Russian Federation’s Working Group Session

<sup>21</sup> Joint Submission 10 submitted by: ARTICLE 19, Mass Media Defence Centre, OVD-Info, PEN International, Roskomsvoboda and the Sova Centre, London (United Kingdom of Great Britain and Northern Ireland).



- **Closing Remarks:** Several times we heard recommendations about protecting the rights of LGBTI, in the Chechen Republic in particular. There was a verification on the basis of information provided in the media. Initially, they were the ones that mentioned these violations but the investigation showed that there were not even such incidents, there weren't even representatives of LGBTI in Chechnya. We weren't able to find anyone. Of course, what's most important is to ensure the full verification of all allegations of possible violations of human rights or of the law of the Russian Federation. And I am sure that, in that area, work is being done, just as there are investigations being done into crimes that have been committed. And so, I'd like to reaffirm one important circumstance. In many cases, colleagues talked about discrimination in the Russian Federation and violations of human rights. First of all, either we're talking about prosecution for the violation of the law, which is not at all related to their political beliefs, sexual orientation, religious views and so on. Second, to a large extent, we are talking about presumptions of violations without any concrete evidence of about what these violations were, or whose rights were violated.

#### D. Recommendations for Cycle III (2018)

##### a) Remarks of States<sup>22</sup>

- **Denmark:** We also remain concerned about the continuing discrimination of the LGBT population in the Russian Federation.
- **Ireland:** Ireland notes the serious concerns that have been raised regarding discrimination against LGBT groups, particularly in Chechnya.
- **Montenegro:** Montenegro shares serious concerns of the Human Rights Committee about the ongoing discrimination based on sexual orientation and gender identity, hate speech and violence against LGBTI persons.
- **Netherlands:** The Netherlands recognises the need for specific measures to be taken to ensure tolerance towards the LGBTI community in Russia, and to prevent violence and discrimination on the grounds of sexual orientation and gender identity.

##### b) The following recommendations have been examined by the Russian Federation and enjoy the support of the Russian Federation

- **Argentina:** Take measures aimed at combating stereotypes that may promote the discrimination of persons based on their sexual orientation (6.94).
- **Canada:** Investigate promptly, thoroughly and impartially instances of hate-based violence, including reports of mass detentions, torture and killings of LGBTI individuals in Chechnya in 2017 (6.126).
- **Chile:** Investigate complaints of detention, torture and other ill treatments committed against homosexuals in Chechnya as well as take necessary measures to eliminate discrimination based on sexual orientation and gender identity (6.125).
- **Germany:** Ensure that LGBTI persons can freely exercise their rights and thoroughly investigate the anti-gay persecution in Chechnya while protecting the witnesses (6.98).
- **Italy:** Take concrete measures to combat all forms of discrimination, including when based on religion or belief and on sexual orientation, in compliance with international obligations (6.90).
- **Lithuania:** Investigate attacks on members of civil society, including LGBTI persons in Chechnya, and bring perpetrators to justice while providing legal redress for victims (6.128).
- **Luxemburg:** Investigate repression against LGBTI persons, including in Chechnya (6.129).

<sup>22</sup> The following LGBTI-hostile remarks were made. **Bangladesh:** We also appreciate the adoption of the 2014 Family Policy with the view to ensuring the conditions necessary for strengthening the institution of the family on the foundations of traditional social cultural values. **Nigeria:** We also welcome the country's law on strengthening the family, and the laws on equality and non-discrimination.

- **Montenegro:** Effectively investigate all cases of violence against LGBTI persons and activists, including the violation of their rights to freedom of expression and assembly, and bring perpetrators to justice (6.123).
- **Netherlands:** Take steps to effectively promote tolerance and prevent violence and discrimination on grounds of sexual orientation and gender identity, ensure effective investigation of acts of violence against LGBTI persons, and hold those responsible to account (6.96).
- **New Zealand:** Ensure that LGBTI people are able to exercise their rights to freedom of peaceful assembly and expression without discrimination or fear of reprisals, and investigate promptly, effectively and impartially all allegations of abductions, secret imprisonment, torture and other ill-treatment, and killings of gay men in Chechnya (6.97).
- **Norway:** Investigate all reports of attacks on, or threats against, human rights defenders, lawyers, journalists, civil society activists and LGBTI persons, and bring those responsible to justice (6.127).
- **Switzerland:** Take all necessary measures to prevent violence and intolerance against women, whether racist, xenophobic or based on sexual orientation, guaranteeing the rights of each and every one of them without discrimination (6.238).

