



**36th UPR WORKING GROUP SESSIONS
SOGIESC RECOMMENDATIONS
(2 – 13 November 2020)**

This report contains a summary and the SOGIESC recommendations of the 36th 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 and drafted by Gabriel Galil (Senior Programme Officer)

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TABLE OF CONTENTS

ANDORRA	3
BELARUS	5
BULGARIA	8
CROATIA	16
HONDURAS	22
JAMAICA	30
LIBERIA	38
LIBYA	44
MALAWI	46
MALDIVES	52
MARSHALL ISLANDS	55
MONGOLIA	58
PANAMA	66
UNITED STATES OF AMERICA	72



ANDORRA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 5 NOVEMBER 2020, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 NOVEMBER 2020, 16:30 – 18:00

During the 36th UPR Working Group Sessions, Andorra received 1 SOGIESC recommendation. It accepted the recommendation.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

20. With reference to previous concluding observations, the Committee against Torture requested information on measures taken to prohibit and punish discrimination and incitement to violence against vulnerable groups, in particular with regard to sexual orientation and in school settings, and to ensure that all hate crimes were investigated and prosecuted.

21. The Committee on the Elimination of Discrimination against Women welcomed the adoption of Act 34/2014 regulating civil partnerships and amending the Marriage Act of 1995, which provided for the same legal basis for same-sex civil partnerships as for marriages and legalizes adoption for same-sex civil partnerships. It remained concerned, however, at the persistence of discriminatory provisions in practice in certain areas, in relation with the enjoyment of rights in favour of marriage compared with civil unions.

Summary of Stakeholder's Information

Equality and non-discrimination

8. CoE-ECRI (European Commission against Racism and Intolerance) noted that the rule regarding the sharing of the burden of proof where discrimination complaints on grounds of race, colour, ethnic origin, nationality, religion, language, gender identity and sexual orientation were brought before the civil or administrative courts had not been introduced into law, and made a recommendation in that regard.

B. SOGIESC Advanced Questions for Andorra

N/A

C. Andorra's Working Group Session

- **Opening statement:** The Decree of 2020 officially led to the creation of this observatory that held its first plenary meeting on 30 June last. The 1st of October a second meeting took place and there



two commissions were created. One was the commission for women and the other the commission for diversity. The latter will address questions related to the elderly, to persons with disabilities, to children, adolescents, to the LGBTI+ community and to people who recently arrived in Andorra. These commissions are composed by people coming from the public administration, from representatives of civil society as well. Equality, and specifically gender equality, is a subject matter that has been debated in our reports. Though the legal and theoretic level of equality is true, the fact remains that there are still certain inequalities and some of these are difficult to identify. This is why the principality of Andorra is investing such efforts in this struggle to finally achieve true equality.

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Luxembourg:** Montenegro welcomes the ratification of the Convention against Discrimination in Education by Andorra, as well as certain other international instruments that contribute to the greater effectiveness of its anti-discrimination and human rights policies. On this note, we also welcome the adoption of the legislation which provided for the same legal basis for same-sex civil partnerships as for marriages and legalizes adoption for same-sex civil partnerships.

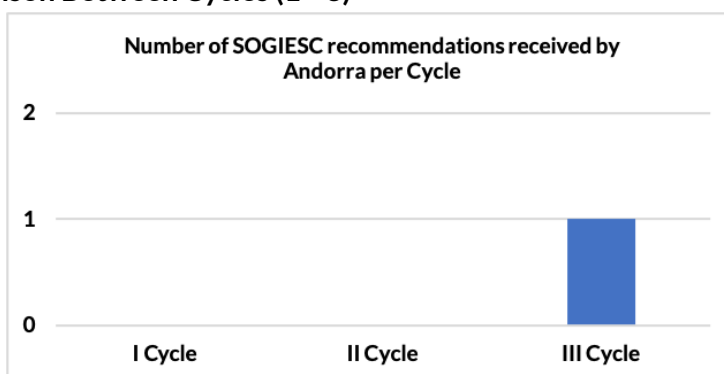
b) The following recommendation has been examined and accepted by Andorra:

- **Iceland:** Adopt marriage equality legislation, extending full marriage rights to same-sex couples (84.26).

E. Recommendations for Cycle II (2015)

N/A

F. Graphic Comparison Between Cycles (1–3)



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

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

N/A



BELARUS UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 02 NOVEMBER 2020, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 6 NOVEMBER 2020, 15:00 – 18:00

During the 36th UPR Working Group Sessions, Belarus received 5 SOGIESC recommendations. It partially accepted 3 recommendations and noted the other 2 recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

18. The Human Rights Committee recommended that the State effectively eradicate all forms of discrimination and violence on the basis of sexual orientation and gender identity, inter alia by: (a) explicitly listing sexual orientation and gender identity among the prohibited grounds for discrimination in comprehensive anti-discrimination legislation; (b) providing appropriate training on combating discriminatory attitudes towards lesbian, gay, bisexual and transgender persons to law enforcement and other officials; and (c) sanctioning such conduct properly, including by promptly and effectively investigating any reports of violence or hatred motivated by sexual orientation and gender identity and by bringing perpetrators to justice.

104. The same Committee (CAT) urged the State to formulate, with the involvement of children, a comprehensive strategy for preventing, combating and monitoring all forms of violence against children, including bullying and online violence, paying particular attention to lesbian, gay, bisexual and transgender children and children with disabilities.

Summary of Stakeholder's Information

N/A

B. SOGIESC Advanced Questions for Belarus

- **Uruguay:** Following the recommendation submitted by Uruguay during the second cycle of the UPR, which was accepted by Belarus and in addition to the information provided in its national report, we would appreciate knowing what specific measures the country adopted to counteract direct and indirect forms of discrimination on the grounds of sexual orientation and gender identity.

C. Belarus' 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 partially accepted by Belarus, but it specifically excluded the sections of the recommendations mentioning SOGIESC matters:

- **Argentina:** Adopt comprehensive legislation to prohibit all forms of discrimination, investigate statements inciting racial hatred and racial violence, and establish appropriate sanctions against discrimination and violence based on sexual orientation and gender identity (138.68)
- **Chile:** Adopt comprehensive legislation against discrimination, including protection against discrimination on the grounds of sexual orientation and gender identity (138.69)
- **Iceland:** Ensure the right of people to peaceful assembly and the ability to peacefully protest, without limiting the rights of all participants, including LGBTI people (138.177)

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

- **Mexico:** Combat discrimination and violence on the grounds of sexual orientation and gender identity and draft specific legislation for the training of law enforcement officers and other officials to avoid discriminatory acts against LGBTI persons (138.75)
- **Spain:** Design and implement the necessary legal instruments to combat discrimination on the grounds of sexual orientation and gender identity, as well as awareness raising programs against violence and harassment suffered by the LGBTI community (138.76)

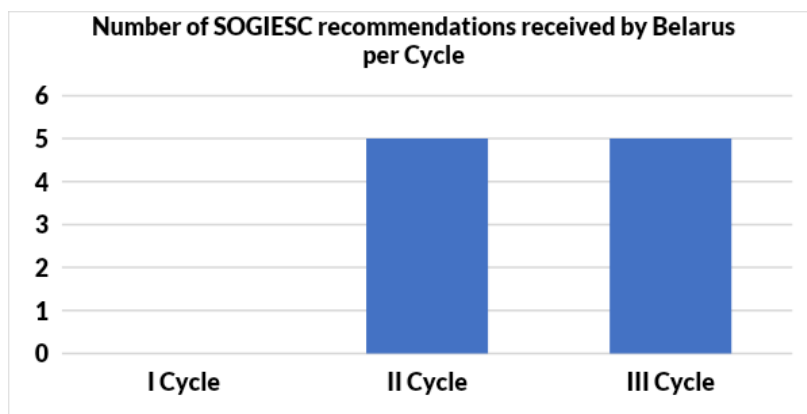
E. Recommendations for Cycle II (2015)

Recommendation	Recommending State	Response
Protect the right to freedom of assembly and association in particular of those campaigning against discrimination based on sexual orientation	Canada	Noted
Urgently abolish article 193-1 of the Criminal Code, which criminalizes activities by non-registered organizations and generally end the pattern of obstruction, harassment and intimidation of civil society organizations promoting and defending human rights, including trade unions, environmental groups, lesbian, gay, bisexual, transgender and intersex groups and human rights groups	Denmark	Noted
Ensure that respect for the principle of non-discrimination on the basis of gender includes lesbian, gay, bisexual, transgender and intersex persons and adopt specific anti-discrimination legislation for this group	Spain	Noted
Enact comprehensive legislation against discrimination to avoid any kind of discrimination on the grounds of religion, sexual orientation and gender identity, language, political conviction or physical or mental disability	Chile	Supported



Adopt specific and comprehensive legislation on harassment based on sexual orientation	Uruguay	Noted
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F. Graphic Comparison Between Cycles (1–3)



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

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

N/A



BULGARIA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 6 NOVEMBER 2020, 09:00 – 12:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 NOVEMBER 2020, 16:30 – 18:00

During the 36th UPR Working Group Sessions, Bulgaria received 14 SOGIESC recommendations. It accepted 4 recommendations, partially accepted 4 recommendations and noted the other 6 recommendations.

A. SOGIESC Information

National Report

37. Taking action to strengthen the fight against homophobic and transphobic crime through criminal law is linked both to the development and to the full utilization of existing legislative instruments. Under the Criminal Code, the court determines the penalty for the committed crime, taking into account the degree of public danger of the act and the perpetrator, the motives for committing the act and other mitigating and aggravating guilt circumstances. According to established case-law, racist motivation is regarded as an aggravating circumstance.

43. Although the Criminal Code does not provide aggravated circumstances in cases where the crimes were committed on homophobic or transphobic motives, there is no obstacle to considering the relevant motives as aggravating circumstances in determining the sentence.

44. In the field of education and upbringing in tolerance and anti-discrimination in 2018, more than 200 teachers were trained. The CPD cooperated with LGBTI civil organizations, holding workshops on topics related to protection against discrimination on protected grounds.

46. In June 2019, a first National 3-day training on the topic of hate crimes with police officers took place. The training was organized by the Youth LGBT Organization Deystvie. The training programme focused on the process of forming and applying stereotypes and prejudices in individual's behaviour leading to discriminatory actions. A special emphasis was given to the notion of vulnerability and the situation of LGBT people in Bulgaria. 52 police officers from all policy departments in the country participated in the training. The project foresees 4 regional and 1 national trainings in 2020.

