



**35th UPR WORKING GROUP SESSIONS
SOGIESC RECOMMENDATIONS
(20 - 31 JANUARY 2020)**

This report contains a summary and the SOGIESC recommendations of the 35th 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.

For further information on the UPR, please contact: upr@ilga.org.



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ARMENIA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 23 JANUARY 2020, 14:30–18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 28 JANUARY 2020, 16:30–18:00

During the 35th UPR Working Group Sessions, Armenia received 20 SOGIESC recommendations. It accepted all 20 recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

13. The Committee on the Elimination of Discrimination against Women invited the State to criminalize hate speech and acts against lesbian and bisexual women and transgender and intersex persons and provide victims with effective access to justice.

21. The Special Rapporteur on freedom of peaceful assembly and of association was dismayed to learn that the LGBT Christian Forum of Eastern Europe and Central Asia, due to take place in Yerevan from 15 to 18 November 2018, had been cancelled because of concerns related to the safety of its participants, incitement to hatred and death threats against the organizers.

22. The Special Rapporteur recommended that the State ensure that there was no discrimination in the application of the laws governing the rights to freedom of peaceful assembly and of association, in particular regarding the groups most at risk, such as national and religious minorities, lesbian, gay, bisexual and transgender groups, children and women.

38. The Special Rapporteur on freedom of peaceful assembly and of association noted attacks, smear campaigns and cases of harassment directed at non-governmental organizations working on sensitive issues, such as sexual orientation and gender identity, violence against women, religious and national minorities, and combating corruption, fraud and money-laundering.

104. The United Nations country team stated that persons under the mandate of UNHCR, especially those with disabilities, lesbian, gay, bisexual, transgender and intersex persons, and persons with a different religious background and who were not of Armenian origin, experienced obstacles in accessing the labour market, finding housing and covering their basic needs. The lack of awareness by service providers, including by providers of health, financial and social services, added further obstacles to their access to the services.



Summary of Stakeholder's Information

26. JS1¹ recommended that the State adopt a comprehensive and effective antidiscrimination legislation, which provides effective mechanisms for protection, access to justice and effective remedies for victims of discrimination, and establishes an independent and effective national equality body empowered with support and litigation competences. It recommended that the State include sexual orientation and gender identity as protected grounds in the anti-discrimination legislation

28. HRW² recommended that the State amend the criminal code to include homophobia and transphobia as an aggravating criminal circumstance.

32. HRW stated that lesbian, gay, bisexual, transgender and intersex (LGBTI) people often faced harassment, discrimination, and violence in Armenia. Fear of discrimination and public disclosure of their sexual orientation prevented many LGBTI people from reporting crimes. HRW stated that, when reported, such acts almost always went unpunished.

33. The Council of Europe (CoE) noted that the Council of Europe Commissioner for Human Rights had urged the Government to take prompt and resolute action against all instances of violence, hate speech and hate crime targeting LGBTI persons.

34. JS8³ and JS9⁴ recommended that the State organize and implement trainings for law enforcement bodies concerning the investigation of hate crimes, as well as the specificities of work with the victims and witnesses of hate crimes, including on the grounds of sexual orientation and gender identity.

35. Right Side (RS) noted that trans people were routinely bullied and discriminated against at schools, that employees avoided hiring trans people, and that they were at a very high risk of being homeless or being victims of trafficking.

¹ Joint submission 1 submitted by: Agate Rights Defense Center for Women with Disabilities NGO, Gyumri (Armenia); Analytical Centre on Globalization and Regional Cooperation, Yerevan (Armenia); Armavir Development Center, Armavir (Armenia); Armenian Progressive Youth NGO, Yerevan (Armenia); Center for Legal Initiatives NGO, Yerevan (Armenia); Center for Rights Development NGO, Yerevan (Armenia); Coalition to Stop Violence Against Women, Yerevan (Armenia); Goris Press Club, Goris (Armenia); Group of Public Monitors Implementing Supervision over the Criminal-Executive Institutions and Bodies of the Ministry of Justice of RA, Yerevan (Armenia); Helsinki Association for Human Rights NGO, Yerevan (Armenia); Helsinki Citizens' Assembly-Vanadzor, Vanadzor (Armenia); Helsinki Committee of Armenia Human Rights Defender NGO, Yerevan (Armenia); Human Rights Research Center NGO, Yerevan (Armenia); Institute of Public Policy, Yerevan (Armenia); Journalists' Club Asparez, Gyumri (Armenia); Khoran Ard Intellectual NGO, Gyumri (Armenia); Law Development and Protection Foundation; Legal Analyses and Development Center, Yerevan (Armenia); Mission Armenia NGO, Yerevan (Armenia); New Generation Humanitarian NGO, Yerevan (Armenia); Non-Discrimination and Equality Coalition NGO, Yerevan (Armenia); Open Society Foundations-Armenia, Yerevan (Armenia); Peace Dialogue NGO, Vanadzor (Armenia); Pink Human Rights Defender NGO, Yerevan (Armenia); Protection of Rights without Borders NGO, Yerevan (Armenia); Sexual Assault Crisis Center NGO, Yerevan (Armenia); Society Without Violence NGO, Yerevan (Armenia); Spitak Helsinki Group Human Rights NGO, Spitak (Armenia); Transparency International Anticorruption Center, Yerevan (Armenia); Union of Informed Citizens Consulting NGO, Yerevan (Armenia); United Nations Association of Armenia, Yerevan (Armenia); We Plus Social NGO, Gyumri (Armenia); Women's Resource Center NGO, Yerevan (Armenia); Women's Support Center NGO, Yerevan (Armenia); Yezidi Center for Human Rights Human Rights Defender NGO

² Human Rights Watch

³ Joint submission 8 submitted by: Pink Armenia, Yerevan (Armenia); Eastern European Coalition of LGBT+ Equality

⁴ Joint submission 9 submitted by: Equal Rights Trust, London (United Kingdom); Non-Discrimination and Equality Coalition, Yerevan (Armenia)



89. RS noted that when seeking medical support, trans people often faced disrespectful attitudes, and were even openly refused medical assistance or help.

B. SOGIESC Advanced Questions for Armenia

- **Belgium:** Which measures has the government of Armenia taken to guarantee immediate follow-up and investigations of claims regarding violence against LGBTI citizens? Can the government of Armenia provide more details on the measures taken to ensure that there is no discrimination in the application of the laws governing the rights to freedom of peaceful assembly and of association, in particular regarding the groups most at risk, such as national and religious minorities, LGBTI citizens, children and women?

C. Armenia's Working Group Session

- **Intervention made after 32 interventions:** After popular peaceful velvet revolution, our Government is continually fighting against hate speech, particularly against some groups including women, LGBT people, human rights activists, et cetera. A governmental initiative is being discussed in the Parliament now aimed at criminalizing hate speech, public justification of violence and incitements for hatred.
- [...]As to the crimes against LGBT persons, low number of criminal cases should never be considered as an indicative that the crimes against LGBT persons are not properly investigated. All allegations of such crimes are thoroughly examined and the law enforcement bodies concerned give due account to the investigation of the motives of such criminal actions.
- **Intervention made after 62 interventions:** The National Centre for the Prevention of AIDS is the only facility at the current time where diagnosis and treatment is provided in a centralised way and is adapted for people with disabilities. We are conducting large-scale prevention measures in communities, including the transfer of information on medical services available, as well as rapid testing for HIV/AIDS. We are also working for early detection of illnesses amongst transgender people, sex workers, LGBT people as well as migrant workers also.

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Germany:** Germany expresses its concern about persisting restrictions on the rights of women and LGBTI persons.
- **Ireland:** We remain concerned at alleged targeting of non-governmental organisations and human rights defenders seeking to address discrimination based on sexual orientation, gender identity and religious affiliation.
- **Slovenia:** Members of vulnerable groups continue to face social discrimination and Slovenia believes more can be done to fight discrimination based on gender, sexual orientation, identity and other personal circumstances. Adoption of relevant laws should be followed with proper implementation and efficient awareness raising campaigns.

- **Spain:** On the other hand, to fight discrimination and violence based on sexual orientation and gender identity, we recommend [...]
- **United Kingdom:** However, the UK remains concerned about reported incidences of hate speech and attacks against LGBT individuals.

b) The following recommendations have been examined and accepted by Armenia:

- **Argentina:** Develop and adopt adequate legislative and administrative measures to combat discrimination against women and discrimination and violence against LGBTI persons and guarantee that victims have effective access to justice (153.48).
- **Australia:** Specifically include sexual orientation and gender identity as a protected ground within the 2018 Draft Law “On Ensuring Equality”, and take immediate steps to pass the legislation through parliament (153.68).
- **Austria:** Strengthen anti-discrimination laws with regard to a better protection of LGBT persons (153.69).
- **Canada:** Conduct prompt and thorough investigations into all cases of violence against LGBTI persons and hold perpetrators to account (153.70).
- **Chile:** Accelerate the adoption of the bill against discrimination, including discrimination based on sexual orientation and gender identity, and establish mechanisms to punish violations of rights in that area (153.58).
- **Germany:** Take prompt and resolute action against all instances of violence, hate speech and hate crime, online as well as offline, especially targeting LGBTI persons and women (153.43).
- **France:** Adopt a law punishing discrimination based on sexual orientation (153.71).
- **Iceland:** Adopt comprehensive anti-discrimination legislation that addresses direct and indirect discrimination and encompasses all the prohibited grounds of discrimination, including sexual orientation and gender identity (153.55).
- **Italy:** Take all necessary measures to put an end to all forms of discrimination, including those based on sexual orientation and gender identity (153.61).
- **Luxembourg:** Ensure that the application of the law governing peaceful assembly and freedom of association is not discriminatory, in particular towards the most vulnerable groups such as national and religious minorities and the LGBTI community (153.113).
- **Malta:** Take concrete steps to eliminate discrimination against LGBTI persons (153.62).
- **Malta:** Ensure prompt, thorough, and effective investigations into all cases of violence against LGBTI persons (153.63).
- **Malta:** Amend the criminal code to include homophobia and transphobia as an aggravating criminal circumstance (153.64).
- **Malta:** Explicitly include sexual orientation and gender identity as protected grounds in the draft Law on Equality (153.65)
- **Mexico:** Adopt comprehensive legislation against discrimination, with definitions of all forms of discrimination in accordance with international standards, including the prohibition of discrimination based on sexual orientation and gender identity (153.52)
- **Netherlands:** Include sexual orientation and gender identity as protected grounds in the anti-discrimination legislation (153.66)



- **Norway:** Combat hate speech and hate crimes, which includes adequate references to skin colour, ethnicity, religion, belief, sexual orientation or disability by adopting necessary adjustments to legislation (153.72)
- **Sweden:** Adopt a law on anti-discrimination which includes sexual orientation and gender identity as protection grounds (6.60)
- **Uruguay:** Adopt a comprehensive anti-discrimination law that includes specific references to the rights of LGBT persons (153.57)
- **Uruguay:** Take steps to combat violence, hate speech and crimes based on sexual orientation or gender identity (153.67)

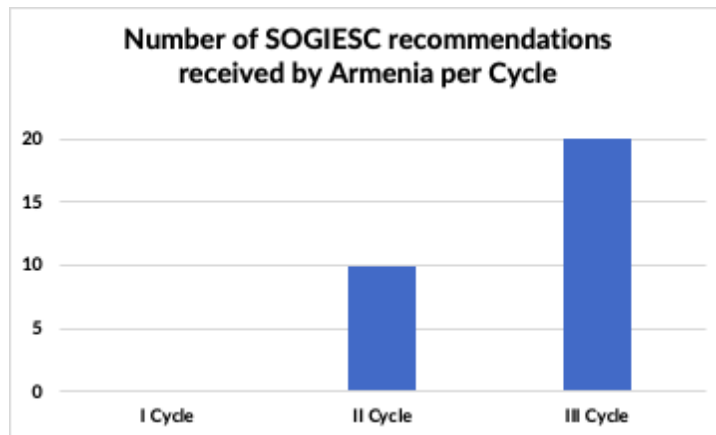
E. Recommendations for Cycle II (2015)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Adopt and effectively implement legislation to ensure equal treatment of persons with disabilities in accordance with CRPD, as well as prohibit discrimination based on sexual orientation and gender identity and provide effective protection to LGBT persons	Austria	Supported
Elaborate a gender-sensitive approach in the programmes and policies which address human rights discrimination and take the necessary actions to raise awareness on attitudes and stereotypes targeting women and sexual minorities in society	Albania	Supported
Develop and adopt suitable legislative and administrative measures to combat discrimination against women, and discrimination and violence against LGBTI persons	Argentina	Supported
Provide effective protection of LGBT persons from discrimination	Slovenia	Supported
Combat all forms of discrimination, including those relating to sexual orientation and identity	France	Supported
Enact specific legislation that prohibits discrimination against persons based on sexual orientation	Canada	Noted
Adopt effective measures to ensure the eradication of all forms of discrimination based on sexual orientation and gender identity	Chile	Supported
Combat hate propaganda and incitement against minority groups, especially LGBTI persons, religious minorities, AIDS patients and persons with disabilities through the adoption of a comprehensive package of laws and effective mechanisms to combat discrimination, including in the public administration	Spain	Supported



Take appropriate measures to guarantee that lesbians, gays, bisexuals, transgender and intersex persons are not subjected to discrimination, both in law and in practice	Uruguay	Supported
Ensure appropriate training is provided to officials, and that law enforcement authorities carry out thorough and prompt investigations regarding attacks on LGBTI persons	Australia	Supported

F. Graphic Comparison Between Cycles (1–3)



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

H. [SOGIESC Mentions During Armenia's UPR Outcome](#)

- **Opening remarks:** It is noteworthy that we have accepted all recommendations in relation to countering discrimination, hate crime and hate speech. In April the Criminal Code of Armenia was amended by a new article providing liability for inciting or publicly justifying hatred based on race, colour, ethnic origin, genetic characteristics, language, religion, political or other views, social status, birth, disability, age or other grounds.
- **Human Rights House Foundation:** It stated that while progress has been made since the 2018 revolution, there are still challenges in guaranteeing the rights of human rights defenders in Armenia, including harassment and discrimination against LGBTQI defenders, which remains widespread. HRHF recommended that Armenia conduct high-level public campaigns in support of human rights defenders, condemn attacks on against and their families, investigate any such attacks promptly and independently in order to end the culture of impunity, and compile statistics on the attacks against human rights defenders and their families, as well as on related investigations and rates of prosecution.
- **CIVICUS:** It expressed concern about ongoing restrictions on the activities of human rights defenders, the targeting of independent media and smear campaigns by some government officials, and instances of violence and discrimination based on sexual orientation. CIVICUS raised the example of Lilit Martirosyan, who, along with her family, was subjected to acts of



intimidation and death threats after she made a speech about issues affecting members of the LGBTI community at the National Assembly. It added that attacks like this are further precipitated by hateful and derogatory statements by some senior government officials.

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GRENADA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 27 JANUARY 2020, 14:30–18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 30 JANUARY 2020, 16:30–18:00

During the 35th UPR Working Group Sessions, Grenada received 23 SOGIESC recommendations. It noted all 23 recommendations.

A. SOGIESC Information

National Report

Right to privacy, marriage and family life –

72.61, 72.62, 72.63, 72.64,72.65,72.66, 72.67, 72.68, 72.69, 72.70, 72.71, 72.72, 72.73, 72.74, 72.75, 72.76 - Adopt legislation and public policies which effectively prevent discrimination based on sexual orientation and gender identity (noted)

60. Although Grenada did not accept these recommendations, Government remains committed to raising awareness that discourages discrimination. Additionally, GrenCHAP is the key agency working with the LGBTQ community.

Compilation of UN Information

9. The Subregional Team noted that in November 2018 Grenada had held another referendum on a constitutional amendment on the appellate authority of the Caribbean Court of Justice. Voters again rejected making that Court the final court of appeal. Civil society activists reported that the issue of the rights of lesbian, gay, bisexual, transgender and intersex persons had again become a factor in the debate on whether to adopt the proposed constitutional amendment.

13. The Subregional Team stated that, although the Constitution included antidiscrimination language, neither the Constitution nor the national legislation protected against discrimination on the basis of sexual orientation or gender identity.

14. The Subregional Team noted that, as in other Caribbean countries, same-sex relations between consenting adults was illegal in Grenada and that section 431 of the Criminal Code of Grenada considers same-sex relations to be an “unnatural crime” punishable by imprisonment for 10 years. 20 The Subregional Team recommended that Grenada repeal section 431 of the Criminal Code, which criminalizes consensual sexual activity between consenting adults.



15. UNESCO recommended that Grenada amend legislation that is discriminatory against the lesbian, gay, bisexual and transgender community and that it ensure human rights and citizenship education in schools with the aim of addressing the persistent social stigma.

Summary of Stakeholder's Information

7. GrenCHAP Inc. (GrenCHAP) stated that since Grenada's second UPR cycle in 2015, a constitutional referendum with the aim of expanding the rights and freedoms of individuals had failed to garner enough support. It noted that, while the bill sought to enshrine gender equality between men and women in the Constitution, it did not incorporate sexual orientation or gender identity. The proposed bill faced sharp criticism by conservative religious groups who argued that such a bill would grant protections to people from the LGBTQI people and provide the legislative framework to legalize same-sex marriage in the country. Similarly, Just Atonement Inc. (JAI) informed that attempts by the Government of Grenada to pass a Rights and Freedoms Bill in 2016, which called for gender equality, had been blocked by religious organizations that feared the law was a step towards legalizing same-sex marriage.

Equality and non-discrimination

8. GrenCHAP noted no action had been taken to repeal section 431 of Grenada's Criminal Code that criminalizes sexual activities between consenting adults of the same sex. JAI noted that the national law forbade "gross indecency" and "unnatural connections", covering all types of homosexual activity. IACHR stated that, with respect to the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, the Criminal Code still provided for prison sentences of 10 years for consensual sexual relations between persons of the same sex, which was discriminatory and contrary to inter-American standards on the matter.