**c) The following recommendations have been examined by the Russian Federation and partially enjoy the support of the Russian Federation**

- **Georgia:** Cease discrimination on the grounds of ethnicity, sexual orientation and gender identity (6.91).
- **United Kingdom:** Ensure the protection of LGBT rights across Russia, including by investigating ongoing persecution of human rights activists and LGBT individuals in Chechnya (6.124).

**d) The following recommendations have been examined by the Russian Federation and have been noted by the Russian Federation**

- **Denmark:** Repeal the Federal Law No. 135-FZ by means of which “propaganda of non-traditional sexual relationships” is a criminal offence (6.70).
- **Honduras:** Adopt a comprehensive anti-discrimination law on any grounds, including on sexual orientation and gender identity (6.88).
- **Iceland:** End the persecution of people perceived to be gay or bisexual (6.99).
- **Ireland:** Adopt a comprehensive anti-discrimination legislation on the grounds of sexual orientation, including measures to allow LGBT persons exercise their rights to freedom of expression and peaceful assembly without fear of harassment (6.68).
- **New Zealand:** Uphold the rights of LGBTI people by amending Article 282 of the Criminal Code, Article 5.62 of the Code of Administrative Offences and Article 3 of the Labour Code (6.151).
- **Norway:** Take concrete action to prevent discrimination on grounds of sexual orientation, including by repealing the Law against “propaganda of non-traditional sexual relations” (6.100).
- **Spain:** Prohibit non-consensual medical interventions performed on intersex people until the person in question is old enough to grant the free and informed consent, unless the intervention is absolutely necessary for the development of their vital functions (6.229).

**E. SOGIESC Recommendations Shared by HRDs During ILGA’s UPR Advocacy Week in Geneva**

**Intersex Russia**



- Ban non-consensual interventions on intersex bodies, made on cosmetic, social, psychosocial, cultural grounds and grounds of ability to have “normal” sexual intercourse, which can be deferred until the person is old enough to provide full, free and informed consent, unless the intervention is absolutely medically necessary (meaning that person’s intersex diagnosis affects their lifespan and performance of vital bodily functions). Any treatment performed without the intersex person’s free, personal and fully informed consent, unless life-saving, should be made unlawful;
- Ensure that intersex people always receive full information about their bodies and diagnoses and that free and informed consent is given by them before all interventions they are receiving;
- Recognize intersex people as a community whose rights to physical integrity, bodily autonomy, self-determination and full informed consent are constantly violated. Recognize that intersex people have specific and vital needs as well as human rights that need protection;
- Install constitutional protection, anti-discrimination and hate crime and hate speech legislation on the grounds of sex characteristics and intersex status;
- Instruct the Russian Ministry of Health and Russian medical community to keep specific official statistics of the number intersex people they are treating and interventions they’re performing on them;
- Ensure that medical professionals are getting educated on intersex rights and depathologizing approach to treating intersex variations;
- In consultation with intersex civil society, develop and implement training programs and policies related to intersex human rights.

## F. Recommendations for Cycle II (2013)

### a) Accepted Recommendations

- **Argentina:** Adopt the necessary measures to eradicate the tendency and/or diffusion, through the media, and by public officials, of stereotypes that may promote discrimination against persons, based on their sexual orientation.
- **Denmark:** Take effective steps to prevent arbitrary use of existing regulations to discriminate against LGBT people, including their rights to freedom of expression and peaceful assembly.
- **Germany:** Adopt legislation assuring that LGBT people can freely exercise their rights to freedom of expression and peaceful assembly.
- **Iceland:** Take specific measures to ensure effective investigation of acts of violence against LGBT persons and hold the perpetrators to account.
- **Norway:** Prevent discrimination on grounds of sexual orientation and protect the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people, including their right to freedom of expression and peaceful assembly.
- **Switzerland:** Take all necessary measures to prevent violence and intolerance of a racist, xenophobia and homophobic character in conformity with international law and standards.
- **Uruguay:** Step up measures of protection against violence and discrimination on the grounds of sexual orientation, particularly by enacting laws that prohibit such discrimination, and take measures to ensure the effective exercise of the rights to peaceful association and assembly of the LGBT community.