47. In 2019, the MFA appointed a focal point as part of the European Governmental LGBTI Focal Points Network.

Compilation of UN Information

12. The Committee on the Elimination of Racial Discrimination, the Committee against Torture and the Human Rights Committee were concerned about increased incidents of hate speech and hate crime, specifically targeting minority groups such as Turks, Roma, Muslims, Jews, people of African descent, migrants, refugees and asylum seekers, and members of sexual minorities. The Committee on the Elimination of Racial Discrimination and the Human Rights Committee expressed concern that racist



appeals were evident during election campaigns, and that the Council for Electronic Media had failed to curb racist discourse and hate speech on the Internet and social media.

15. The Human Rights Committee was concerned about stereotypical attitudes, prejudice, hostility and discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. It recommended that Bulgaria amend the Protection against Discrimination Act to explicitly include gender identity as a ground of discrimination and fully recognize the equality of same-sex couples; amend the Criminal Code and the Radio and Television Act to include sexual orientation and gender identity as hate motives and grounds of discrimination, respectively; establish an accessible administrative procedure for changing civil status regarding gender identity; and intensify efforts to promote tolerance.

42. The Special Rapporteur on violence against women, its causes and consequences noted that the July 2018 judgment of the Constitutional Court – in which the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) was declared incompatible with the Constitution – had engendered a campaign against the Istanbul Convention and an anti-gender movement. This was partially the result of a misinterpretation and incorrect translation in Bulgarian of the term “gender” as contained in the Convention, which was inconsistent with the translation in other regional and international instruments. This campaign had resulted in the intimidation of activists and women’s rights organizations, reported cuts in State funding for related services and increased attacks on the LGBTI community. She recommended that Bulgaria counter the misinterpretation of the term “gender”; properly translate, explain and promote the terms “gender” and “gender-based violence against women”; and proceed to ratification of the Istanbul Convention. The Committee on the Elimination of Discrimination against Women recommended completing the process of ratifying the Istanbul Convention, as doing so would reinforce the State’s ability to combat gender-based violence and domestic violence.

Summary of Stakeholder’s Information

14. OSCE/ODIHR reported that a positive development had been the decision of the Government to appoint a national coordinator on combating anti-Semitism. However, it informed that no new legislation had been adopted and there remained areas of concern in the Criminal Code, including that protected characteristics should be expanded to include religion and non-religious belief, sex, sexual orientation, gender identity and disability in all provisions dealing with bias-motivated crime; and to include a general penalty enhancement, specifically addressing bias motivation as an aggravated factor. OSCE/ODIHR recommended to include specific penalty enhancements for a number of crimes, coupled with the general penalty enhancement referring to bias motivation; to avoid overly vague terms in criminal provisions; and to bring criminal law provisions in line with the Rome Statute of the International Criminal Court and ensure that they are consistently covered by universal jurisdiction pursuant to the Criminal Code.

17. JS3¹ reported that no significant progress had been made on the issues of the equality of lesbian, gay, bisexual, transgender and intersex (LGBTI) people.

18. JS3 noted that the Constitution enshrines equality before the law on the basis of an exhaustive set of characteristics that do not include sexual orientation and gender identity or gender expression, and that the 2016 Equality between Women and Men Act regulates equality in the context of the gender binary and

¹ Joint submission 3 submitted by: Bilitis Resource Center Foundation, Sofia (Bulgaria) and GLAS Foundation



does not recognise the existence of persons outside it. JS3 and LGBT Deystvie informed that both the Constitution and the Family Code define marriage as a voluntary union only between a man and a woman, but not of persons of the same sex. LGBT Deystie noted that there was no legislation to establish the legal connection of children born and/or raised in same-sex families and their parents.

19. JS3 stated that the most pressing issues for the LGBTI community remained access to education on the sexual and reproductive health of their communities, the legal framework of same-sex marriage, the lack of a free administrative procedure to change civil gender along the one-stop shop model, and changing the medical practices affecting mental illness and genital development anomalies. JS3 identified the main challenges as including lack of expert and public debate on the issues, lack of policy ownership, and a well financed conservative movement working against the advancement of the rights of women and LGBTI people.

B. SOGIESC Advanced Questions for Bulgaria

- **Belgium:** Is the government of Bulgaria considering to amend Articles 162 and 163 of the Criminal Code so as to include hate crimes and hate speech based on sexual orientation or gender identity?
- **Germany:** What kind of measures does the Bulgarian government take in order to prevent and, if necessary, criminalize, hate speech and resentments against Roma people, members of the LGBTI community and critical NGOs in general and particularly in the fields of politics and media?
- **Spain:** Do the Bulgarian authorities consider any legal recognition for same-sex couples who get married abroad?
- **United Kingdom:** What is Bulgaria doing to address hate speech and negative rhetoric against specific groups of society, for example Roma, LGBT+, illegal migrants, in particular by those in public positions?
- **Uruguay:** Following the recommendation submitted by Uruguay in the second cycle of the UPR, which was accepted by Bulgaria, additional information would be welcome on the measures taken in recent years to ensure the criminalization of hate crimes and all forms of discrimination based on sexual orientation and gender identity.

C. Bulgaria's Working Group Session

- **Opening remarks:** Bulgaria pursues a consistent policy aimed at preventing and eliminating all forms of discrimination. We have a solid record for creating conditions of understanding and tolerance among persons, living in Bulgaria with a variety of ethnic, cultural or social backgrounds. Since 2015, the legal aid framework has been supplemented and amended several times in order to guarantee access to legal aid for a wider range of vulnerable social groups. In the last few years we have spared no efforts in organising training seminars in cooperation with the European Commission, the EU Fundamental Rights Agency and the OSCE Office for Democratic Institutions and Human Rights. Our aim was to raise awareness and strengthen Bulgaria's response to hate crimes, notably committed on homophobic and transphobic motives. The Commission for Protection Against Discrimination and NGOs were part of those efforts. The Ministry of Foreign Affairs also appointed a focal point as part of the European Governmental LGBTI Focal Points Network.
- **Final remarks:** In 2018 we introduced a new element in the anti-discrimination training focused on the investigation of hate crimes related to homophobia. Two national and four regional trainings

were organized by Youth LGBTI Organizations called Deystvie for representatives of all Regional directorates of the Ministry of Interior. The topic has been included also in the training provided by the Academy of the Ministry of Interior. The cooperation between the Academy and the LGBTI organisation continues and they have planned a joint presentation of the Council of Europe manual on investigating hate crime.

- (...) The protection against discrimination Act provides a solid legal framework to protect every citizen from direct or indirect on all grounds recognized in the international legal instruments among which gender and sexual orientation. From this perspective, Bulgaria has adopted an adequate and solid legal framework to fight all forms of discrimination and hate crime, which is effectively implemented. In recent years, a series of public events have been organized, which have clearly demonstrated intolerance to all acts of hatred and discriminatory attitude and asserted Bulgaria's image as a country of tolerance, ensuring equal participation of all communities regardless of ethnic, religious or other identity.
- With regard to the explicit criminalization of violence on the grounds of sexual orientation, it should be taken into account that any action to strengthen the fight against homophobia- and transphobia-motivated crime through criminal law depends on the further development as well as the use of the full capacity of the existing legislative instruments. The Bulgarian legislation does not allow any form of discrimination, including on the grounds of sexual orientation. In line with the principle of universality of Human Rights, Bulgaria maintains that LGBTI persons have the same rights as any other persons. Although the Criminal Code does not contain any qualified corpora delicti in case of a crime motivated by homophobia or transphobia, these can be taken as aggravating circumstances in determining the penalty.

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Argentina:** We reiterate the concerns expressed by the treaty bodies with regard to cases of discrimination and xenophobia and hate speech against asylum seekers, refugees, immigrants, ethnic and religious minorities and the LGBTI population.
- **Australia:** The resurgence of hate crimes continues to present a key human rights concern, particularly in relation to Bulgaria's LGBTI community, ethnic minority groups, refugees and asylum seekers.
- **Malta:** We congratulate Bulgaria on the progress registered since its last review and the efforts made towards combating domestic violence, religious intolerance and hate crime. We also welcome the appointment of a focal point as part of the European Governmental LGBTI Focal Points Network.
- **Netherlands:** Furthermore, the rights of vulnerable groups, such as LGBTI and the Roma community remain a concern.
- **Venezuela:** The country is facing increasing gender violence, racism, and hate speech against migrants and other vulnerable groups such as LGBTI people.

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

- **Australia:** Strengthen education on LGBTI rights and legislate to protect against hate crimes against LGBTI persons (134.47)



- **Belgium:** Amend relevant legislation and the Criminal Code to explicitly include sexual orientation and gender identity as hate motives and grounds of discrimination, and ensure that such hate crimes are effectively investigated and prosecuted (134.52)
- **Norway:** Actively denounce and increase action to prevent, racist, homophobic and xenophobic rhetoric in the public sphere, including against Roma and LGBTI-people (134.25)
- **Venezuela:** Investigate, prosecute and punish hate crimes against migrants and other vulnerable groups, such as LGBTI people (134.224)

c) The following recommendations have been examined and partially accepted by Bulgaria:

- **Fiji:** Strengthen efforts to eliminate discrimination and violence based on sexual orientation and gender identity, actual or perceived, in compliance with its human rights obligations (134.61)
- **France:** Combat discrimination and hate speech which target people owing to their ethnic or religious background or their sexual orientation and gender identity, and translate these provisions into the penal code (134.56)
- **Finland:** Step up efforts to tackle hate crime, hate speech and discriminatory conduct targeting LGBTI people through amending the Criminal Code to explicitly include hate crime on the grounds of sexual orientation or gender identity (134.60)
- **United Kingdom:** Amend the Criminal Code to widen the scope of the definition of hate crimes and speech, to include sexual orientation (134.44)

d) The following recommendations have been examined and noted by Bulgaria:

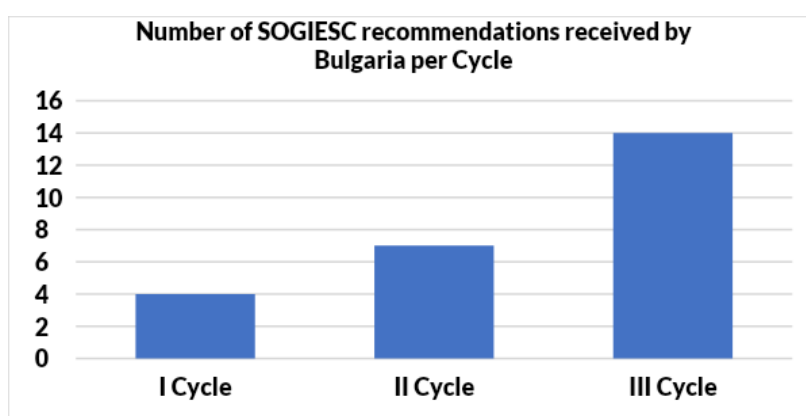
- **Iceland:** Strengthen activities and laws aimed at the elimination of discrimination in society, other intolerances and hate speech against minorities and other groups, including based on sexual orientation, gender identity or sex characteristics (134.58)
- **Iceland:** Pass and implement laws that recognize same-sex partnerships and define the rights and obligations of co-habiting couples in same-sex unions (134.59)
- **Luxembourg:** Amend the law on protection against discrimination so that gender identity is expressly included among grounds for discrimination and that same-sex couples are placed on an equal footing with others (134.20)
- **Mexico:** Include explicitly in law, gender identity as a ground for discrimination, as well as fully recognize equality for homosexual couples (134.22)
- **Portugal:** Strengthen the protection of the rights of LGBTI persons, inter alia by including sexual orientation and gender identity as grounds for hate crimes; recognise civil partnerships of same-sex couples; and ban non-consensual surgeries on intersex persons (134.30)
- **Spain:** Strengthen legislation that exists in the area of anti-discrimination and explicitly mention gender identity as grounds for discrimination and include in the Criminal Code specific crimes related to hate and incitement to hate based on sexual orientation, gender identity, gender expression and sexual characteristics (134.37)



E. Recommendations for Cycle II (2015)

Recommendation	Recommending State	Response
Take all necessary measures to ensure that the Criminal Code prohibits all crimes against persons or against property on the basis of their actual or perceived sexual orientation or gender identity	Belgium	Supported
Adopt measures to end discrimination and violence based on sexual orientation and gender identity, actual or perceived, in compliance with its human rights obligations	Switzerland	Supported
Include the issue of discrimination against lesbian, gay, bisexual, transgender and intersex persons in the human rights awareness courses	Uruguay	Supported
Take steps to criminalize hate crimes, including discrimination based on sexual orientation or gender identity, both in law and speech	Uruguay	Supported
Modify its legislation to include discrimination based on sexual orientation and gender identity in the list of offences	Israel	Supported
Include racist motivation of crimes as an aggravating circumstance in the Criminal Code and make more effective the investigation and prosecution of hate speech and violence, including against persons based on their sexual orientation or gender identity	Czechia	Supported
Strengthen the measures to fight hate speech, targeting of persons on the ground of their ethnicity, religion or sexual orientation, particularly Roma, Muslim and lesbian, gay, bisexual, transgender and intersex persons, as well as asylum seekers and migrants	France	Supported

F. Graphic Comparison Between Cycles (1–3)





G. SOGIESC recommendations shared by HRDs during ILGA's UPR advocacy week in Geneva: LGBT Youth Organisation Deystvie

1. The Government of Bulgaria should, within two years, amend the existing Article 162 and Article 163 of the current Criminal Code and should include hate crimes and speech based on sexual orientation, gender identity and expression and sex characteristics.
2. The Government of Bulgaria should include SOGIESC as aggravating circumstances in Article 116 (Homicide) and Article 131 (Bodily injury) in the Criminal Code. These legislative changes should be implemented within 2 years.
3. The Government of Bulgaria should, within 2 years, adopt a law or amend the current Family Code, in order to include civil partnership available to both different-sex and same-sex couples.
4. The Government of Bulgaria should, within 1 year, introduce a law that allows trans* people to have their self-determined identity respected and recognized by an administrative procedure that leads to change of their personal identification documents. No medical procedures, HRT or sterilization, or change of marital status should be required.
5. The government of Bulgaria must, within 1 year, stop any unnecessary medical interventions on the bodies of intersex children.

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

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

- **Opening remarks:** Last but not least, we have paid special attention to the delegations' recommendations related to the rights of the child, migrants' rights, rights of other persons belonging to vulnerable groups as well as trafficking in persons. We have heard those countries calling on Bulgaria to ensure equal access to healthcare services and education, combat all forms of discrimination, including on grounds of race, ethnicity, religion or sexual orientation. We can assure you that we are committed to achieving an even more advanced level of promotion and protection of human rights in these areas through targeted and comprehensive measures. We will respect our international obligations. We will rely on the support of and will engage the national human rights institution and the civil society.
- **Venezuela:** We have positively highlighted in its third UPR, the adaptation of the national human rights institution to the Paris Principles. We also reflect some challenges faced, such as the increase in gender-based violence and racism, racial discrimination, and hate speech towards migrants and other vulnerable groups, such as LGBTI people.
- **ILGA World:** It expressed regret that 6 out of 14 SOGIESC-related recommendations were noted, and that 4 other recommendations were only partially accepted. 9 of the recommendations made urged Bulgaria to amend its Penal Code to include the criminalisation of LGBTI-based hate crimes. Bulgaria responded that hate acts based on sexual orientation are criminalised under Chapter Three of the Penal Code. However, Chapter Three deals with crimes against the rights of citizens and hate crimes based on the race, nationality, ethnicity, religion and political beliefs of the victim. The reference that the Bulgarian government made to the Protection against Discrimination Act was therefore inaccurate due to the nature of the criminal legislation of Bulgaria, which stipulates that crimes are only acts explicitly recorded in the Penal Code of the country. Hate crimes based on sexual orientation and gender identity are still neither seen as crimes nor as aggravating



circumstances in the Penal Code, which means recommendations in relation thereto have not been implemented. ILGA World recommended that Bulgaria amend its Criminal Code without delay and include hate crimes and hate speech based on sexual orientation and gender identity and/or expression as a separate article, and as an aggravating circumstance, and ensure that there is effective investigation and prosecution of hate speech and violence. It further expressed regret over the fact that Bulgaria did not accept recommendations related to strengthening its anti-discrimination legislation, recognising same-sex civil unions and banning non-consensual surgeries on intersex persons.

- **Closing remarks:** The Bulgarian legislation does not allow any form of discrimination, including on the basis of sexual orientation. With respect to the principle of universality of human rights, Bulgaria considers that LGBTI persons have the same rights as all other individuals. In Bulgaria, same-sex marriages are not legalised. However, in 2020, the Supreme Administrative Court decision recognised same-sex couples' right to reside in Bulgaria on the basis of the right to move freely within the European Union has value for all citizens of the Union and their family members. Cases regarding the discrimination of LGBTI persons are considered with due care. Although the Criminal Court does not contain any qualified *corpora delicti* in the case of a crime motivated by homophobia or transphobia, this can be taken as aggravating circumstances in determining the penalty.



CROATIA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 10 NOVEMBER 2020, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 13 NOVEMBER 2020, 15:30 – 18:00

During the 36th UPR Working Group Sessions, Croatia received 17 SOGIESC recommendations. It accepted 16 recommendations and noted the other 1 recommendation.

A. SOGIESC Information

National Report

Hate crime, hate speech and defamation

Criminal legislation

21. The CC defines hate crime as a criminal offence committed on account of a person's race, colour, religion, national or ethnic origin, language, disability, gender, sexual orientation or gender identity. Such conduct will be considered an aggravating circumstance if the CC does not expressly impose a more severe penalty. The CC also prescribes the criminal offence of “public incitement to violence and hatred”.

LGBT persons

The Action Plan for the Implementation of the National Anti-Discrimination Plan 2017-2019

82. It sets out a number of activities aimed at preventing and combating discrimination on the basis defined by the Anti-Discrimination Act. This included prohibition of discrimination based on sexual orientation.

Training

83. With regard to criminal provisions concerning hate crime and hate speech, particular attention is given to the protection of LGBT persons and members of national minorities, by organising seminars for judges, lawyers, state attorneys, police officers and representatives of CSOs. Recommendation 5.111

84. The RC did not accept the recommendation regarding officers and abuse against LGBT persons.

Compilation of UN Information

6. The Human Rights Committee expressed concern about the prevalence of stereotypes and prejudice against lesbian, gay, bisexual and transgender persons, particularly about reports of acts of violence against such persons and about the lack of effective investigation and prosecution. It recommended that the State step up its efforts to combat stereotypes and prejudice against lesbian, gay, bisexual and transgender persons, including by launching an awareness-raising campaign aimed at the general public and providing appropriate training to public officials with a view to putting an end to the social stigmatization of such



persons. It also recommended that the State ensure that all reports of violence against lesbian, gay, bisexual and transgender persons were effectively investigated and that the perpetrators of violence based on sexual grounds were prosecuted and sanctioned.

Summary of Stakeholder's Information

6. The Ombudsperson mentioned that there was some positive progress on LGBT rights. However, there is a lack of systematic training and campaigns aimed at raising public awareness about equal inclusion of LGBT persons in society and all procedures relating to gender transition are still relatively slow.

18. JS2² noted that equality before the law based on different personal grounds was enshrined in Article 14 of the Constitution of the Republic of Croatia. Sexual orientation, gender identity and expression and sex characteristics are not explicitly mentioned, but the article contains a phrase "or other personal grounds" which keeps an open list of different personal grounds. JS2 also acknowledged that anti-discrimination directives that prohibit discrimination based on gender, gender expression, and/or sexual orientation have been included in various pieces of legislation since 2003, including the Penal Code, Gender Equality Law, Media Law, Labour Law, Asylum Law etc.

20. JS4³ and JS2 recommended to introduce strategies on tackling violence and discrimination against LGBTI persons; and to amend antidiscrimination and criminal legislation to include sex characteristics as a personal ground for protection from discrimination.

21. JS6⁴ stated that hate crimes targeting LGBTI persons continued to be a problem in Croatia. Lezbijska Grupa Kontra (KON) noted that there was a lack of trust in the police and State institutions, which was result of police misconduct and failure of State institutions to sanction hate crimes against LGBT persons. JS4 concluded that police, prosecutors, and judiciary faced difficulties in identifying hate crime and appropriately applying the law.

22. According to JS2, the transgender community was very invisible in Croatia and remained the most marginalized part of the LGBT community. It recommended to secure adequate representation of LGBTI civil society in all decision-making processes relevant for LGBTI communities in Croatia.