9. GrenCHAP stated that criminalization of same-sex intimacy had a profound effect on the State's ability to safeguard the rights and protections guaranteed to them under the International Covenant on Civil and Political Rights. JAI stated that discriminatory laws empowered regular citizens to harass, threaten, and physically harm members of the LGBT community who then often did not to report these incidents for fear of legal prosecution.

10. GrenCHAP recommended that Grenada repeal section 430 and 431 of Grenada's Criminal code which criminalizes sexual relationships between consenting adults of the same sex. JAI recommended that Grenada overturn old and, discriminatory laws and pass new laws promoting gender equality and banning discrimination based on sexual orientation.

Right to work and to just and favourable conditions of work

26. GrenCHAP noted that LGBTQI people experienced additional discrimination about access to safe employment. It reported different denounces of homophobic slurs and workplace bullying due to sexual orientation or gender identity. It added that another report of work place discrimination came from a lesbian who experienced workplace harassment from both her co-workers and boss. Due to



workplace discrimination, LGBTQI people were less likely to be employed or receive promotions resulting in LGBTQI people earning less over the course of their lifetime.

Right to an adequate standard of living

27. GrenCHAP noted that legal penalties for same-sex intimacy strengthened social stigma against people whose sexual orientation and gender identity did not conform to societal norms, manifesting in discrimination within areas of housing, education, access to healthcare and access to legal process.⁵⁷ GrenCHAP recommended that Grenada adopt a comprehensive legislation that bars housing discrimination on the basis of sexual orientation and gender identity.

Right to health

28. GrenCHAP stated that Grenada had made significant headway in promoting access to HIV testing for marginalized populations. The Ministry of Health had identified Grenada Planned Parenthood Association and GrenCHAP as strategic partner to increase access to HIV testing for people within the LGBTQI and Sex Worker communities. It added that while Grenada had been able to advance access to HIV testing the issue of stigma was still persistent.

29. JAI noted that, by failing to support those diagnosed with HIV/AIDS in tracking their sexual partners, Grenada placed the LGBT community, as well as its entire population, at risk of contracting the disease.

Right to education

31. GrenCHAP recommended that Grenada adopt a comprehensive legislation that bars discrimination and bullying within the education system with a focus on sexual orientation and gender identity.

32. GrenCHAP recommended that Grenada engage in the implementation of a comprehensive human rights education and anti-discrimination campaign with special focus on sexual orientation and gender identity, in collaboration with civil society.

B. SOGIESC Advanced Questions for Grenada

- **United Kingdom:** In the constitutional reform changes, will the Government repeal all provisions that discriminate against people on the grounds of their sexual orientation and gender identity, thereby protecting the rights of LGBT persons, and what progress has been made on anti-discrimination awareness programmes?
- **United States of America:** In light of the Eastern Caribbean Alliance for Diversity and Equality (ECADE) lawsuit, is the government of Grenada taking steps to repeal article 431 of the criminal code that effectively criminalizes LGBTI conduct?



C. Grenada's Working Group Session

- **Opening remarks:** I am pleased to report that during the period under review, the government of Grenada continued to work tirelessly to strengthen and advance its human rights infrastructure, which is built upon the Grenada Constitution Order 1973, legislative enactments and other policies, protocols and standard operating procedures. Mr. Vice President, one of the highlights of the government's efforts to expand human rights protection in Grenada was the passage of seven constitutional reform amendment bills in 2016, which included a bill titled Constitution of Grenada Rights and Freedoms Amendment Bill 2016. This bill sought, among other things, to incorporate the principle of gender equality into the Constitution and to broaden the concept of discrimination to include age, place of birth, ethnicity, religion, social class and language. Unfortunately, none of these bills gathered the requisite approval in the referendum held in 2016, as there was strong opposition by the opposition party, civil society groups and church groups. They argued that the definition of gender in the Constitution of Grenada Rights and Freedoms Amendment Bill would grant protection for persons who identify as LGBTQI and provide the constitutional basis to legitimize same-sex marriage.
- **Intervention made after 29 interventions:** Mr. Vice President, my delegation wishes to inform the delegation of the United Kingdom of Great Britain and the Northern Ireland that while Grenada's iteration of constitutional reform in 2016 sought to enshrine gender equality in Grenada's Constitution, it did not seek to incorporate sexual orientation or gender identity, nor it seek to provide the constitutional framework to legitimize same-sex marriage. At the same time, Mr. Vice-President, my delegation wishes to inform the delegation of the United Kingdom, the United States of America and other delegations expressing concern about the right of persons who identify as LGBTQI that although LGBTQI conduct remains criminalized in Grenada, my delegation is committed to raising awareness to discourage discrimination. GrenCHAP is a primary organization working with the LGBTQI community in Grenada, and in 2019 GrenCHAP, in partnership with the Ministry of Health, hosted an anti-discrimination workshop targeting frontline workers within the health care field involved in delivering services to the LGBTQI and the HIV community. GrenCHAP is also now with a rapid HIV testing site that provides free testing to the members of the LGBTQI and sexual workers community that is stigma and discrimination-free. This was made possible through GrenCHAP's relationship with the Government Ministry of Health. GrenCHAP is leading the cause of the creation of safe spaces and offices to women and men with diverse sexual orientations and gender identities and women and men living with HIV/AIDS. An LGBTQI awareness training, training for police and community services providers and a human rights advocacy campaign on breaking barriers funded by Open Society Fund are among platforms created to encourage these very difficult conversations. These were held in 2015 and 2016 respectively, by GrenCHAP.



D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Chile:** We regret the failure to adopt a comprehensive law prohibiting discrimination on the basis of gender, disability and sexual orientation or gender identity.
- **Denmark:** Also, we remain concerned by reports of harassment of members of the LGBTI community.
- **Germany:** Furthermore, Germany remains concerned that LGBTI people continue to face discrimination, abuse and violations in public and private life.
- **Netherlands:** We regret that Grenada has not supported our previous recommendations regarding the criminalization and discrimination of LGBTI persons in Grenada's laws and policies.
- **Montenegro:** Montenegro notes that several UN stakeholders expressed concerns over the discriminatory against the LGBTI community and invite the Government to inform on the plans to eliminate all forms of discrimination, especially on the basis of sexual orientation or gender identity.

b) The following recommendations have been examined and noted by Grenada:

- **Argentina:** Consider the repeal of legislation that criminalizes consensual sexual relations between adults of the same sex and take measures to combat discrimination based on sexual orientation and gender identity (94.57)
- **Australia:** Repeal all provisions of law criminalising sexual activity between consenting adults, including those of the same sex, and take legislative and other measures to protect victims of violence based on their sexual orientation or gender identity (94.58)
- **Brazil:** Consider amending section 431 of the Criminal Code, so that it complies with international human rights law (94.50)
- **Canada:** Repeal the legislative provisions that criminalize homosexual practices between consenting adults (94.59)
- **Canada:** Implement education and awareness raising programmes on human rights and anti-discrimination, especially in order to end discrimination based on sexual orientation and gender identity (94.60)
- **Chile:** Repeal article 431 of the Criminal Code, which criminalizes consensual sexual relations between adults of the same sex (94.51)
- **Denmark:** Repeal section 431 of the Criminal Code to decriminalize consensual same-sex relations (94.52)
- **Dominican Republic:** Implement additional measures in order to promote equal rights before the law of LGBTI people (94.44)
- **France:** Decriminalize sexual relations between consenting adults of the same sex (94.61)
- **Germany:** Introduce legislation prohibiting discrimination on the grounds of sexual orientation and gender identity (94.48)
- **Honduras:** Adopt legislation and public policies to prevent discrimination based on sexual orientation and gender identity (94.62)



- **Iceland:** Decriminalize consensual sexual relations between adults of the same sex and expand its anti-discrimination legislation, to include a prohibition of discrimination on the basis of sexual orientation and gender identity (94.63)
- **Ireland:** Decriminalise consensual same-sex conduct between adults and take all necessary steps to protect the LGBTI community from all forms of discrimination on the basis of their sexual orientation and identity (94.64)
- **Italy:** Decriminalize consensual sexual conducts between persons of the same sex and combat discrimination on the basis of sexual orientation (94.65)
- **Luxembourg:** Repeal the sections 430 and 431 of the Grenada Penal Code criminalizing sexual relationship between consenting adults of the same sex (94.54)
- **Luxembourg:** Adopt, in consultation with the civil society, legislation that addresses physical, mental and emotional violence against a person on the basis of sexual orientation and gender identity, as well as discrimination against persons based on sexual orientation and gender identity (94.66)
- **Mexico:** Remove from the national legislation the criminalization of sexual relations between adults of the same sex; incorporate the prohibition of discrimination on the grounds of sexual orientation and gender identity, and adopt the necessary measures to guarantee LGBTI people full enjoyment of their human rights, with special emphasis on access to health and social security (94.67)
- **Netherlands:** Repeal or amend all discriminatory laws and policies that criminalize consensual sexual activity between adults of the same sex, including Section 431 of the Criminal Code (94.53)
- **Panama:** Harmonize its domestic legislation with international law and the Yogyakarta Principles through decriminalizing consensual relations between adults whose gender expression does not conform to social norms and expectations (94.56)
- **Spain:** Decriminalize consensual relations among same sex adults, and adopt policies against discrimination on the grounds of sexual orientation or gender identity, that promote respect for the rights of LGBTI persons (94.47)
- **United Kingdom:** Repeal all legal provisions that discriminate against persons on the grounds of their sexual orientation and gender identity, including those in the Sexual Offences Act and Criminal Code (94.48)
- **United States of America:** Decriminalize LGBTI status and conduct by repealing Article 431 of the criminal code (94.49)
- **Uruguay:** Adopt the necessary legal actions to decriminalize sexual relations between persons of the same sex and combat discrimination based on sexual orientation or gender identity (94.55)

E. Recommendations for Cycle II (2015)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Adopt legislation and public policies which effectively prevent discrimination based on sexual orientation and gender identity	Chile	Noted

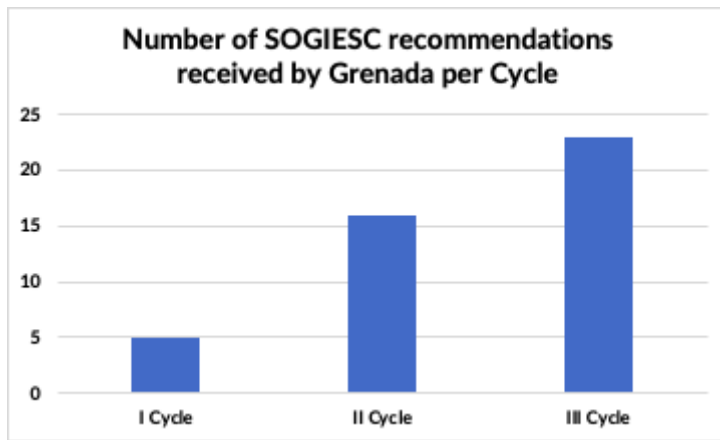


Repeal all provisions of law criminalizing sexual activity between consenting adults	Australia	Noted
Repeal legislation criminalizing consensual same-sex practices between adults	Canada	Noted
Take all necessary measures to guarantee that LGBT individuals do not face persecution based on sexual orientation or gender identity, including by decriminalizing same-sex practices in the country	Brazil	Noted
Remove laws criminalizing same-sex relationships	Sweden	Noted
Decriminalize homosexuality	France	Noted
Repeal all legal provisions criminalizing consensual sexual activity between men and combat discrimination on the basis of sexual orientation	Italy	Noted
Decriminalize free consenting sexual relations between adults of the same sex and implement public policies to address discrimination based on sexual orientation or gender identity	Spain	Noted
Repeal all legal provisions that discriminate against persons on the grounds of their sexual orientation, including those in the Sexual Offences Act and in the Criminal Code	United Kingdom	Noted
Include sexual orientation and gender identity as one of the forbidden grounds for discrimination as well as amending the norms relating to the criminalization of homosexual conduct between consenting persons	Uruguay	Noted
Amend its laws to ensure the protection of the rights of LGBTI persons by including sexual orientation and gender identity as prohibited grounds for discrimination and by decriminalizing same-sex relations	Ireland	Noted
In consultation with civil society, develop and pass legislation that decriminalizes consensual same-sex sexual conduct	United States	Noted
Implement human rights awareness and anti-discrimination education programs, particularly with respect to ending discrimination on the basis of sexual orientation	Canada	Noted
Take measure to protect the LGBTI community, especially by decriminalizing consensual sexual acts between adult males and by implementing legislation ending discrimination based on sexual orientation and gender identity	Netherlands	Noted



Guarantee LGBTI persons the full enjoyment and equal human rights by derogating legislation that criminalizes and stigmatizes them	Argentina	Noted
Bring Grenada's legislation into conformity with international law, by decriminalizing consensual same-sex relations between adults and prohibiting all forms of discrimination based on sexual orientation and gender identity	Switzerland	Noted

F. Graphic Comparison Between Cycles (1–3)



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

H. [SOGIESC Mentions During Grenada's UPR Outcome](#)

- **Opening remarks:** In the last three reviews, Grenada has received recommendations as it relates to the decriminalisation of sexual relations between consenting adults of the same sex. In this regard, the government will continue to raise awareness to combat discrimination on the basis of sexual orientation. [The Ambassador speaks when muted such that his voice is not audible] As a result of the necessity of the involvement of the wider Grenadian society before any change can be considered to our legislation.



GUINEA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 21 JANUARY 2020, 09:00–12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 24 JANUARY 2020, 15:00–18:00

During the 35th UPR Working Group Sessions, Guinea received 5 SOGIESC recommendations. It noted all 5 recommendations.

A. SOGIESC Information

National Report

134. As regards recommendations 118.88 and 118.89 on ensuring that individuals are able to fully exercise their rights regardless of their sexual orientation, there is no discrimination on the basis of sexual orientation in Guinea.

Compilation of UN Information

9. The Human Rights Committee recommended that Guinea: (a) ensure that all victims of discrimination had knowledge of and access to effective civil and administrative remedies and that they received reparations; (b) begin a process aimed at the repeal article 274 of the Criminal Code, which criminalized individuals' conduct on account of their sexual orientation; (c) effectively protect persons with albinism and persons living with HIV/AIDS and safeguard their fundamental rights, while ensuring that all cases of discrimination were duly examined, that all cases of violence were systematically investigated, that the perpetrators were brought to justice and convicted and that adequate compensation was provided to the victims; and (d) adopt a legal framework with specific, mandatory targets concerning the accessibility of services to persons with disabilities.

Summary of Stakeholder's Information

6. Just Atonement Inc. (JAI) noted that LGBTQ rights were still taboo in Guinea. Both male and female same-sex sexual activity is illegal. Article 325 of the Guinean Penal Code provides that "Any indecent act or act against nature committed with an individual of the same sex will be punished by imprisonment of six months to three years and a fine of 100,000 to 1,000,000 Guinean francs. If the act was committed with a minor under 21, the maximum sentence must be pronounced. If the act was consummated or attempted with violence or attempted violence, the guilty person will be condemned to five to ten years of imprisonment". There are no LGBTQ organizations. As homosexual conduct is illegal, discrimination is permitted for these people. The government has also explicitly stated its disapproval of homosexual conducts. JAI recommended that Guinea authorize same-sex activity, conduct seminars or other activities to break the taboo behind same-sex activities, create a



law on discrimination and prosecute people who discriminate someone because of their sexual orientation.

B. SOGIESC Advanced Questions for Guinea

N/A

C. Guinea's Working Group Session

- **Final Remarks:** Sexual orientation, or rather, currently, same sex relations are penalized. In most African Muslim countries, that is the case. But as you know, our laws embody a form of morality, a culture and a civilization. As things stand today, Guinean culture and morality forbid this and do not make it possible for us to embody in a text, consensual same sex relations. That is the why we have made same sex relations a crime while we await the day that morality changes. In some countries, it used to be a crime, same sex relations, but now, because morality has changed, laws have envoled and it is no longer illegal. To give you an example, in 1968, we had our first republic and under that republic we enacted a law on polygamy and polygamy was made a crime subject to a penalty of five years in prison. And I can tell you that from 1968 to 2018, so for fifty years, that law was never enforced. Why? Because it did not match our morality and culture. So we couldn't constantly repeat the errors of the past as far as polygamy was concerned. So we moved by stages. So we phased polygamy out and we made monogamy the norm. So monogamy was the norm, polygamy was the exception. And it will happen in all likelihood, as it happened in other countries of the world, that the law will evolve in our country and that this phenomenon of sexual orientation will be accepted as an acquired right. But as things stand today, the law can not sanction same sex relations because the morality of the country does not make it possible.