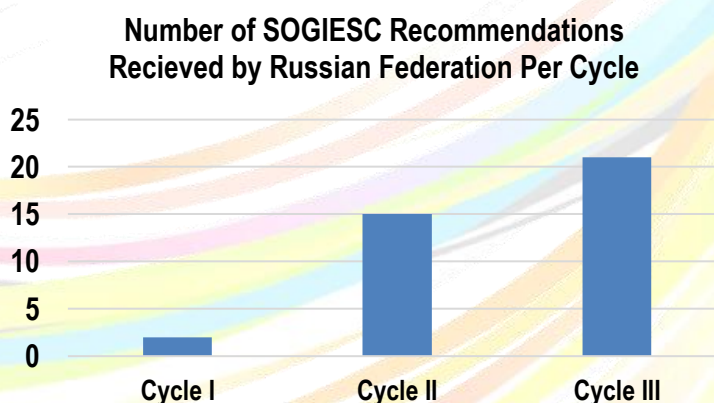
### b) Noted Recommendations

- **Australia:** Rescind legislation that curbs the civil rights of Russia's LGBTI community.
- **Belgium:** Rescind regional laws and regulations which favour and tolerate discrimination based on sexual orientation, and refrain from adopting similar laws at the federal level, as well

as take measures to prevent the arbitrary use of existing regulations against LGBT rights, including their rights to freedom of expression and peaceful assembly.

- **Canada:** Bring existing regional and draft federal-level legislation related to homosexuality into conformity with its commitment to the principles of non-discrimination and take steps to ensure that the rights of all minorities, including gays and lesbians, are protected and respected.
- **Denmark:** Repeal regional laws and regulations which promote discrimination on grounds of sexual orientation, and abstain from passing similar legislation at the federal level.
- **Netherlands:** Repeal regional legislation that tolerates discrimination based on sexual orientation, and take concrete measures preventing from using regulations in force with discriminatory purposes against the rights of LGBT persons.
- **Slovenia:** Repeal existing regional laws banning homosexual propaganda.
- **Spain:** Reconsider the approval of the new provisions that can affect the rights of LGBT people, delinking homosexuality from pederasty, and in any case, avoid that the provisions be applied in a discriminatory form.
- **Sweden:** Introduce legislation prohibiting discrimination on grounds of sexual orientation and take measures to ensure that it is fully and effectively implemented.

#### G. Graphic Comparison Between Cycles (1—3)



#### H. [Video of Russian Federation's UPR Working Group Session](#)

##### I. SOGIESC Mentions During Russian Federation's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

**International Humanist and Ethical Union:** Stated that members of the LGBTI community remain exposed to hate speech, discrimination and violence. Even though, the Russian delegation stated that there were no incidents of discrimination against LGBTI persons. It also criticized the non-adoption of recommendations regarding legislative changes, specially to the propaganda law that authorizes the discrimination of LGBTI persons. It called Russian to start take seriously its own promises of non-discrimination and allow people to express freely who they are and whom they love, what they think and believe, even if that goes against the state's idea of traditional values.

**British Humanist Association:** Highlighted recommendations from several countries regarding the improvement of protection of people who identify or are perceived to be LGBT. It recommended that the Russian Federation protect the freedom of expression and peaceful demonstration from LGBTI persons. It urged that the law prohibiting propaganda against



traditional values be repealed. It also called attention to the institutional violence and torture against LGBTI persons in Chechnya.

**International Service for Human Rights:** It welcomed the first recommendation to intersex issues made by Spain concerning the prohibition of non-consensual surgical intervention on intersex persons. It regretted that Russia didn't accept the recommendation. It stated that in Russia intersex people have their human rights violated, including the right of giving consent and bodily integrity being submitted to medical. Intersex people in Russia are being submitted to medically unnecessary harmful irreversible multination surgery in the so calling normalizing sirguries. It highlighted that many HR institutions spoken against those practices and also that no law in Russia protect intersex people. It hopes that the government works towards protections of intersex people.

**Amnesty International:** Despite accepting the recommendations regarding forced disappearances and torture of gay and bisexual men, such allegations are never investigated.