B. SOGIESC Advanced Questions for Croatia

- **Sweden:** Sweden welcomes the legislative framework of the Republic of Croatia against discrimination of LGBT persons. However, we understand that occurrences of prejudice and discrimination for reasons of sexual orientation are still reported. Is the Government of Croatia considering any further measures to strengthen LGBT-person's full enjoyment of human rights?

² Joint submission 2 submitted by: LGBTI CSOs Coalition; ERA - LGBTI Equal Rights Association for Western Balkans and Turkey; Dugine Obitelji; LGBT Centar Split, Belgrade (Serbia)

³ Joint submission 4 submitted by: Human Rights House Zagreb; B.a.B.e.; Center for Peace Studies; Documenta – Center for Dealing with the Past; Human Rights House Zagreb; Rainbow Families Croatia; Roma Youth Organization Croatia; Serb National Council; Victims and Witness Support Service Croatia; Youth Initiative for Human Rights – Croatia; Zagreb Pride, Zagreb (Croatia)

⁴ Joint submission 6 submitted by: Combatting Right-wing Extremism in Croatia; The Advocates for Human Rights Autonomous Women's House Zagreb, Minneapolis (United States of America)



- **Germany:** Which measures does the new Croatian government plan to introduce in order to raise the acceptance for core human rights issues such as the rights of women, including their protection against domestic violence, LGBTI persons and members of minorities in the Croatian society?
- **Canada:** How is Croatia working to protect the rights of members of the LGBTI community?
- **United Kingdom:** What steps and measures is the Croatian Government taking to strengthen implementation of anti-discrimination legislation, ensuring full equality for same sex (LGBT+) partners?
- **Uruguay:** Following the recommendation submitted by Uruguay during the second cycle of the UPR, we congratulate Croatia on its new Act on Protection Against Domestic Violence and its national strategy 2017-2022, that includes protection measures against the sexual exploitation of children.

C. Croatia's Working Group Session

- **Opening remarks:** During the II Cycle, Croatia accepted 162 out of 167 issued recommendations. Only five were rejected, but with arguments. Three related to the ratification of the Migrant Convention, one was of technical nature about the creation of a special body for the UPR, while we still prefer direct responsibilities of the ministries and the last one was an unverified allegation on violence against LGBT persons.
- **Intervention made after 30 interventions:** The Action Plan for the implementation the National Anti-Discrimination Plan 2017-2019 sets out a number of activities aimed at preventing and combating discrimination, including those aimed at combating discrimination against LGBTI persons. Following the existing Anti-Discrimination Act, Croatia will take additional efforts to further mainstream LGBTI issues in different areas of intervention. With regard to criminal provision, concerning hate crime and hate speech, particular attention is given to LGBTI persons by organizing seminars to judges, lawyers, state attorneys, police officers and representatives of CSOs. In line with the national legislation, the Ministry of Science and Education have instructed all primary and secondary schools, as well as higher education institutions, on procedures to issuing update certifications and diplomas for transgender persons on demand. As of 2018, it is common practice in the educational system and of obtaining updated documents in regular procedure. Regarding the concerns that the police does not provide the proper legal qualification on incidents against LGBTI we would like to remind all that if a certain punishable incident against LGBTI persons contains elements of misdemeanour offense, it cannot be qualified by the police as a criminal offense, and vice-versa, due to legislation that clearly distinguishes the elements of criminal and misdemeanour offenses, otherwise, the state attorney's office and the competent courts would reject such indictment by stating that the incident was not proper qualified.

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Malta:** We commend the progress achieved since its second cycle. In particular, we welcome the considerable steps taken by Croatia in combating violence against women, including domestic violence, and the adoption of the Action Plan for the Implementation of the National



Anti-Discrimination Plan which includes the prohibition of discrimination based on sexual orientation.

- **Spain:** We would like to start by welcoming Croatia's accession to the Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence and the progress made in recognising the human rights of LGBTI people.
- **Sweden:** We would like to encourage further efforts with regards to the implementation and enforcement of the legislation, especially on national minorities, legislative and institutional framework, and for LGBTI-persons.

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

- **Argentina:** Take measures to ensure the elimination of discrimination in all its forms and hate speech, in particular against certain minorities and also on grounds of sexual orientation and gender identity (137.64)
- **Belgium:** Conduct awareness-raising and education campaigns aimed at the general public and provide appropriate training to public officials to combat stereotypes, prejudices and hate speech against LGBTI and ensure that acts of violence against LGBTI persons are effectively investigated and perpetrators prosecuted and sanctioned (137.52)
- **Czechia:** Take additional practical steps necessary to eradicate stereotypes and prejudice including by providing appropriate training to public officials to put an end to the social stigmatization of women, people with disabilities and persons belonging to ethnic, sexual and other minorities (137.45)
- **France:** Combat discrimination and hate speech targeted at persons because of their ethnicity, religion or gender, especially LGBTI persons, Roma, refugees and migrants (137.53)
- **Germany:** Continue to promote the national reconciliation process, to further raise societal awareness regarding minority rights, especially LGBTQI rights, and to combat hate speech, online and offline (137.55)
- **Iceland:** Strengthen activities and laws aimed at the elimination of discrimination in society, other intolerance and hate speech against minorities and other groups, including based on sexual orientation, gender identity or sex characteristics (137.65)
- **Ireland:** Increase efforts to end stereotyping and prejudice against lesbian, gay, bisexual and transgender persons, through increased awareness-raising campaigns and targeted training for public officials (137.46)
- **Israel:** Take steps to combat stereotypes and prejudice against LGBTI people, including launching awareness-raising campaigns and training of public officials (137.51)
- **Malta:** Increase efforts to raise awareness of the human rights of LGBTI persons (137.50)
- **Mexico:** Combat stereotypes and prejudices against LGBTI persons through awareness campaigns aimed at the general population, as well as due training of civil servants to avoid the social stigmatization of these people (137.47)
- **Montenegro:** Continue with the promotion of LGBTI anti-discrimination policies (137.48)
- **Portugal:** Provide training on human rights and on combating discrimination and violence, including based on sexual orientation and gender identity, to health personnel, members of the judiciary, police forces and prison officers (137.41)
- **Sweden:** Amend the national legislation to specifically include same-sex partnerships in relevant laws (137.133)



- **Timor-Leste:** Step up its efforts to combat stereotypes and prejudice against LGBTI persons (137.49)
- **United Kingdom:** Take all necessary steps to ensure a timely and efficient response to hate speech in public and on social media, particularly where vulnerable groups are targeted, including national minorities and members of the LGBT community (137.54)
- **Venezuela:** Investigate, prosecute and punish hate crimes against migrants and other vulnerable groups, such as LGBTI persons (137.56)

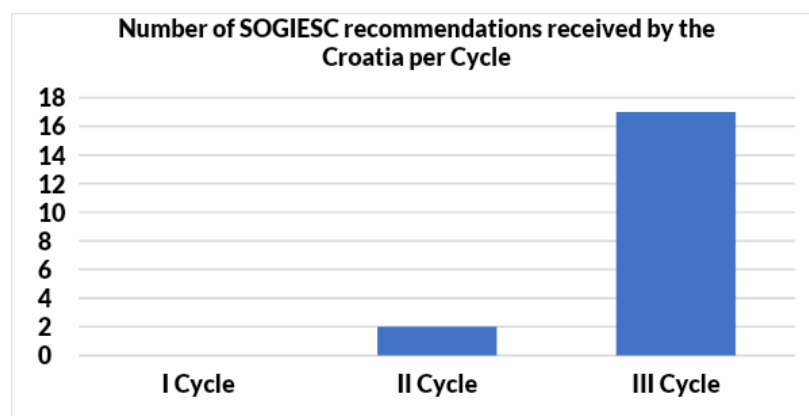
c) The following recommendation have been examined and noted by Croatia:

- **Iceland:** Enact general legislation on the recognition of both same-sex parents involved in the growth of a child, as well as extending access to adoption to same-sex couples on par with others (137.112)

E. Recommendations for Cycle II (2015)

Recommendation	Recommending State	Response
Strengthen the accountability and prosecution of law enforcement officers who commit abuses against lesbian, gay, bisexual and transgender persons and ethnic minorities	Chile	Noted
Strengthen human rights protections for lesbian, gay, bisexual and transgender persons, in line with Croatia’s international obligations and commitments as well as with domestic legislation	United States	Supported

F. Graphic Comparison Between Cycles (1–3)



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



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

- **Human Rights House Foundation:** It welcomed Croatia's efforts in creating a new Protocol on Combating Hate Crimes, but commented that further steps must be taken to combat hate speech and hate-motivated violence, including against national minorities and LGBTQI persons. HRHF recommended that Croatia create and implement a new, comprehensive plan to combat and counter hate speech, including through civic education across the educational system.



HONDURAS UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 05 NOVEMBER 2020, 14:30 – 18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 NOVEMBER 2020, 16:30 – 18:00

During the 36th UPR Working Group Sessions, Honduras received 16 SOGIESC recommendations. It accepted 15 recommendations and noted the other 1 recommendation.

A. SOGIESC Information

National Report

E. Lesbian, gay, bisexual, transgender and intersex persons

150. The Ministry of Human Rights has incorporated a component on preventing discrimination in the army's basic training course, in the basic training of the Public Order Unit of the Military Police and in the human rights course given to public servants. This component covers the human rights of lesbian, gay, bisexual, transgender and intersex persons. In addition, a protocol for dealing with lesbian, gay, bisexual, transgender and intersex persons has been developed for law enforcement personnel.

151. The Ministry of Social Development and Inclusion and the Ministry of Human Rights signed cooperation agreements with civil society organizations, including the Centro para el Desarrollo y la Cooperación LGBTI ("Somos CDC"), the lesbian, gay, bisexual and transgender association "Arcoiris", and the Colectivo Violeta, for the capacity-training and awareness-raising of civil servants in the areas of human rights and sexual diversity.

152. The Ministry of Human Rights has trained 7,089 civil servants in the skills and tools needed to prevent discrimination, as a part of basic human rights training. It has also provided training to 210 civil servants through a human rights and sexual diversity workshop, which covered appropriate terminology and differentiated care protocols for lesbian, gay, bisexual, transgender and intersex persons.

153. The Ministry of Human Rights, with the support of civil society, is working to promote the rights of lesbian, gay, bisexual, transgender and intersex persons by developing a research agenda on social inclusion, in order to identify the obstacles to the progressive realization of that community's rights.