D. Recommendations for Cycle III (2020)

a) Remarks of States

N/A

b) The following recommendations have been examined and noted by Guinea:

- **Argentina:** Take the appropriate measures to combat acts of discrimination and violence against people from the LGBTIQ group and to rescind national laws that criminalise same-sex relations (113.59)
- **Chile:** Consider decriminalising the consensual sexual relations between adults of the same sex (113.60)
- **Iceland:** Decriminalize consensual sexual relations between adults of the same sex and expand its anti-discrimination legislation, to include a prohibition of discrimination on the basis of sexual orientation and gender identity (113.61)
- **Italy:** Decriminalize consensual same-sex sexual conduct (113.62)

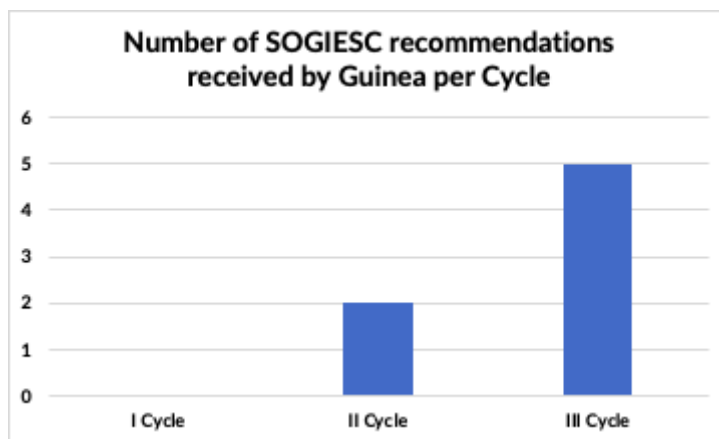


- **Spain:** Decriminalize consensual relationships between same-sex adults and promote respect for the rights of LGBTI people (113.58)

E. Recommendations for Cycle II (2015)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Decriminalize all homosexual activities and not to adopt any discriminatory measures against people on the basis of their sexual orientation	Italy	Noted
Ensure to LGBTI persons the full enjoyment and equal treatment of their human rights by repealing norms that criminalize and stigmatize them	Argentina	Noted

F. Graphic Comparison Between Cycles (1–3)



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

H. [SOGIESC Mentions During Guinea's UPR Outcome](#)

- **Amnesty International:** It deplored the fact that Guinea rejected all recommendations concerning freedoms of sexual orientation and gender identity.



GUINEA-BISSAU UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 23 JANUARY 2020, 09:00– 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 28 JANUARY 2020, 16:30– 18:00

During the 35th UPR Working Group Sessions, Guinea-Bissau received 1 SOGIESC recommendation. It noted the recommendation.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

N/A

Summary of Stakeholder's Information

38. JAI⁵ stated that women faced considerable pay gaps and that because employers preferred to avoid paying maternity benefits, were less likely to be hired than men. JAI also indicated that though the Constitution provided for equality for all, LGBTQ+ persons faced discrimination in hiring, and persons with disabilities faced discrimination in hiring and access to the workplace.

B. SOGIESC Advanced Questions for Guinea-Bissau

N/A

C. Guinea-Bissau's Working Group Session

N/A

⁵ Just Atonement Inc



D. Recommendations for Cycle III (2020)

a) Remarks of States

N/A

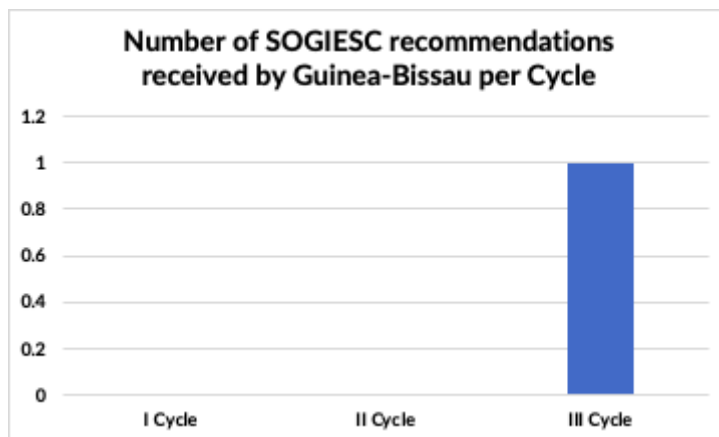
b) The following recommendation has been examined and noted by Guinea-Bissau:

- **Iceland:** Enact legislation protecting the rights of LGBTI individuals, including expanding non-discrimination laws to include discrimination based on sexual orientation and gender identity (119.45)

E. Recommendations for Cycle II (2015)

N/A

F. Graphic Comparison Between Cycles (1–3)



G. [Video of Guinea-Bissau's UPR Working Group Session](#)

H. [SOGIESC Mentions During Guinea-Bissau's UPR Outcome](#)

N/A



GUYANA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 29 JANUARY 2020, 09:00–12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 31 JANUARY 2020, 17:00–18:00

During the 35th UPR Working Group Sessions, Guyana received 15 SOGIESC recommendations. It accepted 5 recommendations and noted the other 10 recommendations.

A. SOGIESC Information

National Report

9. The media, NGOs and religious groups are among those who have actively and without the need for the government's stir hosted and/or participated in public discussions on issues such as corporal punishment and LGBT-related matters.

Non-discrimination and LGBT groups

Recommendations 130.25, 130.26, 130.27, 130.58

89. Based on reports from the National Care and Treatment Centre, the Government of Guyana reviewed its National Stigma and Discrimination Policy in 2018. The policy aimed as inter alia preventing discrimination against men who have sex with men, sex workers and transgender persons when accessing health care for the treatment of HIV/AIDS and other STDs. Health care workers benefitted from training sessions titled "Partnership defines quality of service" which led to development of a policy statements against stigma and discrimination, a suggestion box and a logbook for receiving reports of discrimination. The training programme was then repeated with probation officers, law enforcement officers and other key groups within the population.

90. At present, advertisements have been published seeking a consultant to develop curriculum and training tools for pre-service health care workers on stigma and discrimination and sexual minorities. Additionally, advocates for the LGBT community championed the recent case of Quincy McEwan and Ors v The Attorney General of Guyana in which the laws prohibiting 'cross dressing' were struck down and found to be unconstitutional.

Compilation of UN Information

15. The Committee on Economic, Social and Cultural Rights was concerned about ethnic discrimination, in particular in the context of the relationship between AfroGuyanese and Indo-Guyanese, and about the widespread discrimination based on sex, disability, sexual orientation and gender identity, and health status. It was further concerned that the 1997 Prevention of



Discrimination Act was mainly applicable to the employment sector and did not cover all grounds of discrimination.

18. The country team recommended that Guyana amend article 149 of its Constitution to prohibit discrimination based on sexual orientation and conduct the necessary parliamentary consultations on the draft amendment to the Prevention of Discrimination Act to include sexual orientation and gender identity as grounds for non-discrimination.

19. The country team noted that in 2018 the Caribbean Court of Justice had struck down the colonial era, discriminatory law against cross-dressing. However, it noted that the Criminal Law (Offences) Act still criminalized “acts of gross indecency” between males and “buggery” and recommended that Guyana repeal such legislation.

Summary of Stakeholder’s Information

6. INHR⁶ noted that the LGBT movement was not mentioned in the 1997 Prevention of Discrimination Act and was not protected in any way by legislation. It recommended that Guyana amend the Prevention of Discrimination Act to include sexual orientation, gender identity and gender expression as grounds for discrimination and enact a law on gender identity. The Justice Institute Guyana (JI) recommended that Guyana amend article 149(2) of the Constitution to include sexual orientation and gender identity as prohibited grounds of discrimination.

7. INHR recommended that Guyana abrogate sections 352 to 354 of the Criminal Law (Offences) Act criminalising same-sex sexual activities between men. JI made similar recommendations.

8. INHR noted that, in November 2018, the Caribbean Court of Justice ruled that the law which made a criminal offence for a man or a woman to appear in public while dressed in clothing of the opposite sex for an “improper purpose” was unconstitutional and reinforced stereotypes, stigmatisation and discrimination. It stated that, while such judgement was binding, Guyana had not started any draft reform yet.

9. Just Atonement Inc. (JAI) stated that LGBTQ communities in Guyana continued to face hardship when trying to access public services and were subject to targeted acts of violence and harassment. INHR recommended that Guyana define the offence of inciting hatred on the basis of sexual orientation or gender identity.

16. JI recommended that Guyana carry out a programme of judicial education on respecting the fundamental rights of LGBTI persons.

23. INHR noted that the 1997 Prevention of Discrimination Act promoted equal remuneration for men and women performing work of equal value, but that there was a gap between the salaries of people who belonged to the LGBTI community and those who did not. It recommended to develop a

⁶ The International Network of Human Rights



body for the protection of workers' rights able to observe the inequalities applied on the basis of the sexual orientation of employees.

B. SOGIESC Advanced Questions for Guyana

- **Slovenia:** We would be interested to hear if there has been any discussion or steps taken to amend the Prevention of Discrimination Act to also include sexual orientation and gender identity as grounds for discrimination?

C. Guyana's Working Group Session

- **Opening remarks:** Firstly, on discrimination. Guyana received 40 recommendations in the area of discrimination, support 23 and noting 17. The recommendations focused on discrimination on access to education, discrimination against women, children and indigenous peoples, people of African descent, and persons with disabilities as well as discrimination on the basis of sexual orientation and gender identity. Protection of all these rights are provided for in the Racial Hostility Act 1973 and its amendments, and the Prevention of Discrimination Act 1997. Together these laws prohibits all forms of discrimination related to all economic, social, cultural and political attributes, including race, sex and origin. Nevertheless, the need for further measures to eliminate discrimination and to broaden the scope of application of non-discrimination legislation has been recognized. [...] In terms of discrimination against the LGBTIQ community, it is important to note that in 2018 the law prohibiting cross-dressing was struck down by the Caribbean Court of Justice, the final appeals court.

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Montenegro:** We noted with concern the reports on ethnic discrimination, and about the widespread discrimination based on sex, sexual orientation and gender identity, disability, and health status. We urge the Government to improve the institutional and policy framework aimed at accelerating the elimination of discrimination on all above mentioned basis.
- **Netherlands:** Further to our recommendations in the previous UPR cycles, we are concerned that Guyana has seen no significant improvements in the position of the LGBTI community. They continue to face discrimination and violence.

b) The following recommendations have been examined and accepted by Guyana:

- **Argentina:** Continue taking all necessary measures to guarantee LGBTI people the full enjoyment, on equal terms, of their human rights, repealing the norms that penalize and stigmatize them, investigating and punishing cases of violence or discrimination based on sexual orientation or gender identity (100.54)
- **Canada:** Implement the 2018 ruling of the Caribbean Court of Justice regarding the unconstitutionality of the law banning cross-dressing (100.57)



- **Chile:** Continue advancing in the fight to prevent and combat all acts of violence and discrimination against LGBTI people (100.48)
- **Dominican Republic:** Make the necessary normative adjustments to ensure the inclusion of LGBTI people in the economic activities of the country (100.49)
- **Iceland:** Integrate sensitization training into the national police curriculum to improve responses to violence and discrimination against people based on sexual orientation and gender identity and develop a state policy on preventing and addressing discrimination of persons based on sexual orientation and gender identity (100.59)

c) The following recommendations have been examined and noted by Guyana:

- **Australia:** Repeal all provisions of law criminalising sexual activity between consenting adults, including those of same sex, and take legislative and other measures to protect survivors of violence based on their sexual orientation or gender identity (100.55)
- **Australia:** Allocate adequate resources for programs ensuring the full enjoyment of the rights of women, children, LGBTI persons and indigenous peoples (100.107)
- **Canada:** Repeal legislation criminalizing consensual same-sex activity between adults (100.56)
- **Ireland:** Repeal any legal provisions that discriminate against persons on the basis of their sexual orientation or gender identity and take all necessary steps to protect the LGBTI community from all forms of discrimination, including the decriminalisation of consensual same-sex conduct between adults (100.60)
- **Italy:** Decriminalize homosexuality and take measures to prevent and combat all forms of discrimination and violence based on sexual orientation and gender identity (100.61)
- **Mexico:** Review existing legislation to repeal provisions that stigmatize or discriminate against people or certain sectors of the population on grounds of gender, sexual orientation, ethnicity or disability (100.41)
- **Netherlands:** Revise the legal framework to decriminalize homosexuality and combat all forms of discrimination and violence against LGBTI persons (100.58)
- **Spain:** Modify article 149 of the Constitution to prohibit discrimination based on sexual orientation and gender identity, update the Prevention of Discrimination Act to include these grounds of discrimination and decriminalize same-sex sexual relations between adults (100.51)
- **United Kingdom:** Repeal all legal provisions that discriminate against persons on the grounds of their sexual orientation or gender identity (100.52)
- **United States of America:** Repeal the laws that criminalize LGBTI status or conduct, including sections 351 to 353 of the Guyana Criminal Law Offences Act (100.53)

E. Recommendations for Cycle II (2015)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Strengthen the protection of LGBT individuals	Brazil	Supported
Take measures to ensure that hate crimes and	United States	Supported

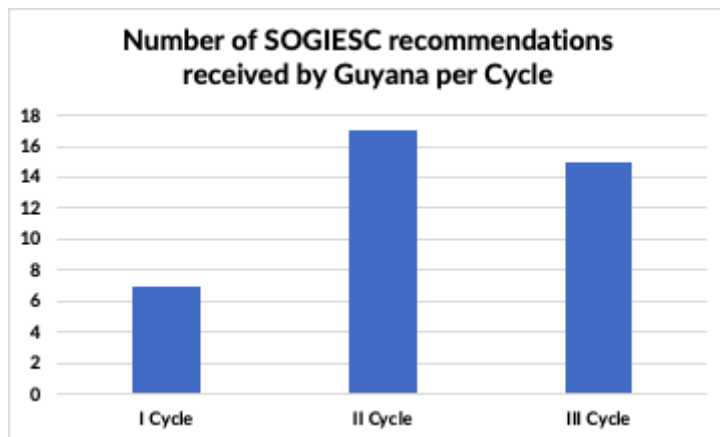


discrimination based on sexual orientation or gender identity are vigorously investigated and appropriately prosecuted		
Continue its effort in eliminating discrimination against LGBT starting with the review of its related legislation	Thailand	Supported
Repeal all provisions that discriminate against persons on the basis of their sexual orientation or gender identity, particularly those which criminalise consensual adult same-sex relations	Ireland	Noted
Decriminalise homosexuality and combat all forms of discrimination and abuse against LGBTI persons	Italy	Noted
Bring its legislation in line with international standards by removing the relevant sections that criminalize consensual same-sex conduct from the Criminal Law (Offences) Act	Netherlands	Noted
Repeal the laws which criminalize sexual activity between consenting adults of the same sex, as previously recommended	Slovenia	Noted
Abrogate national laws which criminalize or discriminate against persons on the grounds of their sexual orientation or gender identity	Switzerland	Noted
In consultation with civil society, develop and pass legislation that decriminalizes consensual same-sex sexual conduct	United States	Noted
Guarantee to LGBTI persons the full enjoyment under equal conditions of their human rights, through the abolishment of the norms that criminalize and stigmatize them, and the investigation and sanction of cases of violence or discrimination motivated by sexual orientation or gender identity	Argentina	Noted
Amend Article 149 of the Guyana Constitution to prohibit discrimination on the basis of sexual orientation and repeal Sections 351 to 353 of the Criminal Law Offences Act, which criminalizes sexual activities between consenting adults of the same sex	Canada	Noted
Advance in the elimination of all forms of	Chile	Noted



discrimination and violence based on sexual orientation or gender identity, particularly abolishing all regulations of the Penal Code that support those discriminations and reinforce legislative and judicial protections against such abuses		
Abolish discriminatory laws against LGBT persons and also amend its national legislation in order to include sexual orientation and gender identity as grounds of discrimination	Norway	Noted
Repeal all norms that can be presumed or interpreted as being discriminatory against persons based on their sexual orientation or gender identity	Spain	Noted
Repeal all legal provisions that discriminate against persons on the grounds of their sexual orientation or gender identity	United Kingdom	Noted
Amend all legislation that discriminates against persons on the grounds of their sexual orientation or gender identity, as well as investigate incidents or acts of violence motivated by homophobia or transphobia and bring to justice those responsible for such acts	Uruguay	Noted
Take the legislative and policy measures to prevent and fight against violence and fight against discrimination based on sexual orientation or gender identity	Colombia	Noted

F. Graphic Comparison Between Cycles (1–3)





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

H. [SOGIESC Mentions During Guyana's UPR Outcome](#)

N/A



KENYA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 23 JANUARY 2020, 09:00– 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 28 JANUARY 2020, 16:30 – 18:00

During the 35th UPR Working Group Sessions, Kenya received 20 SOGIESC recommendations. It accepted 3 recommendations and noted the other 17 recommendations.

A. SOGIESC Information

National Report

100. Intersex persons in Kenya have for a long time faced stigma and discrimination due to their biological make-up. The High Court in a judgment delivered on 5th December 2015 in Petition No. 266 of 2013, Baby A v. Attorney General and others – declared that it is the duty of the Government to protect the rights of intersex babies and persons by providing a legal framework to address issues relating to them, including registration under the Registration of Births and Deaths Act, medical examination and tests, and corrective surgeries. To this end, the executive has identified the immediate, medium and long term reforms required to respect and protect the rights of intersex people as Kenyans. Of importance is the review of the gender marker to incorporate the “intersex” as a category. The marker was used in the 2019 Kenya Population and Housing Census to determine the number of intersex people, for policy and programmatic interventions.

101. Additionally, the Persons Deprived of Liberty Act of 2014 recognizes intersex persons and provides for their humane and dignified treatment while in custody. All intersex people in custody can now choose the sex of the person by whom they should be searched. The Act also directs that intersex persons must be held separate from other persons.

Compilation of UN Information

20. Referring, inter alia, to a relevant supported recommendation from the previous universal periodic review, the Committee on the Elimination of Discrimination against Women recommended that Kenya exercise due diligence to protect all women, including lesbian, bisexual and transgender women and intersex persons, against discrimination by adopting comprehensive anti-discrimination legislation affording such protection.

21. Noting the lack of explicit legal protection against discrimination based on sexual orientation and gender identity, and citing sections 162 and 165 of the Penal Code, the United Nations country team stated that lesbian, gay, bisexual and transgender persons continued to face challenges. In addition, same-sex couples were prohibited from adopting children, and lesbian, gay, bisexual, transgender and intersex refugees faced discrimination and considerable obstacles in accessing mainstream services and livelihood opportunities.



[...]