## TURKMENISTAN UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 7 MAY 2018, 9:00—12:30  
DATE AND TIME OF THE ADOPTION OF THE REPORT: 11 MAY 2018, 15:00—18:00

*During the 30<sup>th</sup> UPR Working Group Sessions, Turkmenistan received 8 SOGIESC recommendations. It noted 8 recommendations.*

### A. SOGIESC Information

#### National Report

N/A

#### Compilation of UN Information

11. The Human Rights Committee was concerned that national legislation did not afford protection against discrimination on all grounds, including sexual orientation and gender identity.<sup>28</sup> The Committee on the Elimination of Racial Discrimination was concerned that the definition of racial discrimination did not include all the grounds stipulated in the Convention, including colour and descent. The country team reported that there was no comprehensive anti-discrimination legislation.

12. The Human Rights Committee recommended that Turkmenistan take measures, including by considering adopting a comprehensive anti-discrimination law, to ensure that the relevant legal framework provided adequate and effective protection against all forms of discrimination, prohibited direct, indirect and multiple discrimination, contained a comprehensive list of grounds of discrimination, including sexual orientation and gender identity, and provided for access to effective and appropriate remedies for victims of discrimination.

16. The Human Rights Committee remained concerned about the criminalization of sexual relations between consenting adults of the same sex; and discrimination against and social stigmatization of lesbian, gay, bisexual and transgender persons, including violence, arbitrary arrests and detention, and other abuses perpetrated with total impunity.

#### Summary of Stakeholder's Information

N/A

### B. SOGIESC Advanced Questions for Turkmenistan

N/A

### C. Turkmenistan's Working Group Session

N/A

### D. Recommendations for Cycle III (2018)



#### a) Remarks of States

- **Iceland:** Further my delegation is concerned about the criminalization of sexual relations between consenting adults of the same sex.
- **Montenegro:** As Human Rights Committee noted, Montenegro shares its concerns about the criminalization of same-sex relations.

#### b) The following recommendations have been examined by Turkmenistan and have been noted by Turkmenistan

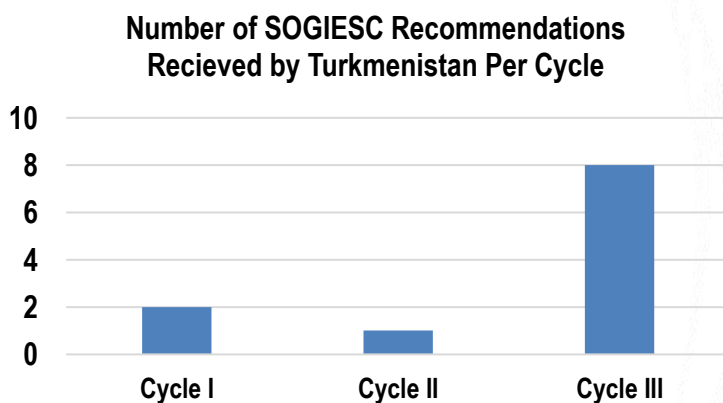
- **Honduras:** Adopt comprehensive anti-discrimination legislation that ensures adequate and effective protection against all forms of discrimination, containing a list of all grounds for discrimination including sexual orientation and gender identity (7.3).
- **Argentina:** Take the necessary measures to establish, in its national legislation, a comprehensive legal framework of adequate and effective protection against all forms of discrimination, including discrimination based on sexual orientation and gender identity, and also repeal the criminalization of consensual sexual relations between consenting adults of the same sex (8.41).
- **Czechia:** Eliminate, in law and in practice, all forms of discrimination, including those based on sexual orientation or gender identity (8.35).
- **Iceland:** Decriminalize sexual relations between consenting adults of the same sex (8.38).
- **Iceland:** Ensure that no form of discrimination or violence against persons based on their sexual orientation or gender identity is tolerated and that all such cases are properly investigated and sanctioned (8.40).
- **Italy:** Take measures to fight all forms of discrimination, including when based on sexual orientation (8.36).
- **Uruguay:** Consider the adoption of a general law against discrimination based on gender, race, nationality, sexual orientation and gender identity, or any other form of intolerance (8.37).
- **Uruguay:** Decriminalize consensual sexual relations between people of the same sex and put an end to the stigmatization of homosexuality, bisexuality, intersexuality and transsexuality (8.39).