154. The National Penitentiary Institute, with the support of the organization Cozumel Trans, has developed training and awareness-raising initiatives on the rights of lesbian, gay, bisexual, transgender and intersex persons deprived of their liberty. Some 400 prison officials and workers received training, based on the methodology set out in the Manual on Human Rights Training for Prison Officials, produced by the Office of the United Nations High Commissioner for Human Rights.

155. To guarantee access to justice, the judiciary and the Eurojusticia programme trained 89 lesbian, gay, bisexual, transgender and intersex persons and certified them as legal facilitators in areas with poorer



access to justice. There is a focus on providing services to citizens, especially those who are members of groups in vulnerable situations.

156. The Justice Education Society is training justice officials in investigating gender-based violence and to consider the lesbian, gay, bisexual, transgender and intersex community as a priority. Since 2009, there have been 19 convictions for violence against lesbian, gay, bisexual, transgender and intersex persons.

157. As for the right to health of lesbian, gay, bisexual, transgender and intersex persons, the Ministry of Health has issued guidelines for non-discriminatory, stigma-free health services, which are applied in all health-care facilities.

F. Human rights defenders, journalists, social communicators and justice officials

158. Since the Protection Act was passed in 2015, the General Directorate for the Protection Framework has registered 384 cases, of which 204 are pending. 102 Of these cases, 40 involve environmental defenders, 21, indigenous persons, 8, Afro-Hondurans and 12, defenders of lesbian, gay, bisexual, transgender and intersex persons. Since 2017, a total of 482 analyses and risk reassessments have been referred to the protection mechanism's technical committee

161. The General Directorate for the Protection Framework, with the technical assistance of USAID-Freedom House, has developed a methodology for analysing the risk context and for formulating prevention and early-warning plans so as to support the work to defend human rights, freedom of expression and access to justice. There are seven risk context assessments. The aforementioned plans have been drawn up with representative organizations, including indigenous communities, defenders of the rights of lesbian, gay, bisexual, transgender and intersex persons, journalists and social communicators, and human rights defenders of southern Honduras and Bajo Aguán.

Compilation of UN Information

15. OHCHR noted that lesbian, gay, transgender, bisexual and intersex persons continued to be discriminated against in all areas of life and recommended that Honduras take concrete steps towards eliminating discrimination based on sexual orientation and gender identity.

26. OHCHR reported that in the first half of 2019 at least 20 lesbian, gay, transgender, bisexual or intersex persons were killed and reiterated its recommendation that Honduras ensure prompt and effective investigations and prosecution of these crimes.

35. Numerous human rights bodies and mechanisms, welcomed the adoption, in 2015, of the Act on the Protection of Human Rights Defenders, Journalists and Other Media Professionals, and Justice Officials, and the implementation of the National Protection Mechanism. However, they remained concerned at the persistence of killings, attacks, criminalization, harassment, threats and smear campaigns against human rights defenders, including journalists, law professionals, trade unionists, land rights defenders, environmental activists, leaders of indigenous and Afro-Honduran peoples, women human rights defenders and defenders of the rights of lesbian, gay, bisexual, transgender and intersex persons. The Secretary-General reported cases of intimidation and reprisals against persons cooperating with the United Nations human rights system.



Summary of Stakeholder's Information

12. Joint Submission 15 (JS15)⁵ noted that the recently adopted criminal legislation was still not compatible with international human rights standards on discrimination and that it should include definitions of direct and indirect discrimination besides prohibiting discrimination in both the public and private spheres. It recommended that Honduras develop and adopt legislation to combat discrimination against vulnerable groups. Red Lésbica Cattrachas (Cattrachas) recommended that a definition of hate crime should be expressly included in criminal legislation.

15. Three submissions noted that lesbian, gay, bisexual, transgender and intersex people faced persistent discrimination and that, rather than safeguarding the rights of that community, the State appeared to be doing just the opposite. Cattrachas noted that the media had had a prominent role in heightening the climate of hatred towards persons of diverse sex and gender and that religious fundamentalists encouraged discrimination against lesbian, gay, bisexual, transsexual, transgender, transvestite and intersex persons

16. Joint Submission 16⁶ (JS16) highlighted that a gender identity law allowing transgender and transsexual persons to obtain identity documents that accurately reflected their gender identity had not yet been adopted.

27. Several submissions highlighted the persistence of widespread violence against lesbian, gay, bisexual, transgender and intersex persons. JS16 reported that, according to data published by the Office of the National Commissioner for Human Rights (CONADEH), more than 280 persons of diverse sexual orientation had lost their lives in violent circumstances in the last decade and that over 90 per cent of those crimes had gone unpunished. Two submissions indicated that the Act on Policing and Harmonious Social Relations continued to be used to justify the arbitrary detention of transgender persons.

81. JS6⁷ noted that the main causes of forced displacement were threats, killings, extortion, forced recruitment into criminal organizations, sexual and domestic violence and land dispossession for the development of mining, energy, tourism and agro-industrial projects, and that indigenous communities, women, lesbian, gay, bisexual, transgender and intersex persons, children and adolescents were the population segments most likely to be adversely affected

B. SOGIESC Advanced Questions for Honduras

- **United States of America:** Can the GOH provide updated statistics on gender-based violence and violence against vulnerable populations, including the LGBTI community, in Honduras? What steps

⁵ Joint Submission 15 submitted by: Plataforma Derechos Aquí y Ahora Honduras (Honduras), Sexual Rights Initiative (Switzerland), Comité por la Diversidad Sexual de Honduras (Honduras), Plataforma Somos Muchas (Honduras), Grupo Estratégico por la Anticoncepción de Emergencia (Honduras)

⁶ Joint Submission 16 submitted by: Asociación Kukulcan (Honduras), Asociación Colectivo Violeta (Honduras), Asociación LGTB Arcoiris de Honduras (Honduras), Humanos en Acción (Honduras), Grupo Lésbico Bisexual LITOS (Honduras), SOMOS Centro para el Desarrollo y la Cooperación LGTBI (Honduras), Grupo Lésbico Bisexual Trans Feminista Ixchel (Honduras), Asociación de Derechos Humanos Cozumel Trans (Honduras)

⁷ Joint Submission 6 submitted by: Cristosal (El Salvador), Asociación Para Una Vida Mejor de Personas Infeccionadas/Afectadas por el VIH-Sida en Honduras - APUVIMEH (Honduras)



is the government taking to prevent gender-based violence and violence against LGBTI persons? Is the government taking steps to increase investigations and prosecutions of such cases?

- **Uruguay:** As a follow-up to the recommendation submitted by Uruguay in the second cycle of the UPR, which was accepted by Honduras, additional information would be appreciated on the measures taken in recent years to promote tolerance and non-discrimination and to ensure the punishment of offences and acts of violence committed on the basis of gender, including those motivated by sexual orientation and gender identity.

C. Honduras' Working Group Session

- **Opening remarks (Mr. Marcos Velasquez, President of the Human Rights Commission of the National Congress of Honduras):** The new Criminal Code brings (...) aggravating circumstances of crimes including those motivated or committed on the grounds of religion or beliefs of the victim, age, language, ethnic background, race or nation, sexual orientation, gender identity, illness or disability.
- **(Ms. Karla Cueva, Ministry of Human Rights of Honduras):** In order to prevent and combat discrimination and stigma against the LGBTI community we have the following actions: cooperation agreements between the Human Rights Ministry, the Ministry of Social Development and three civil society organizations. They provide technical assistance on the bill for equality for vulnerable persons, on the development of the agenda for social inclusion of LGBTI community and in the Observatory of Human Rights in cooperation with civil society.
- **(Ms. Loany Alvarano, Deputy Director of the Honduras Public Prosecutor's Office):** The section on death of persons belonging to vulnerable groups have registered for the last 5 years for the 50 cases which involved LGBTI persons, 9 convictions and 1 acquittal was handed down. Regarding the LGBTI community we currently have 75 cases under examination, and we handed down one conviction and one acquittal in that respect.

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Austria:** Austria remains concerned about a number of issues highlighted in the first and second review, including the rising number of attacks against human rights activists, land defenders and journalists as well as the ongoing, widespread discrimination against indigenous persons, Afro-Hondurans and LGBTI persons.
- **Czechia:** Similarly, we continue to follow the situation of sexual and other minorities.

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

- **Australia:** Increase protections for LGBTI individuals, journalists and human rights defenders, including environmental human rights defenders, from threats and attacks and fully investigate, prosecute and punish all acts of violence in accordance with the law (104.102)
- **Austria:** Strengthen the efforts to promptly, effectively and impartially investigate any allegations of violence or reprisals against journalists, human rights defenders, land defenders and LGBTI persons and ensure that perpetrators are held accountable (104.103)



- **Canada:** Strengthen measures for the prevention, investigation, and punishment of all sexual and gender-based violence, including most specifically domestic violence and violence against LGBTI persons (104.194)
- **Chile:** Strengthen the institutional human rights framework to eliminate all forms of violence and discrimination on grounds of sexual orientation, sexual identity and gender expression (104.34)
- **Czechia:** Ensure prompt and effective investigations and prosecution of killings of LGBT persons and other related crimes (104.35)
- **France:** Protect and combat discrimination against LGBTI persons (104.177)
- **Germany:** Substantially improve efforts to effectively protect journalists, human rights defenders and environmentalists as well as vulnerable groups such as women, youth, LGBTI and indigenous people, including by effectively combating impunity (104.100)
- **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 (104.28)
- **Israel:** Include a comprehensive definition of “hate crime” into the criminal legislation (104.29)
- **Italy:** Take further measures to protect LGBTI persons (104.30)
- **Montenegro:** Take concrete steps towards eliminating discrimination based on sexual orientation and gender identity (104.31)
- **Netherlands:** Collect data on violence and discrimination against LGTBI people with a view to enabling policy change, protection and access to justice (104.32)
- **Norway:** Ensure that crimes against human rights defenders, journalists, LGBTI people, indigenous people and Afro-Honduran activists are properly investigated, and that those responsible are held accountable (104.92)
- **Switzerland:** Finance and carry out an active policy for preventing violence and acts of intimidation against the media, human rights defenders and the LGBTI population, taking into account a gender perspective (104.99)
- **Timor-Leste:** Take further steps towards eliminating discrimination based on sexual orientation and gender identity (104.31)

c) The following recommendation have been examined and noted by Honduras:

- **Spain:** Advance in the adoption of a law that effectively implements Article 60 of the Constitution and adapt Honduran legislation to the doctrine and jurisprudence of the Inter-American Court of Human Rights in order to allow people of the same sex to marry without discrimination (104.33)

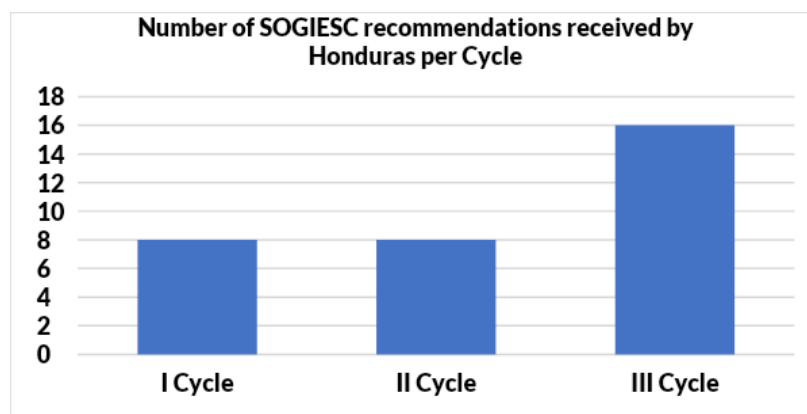
E. Recommendations for Cycle II (2015)

Recommendation	Recommending State	Response
Ensure that the Gender Identity Law that is currently before Congress is adopted and implemented	Denmark	Noted
Adopt a law on gender identity allowing legal recognition in the national register of persons in accordance with their sexual orientation and image of the persons concerned	Madagascar	Noted



Continue with the effective implementation of measures to combat discrimination and violence based on sexual orientation and gender identity, particularly through the implementation of differentiated approaches to guarantee the enjoyment of the rights of lesbian, gay, bisexual, transgender and intersex persons	Colombia	Supported
Ensure freedom of expression and take steps to end threats and attacks against journalists and human rights defenders, including lesbian, gay, bisexual, transgender and intersex defenders	Australia	Supported
Take further measures for the effective investigation, prosecution and punishment of hate crimes against lesbian, gay, bisexual, transgender and intersex persons and women, including femicides, as well as crimes against human rights defenders, journalists, justice workers and campesino community members in Bajo Agua	Norway	Supported
End discrimination in law and practice against indigenous and Afro-Honduran people and strengthen protection for lesbian, gay, bisexual, transgender and intersex persons	Austria	Supported
Undertake awareness-raising campaigns and programmes to promote tolerance and to address violence against lesbian, gay, bisexual, transgender and intersex persons	Slovenia	Supported
Implement policies and programs that promote tolerance and non-discrimination against lesbian, gay, bisexual, transgender and intersex persons, and to guarantee the compliance with the current norms in order to punish offences and violence motivated by prejudices	Uruguay	Supported

F. Graphic Comparison Between Cycles (1–3)



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

1. Adopt legislative and administrative reforms aimed to eliminate legal obstacles that undermine the rights of LGBTI individuals for the effective realization of the principle of non-discrimination and



the principle of equality, the recognition of their legal personality, and the full exercise of all fundamental rights.

2. Develop protocols for the protection of the rights of LGBTI persons, which should be implemented as part of the State's criminal policy at all stages of the investigation, including forensic medicine protocols and public defense. The State must establish protocols that allow integral protection of the rights of LGBTI persons without discrimination, that harmonized with other internal laws.
3. Evaluate the impact of convictions in cases involving human rights violations against LGBTI persons in the interest of analyzing the deterrent effect in the commission of crimes based on prejudice.

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

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

- **Germany:** We also recommended to substantially improve efforts to effectively protect journalists, human rights defenders and environmentalists as well as vulnerable groups such as women, youth, LGBTI and indigenous people, including by effectively combating impunity. A series of violent attacks in early 2021, however, have shown that protection is still lacking and that their lives are still in danger. We observe with concern the increased use of legal steps, at times including incarceration, that hinder activists from exercising their rights. In reaction to the latest events in one major detention centre and similar incidents in the past, we reiterate our recommendation to reduce overcrowding and inter-prisoner violence, in the best interest of inmates and prison staff alike.
- **Action Canada for Population and Development:** It expressed regret over the fact that comprehensive sexuality education was not mentioned in the interactive dialogue or in any recommendation despite the fact it is essential to the decriminalisation of abortion, access to emergency contraception, sexual and reproductive health, as well as the rights of LGBTI persons and those who engage in sex work.
- **CIVICUS:** It expressed concern that while there was positive change in the legal framework for civil society, the work of CSOs continues to be undermined by extra-legal factors. Action by indigenous peoples' rights defenders, environmental and land rights defenders, students and LGBTQI+ human rights defenders is also hampered by criminalisation, criminal prosecution, harassment and surveillance. CIVICUS stated that although Honduras established a protection mechanism for human rights defenders and journalists, the government failed to ensure its effectiveness. As such, persistently high levels of violence make Honduras one of the most dangerous countries in the world for human rights defenders and journalists.
- **Advocates for Human Rights:** It welcomed the recommendations made for protecting women from violence and promoting the rights of LGBTI persons. Although Honduras noted new gender-sensitive criteria for interpreting the Criminal Code and a significant budget increase for the National Institute for Women, there was still concern about the extent of violence against women and members of the LGBTI community. LGBTI persons in Honduras continue to experience violence and discrimination. Advocates for Human Rights stated that between 2008 and 2018, at least 295 LGBTI individuals, including 11 LGBTI human rights defenders, were murdered in Honduras. Moreover, there is no process in Honduras for transgender persons to change their names and gender markers on official documents. Patterns of abuse and harassment against LGBTI persons in the criminal justice system also limit accountability for acts of violence and



discrimination perpetrated against them. Advocates for Human Rights called on the Honduran government to immediately take concrete steps to address violence against women and attacks on LGBTI rights, including adopting policies and campaigns to promote awareness of and respect for the LGBTI community and training law enforcement to respond to domestic violence and violence against LGBTI individuals according to international human rights standards.

- **ILGA World:** It pointed out that Honduras has the highest rate of violent deaths of LGBTI persons in Latin America and the Caribbean, with a rate of 91% impunity. LGBTI persons face constitutional and legal limitations based on sexual orientation, gender identity and gender expression, which bar them from the enjoyment of equal marriage rights, the recognition of marriages entered into abroad, *de facto* unions, adoption, intimate visitation in prisons, name changes based on gender identity, and blood donations. Two judicial appeals to access the right to marriage have been made. The first was in 2018, based on Advisory Opinion 24/17 of the Inter-American Court of Human Rights. During the process, before a decision was handed down, the Public Ministry ruled that same-sex marriage is impermissible because the principle of equality does not apply to LGBTI persons. The second appeal was made in February 2021, in response to the constitutional reform to entrench the prohibition of same-sex marriage. ILGA World stated that Honduras currently has the opportunity to bridge the inequality gap which impacts the lives of LGBTI persons by adopting the recommendations made by 16 LGBTI-friendly countries in the current UPR cycle. It is an opportunity for Honduras to promote social development without discrimination, strengthen democracy, judicial independence, and commit to adopting international, universal and regional standards on LGBTI rights.
- **Amnesty International:** It highlighted the fact that, in January 2021, Honduras approved a constitutional reform that, in practice, prevents the legalisation of abortion and same-sex marriage. Both of these are already prohibited. Entrenching the prohibition further endangers the lives of women and girls and discriminates against LGBTI persons. Amnesty International urged Honduras to implement recommendations to decriminalise abortion and to ensure the right to equality and non-discrimination for all persons without distinction.



JAMAICA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 11 NOVEMBER 2020, 14:30 – 18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 13 NOVEMBER 2020, 15:30 – 18:00

During the 36th UPR Working Group Sessions, Jamaica received 21 SOGIESC recommendations. It accepted 5 recommendations and noted the other 16 recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

9. The Human Rights Committee noted that the Charter of Fundamental Rights and Freedoms did not protect all persons against all forms of discrimination and that the right to freedom from discrimination failed to prohibit discrimination on grounds such as sexual orientation, gender identity, marital status, disability and health status. It recommended that Jamaica amend its laws and enact comprehensive anti-discrimination legislation to prohibit all forms of discrimination, and that the saving clauses in the Charter of Fundamental Rights and Freedoms relating to the Offences against the Person Act and Sexual Offences Act be removed where they obstructed the amendment of legislation that enhanced the rights of women or any other group. The United Nations country team recommended that Jamaica decriminalize same-sex sexual acts and enact protective legislation for lesbian, gay, bisexual, transgender and intersex persons. The Human Rights Committee made similar recommendations.

10. Despite some positive developments, the Human Rights Committee noted with concern reports of incidents of discrimination, harassment and violent attacks against lesbian, gay, bisexual and transgender persons and the alleged failure of the State to prevent and investigate such attacks. The United Nations country team made similar observations. The Human Rights Committee recommended that Jamaica ensure that cases of violence against lesbian, gay, bisexual and transgender persons were thoroughly investigated, that the perpetrators were prosecuted, and if convicted, punished with appropriate sanctions, and that the victims had access to effective remedies. With regard to discrimination and stigma against lesbian, gay, bisexual, transgender and intersex persons in the health sector, the United Nations country team recommended that Jamaica provide guidance to and raise awareness among health professionals, health-service providers, security forces and legal operators in order to provide services with dignity and respect for all populations, including lesbian, gay, bisexual, transgender and intersex persons.



Summary of Stakeholder's Information

6. JS4⁸ and TransWave Jamaica reported that discrimination was not comprehensively defined within Jamaica's existing legal framework. The 2011 Charter of Fundamental Rights and Freedoms did not adequately protect against discrimination on the basis of gender, sexual orientation, gender identity, health status, disability or marital status. The rights guaranteed by the Charter were constricted by the savings law clauses and there was no other comprehensive anti-discrimination law or correspondent complaint mechanism. It was recommended to Jamaica that it adequately protect and promote the human rights of all persons, through amendments to the Charter of Fundamental Rights and Freedoms, to protect against all forms of discrimination by both state and non-state actors and to repeal clauses which unduly limit the rights of its citizens, including the savings law clauses.