50. Noting that the unrecognized and undervalued work by women represented a huge barrier for them to enter the paid labour market, and also noting reports of sexual harassment of women in the workplace and the testimonies about stigmatization of and discrimination against lesbian, gay, bisexual, transgender and intersex persons in the workplace and when seeking employment, the Working Group on the issue of human rights and transnational corporations and other business enterprises recommended that Kenya step up efforts to address gender-based discrimination and sexual harassment in the workplace, including with a view to protecting all individuals, irrespective of their sexual orientation or gender identity

Summary of Stakeholder's Information

3. KNCHR⁷ stated that the criminalization of same sex conduct underpinned violence, discrimination and stigmatization of lesbian, gay, bisexual and transgender persons.

43. JS4⁸ stated that LGBTI persons suffered widespread violations of their rights to life, liberty and security, and were specifically targeted by vigilante groups. JS28⁹ stated that: (a) Kenya had noted recommendations to decriminalize consensual same sex sexual conduct at the previous reviews; (b) Section 162(a), (c) and 165 of the Penal Code were used by law enforcement agencies to arrest and charge persons who were, or who were perceived to be LGBTQ+; and (c) ruling on a petition challenging the constitutionality of these sections, the High Court of Kenya held inter alia that the sections were not in violation of the constitutional rights of those Kenyans who identify as LGBTQ+.

70. JS4 stated that sections 162 to 163 of the Criminal Code criminalised consensual adult same-sex relations.

B. SOGIESC Advanced Questions for Kenya

- **United Kingdom:** How will the Government ensure the protection of vulnerable groups, such as persons with disabilities, LGBT individuals, migrants and refugees, and ensure their access to all public services?
- **Belgium:** How is the government of Kenya taking measures to protect lesbian, gay, bisexual, transgender and intersex persons as well as their families against discrimination and acts of violence?

⁷ Kenya National Commission on Human Rights

⁸ Joint Submission 4 submitted by: The Advocates for Human Rights, Minneapolis, United States of America, The Eagles for Life, Kenya, and Sign Ishara

⁹ Joint Submission 28 submitted by: Gay and Lesbian Coalition of Kenya, National Gay and Lesbian Human Rights Commission, Partnership to Inspire Transform and Connect the HIV Response, Kenya Legal & Ethical Issues Network on HIV/AIDS, Ishtar MSM, JINSIANGU, Kenya Sex Workers Alliance, Key Population Consortium, Nyanza, Western, Rift Valley LGBTQ+ Network, Trans* Alliance



C. Kenya's Working Group Session

- **Opening remarks:** Another significant milestone registered by the government of Kenya: the recent recognition of intersex people in Kenya. For the first time in the history of census in Kenya, the gender marker incorporated the intersex as a category in addition to the male and female categories. The marker was used in the 2019 Kenyan Population and Housing Census to determine the number of intersex people for policy and programmatic interventions. This milestone was achieved arising from the recommendations of a taskforce that the government had appointed to look into the policy, legal, institutional and administrative reforms regarding intersex persons in Kenya.
- **Considerations made after 50 interventions:** Mr President, I want to assure the delegates who raised concerns on LGBTI issues that in Kenya nobody is asked to state their sexual orientation when they are accessing government services and the government deals with the violations of human rights irrespective of the orientation of any individual and our work around intersex persons is the point toward the commitment that the government adopted to protect vulnerable groups and when given the example of the intersex persons we have stated before, we have the intersex persons now continued to be subject to human rights violations and largely because the public at large is not aware of the existence and we also have a great lack of research on the subject of intersex persons and this has rendered them invisible and they face stigma which are the pin to social and medical norms and their participation in modern life has been greatly inhibited. But, the intersex persons have been the subject of litigation in Kenya and in the first case that we had focused on the rights and violations to intersex persons and intersex persons who were deprived of liberty, the court found that the treatment of the petitioner by prison authorities amounted to cruel, inhuman and degrading treatment or punishment. This case set the standards on the treatment of intersex persons deprived of liberty through the Persons Deprived of Liberty Act. The second case focus on registration at birth for intersex children, corrective surgeries on intersex children and the need for rules and guidelines to regulate corrective surgeries on intersex children. The court found that there is currently no legal framework to govern the registration of intersex persons at birth and to regulate corrective surgeries. The court asked the state to enact legislation regulating surgeries on intersex children and registration at birth. In addition, the state was asked to collect data related to intersex children and persons. In response to the court findings, the attorney general formed a task force on the policies and legal institutional reforms regarding intersex persons in Kenya, with mandate to inter alia collect data on intersex persons, examine existing policies, legal institutions, and medical system that govern intersex persons and recommend a comprehensive reform in regarding the interests of intersex persons. And following the recommendations of this task force the government has identifies the immediate and long term reforms, required to give effect to the right of intersex persons in Kenya. This trajectory will be used to address many issues that affect vulnerable persons in Kenya.



D. Recommendations for Cycle III (2020)

a) Remarks of States

- **New Zealand:** New Zealand remains concerned by reports of discrimination, violence and threats of prosecution experienced by the LGBTQIA community in Kenya.
- **Spain:** Spain regrets that the penal code criminalizes sexual relations between persons of the same sex and is concerned about the confirmation of the constitutionality of this situation by the High Court last May.
- **Sweden:** Sweden welcomes ongoing reforms aiming at improved accountability and respect for human rights. However, there is still need for legal reforms and actions to ensure the full enjoyment of human rights for women, girls and LGTBI-persons.

b) The following recommendations have been examined and accepted by Kenya:

- **Argentina:** Develop and adopt appropriate legislative and administrative measures to combat discrimination against women as well as discrimination and violence against LGBTI people (142.62).
- **Cyprus:** Continue collecting and analyzing disaggregated data on women with the aim to combat discrimination based on religion, ethnic background, age, health, disability and sexual orientation (142.61).
- **Netherlands:** Take additional measures to eliminate discrimination and harassment in the workplace, including on the basis of sex and sexual orientation and gender identity (142.179).

c) The following recommendations have been examined and noted by Kenya:

- **Australia:** Repeal all provisions which criminalise consensual same-sex relations, and adopt appropriate policies and measures to tackle stigmatisation, harassment, discrimination, and violence against individuals because of their sexual orientation (144.28).
- **Canada:** Adopt a comprehensive anti-discrimination law affording protection to all individuals, irrespective of sexual orientation, gender identity or expression (144.26).
- **Chile:** Repeal laws that criminalize homosexuality and combat violence based on sexual orientation and gender identity (144.31)
- **Czechia:** Step up efforts against discrimination with special emphasis on LGBTI persons and women, and eradicate the female genital mutilation (144.29)
- **Dominican Republic:** Take the necessary political and legislative measures to combat discrimination based on sexual orientation and gender identity (144.30)
- **France:** Combat discrimination against LGBTI persons and repeal provisions penalizing homosexuality (144.32)
- **Iceland:** Decriminalize consensual sexual relations between adults of the same sex and expand its anti-discrimination legislation to include a prohibition of discrimination on the basis of sexual orientation and gender identity (144.27)
- **Italy:** Decriminalize consensual same sex conduct and adopt measures to tackle discrimination based on sexual orientation (144.33)



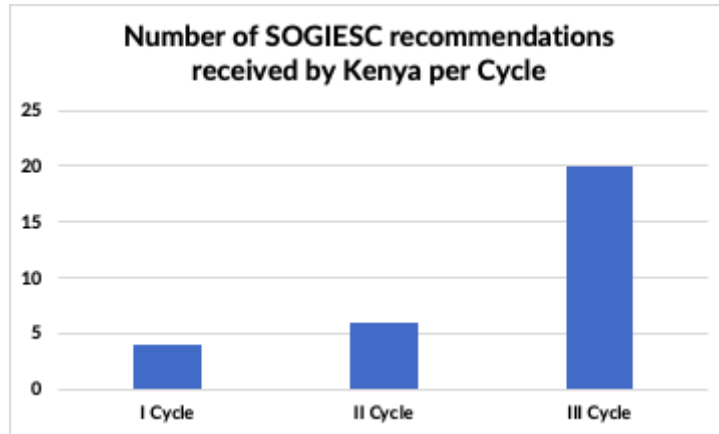
- **Malta:** Adopt laws, policies and measures to prevent violence and discrimination on the grounds of sexual orientation and general identity and expression (144.34)
- **Malta:** Repeal sections 162, 163 and 165 of the Penal Code and decriminalise same-sex conduct between adults (144.35)
- **Mexico:** Repeal legislation that criminalizes consensual sexual relations between adults of the same sex, in particular articles 162 and 165 of the penal code (144.36)
- **New Zealand:** Decriminalise consensual same-sex relationships between adults, and enacts comprehensive anti-discrimination laws to safeguard the realisation of human rights for all individuals, irrespective of sexual orientation or gender identity (144.37)
- **Norway:** Adopt a comprehensive equality and non-discrimination law that affords protection to all individuals regardless of their sexual orientation, gender identity or expression (144.25).
- **Slovenia:** Decriminalize sexual relations between consenting adults of the same sex, as recommended previously (144.38)
- **Spain:** Decriminalize consensual sexual relations between adults of the same-sex (144.39)
- **United States of America:** Repeal articles 162, 165, and 181 of the Penal Code that criminalizes LGBTI status, conduct, and/or expression (144.40)
- **Uruguay:** Respond to the request of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (143.2)

E. Recommendations for Cycle II (2015)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Adopt a comprehensive anti-discrimination law affording protection to all individuals, irrespective of their sexual orientation or gender identity	Sweden	Supported
Repeal legal provisions that foresee penalties against lesbian, gay, bisexual or transgender persons, in order to respect the principle of non-discrimination	France	Noted
Decriminalize sexual relations between consenting adults of the same sex	Slovenia	Noted
Decriminalize consenting relationships between adults of the same sex and adopt measures against violence and hate speech against lesbian, gay, bisexual, transgender or intersex persons and associations	Chile	Noted
Decriminalize consensual same-sex conduct between adults	Denmark	Noted
Decriminalize sexual relation between consenting adults of the same sex	Poland	Noted



F. Graphic Comparison Between Cycles (1–3)



G. SOGIESC recommendations shared by HRDs during ILGA's UPR advocacy week in Geneva: Right Here Right Now Kenya, Sexual and Reproductive Health and Rights Alliance Kenya, Network for Adolescent and Youth of Africa, Love Matters Kenya, CHOICE for Youth and Sexuality, Rutgers, Sexual Rights Initiative and International Planned Parenthood Federation - Africa Region Office

1. Increase the proportion of public health facilities providing comprehensive youth friendly services from 10% to 30% by 2020.
2. Enact a Reproductive Health Law to provide a human rights based legal framework for young people's sexual and reproductive health.
3. Increase budgetary allocation to health to at least 15% as per the Abuja Declaration and allocate resources to the Adolescent Sexual Reproductive Health (ASRH) Sub Program.
4. Implement the judgment in Petition No 266 of 2015 to reinstate the Standards and Guidelines on Reducing Maternal Mortality and Morbidity related to unsafe abortions and the Training Curriculum for medical professionals in public hospital.
5. Repeal Cap. 63 article 158, 159, 160 and 228 of the Penal Code that criminalise access to abortion.
6. Withdraw the reservation on Maputo protocol section 14 (2) (c) on access to safe and legal abortion.
7. Develop National Guidelines on Comprehensive Sexuality Education in line with UNESCO Technical Guidelines.
8. Include CSE in the National school curriculum
9. Put in place a joint framework for coordination and implementation of Comprehensive Sexuality Education between the Ministry of Education and Ministry of Health.
10. Repeal Sections 162, 163 and 165 of the Penal Code and decriminalize consensual same sex conduct between adults.



11. Adopt laws, policies and measures to prevent violence and discrimination on the grounds of sexual orientation and gender identity and expression.

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

I. [SOGIESC Mentions During Kenya's UPR Outcome](#)

- **Opening remarks:** After an in-depth examination of the remaining recommendations by various stakeholders at the national level, 2 out of the 5 “unclarified” recommendations now enjoy Kenya’s support. These are the recommendations relating to:
 - The review of the 2018 ‘association bill’ that will ensure that NGO laws are in line with the right to freedom of expression, and
 - Ensuring that a human rights approach is reflected in the Government’s 2020 submission of the reviewed Nationally Determined Contributions.The other three ‘unclarified” recommendations have been noted. These are the recommendations to ratify the Optional Protocol to the Convention on the Rights of the Child, to respond to the request of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and to consider taking the necessary steps to introduce a de jure moratorium on capital executions with a view to fully abolishing the death penalty, including by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights.
- On the recommendation on responding to the request of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity: Kenya is currently grappling with the COVID 19 pandemic. Given the specific measures put in place by the Government to stem the virus, it is not practical at this point in time to set a specific date for the Expert’s official visit to Kenya or to organize meetings with various relevant organizations or groups. Consequently, the request of the Independent Expert will be revisited after the COVID 19 situation is brought under control with a view to setting a mutually agreeable date for the visit. On decriminalization of same sex unions: such unions are expressly prohibited by the Constitution, national laws and unacceptable in our culture and contrary to our values. Nevertheless, the Government of Kenya actively promotes the fair provision of all public services to all persons without discrimination, regardless of their sexual orientation and gender identity or expression. To this end, several pieces of legislation have been developed that attest to the realization of the principles of equality and non-discrimination. These include, the Health Act 2017, The Education Act 2012 and the Diversity Policy for the Public Service, 2016. It is important to note that in Kenya, one is not required to indicate his/her sexual orientation when applying for jobs or accessing any government service. With regard to intersex people, it is worth noting that the Courts have recognized and protected their rights. Indeed, the intersex persons were officially recognized in the 2019 National Population census.
- **Federation for Women and Family Planning:** It welcomed Kenya’s acceptance of key recommendations including the adoption of legislative and administrative measures to combat discrimination against women and lesbian, gay, bisexual, transgender and intersex persons. It was, however, concerned that Kenya did not accept recommendations to adopt a comprehensive equality and non-discrimination law for the protection of all individuals



including sexual and gender minorities and to decriminalise consensual sexual same sex relations between adults. The Federation further stated that despite the Kenyan Constitution enshrining the right to the highest attainable standard of health, including reproductive healthcare, LGBTI persons and other marginalised groups remain disproportionately affected by inadequate access to SRHR services and information. It noted with concern Kenya's justifications for rejecting these recommendations and was deeply worried that this could be used to deny access to these services and information.



KIRIBATI UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 28 JANUARY 2020, TIME–TIME
DATE AND TIME OF THE ADOPTION OF THE REPORT: DAY MONTH YEAR, TIME–TIME

During the 35th UPR Working Group Sessions, Kiribati received 14 SOGIESC recommendations. It noted all 14 recommendations.

A. SOGIESC Information

National Report

60. Gender equality and non-discrimination as it pertains to 'same sex' is yet to be accepted for both cultural and Christian belief reasons. A newly registered NGO called BIMBA has emerged with members largely comprising of males, locally known as 'binabinaaine' or 'sisi'. It has become a known group that exists for the interest of the group.

Compilation of UN Information

22. The United Nations country team noted that Kiribati continued to criminalize homosexuality and consensual same-sex relations between adults and recommended that Kiribati consider including in the Constitution provisions guaranteeing freedom from discrimination based on sexual orientation. It also recommended that Kiribati decriminalize homosexuality and consensual sexual relations between adults of the same sex and that it sign the statement on human rights, sexual orientation and gender identity submitted to the General Assembly at its sixty-third session (A/63/635).

23. The United Nations country team recommended that Kiribati take specific measures, including strengthening the legal framework to criminalize discrimination, hate speech and violence against lesbian, gay, bisexual and transgender people and prosecuting and adequately punishing perpetrators, and conduct awareness-raising activities to address stigma within society.

Summary of Stakeholder's Information

8. Boutokaan Inaomataia ao Mauriia Binabinaine Association (BIMBA) noted that despite recommendations from the 2nd cycle UPR, the Government had not put in place any legal reform plan or initiative pertaining to the protection of the rights of people with diverse sexual orientation and gender identity from stigma, discrimination and prejudice in the country. BIMBA also noted that the Government had not undertaken any legal reform pertaining to the decriminalization of homosexuality.



9. BIMBA recommended, among others, that the Government: create, develop and implement legal provisions that protect the rights of lesbian, gay, bisexual, transsexual and inter-sex persons from discrimination, stigma and violence; and decriminalize consensual sex and/or homosexuality.

B. SOGIESC Advanced Questions for Kiribati

- **United Kingdom:** What is the Government doing to promote and protect the rights of LGBT individuals, and to protect them against discrimination?
- **Spain:** What measures has the Kiribati government adopted to address discrimination against LGTBI persons, especially in the workplace?

C. Kiribati's Working Group Session

- **Opening remarks:** Rights around LGBTQTI is becoming an emerging issue which the government is seriously studying in the face of much cultural resistance, something which the Government believes can be best handled through a cautious bottom-up approach.
- **Intervention made after 14 interventions:** On non-discrimination, an organization called the Boutokaan, Inaomataia ao Mauria Binabinaine Association (BIMBA), consisting initially of gay persons with a membership open to all other gay and lesbian persons, was granted its certificate of registration as an incorporated society in 2016. This shows acceptance of the BIMBA membership rights to come together and of the society to achieve the purpose or achieve the objective of the group. While the government supports the freedom of association of these people to pursue happiness in their own way it is also conscious that some of the legal demands of this group will take some time before the vast majority of people in Kiribati can fully appreciate and support such expectations. So, at this stage, the country is not yet ready to decriminalize homosexuality or allow same sex relationships.