#### E. Recommendations for Cycle II (2013)

##### a) Noted Recommendations

- **Slovenia:** Decriminalize sexual relations between consenting adults of the same sex, as recommended by the Human Rights Committee.

#### F. Graphic Comparison Between Cycles (1—3)



**G. Video of Turkmenistan's UPR Working Group Session**

**H. SOGIESC Mentions During Turkmenistan's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)**

N/A



## TUVALU UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 9 MAY 2018, 14:30—18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 11 MAY 2018, 15:00—18:00

*During the 30<sup>th</sup> UPR Working Group Sessions, Tuvalu received 13 SOGIESC recommendations. It accepted 2 recommendations and noted 11 recommendations.*

### A. SOGIESC Information

#### National Report

54. Part 5 of the Labour and Employment Relations Act 201746 provides for equal employment opportunities. Section 50 (Prohibition of discrimination) provides for non-discriminatory section in the area of employment. Section 50 of the Act states that “an employer shall not discriminate, directly or indirectly, against any employee or prospective employee in respect of recruitment, training, promotion, against any employee or prospective employee to recruitment, training, promotion, terms and conditions of employment, termination of employment, or other matters arising out of employment relationship, for a prohibited reason. In addition, sub section 2 states that, a prohibited reasons is a reason that is affected by any of the following attributes of the employee or prospective employee, whether actual or perceived: ethnic origin, race, colour, national extraction, social origin, social class or economic status; or gender, sex, pregnancy, marital status, sexual orientation or family responsibilities; or age, state of health, HIV/AIDS status, or disability; or religion or political opinion; or trade union membership or activity; or involvement in any dispute, an investigation or legal proceedings.

#### Compilation of UN Information

13. The United Nations country team stated that sex-related discrimination still existed in the Penal Code of 1978, the Marriage Act (Cap. 29), the Falekaupule Act of 1997 and the Labour and Employment Act of 2017. For example, consensual same-sex relations between men were criminalized under the Penal Code with penalties of up to 5 years’ imprisonment for “gross indecency”, up to 7 years for “unnatural offences and indecent assault” and up to 14 years for “buggery”. The United Nations country team encouraged Tuvalu to conduct a comprehensive review of its legislation and policies, with a clear time frame and targets, and to amend or repeal all discriminatory legislation in order to ensure compatibility with the principles of equality and non-discrimination, as enshrined in international human rights law.

#### Summary of Stakeholder’s Information

N/A

### B. SOGIESC Advanced Questions for Tuvalu

- **United Kingdom:** Sexual relations between consenting adults of the same sex are criminalised under Tuvaluan law. What steps is the Government of Tuvalu taking to change this and end discrimination on the basis of sexual orientation and gender identity?

### C. Tuvalu's Working Group Session

- **Intervention Made After 29 Interventions:** On sexual orientation, I want to state down, Mr. President, there are cultural practices that we need to harmonise in order to ensure harmonisation and the treatment of cultural values that we need to harmonise with these standards. I have to be honest here, sexual orientation is an issue we are trying to cope with, to understand better, because it's not practiced in the Tuvalu cultural setting, but we are committed to addressing that in a manner that is acceptable and follows the international norms.

### D. Recommendations for Cycle III (2018)

#### a) Remarks of States

- **Australia:** Australia notes that Tuvalu legislation permits sex-related discrimination, and criminalises consensual same-sex relations.
- **Netherlands:** There are also no provisions specifically prohibiting discrimination on the basis of sexual orientation or gender identity.
- **United States:** We further note that consensual adult same-sex sexual conduct remains criminalised, and it was good to hear from the prime minister that the government is working on this issue.

#### b) The following recommendations have been examined by Tuvalu and received the support of Tuvalu

- **Chile:** Adopt policy and legal measures to combat discrimination based on sexual orientation and gender identity (6.49).
- **Uruguay:** Review legislation and amend or repeal any law that discriminate on ground of sexual orientation and gender identity, or any other ground, in accordance with the principles of equality and non-discrimination (6.51).