7. According to JS4, AI⁹, JS3¹⁰ and TransWave Jamaica, discriminatory attitudes and practices towards members of the LGBTI+ community were widespread and sexual relations between consenting adults of the same sex had not been decriminalized. IACHROAS¹¹ made similar observations. It was recommended that Jamaica remove all legal and policy barriers which prevent LGBT Jamaicans from fully participating on an equal footing with cisgender heterosexual Jamaicans and amend the Offences Against the Person Act to decriminalize same-sex sexual relations between consenting adults. JS4 and JS3 recommended enacting a comprehensive anti-discrimination legislation to prohibit all forms of discrimination, to define indirect and direct forms of discrimination, in public and private settings, by public and private agents, inclusive of discrimination on the basis of sexual orientation and gender identity. AI recommended that Jamaica fully and thoroughly investigate all incidents and acts of violence suspected of being motivated by homophobia or transphobia and bring to justice those suspected of criminal responsibility. It also recommended Jamaica to implement comprehensive anti-discrimination legislation to protect against institutionalized and societal discrimination of socially marginalized groups. TransWave Jamaica made similar recommendations.

8. TransWave Jamaica also reported that there was no legislative or policy framework that allows trans people to have their gender identities formally recognized through changes on their birth certificates and other forms of identification and recommended developing a relevant legislation. JS3 and TransWave referred to the Sexual Offences Act of 2009, under which only women could be victims of rape, and the Domestic Violence Act of 2009, defining "spouse" and "visiting relationship" to be exclusively heterosexual and cisgender as discriminatory against LGBTI+ persons. JS3 recommended to amend the Sexual Offences Act to afford equal protection to all persons from different forms of sexual violence as well as review current family law arrangements and reconsider the provisions in light of their exclusion of LGBT persons from their rubric of protection. TransWave and JS3 also recommended to enact anti-bullying legislation and policies in all schools that includes protection from violence and discrimination on the basis of sexual orientation and gender identity.

⁸ Joint submission 4 submitted by: Jamaicans for Justice, Kingston (Jamaica), The Caribbean Vulnerable Communities Coalition, Kingston (Jamaica), The Jamaica Youth Advocacy Network, Kingston (Jamaica), Jamaica Network of Seropositives, Kingston (Jamaica)

⁹ Amnesty International

¹⁰ Joint submission 3 submitted by: J-FLAG, Kingston (Jamaica) and Women's Empowerment for Change (WEChange), Kingston (Jamaica)

¹¹ Inter-American Commission on Human Rights-Organization of American States, Washington D.C. (USA)



B. SOGIESC Advanced Questions for Jamaica

- **Costa Rica:** Has the State considered taking the necessary measures to combat discrimination and violence against the LGBTI population?
- **United Kingdom:** When will the Government of Jamaica enact comprehensive anti-discrimination legislation which will prohibit discrimination and violence against LGBT persons, persons with disabilities and other vulnerable individuals that are not currently protected under Jamaica's Charter of Fundamental Rights and Freedoms?
- **United States of America:** The United States continues to have grave concerns about Jamaica's Defenses Against the Person Act, or 'Buggery Law,' which criminalizes consensual sexual relations between men and contributes to violence and stigma against the LGBTI community. What is the Government of Jamaica doing to protect the human rights and fundamental freedoms of LGBTI and gender non-conforming persons? Will Jamaica take steps to decriminalize LGBTI status and conduct?

C. Jamaica's Working Group Session

- **Intervention made after 66 interventions:** In relations to questions related to equality and non-discrimination, I must reiterate that the Jamaican Constitution provides for the respect of the rights of all persons without distinction. Likewise, all persons are afforded equality before the law. As such the government of Jamaica is opposed to violence and discrimination against any group of persons, in conjunction with the human rights guaranteed in the Constitution, Jamaica has taken measures to mitigate against any form of discrimination. For instance, there is a diversity police for the Jamaican Constabulary Force, that was promulgated on the 25th August 2011. The police give guidance to police officers on how to fairly protect the rights of all persons, including members of the LGBTI community. The objectives of the police include fostering public confidence, by demonstrating fairness, integrity, tolerance and understating in dealing with all sectors of the community. It seeks to achieve a demonstration of commitment, value and support to every individual by seeking to eliminate all forms of harassment and unfair bias. To provide the necessary support and referral to the victims of crimes, regardless of affiliation, whether an individual or group of a particular belonging. To eliminate the fear of diverse groups of reporting crime and violence and to ensure the provision of high-quality professional policing services to all members of the public. Additionally, the Jamaican Strategic Plan for Reproductive Health and HIV 2014-2019 identifies an enabling environment and human rights as one of the strategic priorities pursued by the Ministry of Health and Wellness. The Plan notes in particular that stigma and discrimination towards people living with HIV and their families and men who have sex with men, may adversely affect testing and HIV services and retro-viral treatment and access to supporting services. The government through that ministry has adopted and undertaken in very practical ways to pursue interventions targeting individuals, communities and institutions to address stigma and discrimination. Jamaica also regularly participates in the UN Programme on HIV/AIDS and on the preparation of the Global AIDS Monitoring Report and in the National Commitments and Policies Instrument. Both reports involve Jamaica reporting on the measures taken to combat HIV/AIDS specially among vulnerable populations such as men who have sex with men. These reports are prepared with collaboration with relevant civil society organizations.



D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Australia:** We encourage further action to promote and protect the rights of LGBTI persons, including through legislative reform and engagement with initiatives such as the United Nations Free and Equal campaign.
- **Denmark:** While recognizing some improvements relating to women's rights, Denmark remains concerned about the inadequate protection of the LGBTI community.
- **Germany:** Germany remains concerned about rights of vulnerable groups, especially children and LGBTs.
- **Netherlands:** However, we remain concerned about the rights of LGBTI persons. To date, Jamaica has provisions in place that criminalize consensual same-sex relationships. Moreover, a 2019 Awareness, Attitude and Perception Survey shows broad intolerance (57%) amongst the general public in Jamaica towards LGBTI people.
- **Spain:** Spain wishes to express its concern about the situation of LGBTI people.

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

- **Iceland:** Provide guidance, including setting standards when necessary, and sensitize health professionals, health-service providers, security forces and legal operators to provide services with dignity and respect for all populations, including LGBTI persons (107.17)
- **Fiji:** Strengthen efforts to eliminate discrimination and violence based on sexual orientation and gender identity, actual or perceived, in compliance with its human rights obligations (107.18)
- **Germany:** Ensure that cases of violence against lesbian, gay, bisexual and transgender persons are thoroughly investigated, that the convicted perpetrators are prosecuted and, if convicted, punished with appropriate sanctions and that the victims have access to effective remedies (107.19)
- **Greece:** Step up its efforts to protect all citizens from violence and discrimination, including lesbian, gay, bisexual and transgender persons (107.15)
- **Venezuela:** Investigate exhaustively, prosecute and punish cases of torture, gender-based violence and against other vulnerable groups such as LGBTI people, and guarantee access to justice and reparation for victims (107.57)

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

- **Argentina:** Adopt the necessary measures to decriminalize consensual sexual relations between adults of the same sex and put an end to prejudices against homosexuality and its social stigmatization (108.26)
- **Australia:** Decriminalize consensual same-sex relations (108.27)
- **Canada:** Repeal legislation criminalizing consensual same-sex practices between adults and strengthen the legal framework to combat discrimination on the basis of sexual orientation and gender identity (108.29)
- **Chile:** Legally prohibit discrimination based on sex, sexual orientation and gender identity and punish all forms of violence against LGBTI persons (108.30)



- **Denmark:** Decriminalise same-sex sexual acts and enact protective legislation for LGBTI persons (108.31)
- **France:** Take all measures to guarantee the protection of LGBTI persons and put an end to the discrimination they suffer (108.17)
- **Honduras:** Adopt national legislation against discrimination against people on grounds of sexual orientation and gender identity (108.16)
- **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 (108.28)
- **Ireland:** Implement comprehensive anti-discrimination legislation, after meaningful consultation with civil society, to protect against institutionalised and societal discrimination against socially marginalised groups, including LGBTI+ persons. Furthermore, decriminalise sexual relations between consenting adults of the same sex and fully and thoroughly investigate all incidents and acts of violence suspected of being motivated by homophobia or transphobia and bring to justice those suspected of criminal responsibility (108.18)
- **Italy:** Decriminalise consensual same-sex relations and combat discrimination and violence against LGBTI persons (108.19)
- **Mexico:** Decriminalize consensual same-sex relationships and prevent and punish acts of discrimination, harassment and violent attacks against LGBTI people, guaranteeing their human rights (108.20)
- **Netherlands:** Repeal all provisions that criminalize same-sex relations between consenting adults by 2025 (108.21)
- **Portugal:** Enact a comprehensive anti-discrimination law to prohibit all forms of discrimination, namely on grounds of sexual orientation, gender identity, marital status, disability and health status (108.22)
- **Spain:** Adopt legislative measures to prevent discrimination against LGBTI persons and decriminalize consensual relationships between adults of the same sex (108.23)
- **Timor Leste:** Decriminalize same-sex sexual acts (108.24)
- **United States of America:** Repeal the Offences Against the Persons Act that criminalizes same-sex sexual activity between consenting adults (108.25)

E. Recommendations for Cycle II (2015)

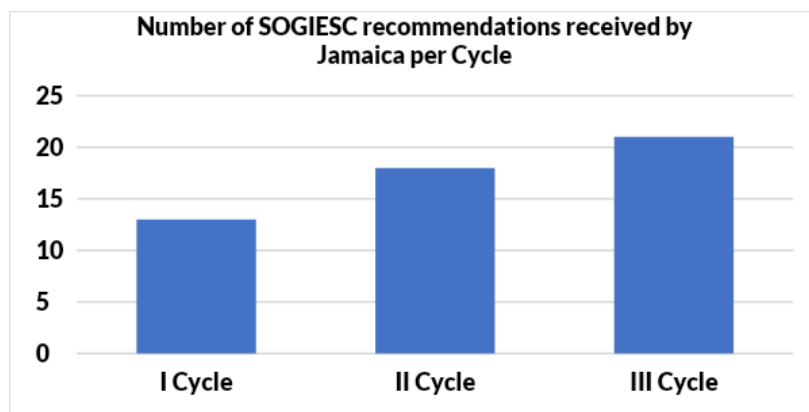
Recommendation	Recommending State	Response
Adopt effective measures to eradicate violence against the lesbian, gay, bisexual, transsexual and intersex group, as well as the inclusion within the Charter of Rights adopted in 2011 of a provision for no discrimination on grounds of sexual orientation	Spain	Noted
Take measures to eliminate the discrimination and stigmatization against lesbian, gay, bisexual, transsexual and intersex persons	Slovenia	Noted
Repeal laws that criminalize sexual activity between consenting adults of the same sex	Slovenia	Noted