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Denmark:** Denmark congratulates the Government for its efforts to fight domestic violence. However, violence and discrimination targeted at members of the LGBTI community remain a concern.
- **Netherlands:** The Netherlands remains concerned about the high level of domestic, sexual and gender based violence in Kiribati and about the persistent stigmatization of the LGBTI community.
- **Slovenia:** As one of the countries that in the past recommended amending the Constitution in order to more broadly prohibit different grounds of discrimination, we would again call on the government of Kiribati to consider including in the Constitution the freedom from discrimination based on sexual orientation and gender identity.



b) The following recommendations have been examined and noted by Kiribati:

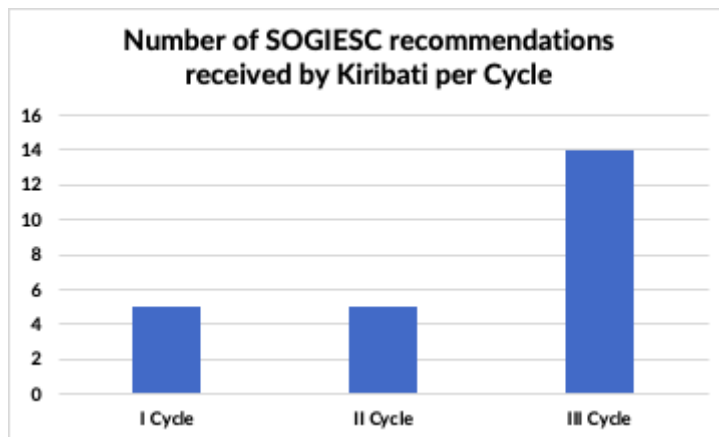
- **Argentina:** Repeal from its national legislation the norms that sanction consensual relations between people of the same sex and take measures to combat the acts of discrimination and violence against LGBTIQ people, guaranteeing the investigation and sanction of such acts (80.41)
- **Australia:** Repeal sections 153-155 of the Penal Code and decriminalize all forms of consensual sexual relations between adults, including between adults of the same sex (80.42)
- **Canada:** Decriminalize consensual sexual relations between adults of the same sex by amending sections 153, 154 and 155 of the Penal Code (80.42)
- **Chile:** Adopt measures to decriminalize consensual sexual relations between adults of the same sex (80.43)
- **Denmark:** Decriminalize consensual sexual relations between adults of the same sex and amend their discrimination provisions to include sexual orientation and gender identity (80.39)
- **Iceland:** Decriminalize consensual sexual relations between adults of the same sex and expand its anti-discrimination legislation, to include a prohibition of discrimination on the basis of sexual orientation and gender identity (80.39)
- **France:** Decriminalize sexual relations between consenting adults of the same sex and continue to combat gender-based violence (80.38)
- **Germany:** Decriminalize homosexuality and consensual sexual relations between adults of the same sex (80.38)
- **Italy:** Decriminalize consensual sexual relations between adults of the same sex (80.38)
- **Mexico:** Include in the legislation a provision prohibiting discrimination based on sexual orientation and gender identity, as well as amend article 153 of the Criminal Code, which criminalizes consensual sexual relations between persons of the same sex (80.37)
- **Netherlands:** Decriminalize homosexuality and consensual same-sex relations between adults (80.38)
- **Portugal:** Decriminalize homosexuality and consensual sexual relations between adults of the same sex; consider including in the Constitution provisions guaranteeing freedom from discrimination based on sexual orientation and gender equality; and take specific measures, including awareness-raising campaigns, to prevent and punish discrimination, hate speech and violence against LGBTI persons (80.40)
- **Timor Leste:** Decriminalize homosexuality and consensual sexual relations between adults of the same sex (80.38)
- **United States of America:** Decriminalize LGBTI conduct or status and combat violence against LGBTI persons (80.38)



E. Recommendations for Cycle II (2015)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Decriminalize homosexuality and sign the joint declaration of the United Nations General Assembly of 18 December 2008 regarding human rights, sexual orientation and gender identity	France	Noted
Decriminalize consensual sexual relations between adults of the same sex	Slovenia	Noted
Adopt measures for the decriminalization of consensual same sex sexual relations	Chile	Noted
Introduce legislation to satisfy its commitments on equality and non-discrimination, including as it pertains to same sex relations	Canada	Noted
Adopt legislation prohibiting all forms of discrimination of individuals, based on race, colour of the skin, religion, national or ethnic origin, disability, aesthetic aspect, gender, sexual identity or orientation	Uruguay	Noted

F. Graphic Comparison Between Cycles (1–3)



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



H. [SOGIESC Mentions During Kiribati's UPR Outcome](#)

- **Commonwealth Human Rights Initiative:** It called for Kiribati to decriminalise consensual same-sex relations between adults, and to include sex and gender as prohibited grounds of discrimination.
- **International Planned Parenthood Federation:** It commended Kiribati's acceptance of the recommendation to integrate sexuality education within school curricula in line with UN technical guidelines.
- **United Nations Watch:** It reminded Kiribati of its international obligations to protect individuals against discrimination due to their sexual orientation or gender identity, and deplored the criminalisation of consensual same-sex relations between adult males. It recommended the Government to take measures to protect them from hate speech, discrimination and targeted violence.



KUWAIT UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 29 JANUARY 2020, 14:30–18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 31 JANUARY 2020, 17:00–18:00

During the 35th UPR Working Group Sessions, Kuwait received 5 SOGIESC recommendations. It noted all 5 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 Kuwait

N/A

C. Kuwait's Working Group Session

N/A

D. Recommendations for Cycle III (2020)

a) Remarks of States

N/A



b) The following recommendations have been examined and noted by Kuwait:

- **Australia:** Ensure equality between all citizens, both in law and practice, regardless of gender, gender identity or sexual orientation (157.86)
- **Chile:** Repeal criminal provisions that punish consensual sexual relations between adults of the same sex, as well as demonstrations of LGBT identity (157.58)
- **France:** Combat discriminations against LGBTI people and repeal provisions from the Criminal Code that criminalise consensual sexual relations between same-sex adults (157.89)
- **Iceland:** Decriminalize consensual sexual relations between adults of the same sex and expand its anti-discrimination legislation to include a prohibition of discrimination on the basis of sexual orientation and gender identity (157.90)
- **Netherlands:** Guarantee personal autonomy and individual rights, as enshrined in the Constitution, by a prohibition of discrimination based on sexual orientation or gender identity, as well as by allowing a medical gender change to be reflected in a person's identity documents (157.94)

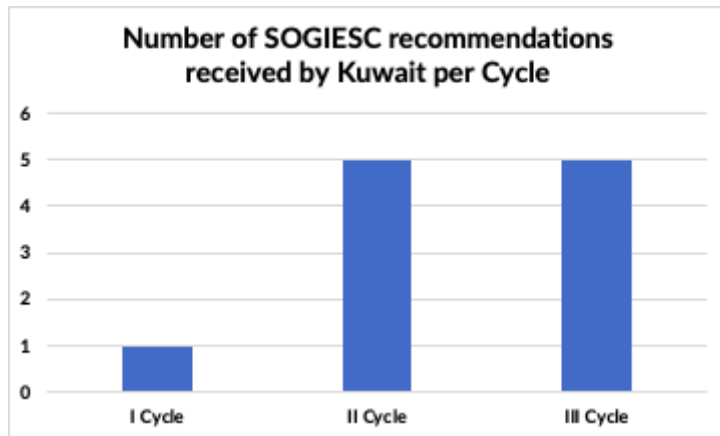
E. Recommendations for Cycle II (2015)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Adopt a general law that sanctions discrimination for any reason, in particular against women and lesbian, gay, bisexual, transgender and intersex (LGTBI) persons	Chile	Noted
Adopt the necessary measures to eliminate in the legislation and in practice the crimes motivated by the sexual orientation of persons	Uruguay	Noted
Prepare and adopt legal and administrative measures with a view to investigating and prosecuting acts of discrimination, stigmatization and violence against LGBTI persons	Argentina	Noted
On lesbian, gay, bisexual and transgender (LGBT): stop arresting individuals based on their sexual orientation, gender identity or appearance and repeal legislative measures that criminalize consensual homosexual conduct	Iceland	Noted
Guarantee personal autonomy and individual rights, as enshrined in the	Netherlands	Noted



Constitution, by a prohibition of discrimination based on sexual orientation or gender identity, as well as by allowing a medical gender change to be reflected in a person's identity documents		
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F. Graphic Comparison Between Cycles (1–3)



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

H. [SOGIESC Mentions During Kuwait's UPR Outcome](#)

N/A



KYRGYZSTAN UPR SOGIESC RECOMMENDATIONS

**DATE AND TIME OF THE REVIEW: 20 JANUARY 2020, 09:00– 12:30,
DATE AND TIME OF THE ADOPTION OF THE REPORT: 22 JANUARY 2020, 09:00 – 12:30**

During the 35th UPR Working Group Sessions, Kyrgyzstan received 17 SOGIESC recommendations. It accepted 5 recommendations and noted the other 12 recommendations.

A. SOGIESC Information

National Report

B. Taking measures to prevent discrimination and violence against LGBTI persons.

164. With regards to LGBTI current legislation demonstrates a non-discriminatory attitude and positive realization of citizens' rights.

165. Kyrgyzstan is taking consistent steps to adapt national legislation to international standards regarding the rights of people living with HIV and LGBT persons. Among the positive innovations the new and developed procedure for gender correction and change of passport data should be mentioned. An equally important was also the new Criminal Code that entered into force, which distinguishes liability for unintentional and intentional HIV transmission, as well as mitigates punishment. There is no criminal liability for voluntary same-sex relationships.

166. In Kyrgyzstan everyone has the right to sex correction. This right is enshrined in the Law on the Protection of Citizens' Health in the Kyrgyz Republic. The first sex-correcting surgery for 15 transgender people was carried out in Bishkek at the end of 2013.

167. Between 2014 and 2018, 8 Kyrgyz citizens officially changed their passports in accordance with Section 72 of the Law “On Civil Status Acts in the Kyrgyz Republic”, and SRS issued new passports based on medical documents”.

168. At the moment, parliamentarians have developed a draft Law “On Ensuring Equality”. The bill covers all spheres of social life, aimed at preventing, combating and eliminating all forms of discrimination by state bodies, local authorities, their officials, legal entities, as well as individuals.

169. For the period of NCPT operation since 2012, 2 appeals of LGBTI representatives were received. However, upon arrival of the NCPT employees, victims refused to file a complaint.

170. One of the measures to reduce discrimination based on sexual orientation and gender is adoption of recommendations of the UN Committee on Elimination of Racial Discrimination and approval by the Government Decree No. 7-r dated January 28, 2019 of the Interagency Action Plan



for 2019-2022 on implementation of recommendations of the Committee on the Elimination racial discrimination.

Compilation of UN Information

11. The Special Rapporteur on health reported that lesbian, gay, bisexual and transgender persons were subjected to psychological violence, sexual abuse and physical harm by family members, law enforcement officials and health-care personnel, with such practices being the result of a patriarchal and conservative society. He commended the issuing in 2017 of the Manual on Provision of Medical and Social Care for Transgender, Transsexual and Gender Nonconforming Persons, and recommended the dissemination and implementation of the Manual, and the adoption of comprehensive anti-discrimination legislation.

Summary of Stakeholder's Information

10. JS1¹⁰ stated that in 2016, an amendment had been made in the Constitution permitting marriage only between a man and a woman. JS1 recommended to introduce legal guarantees of LGBTI rights in the Criminal and Labor Codes. AI¹¹ recommended to ensure that the draft law on anti-discrimination is amended to include sexual orientation and gender identity (SOGI).

11. FLD noted that a discriminatory draft law on “anti-gay propaganda”, proposing prosecutions for dissemination of any information that contributed to a positive attitude towards non-traditional sexual relationships, had stalled in Parliament since 2014 and had caused prolonged discussion. The bill had fuelled hatred against the LGBTI+ community and stigmatised human rights defenders working on their protection. OSCE informed that in 2017 two hate crimes concerning racist and xenophobic bias and three on SOGI had been reported; in 2016, there had been seven SOGI-based hate incidents; and in 2015, fourteen SOGI-based incidents. JS1 noted that there were no laws banning hate speech; that there had been an increase in the level of hate speech against LGBTI people following discussion of the draft “anti-gay propaganda” law; and that the most intensive homophobic rhetoric was produced by pro-government media.

12. JS1, AI and HRW¹² reported violations of the rights of LGBTI persons by both State and non-state actors.²² JS1 had documented 24 hate crimes in 2018 on the basis of SOGI. JS1 and JS8¹³ informed that many LGBTI people faced persecution from law enforcement officers, with 35 cases of police violence documented from 2016 to 2018, mostly connected with blackmail, threats, and extortion. In many cases, the police reportedly had taken no action when a crime against LGBTI people was being committed or publicly planned.²⁴ SOGI had also become grounds for firing or refusal to hire.

13. AI, JS1 and JS8 recommended to guarantee fair investigation of crimes against LGBTI people and activists. ²⁶ JS1 recommended to implement trainings for law enforcement officers and judges; and

¹⁰ Joint submission 1 submitted by: Antidiscrimination Centre Memorial, Brussels, Belgium, and Kyrgyz Indigo

¹¹ Amnesty International

¹² Human Right Watch

¹³ Joint submission 4 submitted by: Equality Now, Nairobi, Kenya, Human Rights Movement ‘Bir Duino-Kyrgyzstan’, Public Association ‘Ensan Diamond’, and PA “Alga” (Chui oblast)



to introduce a system for monitoring and prosecuting officials for hate speech. HRW recommended to cease harassment, discrimination, and illtreatment of LGBT people; ensure their rights are fully protected in law; and withdraw the draft anti-LGBT “propaganda” bill.

14. FLD informed that police had restarted the practice of forcibly testing sex workers for HIV and STIs. Defenders of their rights had been arrested, detained, physically and sexually assaulted, and violently subjected to forced medical tests. FLD recommended to ensure the protection of human rights defenders working on LGBTI+ and sex worker rights.

B. SOGIESC Advanced Questions for Kyrgyzstan

- **Uruguay:** Uruguay would appreciate to know what measures have been taken at the national level since the last UPR to ensure the full respect for the rights to freedom of expression and association, as well as to prevent discrimination based on sexual orientation and gender identity. These recommendations were made by Uruguay and accepted by the Kyrgyz Republic during the UPR second cycle.

C. Kyrgyzstan's Working Group Session

N/A

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Australia:** Australia remains concerned by reports of persecution of sections of Kyrgyz society based on ethnicity, sexual orientation and gender identity, and religion.
- **Denmark:** Denmark remains concerned about the inadequate legal protection of minority groups, including the LGBTI community.
- **Germany:** However, Germany remains concerned about the ongoing discrimination of minorities, in particular LGBTI persons.
- **Netherlands:** Further to our recommendation in the last UPR-cycle, we regret the lack of progress when it comes to the effective protection of LGBTI persons.
- **Spain:** In the previous UPR, Spain had already expressed its concern about a legislative initiative aimed at punishing sexual diversity and gender identity. It is to be welcomed that such an initiative has not been successful so far

b) The following recommendations have been examined and accepted by Kyrgyzstan:

- **Argentina:** Take measures to combat acts of discrimination and violence against LGTBQI persons, guaranteeing investigation and sanction of this type of acts (140.39).
- **Canada:** Amend legislation to comprehensively protect vulnerable groups such as women and minorities, combat discrimination on the basis of sexual orientation and gender identity, and

remove barriers for vulnerable groups to access state programming, justice, and protection from violence (140.29).

- **Fiji:** Clearly define unlawful discrimination under its laws and take proactive steps to ensure the protection of all targeted groups, including LGBTIQ persons, persons with disabilities, women, and ethnic minorities (140.31).
- **Finland:** Take concrete actions to ensure minority rights and efficiently combat all forms of discrimination, including persons with disabilities and LGBTI persons (140.210).
- **Italy:** Undertake all necessary measures to prevent all forms of discrimination and violence against LGBTI persons (140.38)

c) The following recommendations have been examined and noted by Kyrgyzstan:

- **Australia:** Adopt comprehensive anti-discrimination legislation prohibiting all forms of discrimination including on the grounds of ethnicity and sexual orientation and gender identity (140.48).
- **Chile:** Ensure that the anti-discrimination law prohibits discrimination on grounds of sexual orientation and gender identity (140.30)
- **France:** Adopt legislation enabling the condemnation of discrimination based on sexual orientation (140.32).
- **Germany:** Adopt comprehensive anti-discrimination legislation, with the definitions of all forms of discrimination in accordance with international standards (140.33).
- **Honduras:** Include the concept of incitement to hatred in the Criminal Code, expressly including sexual orientation and gender identity as protected motives (140.34).
- **Iceland:** Adopt comprehensive anti-discrimination legislation that addresses direct and indirect discrimination and encompasses all the prohibited grounds of discrimination, including sexual orientation and gender identity (140.35).
- **Ireland:** Introduce legislation, in full compliance with international standards, which protects women and LGBTI persons from all forms of discrimination, harassment and violence (140.37).
- **Mexico:** Adopt comprehensive legislation against discrimination with definition of all of its forms in line with international standards, including discrimination based on sexual orientation and gender identity (140.41).
- **Netherlands:** Adopt and implement legislation to prohibit discrimination on the basis of sexual orientation (140.42).
- **Portugal:** Adopt a comprehensive anti-discrimination legal framework which includes, inter alia, the prohibition of all forms of direct and indirect discrimination against women, of racial discrimination as well as of discrimination based on sexual orientation and gender identity, and provides for special measures to promote equal opportunities and address structural discrimination (140.46).
- **Spain:** Make further efforts and include in the Constitution discrimination on the grounds of sexual orientation and gender identity as one additional ground of prohibited discrimination (140.49).
- **Uruguay:** Adopt comprehensive anti-discrimination legislation that includes discrimination based on sexual orientation and gender identity (140.52).