#### c) The following recommendations have been examined by Tuvalu and have been noted by Tuvalu

- **Argentina:** Take measures as necessary to remove from the criminal code the offense of consensual sexual relations between persons of the same sex (6.60).
- **Australia:** Amend or repeal all sex-related discriminatory legislation and legislation criminalizing consensual same-sex relations to ensure consistency with the principles of equality and non-discrimination (6.53).
- **Canada:** Amend sections 153-155 of the Penal Code to decriminalize same-sex conduct between consenting adults; as well as prohibit discrimination based on sexual orientation and gender identity (6.61).
- **Honduras:** Decriminalize consensual sexual relations between adults of the same sex (6.54).
- **Iceland:** Repeal all provisions that criminalise consensual same-sex conduct and ensure that anti-discrimination laws cover sexual orientation (6.55).
- **Italy:** Consider repealing provisions that outlaw sexual relations between consenting male adults (6.58).
- **New Zealand:** Continue to take steps to actively promote the equal rights of all individuals regardless of gender, religious beliefs, sexual orientation, age, disability or other status, including by ratifying the International Covenant on Economic, Social and Cultural Rights (6.63).



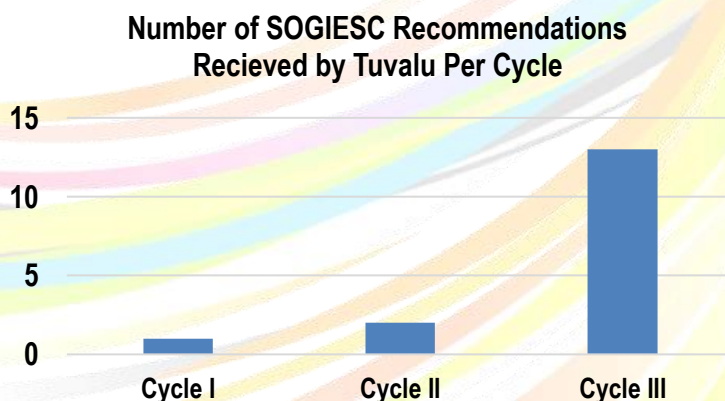
- **Spain:** Repeal provisions of the Criminal Code that criminalise consensual sexual relation between adults of the same sex (6.56).
- **Spain:** Modify or repeal all laws that discriminate on the ground of sexual orientation or gender identity pursuant to the principle of equality and non-discrimination enshrined in international human rights law (6.57).
- **United Kingdom:** Repeal all provisions that criminalise consensual same-sex conduct and ensure that anti-discrimination laws cover sexual orientation (6.59).
- **United States:** Repeal provisions of the penal code that criminalize adult consensual same-sex sexual conduct (6.50).

#### E. Recommendations for Cycle II (2013)

##### a) Noted Recommendations

- **United Kingdom:** Repeal all provisions that criminalise consensual same-sex conduct and ensure that anti-discrimination laws cover sexual orientation.
- **United States:** Support repeal of the provision of the Penal Code criminalizing consensual sex between adult males.

#### F. Graphic Comparison Between Cycles (1—3)



#### G. [Video of Tuvalu’s UPR Working Group Session](#)

#### H. SOGIESC Mentions During Tuvalu’s UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

N/A

## UZBEKISTAN UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 9 MAY 2018, 9:00—12:30  
DATE AND TIME OF THE ADOPTION OF THE REPORT: 11 MAY 2018, 15:00—18:00

*During the 30<sup>th</sup> UPR Working Group Sessions, Uzbekistan received 12 SOGIESC recommendations. It accepted 1 recommendation and noted 11 recommendations.*

### A. SOGIESC Information

#### National Report

N/A

#### Compilation of UN Information

9. The Human Rights Committee recommended that Uzbekistan combat any form of discrimination or violence against persons based on their sexual orientation or gender identity; investigate, prosecute and punish such acts; and repeal article 120 of the Criminal Code, which criminalized consensual sexual activities between adult males. In 2016, Uzbekistan replied that it opposed a repeal of article 120 since homosexual relations were one of the causes of the spread of HIV/AIDS in the country and were contrary to the traditions of the peoples of Uzbekistan.

#### Summary of Stakeholder's Information

6. JS1<sup>23</sup> noted that, during the UPR in 2013, Uzbekistan had rejected recommendations on the decriminalization of consensual sex conduct between men.