E. Recommendations for Cycle II (2015)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Ensure that national legislation conforms to international human rights standards on non-discrimination, particularly concerning sexual orientation and gender identity, gender and racial discrimination	Brazil	Supported
Ensure equal rights and opportunities to all persons without distinction and promote policies to prevent discrimination based on sexual orientation and gender identity	Uruguay	Supported
Ensure that allegations of violence, torture, inhuman and degrading treatment of LGBT persons, by government and non-government actors, are investigated promptly and efficiently and that perpetrators are brought to justice	Sweden	Supported
Undertake all necessary measures to prevent discrimination and violence against LGBTI persons	Slovenia	Supported
Ensure that its legislation protects the rights of everyone, regardless of their sexual orientation and gender identity, minority status or any other basis, to freedom of expression and assembly, freedom from discrimination and equality before the law	Finland	Supported
Adopt comprehensive anti-discrimination legislation effectively fighting and preventing discrimination on all grounds, including ethnicity, religion, gender and sexual orientation	Czechia	Noted
Enact specific legislation to prohibit discrimination against persons based on sex, race, colour, religion, national origin and sexual orientation	Canada	Noted

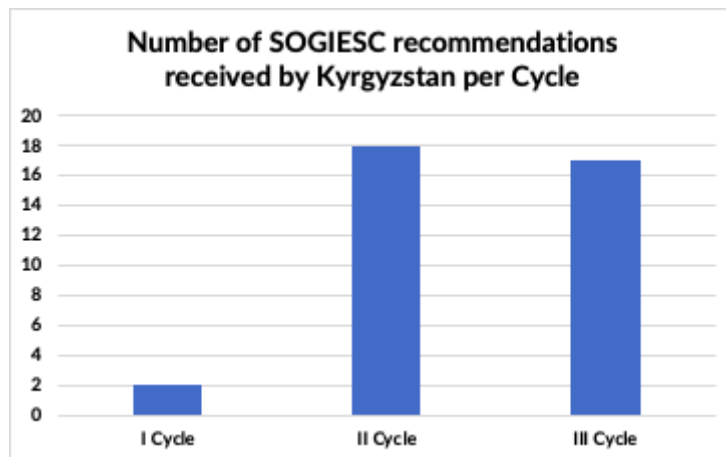


Withdraw the draft law on "formation of positive attitude to non-traditional sexual relations" and develop and implement comprehensive anti-discrimination legislation, in close cooperation with civil society	Austria	Noted
Include sexual orientation and gender identity in the national legislation on discrimination, and establish policies and initiatives to address discrimination against LGBTI persons	Chile	Noted
Criminalize homophobic hate speech in the public discourse	Serbia	Noted
Adopt and implement legislation ensuring effective protection of LGBT people, inter alia on the prohibition of discrimination and hate crimes, a confidential complaints mechanism and protection of LGBT minors	Netherlands	Noted
That any changes in legislation uphold fundamental freedoms and ensure non-discrimination, including on the basis of religion or sexual orientation	Australia	Supported
Refrain from adopting the discriminatory draft law on "formation of positive attitude to non-traditional sexual relations"	Canada	Noted
Repeal any law or bill that does not meet international standards on non-discrimination on the grounds of sexual orientation	Spain	Noted
Make additional efforts to fight against homophobia, discrimination and violence against LGBT persons	Montenegro	Noted
Adopt public policies that protect against all forms of discrimination and violence based on sexual orientation and gender identity	Spain	Noted



Refrain from adopting any legislation, such as the draft law on "foreign agents" and the draft law on "dissemination of information about non-traditional sexual relations" that will limit the fundamental rights to freedom of expression, association and assembly	Denmark	Noted
Refrain from any action incompatible with the non-discrimination of religious and ethnic minorities as well as of LGBT persons	Switzerland	Noted

F. Graphic Comparison Between Cycles (1–3)



G. SOGIESC recommendations shared by HRDs during ILGA’s UPR advocacy week in Geneva:

1. Adopt comprehensive anti-discrimination legislation, with the definition of all forms of discrimination in accordance to international standards, including SOGI as protected grounds;
2. Explicitly outline in the Article 9 of the Labour Code that discrimination in labour based on sexual orientation and gender identity is illegal;
3. Include anti-discrimination examination of bills.
4. Include the concept of hate speech in the Criminal Code of the KR, with sexual orientation and gender identity as protected grounds;
5. Introduce an effective system for monitoring and prosecuting public officials and media for intolerance and disrespect based on discrimination, as well as for hate speech;



6. Specify «homophobia» and «transphobia» as aggravating circumstances in the Criminal Code (Article 75 p.1, 12);
7. Add the possibility for trans people to change the PIN in case of a changing gender marker in the documents as part of "the procedure for assigning and changing a personal identification number";
8. Conduct a fair and objective investigation of all cases of assault, violence, blackmail by radical groups, employees of internal affairs bodies and homophobes/transphobes in relation to LGBT people and activists;
9. Conduct a fair and objective investigation into police inaction on May 1, 2019, during an attack on LGBT activists. Withdraw the draft law on "formation of positive attitude to non-traditional sexual relations";
10. Withdraw the draft law "On amendments to the law of the Kyrgyz Republic "On the procedure for conducting inspections of business entities";
11. Make corrections to the bill: "On the protection of children from information that is harmful to their health or development " and remove vague definitions.

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

I. [SOGIESC Mentions During Kyrgyzstan's UPR Outcome](#)

- **Opening remarks:** Though we have taken note of the recommendations (140.30, 140.32, 140.33, 140.34, 140.35, 140.37, 140.41, 140.42, 140.46, 140.48, 140.49, 140.52, 140.209 and 140.216) pertaining to the protection and advancement of the LGBTI Community, adoption of the comprehensive legislation against discrimination based on sexual orientation and gender identity, I would like to underline that nobody in Kyrgyzstan can be subject to discrimination based on gender, race, language, disability, ethnic affiliation, religion, age, political or other beliefs, education, origin, property or another status as well as other commitments. On LGBTI, the current legislation demonstrates a non-discriminatory attitude and positive enforcement of citizens' rights. Kyrgyzstan makes successive steps in terms of the national legislation adaptation to the international standards. To begin with, the developed procedure for gender reassignment and change in the passport details shall be mentioned among the positive current developments. In Kyrgyzstan, everyone has a right to gender reassignment. This right has been affirmed in the Law «On protection of the citizens' health in the Kyrgyz Republic».
- **Amnesty International:** It expressed regret at Kyrgyzstan merely noting recommendations on eliminating discrimination on the grounds of sexual orientation and recommendations to set up an independent body to investigate torture and other ill-treatment. It pointed out that LGBTI persons continue to face discrimination and violence by State and non-State actors, and that the perpetrators of a 2015 attack on the office of the LGBTI rights group, Labrys, are yet to be brought to justice.



LAO PEOPLE'S DEMOCRATIC REPUBLIC UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 21 JANUARY 2020, 14:30– 18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 24 JANUARY 2020, 15:00– 18:00

During the 35th UPR Working Group Sessions, Lao People's Democratic Republic received 2 SOGIESC recommendations. It noted both of the recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

11. The United Nations country team reported that the first phase of developing a national youth policy covering young people aged 15–25 had recently been completed. The policy was aimed at promoting access to social services, skills development opportunities and civic participation. The process had involved young people from across the country and included many young people from traditionally underrepresented groups, including youth with disabilities and lesbian, gay, bisexual and transgender youth.

Summary of Stakeholder's Information

N/A

B. SOGIESC Advanced Questions for Lao People's Democratic Republic

N/A

C. Lao People's Democratic Republic's Working Group Session

N/A

D. Recommendations for Cycle III (2020)

a) Remarks of States

N/A



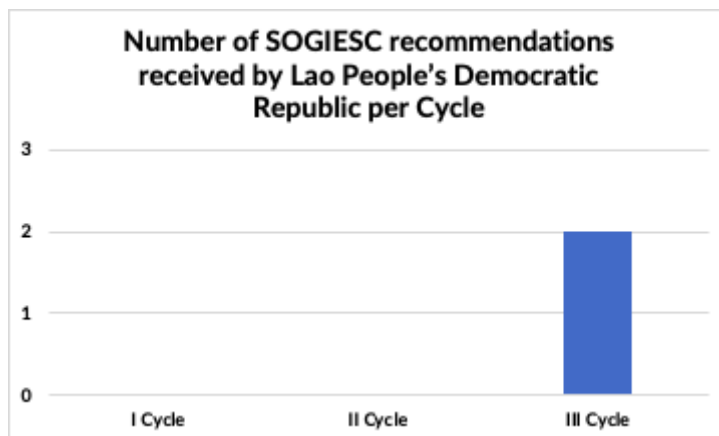
b) The following recommendations have been examined and noted by Lao People's Democratic Republic:

- **Iceland:** Adopt comprehensive anti-discrimination legislation that addresses direct and indirect discrimination and encompasses all the prohibited grounds of discrimination, including sexual orientation and gender identity (115.46).
- **Malta:** Continue taking steps to improve the rights of LGBTI persons particularly by identifying their needs and consider involving LGBTI representatives in decision making processes (115.47).

E. Recommendations for Cycle II (2015)

N/A

F. Graphic Comparison Between Cycles (1–3)



G. [Video of Lao People's Democratic Republic's UPR Working Group Session](#)

H. [SOGIESC Mentions During Lao People's Democratic Republic's UPR Outcome](#)

- **Opening remarks:** In pertinent to the rights of LGBT, the Lao PDR does not restrict or prohibit them from social activities. However, the Lao PDR does not support the relating recommendations as it is not in line with the national cultural values and morals.



LESOTHO UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 22 JANUARY 2020, 14:30– 18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 24 JANUARY 2020, 15:00 - 18:00

During the 35th UPR Working Group Sessions, Lesotho received 10 SOGIESC recommendations. It accepted 2 recommendations and noted the other 8 recommendations.

A. SOGIESC Information

National Report

91. The Ministry of Health has taken the following measure to protect sex workers, factory workers, Lesbian Gay Transgender Bisexual and Intersexual (LGBTI) and prison inmates from discrimination and to guarantee them adequate access to HIV/AIDS care and other related services:

- Social and Behavior Change communication has been introduced through the peer education model using Interpersonal communication manual.
- Condoms education, promotion and distribution integrated within the delivery of Social and Behavior Change communication messaging.
- HIV testing and Counseling Services at community level which is primarily referral and linkage to care to the nearest facility.
- Self-testing has also been introduced to increase number of HIV testing especially for people who are not comfortable to use existing facilities.
- Pre exposure Prophylaxis administered to discordant partners, key populations and young people as HIV prevention strategy.
- Post Exposure Prophylaxis is also offered to all eligible clients including those who are sexually abused.

127. In the 2019/2020 budget speech, the Government undertook to increase targeted HIV testing and services to key populations, which include, LGBTI community. LEA report assessed the extent at which LGBTI, sex workers and key populations are disproportionately affected by the HIV prevalence. These recommendations have been partially implemented.

Compilation of UN Information

21. Moreover, it recommended implementing constitutional, legal and policy reforms to promote and protect the human rights of all persons irrespective of their sexual orientation, gender identity and disabilities. It also recommended expanding and improving national data collection on gender-based violence and conducting a national time-use study disaggregated by sex, age, location, sexual orientation and gender identity, disability and other relevant socioeconomic indicators.



Summary of Stakeholder's Information

12. Joint Submission 6¹⁴ (JS6) recommended to give LGBTI people similar rights and benefits which are definite to heterosexual and cis-gender people, to establish an independent national human rights commission in compliance with the Paris Principles where their work will be to enforce laws which protect and promote the rights of the LGBTI Persons, to work towards altering public views concerning diverse sexual and gender identities for LGBTI persons to be entirely accepted by society, as well as to criminalise homophobia and transphobia to prevent violence and discrimination against LGBTI persons, and to amend Section 3 of Marriage Act 1974 for it to be inclusive of same-sex couples.

13. JS6 recommended to eliminate all sodomy laws to advance the universal vision of human rights, to work alongside LGBTI activists to eradicate stigma and discrimination, to establish advance toilets policies which would promote unisex toilets and facilities to accommodate transgender and non-gender conforming persons, as well as to enact laws recognising reassigned gender {on gender identity documents} as a done in the name changes.

14. JS7¹⁵ noted that Lesotho has done little to tackle the pervasive patriarchal and heteronormative beliefs and practices which has an impact on the current legal and policy framework that translates into a context that prevents most LGBTI persons from expressing their sexual orientation and gender identity openly for fear of violence, discrimination and stigma, which the government has used to justify its reluctance to change discriminatory laws in the area of land inheritance and female chieftainship.

15. JS7 and JS9 stated that sexual orientation and gender identity is not recognised as a ground for non-discrimination in the Constitution as a result it fosters a climate of fear among LGBTI persons and fuels stigma and discrimination against them.

16. JS7 condemned the legal ambiguity in relation to same sex conduct as well as the government's silence and so-called 'neutral position' in matters of LGBTI rights, coupled with dominant patriarchal and heteronormative norms, which according to them leaves legal and social loopholes for a homophobic state and non-state actors to exploit and use against LGBTI persons making them vulnerable to violence, harassment and discrimination in all avenues of life.

17. JS6 noted that there was no specific protection against discrimination based on sexual orientation or gender identity which makes lesbians, gays, bisexual and transgender people, experience societal disregard and discrimination²¹ thus, according to the Southern African Litigation Centre (2016), transgender identifying persons in Lesotho experience discrimination in the hands of healthcare staff in health institutions.

¹⁴ Joint submission 6 submitted by: Gender Dynamix (GDX), Rainbow Alliance of Lesotho and Master of the Healing Foundation (MOHF), Cape Town (South Africa)

¹⁵ Joint submission 7 submitted by: The Sexual Rights Initiative (SRI) and Coalition of African Lesbians (CAL), Ottawa (Canada)



18. JS9 noted that the omission of a legislative framework for the protection of the LGBTI community leads to discrimination of various forms including targeted assaults by the police, non-recognition of LGBTI unions like lawful marriages, prohibition to adopt children, denial of access to healthcare services which has led to high prevalence of HIV and other sexually transmitted infections (STIs) amongst the LGBTI community and spread of such in the entire country as well as direct victims of domestic violence, denial of rights within their families, social exclusion and being forced into conventional marriages and initiation schools amongst others, not forgetting the discrimination against inter-sexed children whom at birth, are subjected to sex-reassigning and consequently a number of complications when such a child is older.

55. JS7 expressed concern over most healthcare providers' attitudes towards LGBTI persons seeking health services remain judgmental since they are not adequately trained and supervised in providing health services and information to LGBTI in a nondiscriminatory manner.

56. JS7 highlighted the efforts made by the Minister of Health in the National Budget Speech in February 2019 which issued a call for increasing the Health sector budget to fulfil issues of "Key Populations" more specifically the LGBTI community, people living with disabilities etc but regretted that there has been a failure to adequately roll out HIV prevention services to incarcerated persons and that the only contraceptive that have been provided through the public health system are condoms.

57. JS7 recommended to collaborate with LGBTI civil society organisations to develop and implement mandatory training programs for health care workers to reduce stigma and discrimination against all members of key populations, and to promote a human rightsbased approach to healthcare and service delivery.

58. JS7 asked Lesotho to review the current data collection in the areas of health, gender-based violence, education and training to ensure that the information collected is disaggregated by sexual orientation and gender identity and to use this data to review and improve access for LGBTI persons to current programs and services provided in these areas.

60. JS9 noted with concern that school dropout remained high due to factors such as pregnancy, child marriage, going to initiation school, lack of funding to study and unfriendly environment for LGBTI learners.

B. SOGIESC Advanced Questions for Lesotho

- **United Kingdom:** How does the Government plan to protect the rights of women and girls, including broadening the scope of women's rights under customary law, and the rights of LGBT persons?
- **Slovenia:** In the National Report Lesotho listed measures taken by the Ministry of Health to protect different groups, including LGBTI, from discrimination and to guarantee them adequate access to HIV/AIDS care and other related services. We would appreciate information on other measures taken to implement constitutional, legal and policy reforms to



promote, protect the human rights of persons irrespective of their sexual orientation and gender identity.

C. Lesotho's Working Group Session

- **Opening remarks:** It will be recorded that, in the second cycle, Lesotho noted all the recommendations that dealt with key populations such as LGBTIs as well as decriminalizing defamation. It is with pleasure that I would like to share with this gathering that regardless of the fact that these recommendations were among those that were noted there has been remarkable progress with regards to the implementation. In 2019-2020 speech the government undertook to increase target HIV testing and services to key population which includes LGBTI community. The government through the Ministry of Law, Constitutional Affairs and Human Rights conducted its legal environment assessment on HIV and AIDS in 2014 supported by the UNDP. The objective of the assessment was to improve the availability of information legal and regulatory aspects covering HIV related issues also taking into account the right to key population such as LGBTIs. The report of the assessment was launched by the Ministry in November 2016 with the view to share the key findings and recommendations of the assessment. Since then, HIV and Law National Action Plan Working Group was established in October 2017 to discuss and finalize priorities areas to serve as the backbone to the National Action Plan. The plan has been completed and it is in its implementation stage.
- On the issue of protection of LGBT persons, the law is silent on consensual sex between adult women but expressly prohibit it between men. Notwithstanding this, Madam President, the group has legally registered organization that operates freely and its members are in all districts of the country, it has a good working relationship with the police, it freely engages in public outreach programs, throughout claiming, radio and TV programmes, public audience and social media. One of the most common events is on 21st May of each year they hold the national day against homophobia and transphobia march which is peaceful and the police officers usually escort them as a measure of support. In June 2015 the government committed to decriminalise same-sex relationship with the view to also to address the spread of HIV.

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Netherlands:** In line with our previous recommendations in the first and second UPR cycle, we remain concerned about the high level of discrimination and violence against LGBTI individuals and the widespread problem of gender based violence.
- **Canada:** Canada continues to be concerned about the legislative framework allowing for discrimination based on sexual orientation and gender identity.



b) The following recommendations have been examined and accepted by Lesotho:

- **Argentina:** Adopt norms that will guarantee to LGBTI persons the full enjoyment of their rights on the basis of equality in all spheres, combatting discrimination and negative stereotypes that still exists in the society (110.53).
- **Costa Rica:** Take the necessary steps to combat discrimination on grounds of sexual orientation and gender identity and discrimination against persons with disabilities (110.166).

c) The following recommendations have been examined and noted by Lesotho:

- **Honduras:** Criminalize homophobia and transphobia to prevent violence and discrimination against lesbian, gay, bisexual, transgender and intersex persons (111.24).
- **Iceland:** Decriminalize consensual sexual relations between adults of the same sex and expand its anti-discrimination legislation, to include a prohibition of discrimination on the basis of sexual orientation and gender identity (111.25).
- **Iceland:** Amend Section 3 of the Marriage Act of 1974 for it to be inclusive of same-sex couples (111.26).
- **Mexico:** Include in the legislation a provision prohibiting discrimination based on sexual orientation on gender identity, and reform laws that criminalize consensual sexual relations between same-sex persons, such as the Criminal Code of 2010, and the Criminal Procedure and Evidence Act, section 187(5) (111.27).
- **Netherlands:** Review and amend the legislative framework to ensure that sexual orientation and gender identity is included as a protection ground for non-discrimination (111.28).
- **New Zealand:** Decriminalize consensual same-sex relationships between adults, and introduce comprehensive anti-discrimination laws which include sexual orientation and gender identity (111.29).
- **Australia:** Repeal provisions in the Penal Code that criminalize same-sex relations between consenting adults, and amend relevant legislation to ensure discrimination based on sexual orientation and gender identity is explicitly prohibited (111.30).
- **Germany:** Implement legal reforms to protect the human rights of all persons irrespective of their sexual orientation and gender identity (111.31).

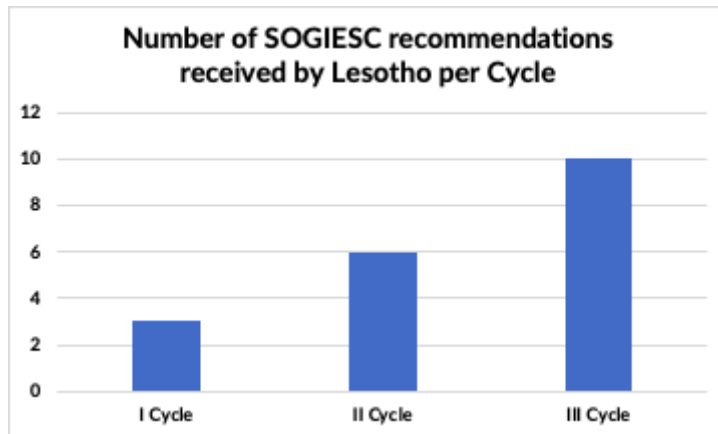
E. Recommendations for Cycle II (2015)

RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Repeal legislation criminalizing male homosexuality, and introduce targeted policies to eradicate discrimination based on sexual orientation and gender identity	Slovenia	Noted
Repeal all provisions of law criminalizing sexual activity between consenting adults	Australia	Noted



Repeal legislation criminalizing consensual same-sex relations between adults	Canada	Noted
Adopt norms that guarantee LGBTI people the full enjoyment of their rights on an equal footing, which simultaneously safeguard their non-criminalization and stigmatization	Argentina	Noted
Enact measures to combat discrimination of LGBTI people and to ensure them equal access to public services such as health care and education	Netherlands	Noted
Make progress towards the protection of LGBTI people, by creating the conditions allowing them to access to basic services in the fields of health, work and religious activities, and in addition by eliminating definitely from the Criminal Code sodomy as a crime	Chile	Noted

F. Graphic Comparison Between Cycles (1–3)



G. SOGIESC recommendations shared by HRDs during ILGA’s UPR advocacy week in Geneva: Master of Healing Foundation and Gender Dynamix

1. Criminalize homophobia and transphobia to prevent violence and discrimination against LGBTI people;
2. Amend Section 3 of Marriage Act of 1974 for it to be inclusive of same-sex couples;
3. Eliminate sodomy laws to advance the vision of human rights and work;
4. Enactment of Laws recognizing reassigned gender (on identity documents) as done in name change;
5. Establish an independent National Human Rights Commission in compliance with the Paris Principles.



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

I. [SOGIESC Mentions During Lesotho's UPR Outcome](#)

- **Opening remarks:** 43 recommendations were noted as they were considered to be against government laws, policies, culture and traditions. These include a call on the abolition of death penalty, a call to ratify Optional Protocols to various treaties dealing with communications procedures, amending the Marriage Act of 1974 to include marriage of same-sex couples, repealing section 18(4)(c) of the Constitution with a view to protect women and persons with disabilities from discrimination. They were not accepted as some would require vigorous sensitisation to bring a change in the mindset of the citizenry, for they are deeply rooted in our culture and traditions. It is worth noting, therefore, that the views of the electorate are important in such issues and a bottom-up approach is thus significant. Although we noted almost the same recommendations in the second and third cycles, there has been progress regarding the noted recommendations, and in the light of upcoming national reforms, some of these issues will be co-opted in the process.
- **Action Canada for Population and Development:** It expressed disappointment over the fact that Lesotho noted recommendations relating to sexual orientation, gender identity and gender expression. Only noting the recommendations leaves LGBTI persons in grave danger of discrimination and violence, and has a detrimental impact on their health outcomes, economic and social wellbeing, and other areas of life. Action Canada maintained that Lesotho's use of culture and religion to justify its non-acceptance of UPR recommendations undermines the national Constitution and contradicts Resolution 275 of the African Commission on Human and Peoples' Rights, and other international human rights commitments. It called on Lesotho to explicitly decriminalise and protect same-sex persons and relationships and partner with LGBTI-led organizations to train state actors especially health care and law enforcement to eradicate stigma and promote non-discrimination.



SPAIN UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 22 JANUARY 2020, 09:00–12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 24 JANUARY 2020, 15:00–18:00

During the 35th UPR Working Group Sessions, Spain received 1 SOGIESC recommendation. It accepted the recommendation.

A. SOGIESC Information

National Report

25. The draft amendment to the Royal Decree regulating the portfolio of common services of the National Health System has been submitted for prior consultation with a view to enabling lesbian and single women to regain access to assisted reproduction in the public health system.

48. Other legislative initiatives left pending in the wake of the dissolution of the Cortes are the draft bill on an amendment to Act No. 3/2007, under which the requirements for registering a change of sex would be loosened, and the draft bill on combating discrimination on grounds of sexual orientation, gender identity or expression and sexual characteristics and on the social equality of lesbian, gay, bisexual, transsexual, transgender and intersex persons.

57. In the same year [2018], the Government signed an institutional cooperation agreement to combat racism, xenophobia, negative attitudes towards lesbian, gay, bisexual, transgender and intersex persons and other forms of intolerance. 66 In 2019, the commission that monitors the implementation of the agreement adopted the text of the framework agreement on measures to combat online hate speech.

156. Spain supports multilateral initiatives to combat discrimination based on sexual orientation and gender identity and continues to promote the human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. Spain co-sponsored the resolution renewing the mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. It also participates actively in the Equal Rights Coalition, the LGBT Core Group of the United Nations and the European network of governmental LGBTI focal points.

Compilation of UN Information

N/A



Summary of Stakeholder's Information

9. Fundación Secretariado Gitano (FSG) welcomed the action plan to combat hate crime (2019). JS4¹⁶ noted, however, that migrants, refugees, Gypsies, persons with disabilities, members of the LGBTBI community and homeless persons continue to be discriminated against in the exercise of their rights, particularly in employment, housing, health and education

10. JA1 and Joint Submission 24 (JS24)¹⁷ recommended taking measures to curb hate speech, xenophobia and racial discrimination. FSG, JS4 and Joint Submission 15 (JS15)¹⁸ recommended adopting the Comprehensive Act on Equal Treatment and Combating Discrimination. Association Actuavallès recommended approving the LGBTI Equality Act and the Trans Act.

B. SOGIESC Advanced Questions for Spain

N/A

C. Spain's Working Group Session

- **Opening remarks:** Currently we are working on a draft basic law amending the criminal code to strengthen the protection of freedom of sexual identity, in line with what is enshrined in the Istanbul Convention.
- As regards human rights, Spain believes in the full integration of the gender perspective across the Council's work and we support multilateral initiatives to combat discrimination on the grounds of sexual orientation and gender identity. Spain supports the mandate of the Special Rapporteur for Violence Against Women and in 2019 we promoted the renewal of the mandate of the Independent Expert for the protection against discrimination and violence based on sexual orientation and gender identity.

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Australia:** Australia commends Spain on its efforts to promote and protect human rights, including in combating discrimination on the basis of gender, sexual orientation or gender identity

b) The following recommendation has been examined and accepted by Spain:

- **Iceland:** Continue legislative initiatives on amending the requirements for registering a change of sex and on combating discrimination on grounds of sexual orientation, gender identity or expression and sexual characteristics (150.52)

¹⁶ Joint submission 4 submitted by: Plataforma DESC España and its 19 contributors (Spain)

¹⁷ Joint Submission 24 submitted by: Freemuse, PEN Català and PEN International (Denmark)

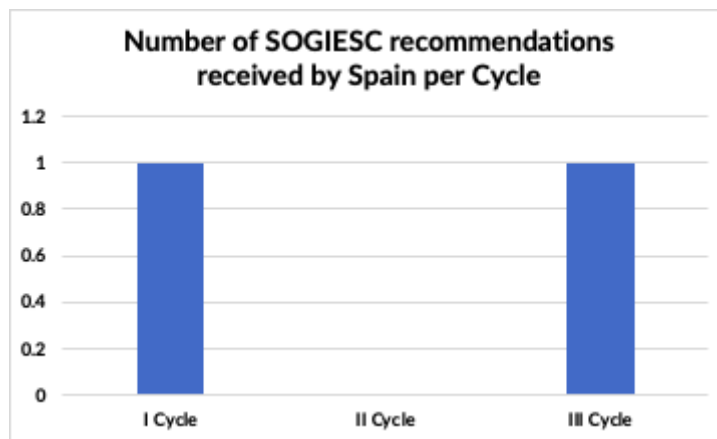
¹⁸ Joint Submission 15 submitted by: Clínica Jurídica de la Facultad de Derecho de la Universidad de Murcia, Fundación Cepaim (Spain)



E. Recommendations for Cycle II (2015)

N/A

F. Graphic Comparison Between Cycles (1–3)



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

H. [SOGIESC Mentions During Spain's UPR Outcome](#)

- **Opening remarks:** I would also like to mention that on June 26, we opened prior public consultations and began processing the Organic Law for equality of LGTBI persons, also covering non-discrimination based on sexual orientation, gender identity, gender expression or sexual characteristics.
- **Action Canada for Population and Development:** It welcomed Spain's acceptance of all the recommendations on sexual and reproductive health and rights including the fight against discrimination based on sexual orientation, gender identity, expression and sexual characteristics, and the guarantee of access to sexual and reproductive health services for all persons residing in Spain, without discrimination, and with special attention to vulnerable groups.



SWEDEN UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 27 JANUARY 2020, 09:00–12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 30 JANUARY 2020, 16:30–18:00

During the 35th UPR Working Group Sessions, Sweden received 9 SOGIESC recommendations. It accepted 4 recommendations and noted the other 5 recommendations.

A. SOGIESC Information

National Report

58. The purpose of the government grant is that it should contribute to meet needs for security enhancement measures in civil society organisations whose activities are affected by fear of threats, violence and harassment linked to skin colour, national or ethnic origin, religion or belief, sexual orientation, transgender identity or expression or other similar circumstance or the work of organisations against racism or similar forms of hostility.

61. The Swedish National Agency for Education allocates the grant for security-enhancing measures to providers who run schools where there is a tangible risk of crime where a motive for the crime is to aggrieve a person, ethnic group or some other similar group of people due to any such circumstance referred to in Chapter 29, Section 2(7) of the Penal Code (i.e. race, colour, national or ethnic origin, religious belief, sexual orientation, transgender identity or expression or other similar circumstance).

62. On 1 July 2018 the grounds of transgender identity or expression were added to the provision on unlawful discrimination and to the rule on prosecuting insulting behaviour. An addition was also made such that it is expressly stated that it is an aggravating circumstance if a motive for an offence was to insult a person or a population group on grounds of transgender identity or expression. On 1 January 2019 transgender identity or expression was also added to the provisions of the Freedom of the Press Act and the Penal Code on agitation against a national or ethnic group. These changes to the law bring about expanded and clearer protection under criminal law for transgender people.

69. Following a Government decision, the Swedish Gender Equality Agency was founded on 1 January 2018. The agency's remit includes developing preventive measures to combat men's violence against women, honour-related violence and oppression, prostitution and human trafficking for all purposes and violence in same-sex relationships.

Compilation of UN Information

N/A



Summary of Stakeholder's Information

7. JS3¹⁹ noted that a number of recommendations from the 2015 UPR called for strengthening efforts to combat discrimination and hate crimes. However, the number of reported hate crimes remained high. UNA-Sweden/JS1²⁰ noted that hate crimes with racist or xenophobic motive continued to rise. Hate crimes with anti-religious motives had also increased and hate crimes with sexual orientation motives remained an issue. EU-FRA²¹ noted that few complaints on hate crime led to prosecution and even fewer to convictions, despite an increase in the number of hate crimes reported.

13. JS6²² stated that Sweden still performed sex "normalizing" surgeries on children born with different intersex traits and that such surgeries were reportedly carried out very early age, before the child was old enough to give a consent.

14. JS6 stated that the Constitution did not expressly prohibit discrimination and negative treatment of transgender people and reported on a high rate of violence. JS6 stated that trans people were required to go through mandatory gender affirming health care to get legal gender recognition, which was not in line with the Yogyakarta Principles. There was no possibility for non-binary people to have their gender legally recognised since a gender-neutral marker did not exist.

31. UNA-Sweden/JS1 stated that unemployment disproportionately affected persons with disabilities, Afro-Swedes, Muslims, national minorities and LGBTQI persons. Fryshuset noted an increase in unemployment among young persons.

71. JS6 reported on cases of LGBTQI people being deported to countries where same sex relations were criminalized. UNA-Sweden/JS1 and JS3 reported on a lack of adequate procedural guarantees for protection against refoulement for unaccompanied asylum-seeking minors. Likewise, JS4 noted that the religion-based asylum process faced challenges and risked to fail to comply with relevant international human rights standards. It explained that some Muslim asylum-seekers from Asia have converted from Islam to Christianity and claimed asylum based on religion sur place. Due to the

¹⁹ Joint submission 3 submitted by: Civil Rights Defenders supported by the Order of the Teaspoon¹, É Romani Glinda, the Afro-Swedish National Organisation, the Muslim Human Rights Committee, and the Pan African Movement for Justice, as well as the following Sami representatives: Peter Rodhe, Chair of the National Association of Samiland, Helena Dådring, Chair of Landsförbundet Svenska Samer, Marie Persson Njajta, Founder of the Stop Rönnbäck Nickel Mining Project in Ume River, Tärnaby, Marianne Gråik, Member of a Reindeer Herding District and Åsa Simma, Theatre Manager, Giron Sámi Teáhter, Sweden

²⁰ Joint submission 1 submitted by: United Nations Association of Sweden with the contribution of Swedish section of the International Commission of Jurists, the Swedish Women's Lobby, the Swedish Foundation for Human Rights, the Order of the Teaspoon, the Swedish Association for Sexuality Education, Swedish Disability Rights Federation, Civil Rights Defenders, Equality Unique, the Swedish Federation for LGBTQ rights, Visual Impaired Youth Sweden, Disability Humanity Rights, and Church of Sweden as well as support of Operation 132, the Swedish Human Rights and Democracy Movement and the Swedish National Federation of Immigrant Women's Association (Sweden)

²¹ European Union Agency for Fundamental Rights

²² Joint submission 6 submitted by: The Swedish Federation for Lesbian, Gay, Bisexual, Transgender and Queer Rights and the Swish Association for Sexuality Education, Stockholm, Sweden



denial of their asylum applications, they risked deportation to their country of origin and, in most cases, also persecution due to their new religion.

B. SOGIESC Advanced Questions for Sweden

N/A

C. Sweden's Working Group Session

- **Opening remarks:** There is a cold wind blowing over the world these days. It challenges human rights common values. It wants us to value people differently based on gender, ethnicity, sexual orientation, gender identity, religion or age. We have felt these winds before. And what they have taught us that our society is much stronger when we do not bow for these winds but stand up for the equal value of all persons, when we build our society on courage and not on fear. A lot remains to be done, to make sure that everyone can live in freedom and in supportive respect. To make sure persons are not marginalized, not exposed to discrimination, hate crime, gender-based violence and honor related crimes. This is vital for the wellbeing of men, in particular to women, young persons, persons with disabilities, other minorities and persons who have been exposed to racism. To tackle these challenges we need a strong and open society and multilateralism mechanisms. We need more cooperation, not less.
- Once thing is certain: all forms of racism, anti-semitism, islamophobia, afrophobia, anti-gypsyism, to mention a few, are connected. We mean LGBTI persons and persons with disabilities can be particularly vulnerable. We must address anti-semitism and all forms of racial discrimination. We can never tolerate it.
- We would like to continue expressing that equal rights for LGBTI persons are highly prioritized by the Swedish government. Our position is crystal clear: it is not a question of opinion or morals, human rights are universal and apply to all. Everyone must be able to fully enjoy their human rights irrespective of sexual orientation, gender identity or gender expression. It is our duty as states to respect, protect and fulfill this rights for all persons without discrimination of any kind. In order to strengthen equal rights for transgender persons we are working to pass modern legislation that allows changes of legal gender on the basis of self-determination. We have encountered some challenges in the legislative process but we are determined to resolve them. We will also examine how the parental code can be made more gender neutral, this is important for rainbow families. Furthermore, the Swedish Migration Agency has been given several assignments for work continuously to ensure the quality of the legal process involving LGBTI identity or expression and ensure it has the necessary skills to make assessments in such cases. Persons who risk persecution in their country or region due to sexual orientation and gender identity or gender expression, for example, have the right to protection in Sweden. Sweden will always be a strong and important voice to protect the right to seek asylum and to protect vulnerable groups. The government is now intensifying its work on LGBTI equality by launching Sweden's first LGBTI Action Plan which will be developed during 2020.