7. Central Asian Gender and Sexuality Advocacy Network (CAGSAN) noted that LGBT people were most often subjected to beatings; insults; discrimination in the workplace; and persecution. They faced threats, attacks, denial of available services, including denial of adequate medical care; property damage; slander; and rape attempts on the basis of their sexual orientation. According to CAGSAN, law enforcement, judicial and other authorities did not provide adequate protection to victims of violence based on sexual orientation and gender identity.

8. CAGSAN recommended that Uzbekistan enact legislation on hate crimes based on sexual orientation or gender identity and thoroughly investigate and prosecute all acts of violence against vulnerable groups, including LGBTI persons; and implement awareness-raising programmes and trainings on violence and discrimination based on sexual orientation and gender identity for law enforcement, judicial and other authorities.

43. CAGSAN stated that, in 2014, Uzbekistan issued a decree on video surveillance of the activities of Internet café visitors and the transfer of this information to employees of the internal affairs agencies and employees of NSS. In this regard, in March 2014, LGBT activists had to close their LGBT-oriented website and forum for security purposes

<sup>23</sup> Joint Submission 1 submitted by: World Organization against Torture (OMCT) and Uzbek League for Human Rights (ULHR).



64. CAGSAN indicated that LGBT people were often subjected to domestic violence and that LGBT women were more vulnerable. Some of them were beaten by their relatives after voluntary coming-out or forced outing. Others were thrown out of the homes or put under house arrest. The abuse by relatives had led to suicide attempts in some cases. There were reported cases of corrective rape of lesbians by brothers.

## **B. SOGIESC Advanced Questions for Uzbekistan**

- **Belgium:** Is the Government of Uzbekistan considering decriminalizing consensual same sex relations?

## **C. Uzbekistan's Working Group Session**

- **Closing Remarks:** I would like to also briefly address the statements made by the delegations of the Netherlands and a number of other countries with regards to LGBTI issues. Briefly, I would like to say that we, together with the OIC countries, are in favour with the preservation of the understanding of family values. It should be noted that Uzbekistan is not considering amendment to article 120 of the Criminal Code.

## **D. Recommendations for Cycle III (2018)**

### **a) Remarks of States**

- **Montenegro:** Montenegro shares serious concerns of the Human Rights Committee about the ongoing discrimination and violence based on sexual orientation and gender identity. We invite the Government to revise its position related to the recommendation of the Committee to repeal article 120 of the Criminal Code, which criminalized consensual sexual activities between adult males.
- **Netherlands:** The Netherlands regrets that Uzbekistan has not accepted any previous recommendations on the situation and rights of LGBTI persons.

### **b) The following recommendations have been examined by Uzbekistan and enjoy the support of Uzbekistan**

- **Uruguay:** Legally define and include in the Criminal Code the crime of domestic violence and gender-based violence, taking into account sexual orientation and gender identity (6.188).

### **c) The following recommendations have been examined by Uzbekistan and have been noted by Uzbekistan<sup>24</sup>**

- **Argentina:** Take the necessary measures to repeal from the Criminal Code the criminalization of consensual sexual relations between persons of the same sex (7.2).
- **Canada:** Repeal legislation that criminalizes consensual same-sex conduct and adopt laws to prevent discrimination based on sexual orientation and gender identity (7.5).
- **Chile:** Punish the discrimination and violence based on sexual orientation and gender identity prejudices (7.8).
- **Czechia:** Eliminate, in law and in practice, all forms of discrimination, including based on sexual orientation or gender identity (7.11).

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<sup>24</sup> The only recommendations noted by Uzbekistan were those that focused on SOGIESC issues.

- **Iceland:** Combat any form of discrimination or violence against persons based on their sexual orientation or gender identity, and repeal article 120 of the Criminal Code, which criminalizes consensual sexual activities between adult males (7.3).
- **Italy:** Consider repealing provisions that criminalize homosexuality (7.4).
- **Mexico:** Adopt legislation against discrimination based on gender, disability, migration status, and sexual orientation and gender identity (7.1).
- **Netherlands:** Combat violence and discrimination on all grounds including on the ground of sexual orientation and gender identity, through the adoption of comprehensive anti-discrimination legislation and by investigating and prosecuting all acts of violence and discrimination (7.6).
- **Honduras:** Adopt legal measures to combat effectively all forms of discrimination on all grounds, including on sexual orientation and gender identity (7.7).
- **Spain:** Repeal Article 120 of the Criminal Code that criminalizes consensual relationships between men and take measures to alleviate the discrimination against the LGBTI community and to investigate and punish acts of violence and the so-called "hate crimes" (7.9).
- **Uruguay:** Decriminalize consensual sexual relations between people of the same sex and combat stigmatization on the grounds of sexual orientation or gender identity (7.10).