D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Denmark:** We commend Sweden for its long-lasting commitment to human rights, including on gender-related matters. The issue of gender identity is an important aspect hereof.

b) The following recommendations have been examined and accepted by Sweden:

- **Canada:** Intensify efforts to prevent and eliminate all forms of hate speech and hate crimes based on ethnicity, religious belief, sexual orientation and gender expressions (156.148).
- **Mexico:** Effectively apply the principle of non-refoulement when there is risk to life, liberty or personal integrity of the asylum seeker, especially in cases of children, girls and adolescents and LGBTI persons (156.291).
- **Netherlands:** Facilitate the legal registration of the self-defined gender identity of transgender persons by detaching the change of legal gender from requirements on mandatory medical assessments or procedures (156.162).
- **Spain:** Redouble efforts to fight discrimination and crimes motivated by racist or xenophobic prejudices and, especially, on the grounds of sexual orientation, gender identity, or religion (156.109).

c) The following recommendations have been examined and noted by Sweden:

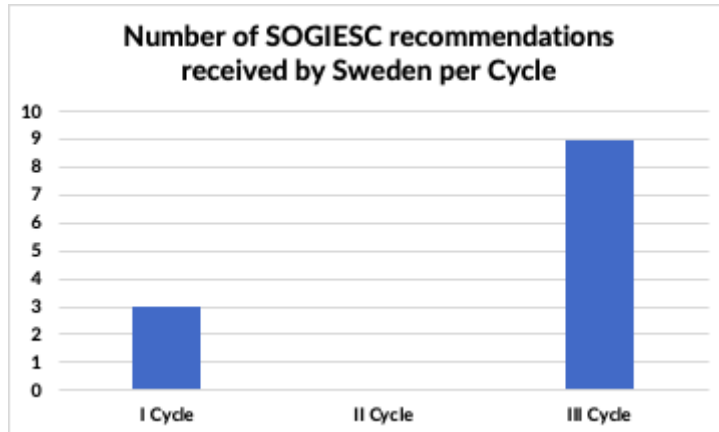
- **Denmark:** Adopt a new gender recognition law, as proposed in SOU 2014:91, basing legal gender recognition on self-definition and detaching it from medical procedures (156.163).
- **Iceland:** Adopt a new gender recognition law based on self-definition, detaching medical procedures from legal gender recognition (156.161).
- **Malta:** Protect children's right to bodily integrity, autonomy and self-determination by ensuring, by legislation or otherwise, that non-vital surgical or other medical procedures on intersex infants are not performed before they are able to provide their informed consent (156.158).
- **Malta:** Adopt a new gender recognition law to ensure a quick, transparent and accessible mechanism based on self-definition, detaching medical procedures from legal gender recognition, in line with the Yogyakarta Principles (156.159).
- **Malta:** Commission a State Public Report with the mandate to investigate the legal possibility to introduce a third legal gender, towards increased recognition of self-defined gender identity of each person (156.160).

E. Recommendations for Cycle II (2015)

N/A



F. Graphic Comparison Between Cycles (1–3)



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

H. [SOGIESC Mentions During Sweden's UPR Outcome](#)

- **Swedish Association for Sexual Education (RFSU) and the Swedish Federation of Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Rights (RFSL):** They welcomed Sweden's support for the recommendation on facilitating legal gender recognition by removing requirements of mandatory medical assessments or procedures. However, they were surprised that Sweden did not support the recommendation explicitly referring to the necessary legislative changes to achieve this. Although the recommendation was not supported, it was noted that Sweden promised to take into consideration the protection of children's right to bodily integrity, autonomy and self-determination by ensuring that non-vital surgical and other medical procedures are not performed before their informed consent is expressed. RFSU and RFSL also appreciated Sweden's support for recommendations on the non-refoulement principle when considering the situation of asylum-seekers, including LGBTI asylum seekers.



TURKEY UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 28 JANUARY 2020, 09:00–12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 30 JANUARY 2020, 16:30–18:00

During the 35th UPR Working Group Sessions, Turkey received 18 SOGIESC recommendations. It noted all 18 recommendations.

A. SOGIESC Information

National Report

65. Furthermore, in order to combat discrimination against LGBTI persons, MoJ (Ministry of Justice) has put into practice an “Intervention Program for LGBTI Convicts” within the scope of its “Project on Improving Programs on Evaluation, Intervention Tools and Rehabilitation”. Pursuant to the Intervention Program, LGBTI convicts receive medical, psychiatric, psychological and social assistance from competent professionals.

Compilation of UN Information

11. The Office of the United Nations High Commissioner for Refugees (UNHCR) stated that lesbian, gay, bisexual, transgender and intersex persons might face a significant level of discrimination and social isolation due to their sexual orientation and gender identity, and might be subjected to sexual harassment, physical and sexual violence, and forced marriages underpinned by the presumption that their sexual orientation could then be altered.

Summary of Stakeholder’s Information

13. ESHID²³ and JS2²⁴ noted that despite Turkey supported recommendations on adopting a comprehensive anti-discrimination law in 2015 UPR cycle, there has been no development since then. HRW²⁵ and JS8²⁶ recommended enacting a comprehensive anti-discrimination legislation. ECRI recommended including in the Penal Code a prohibition of discrimination on the grounds of ethnic origin, colour, language, citizenship, sexual orientation and gender identity aimed at combating racism and homo/transphobia; and abolish the restriction in Article 216.

²³ Association for Monitoring Equal Rights (AMER)/ (Eşit Haklar İçin İzleme Derneği - ESHİD)

²⁴ Joint submission 2 submitted by: ERA – LGBTI Equal Rights Association for Western Balkans and Turkey; Kaos Gay and Lesbian Cultural Research and Solidarity Association (Kaos GL); Red Umbrella; Social Policies, Gender Identity, and Sexual Orientation Studies Association (SPoD), Belgrade (Serbia)

²⁵ Human Rights Watch

²⁶ Joint submission 8 submitted by: Advocates of Silenced Turkey (AST), New Jersey (United States of America); World Affairs Council; Wayne (United States of America)



14. OSCE/ODIHR concluded that Turkey's law enforcement agencies have not recorded the bias motivations of hate crimes. JS2 and JS27²⁷ noted that gender-based violence, hate speech against disadvantaged groups, hate crime and violations of human rights of LGBTI+ persons were still a matter of serious concern and recommended that the provisions of "public order", "public health", "public moral" are not used against LGBTI+ rights defenders and to condemn violence and discrimination against them.

40. SDuB²⁸ noted that the assemblies of all the oppositions (such as Kurdish political groups, LGBTs, Leftists and Gulenists) were strictly restricted or banned. ORF²⁹ recommended regulating the use of force in accordance with international human rights standards in all situations, including in places of detention and during public gatherings.

B. SOGIESC Advanced Questions for Turkey

- **Belgium:** Which effective mechanisms is the government of Turkey implementing to guarantee freedom of expression, freedom of the press and freedoms of association and peaceful assembly? Is special attention foreseen for the LGBTI community in this regard?
- **Sweden:** What measures will the Government of Turkey take to effectively eliminate all forms of discrimination against LGBTI-persons?
- **United Kingdom:** In light of the recent bans on LGBT Pride Marches in both Ankara and Istanbul, how will the Government of Turkey ensure that the provisions of "public order", "public health", and "public morals" are not used to violate the right to freedom of peaceful assembly and association of rights defenders of LGBT individuals?
- **United Kingdom:** What steps are the Government taking following the lifting of the State of Emergency to ensure that people can gather and protest peacefully, including by lifting the repeated bans imposed on LGBT events, the "Saturday Mothers" and other peaceful demonstrations across the country?
- **United States of America:** The United States remains concerned by those provisions of Turkish law that unduly limit freedoms of expression, peaceful assembly, and association. In Istanbul, the authorities have blocked the peaceful protest of the Saturday Mothers group. In Ankara, the governor has implemented a ban on LGBTI assemblies, despite a court ruling in their favor. The government is investigating thousands of people for social media posts that appear to be protected by the right of freedom of expression—something guaranteed by the Turkish Constitution and Turkey's international legal obligations. What will your government do to ensure that these rights and legitimate expressions of opinion are protected and guaranteed? How will you ensure authorities do not continue to abuse anti-terror laws and insult laws, which lead to the stifling and penalizing of free speech?

²⁷ Joint submission 27 submitted by: Front Line Defenders; International Service for Human Rights (ISHR), Geneva (Switzerland); Kaos GL Cultural Research and Solidarity Association ("Kaos GL Kültürel Araştırmalar ve Dayanışma Derneği"); Truth Justice Memory Center ("Hakikat Adalet Hafıza Merkezi"); Netherlands Helsinki Committee; Association for Monitoring Equal Rights ("Eşit Haklar için İzleme Derneği"); Blackrock, county Dublin (Ireland)

²⁸ The Dialogue and Education Foundation (Stiftung Dialog und Bildung), Berlin, (Germany)

²⁹ The Omega Research Foundation



C. Turkey's Working Group Session

- **Intervention made after 40 interventions:** With regard to the advance questions made by Belgium and the UK, between 2015 and 2019 LGBTI organizations had 97 activities in different cities and nearly two 280,000 people have participated in these events. Of those, only 190 people were charged due to violent illegal actions. This proves that there is not a systematic ban or charge concerning charges concerning LGBTI events. [...] This ban on holding demonstration on these venues is not restricted to those groups without discrimination, is not specific to Saturday Mothers or LGBTI.
- **Intervention made after 81 interventions:** The phrase 'any such consideration' ensures that the grounds for the prohibition of discrimination are not limited to those listed. Therefore, the absence of the specific reference to sexual orientation in the legislation does not mean that discrimination on that ground is allowed. Furthermore, already back in 2013 the democratization package introduced legal amendments for more effective fight against hate crimes and discrimination.

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Malta:** We welcome the Government's efforts to combat discrimination against LGBTI persons, especially the assistance it is affording to such persons in detention.

b) The following recommendations have been examined and noted by Turkey:

- **Argentina:** Promote measures against discrimination based on sexual orientation and gender identity, which include, among other things, the conduct of investigations and, where appropriate, the punishment of perpetrators of acts of discrimination and violence against LGBTI persons (45.84)
- **Australia:** Guarantee the rights to freedom of expression and assembly, including by lifting bans on LGBTI public events, and ensuring relevant laws are implemented in a manner that does not curtail fundamental freedoms and ensures a proportional and legitimate response to protest activity (45.160)
- **Canada:** Uphold the Law on Assemblies and Demonstrations to limit arbitrary restrictions on freedom of assembly, including on peaceful gatherings by the LGBTI community, women's rights organizations, and opposition parties (45.75)
- **Chile:** Step up efforts to investigate, prosecute and punish any act of discrimination or violence based on sexual orientation or gender identity and to adopt comprehensive legislation to prevent and punish such acts (45.119)
- **Finland:** Implement its antidiscrimination legislation and to extend it to include sexual orientation and gender identity (45.39)



- **Germany:** Prevent misuse of provisions concerning "public order", "public health" and "public moral" to ensure freedom of assembly and association for all citizens, including LGBTI persons (45.183)
- **Honduras:** Adopt an antidiscrimination law to prevent any type of discrimination based on ethnicity, religion, sexual orientation or gender identity (45.64)
- **Iceland:** Condemn hate speech and hate crimes towards LGBTI individuals, effectively investigate and prosecute such cases and lift the ban on LGBTI events and pride marches (45.76)
- **Italy:** Take further measures to prevent any form of discrimination based on sexual orientation and gender identity (45.70)
- **Luxembourg:** Remove obstacles to freedom of demonstration, including for events organized by the LGBTI community (45.77)
- **Malta:** Condemn hate speech and hate crimes targeting LGBTI persons (45.78)
- **Malta:** Consider lifting the ban on LGBTI events in Ankara and protect Pride Marches and other demonstrations (45.79)
- **Malta:** Consider including LGBTI organisations and involve their civil society representatives within the government's decision-making processes (45.80)
- **Mexico:** Guarantee the right to freedom of assembly and association in particular through the elimination of the prohibition of events organized by the LGBTI community (45.81)
- **Myanmar:** Make efforts to reduce discrimination and social isolation due to sexual orientation (45.82)
- **Netherlands:** Improve freedom of assembly, by repealing bans on peaceful gatherings, including those of the LGBTI community, as well as freedom of expression by implementing article 7 of the Anti-Terrorism Law, which states that "criticism" cannot be criminalized, and by decriminalizing articles 216, 299, and 301 of the Penal Code (45.104)
- **Norway:** Ensure and practice non-discrimination on the basis of sexual orientation and gender identity (45.83)
- **Sweden:** Adopt a comprehensive anti-discrimination legislation which includes sexual orientation and gender identity as protection grounds (45.74)

E. Recommendations for Cycle II (2015)

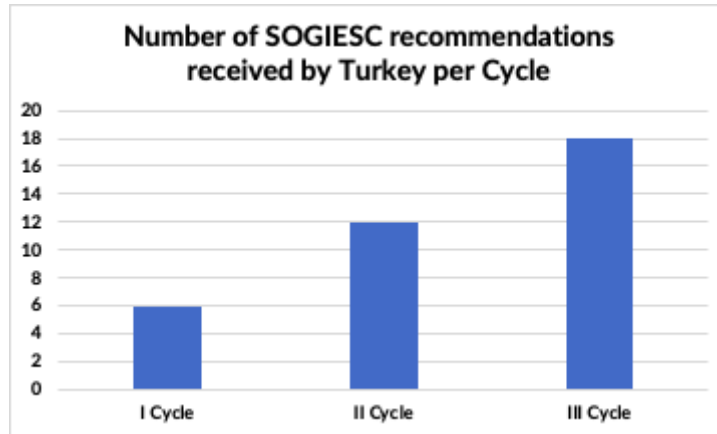
RECOMMENDATION	RECOMMENDING STATE	RESPONSE
Ensure that civil society actors, including marginalized groups like those representing LGBT persons, are included in the implementation and follow-up of human rights obligations, including UPR recommendations	Norway	Supported
Ensure the investigation, prosecution and punishment of any act of discrimination or violence motivated by the victim's sexual orientation or gender identity	Slovenia	Supported
Enact comprehensive anti-discrimination legislation, including a prohibition on discrimination on grounds of ethnicity, sexual orientation and gender identity	Israel	Noted



Adopt a comprehensive anti-discrimination legislation to prevent all forms of discrimination on the basis of ethnic, religious, sexual orientation or gender identity grounds	Chile	Noted
Review relevant legislation to ensure that discrimination on the basis of sexual orientation and gender identity is prohibited	Croatia	Noted
Strengthen anti-hate and anti-discrimination legislation in the Turkish Penal Code, specifically article 122, by prohibiting hate crimes and discrimination based on sexual orientation	Canada	Noted
Adopt measures to prohibit and prevent discrimination on the grounds of sexual orientation and gender identity	Uruguay	Noted
Promote measures against discrimination based on sexual orientation and gender identity, including the investigation, and, where appropriate, the sanction of those responsible of acts of discrimination and violence against LGBTI persons	Argentina	Supported
Adopt comprehensive anti-discrimination legislation and take measures to prevent and combat discrimination on any grounds, including based on sexual orientation and gender identity, and religion	Brazil	Supported
Deal with cases of violence and discrimination based on sexual orientation, both in law and in practice, by publishing disaggregated data on complaints of violence against LGBTI persons	Chile	Noted
Focus on the overall implementation of its non-discriminatory provisions and to extend them to include the grounds of sexual orientation and gender identity. The implementation of overall anti-discrimination policies in Turkey should include all forms of discrimination	Finland	Noted
Continue to actively prevent discrimination of minorities through enacting comprehensive anti-discrimination legislation, including a prohibition on discrimination on grounds of ethnicity, religion, sexual orientation and gender identity	Denmark	Noted



F. Graphic Comparison Between Cycles (1–3)



G. SOGIESC recommendations shared by HRDs during ILGA's UPR advocacy week in Geneva: KAOS GL

1. Include protection on grounds of SOGIESC in Turkish Penal Code Article 122, Turkish Penal Code Article 216, Law on Turkish Human Rights and Equality Institution Article 3 and Turkish Labour Law Article 5.
2. Provide LGBTI rights training for the law enforcement.
3. Condemn hate speech and hate crimes towards LGBTIs and effectively investigate and prosecute legal cases in light of ECHR jurisprudence.
4. Lift the ban on LGBTI events in Ankara and do not prohibit but protect Pride Marches and other demonstrations.
5. Include LGBTI organisations within the decision making processes.

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

I. [SOGIESC Mentions During Turkey's UPR Outcome](#)

- **Action Canada for Population and Development:** It urged the Turkish government to provide statutory protection against discrimination on the basis of sexual orientation and gender identity, and to adopt a comprehensive sexuality education curriculum nationally, planned in consultation with youth and sexual and reproductive health experts.
- **International Federation for Human Rights:** It expressed concern over the fact that under the pretext of the fight against terrorism, free expression as well as freedom of assembly and association continue to be under attack. The crackdown on journalists, lawyers and human rights defenders concerns women's rights, LGBTI+ rights, environmental and labour rights.
- **International Humanist and Ethical Union:** It expressed abhorrence over the Turkish government's characterisation of LGBTI persons as "perverts" and as the cause of the pandemic.



- **International Service for Human Rights:** It deplored the fact that blanket bans have been imposed on peaceful protests by women and LGBTI+ defenders, and that police violence against these defenders has been normalised. Further, they have been stigmatised under the pretext of COVID-19.