#### **E. SOGIESC Recommendations Shared by HRDs During ILGA's UPR Advocacy Week in Geneva**

##### Central Asian Gender and Sexuality Advocacy Network

- Decriminalize same-sex conduct by withdrawing the article 120 of the Criminal Code;
- Ensure that human rights defenders, including groups campaigning for equality and against discrimination based on perceived sexual orientation and gender identity, are allowed to carry out their work in a secure environment, and that the rights to freedom of expression and association are respected in line with international human rights standards;
- Enact legislation on hate crimes based on sexual orientation or gender identity and thoroughly investigate and prosecute all acts of violence against vulnerable groups, including lesbian, gay, bisexual, transgender and intersex persons;
- Implement awareness programmes and sensitivity trainings on violence and discrimination based on sexual orientation and gender identity to law enforcement, judicial and other authorities;
- Enact legislation to prohibit domestic violence, and make attempted rape and sexual harassment punishable in the criminal code;
- Guarantee safe access to HIV/AIDS prevention programs and health care services without any discrimination based on sexual orientation or gender identity.

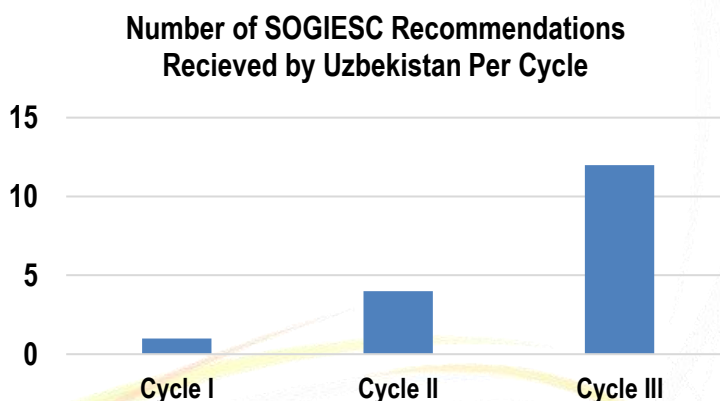
#### **F. Recommendations for Cycle II (2013)**

##### **a) Noted Recommendations**

- **Argentina:** Adopt measures with a view to combating discrimination and intolerance from which the LGBT population suffers.
- **Netherlands:** Decriminalize consensual homosexual activity in compliance with its obligations under the International Covenant on Civil and Political Rights.
- **Spain:** Eliminate from the Criminal Code the criminalization of same-sex sexual relationships and at the same time redouble efforts to end discrimination against the LGBT group.
- **Uruguay:** Revise penal legislation which criminalizes sexual orientation with a view to ensuring conformity with article 26 of the International Covenant on Civil and Political Rights.



## G. Graphic Comparison Between Cycles (1—3)



## H. [Video of Uzbekistan's UPR Working Group Session](#)

### I. SOGIESC Mentions During Uzbekistan's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

**Amnesty International:** It regretted that Uzbekistan rejected the recommendations related to SOGI, such as repealing the provision of the criminal code condemning same-sex adult relationships.

**Verein Sudwind Entwicklungspolitik:** Regretted that Uzbekistan has missed the opportunity to improve the rights of LGBTI persons.

**Human Rights Watch:** Regretted that Uzbekistan rejected the recommendation to decriminalize consensual sexual relations between persons of the same sex and urges Uzbekistan to reconsider it as a matter of priority.

**COC Nederland:** Urges the government of Uzbekistan to rescind its position on violence and discrimination based on SOGI. Even though Uzbekistan has accepted one recommendation related to SOGI made by Honduras, 11 other recommendations were noted. It expressed great concern regarding the situation of LGBT people in Uzbekistan, highlighting the threat of the criminal code provisions to LGBT persons.