Decriminalize sexual activity between consenting adults of the same sex, and address hate crimes on the grounds of sexual orientation and gender identity, as matter of urgency, as previously recommended	Slovenia	Noted
Amend the Charter of Fundamental Rights and Freedoms to include sexual orientation and gender identity and expression as a protected category	Norway	Noted
Amend its laws with a view to prohibiting discrimination on the basis of sex, sexual orientation and gender identity	Montenegro	Noted
Prohibit discrimination on the basis of sex, sexual orientation and gender identity. Such measures would be of great importance to the fight against homophobia as well as for the progress in combating HIV/AIDS in the country	Brazil	Noted
Strengthen the legal framework to combat discrimination on the basis of sexual orientation	Italy	Noted
Decriminalize sexual relations between consenting adults of the same sex and put an end to prejudices and social stigmatization of homosexuality	Germany	Noted
Decriminalize consensual same-sex sexual conduct between adults	United States	Noted
Legally prohibit discrimination on the grounds of sex, sexual orientation and gender identity and punish acts of violence that affect lesbian, gay, bisexual, transsexual and intersex persons	Chile	Noted
In line with the Human Rights Committee, decriminalize consensual same-sex sexual relations between adults and put an end to prejudices and social stigmatization of homosexuality	Argentina	Noted
Take measures to reduce violence against lesbian, gay, bisexual, transsexual and intersex persons, with a view to reducing homophobic prejudices of the Jamaican society and facilitate their access to all services	Uruguay	Noted
Introduction and implementation of fully comprehensive anti-discrimination legislation to include sexual orientation and gender	United Kingdom	Noted
Repeal the legal provisions making same-sex intimacy among men-described as « gross indecency and buggery » illegal	Sweden	Noted
Implement measures to recognize and protect human rights defenders, including those defending the rights of the lesbian, gay, bisexual, transsexual and intersex population	Germany	Noted
Step up its efforts to protect all citizens from violence and discrimination, including lesbian, gay, bisexual and transgender persons	Netherlands	Supported
Take effective measures to investigate and prosecute all incidents and acts of violence targeting individuals based on sexual orientation	Canada	Supported



F. Graphic Comparison Between Cycles (1–3)



G. SOGIESC recommendations shared by HRDs during ILGA's UPR advocacy week in Geneva: J-Flag

1. Equally protect all Jamaicans from all forms of sexual violence by amending the Sexual Offences Act and Offences Against the Person Act to decriminalize consensual same-sex relations between adults and make rape and other sexual offences gender-neutral by 2025.
2. Develop and implement gender recognition legislation to ensure a quick, transparent, and accessible mechanism that legally recognises each person's self-defined gender identity.
3. Enact comprehensive anti-discrimination legislation to provide accessible remedies for all forms of discrimination whether in public or private and in particular in the context of education, health, housing, social security, employment or accessing services by 2025.
4. Introduce and implement monitoring mechanisms to ensure favourable policies, such as the JCF Policy on Diversity, are implemented in actuality and make GOJ services accessible and responsive to the needs of vulnerable groups by 2023.
5. Enact anti-bullying legislation, policies and programmes to adequately address the challenges faced by students, including to prohibit discrimination against and victimization of LGBT youth in schools by 2022.
6. Revise the existing policy on homelessness and implement a responsive and non-discriminatory GOJ policy on housing and homelessness and mobilize resources to address the needs of the homeless population, including the homeless LGBT population by 2025.
7. Immediately take steps to standardize collaboration with civil society to scale up efforts to reduce stigma and discrimination across all sectors, in particular education, health, labour and social security.

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

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

- **Commonwealth Human Rights Initiative:** It recommended that Jamaica decriminalise consensual same-sex relations between adults and ratify the UNCAT.
- **International Planned Parenthood Federation (IPPF):** It applauded Jamaica's willingness to advance the sexual and reproductive health rights agenda for Jamaican citizens and the acceptance



of recommendations regarding sensitive yet essential issues, like sexual and gender-based violence, discrimination against LGBTI people and the criminalisation of marital rape.

- **United Nations Watch:** It identified as an issue of grave concern, particularly in the context of police violence, the deteriorating human rights situation of Jamaica's LGBT citizens. It cited the Inter-American Commission on Human Rights' decision which found Jamaica responsible for violating multiple human rights of LGBT persons and highlighted its recent call for Jamaica to repeal its homophobic laws. UN Watch further pointed out that the lack of gender identity protection under the Charter of Fundamental Rights excludes transgender persons from justice, and Section 76 of the Offences Against the Persons Act makes LGBT persecution essentially state-sanctioned. Instances of the police turning a blind eye to mob attacks against transgender persons, or even themselves perpetuating violent attacks, are also not uncommon. UN Watch concluded by stating that all citizens of Jamaica are entitled to the human dignity and equality guarantees of the Universal Declaration of Human Rights.
- **Rencontre Africaine pour la defense des droits de l'homme (RADDHO):** It encouraged Jamaica to remain steadfast in the face of implementation challenges regarding several UPR recommendations, including on the rights of LGBT persons and the fight against diseases like HIV/AIDS.



LIBERIA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 2 NOVEMBER 2020, 14:30 – 18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 6 NOVEMBER 2020, 15:00 – 18:00

During the 36th UPR Working Group Sessions, Liberia received 14 SOGIESC recommendations. It accepted 1 recommendation and noted the other 13 recommendations.

A. SOGIESC Information

National Report

C. Non-discrimination - On LGBT rights - Recommendations: 100, 75, 121, 122, 123

38. The Liberian Constitution provides for the equal protection of all under the law, including the right to be free from discrimination based on creed, race, religion, or sex. Since the Government's position in 2015, at the 30th Regular Session, cautious steps are being taken to create the needed awareness to protect the rights of LGBTI persons in Liberia. Notable steps taken include: the participation of relevant government institutions; the Liberian National Police (LNP) and the Human Rights Protection Division of the Ministry of Justice as members of the Liberia Initiative for the Promotion of Rights, Identity, Diversity, and Equality (LIPRIDE) Coalition meetings, where rights issues of minorities (key population) are discussed. Additionally, the Independent National Commission on Human Rights (INCHR) has setup a desk, to amongst others address rights issues of LGBTI persons.

39. Moreover, the Ministry of Health (MOH), with support from the United Nations Development Programme (UNDP) Rule of law program, through the Liberian National HIV prevention Strategy 2017-2020 is working to provide an enabling environment that promote access to justice for members of the LGBTIQ community at risk of discrimination and victimized from abuses.

Compilation of UN Information

12. The Human Rights Committee was concerned about the criminalization of same-sex sexual conduct between consenting adults and attempts to increase penalties. It recommended that Liberia decriminalize same-sex sexual conduct between consenting adults, explicitly reject any form of social stigmatization, discrimination or violence against persons based on their sexual orientation or gender identity, facilitate access to justice by victims and undertake education campaigns on non-discrimination, inclusion and diversity.

Summary of Stakeholder's Information

5. The Commission was concerned at persistent discrimination against LGBTI persons and regretted that in 2018, a bill criminalizing same sex consenting relations was introduced in the Legislature. It recommended to decriminalize same sex consenting relation among adults.



25. JS7 stated that the Constitution also discriminated on the basis of ethnic origin and, according to Article 27 (2) of the Constitution, “only persons who are Negroes or of Negro descent shall qualify by birth or by naturalization to be citizens of Liberia”. JS7 indicated that this had resulted in thousands of persons who had lived in Liberia for generations being barred from citizenship, and other rights. JS7 recommended amending Article 27 (2) of the Constitution in order to remove discrimination. JS1 recommended to adopt a comprehensive legislation against discrimination that includes a definition of all forms of discrimination and an expanded list of prohibited grounds of discrimination, including national or ethnic origin, religion, disability, sexual orientation and gender identity and any other status, and provide for effective remedy in cases of violations.

27. While acknowledging some improvements to protect the rights of LGBTI persons, such as the appointment of a coordinator to assist minority groups including LGBTI persons, was concerned that the Penal Code criminalized consensual same-sex activity among adults. JS6 and AHR noted that LGBTI people continued to experience widespread violence and discrimination. According to JS6, many victims did not report the crimes to the police for fear of reprisals. AHR and JS6 recommended to repeal all provision in domestic law that criminalize same sex relations among consenting adults and combat widespread impunity for violence and discrimination based on sexual orientation and gender identity, inter alia, by bringing perpetrators to justice, and providing related training to the National Police.

49. AHR stated that LGBTI activists and human rights defenders who opposed female genital mutilation (FGM) were subject to threats, violence and reprisals. AHR recommended to ensure investigations of all reports of violence and harassment against HRDs and make perpetrators accountable.

B. SOGIESC Advanced Questions for Liberia

- **United Kingdom:** What steps are the Government of Liberia taking to protect vulnerable individuals, including children, persons with disabilities, LGBT+ persons, and persons diagnosed with HIV/AIDS, including from violence and discrimination?
- **Belgium:** Will the government of Liberia consider decriminalizing same-sex relations, and how does it plan to take measures to protect lesbian, gay, bisexual, transgender and intersex persons as well as their families against discrimination and acts of harassment and violence?

C. Liberia’s Working Group Session

N/A

D. Recommendations for Cycle III (2020)

a) Remarks of States

N/A



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

- **Israel:** Adopt a comprehensive legislation against discrimination that includes an expanded list of prohibited grounds of discrimination, including national or ethnic origin, religion, disability, gender, sexual orientation and gender identity (6.55)

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

- **Canada:** Prohibit discrimination based on gender, gender identity or sexual orientation in all aspects of social life, including health care, education, housing and access to all services (103.50)
- **Canada:** Combat widespread impunity for violence and discrimination based on sexual orientation and gender identity and repeal all provisions in domestic law, including section 14.79 of the Penal Code, that criminalize same-sex activities among consenting adults (103.49)
- **Chile:** Amend all laws that discriminate on the basis of sexual orientation and gender identity, including the repeal of provisions that criminalize same-sex relationships (103.58)
- **Costa Rica:** Adopt the necessary measures to de-criminalize consensual sexual relations between adult persons of the same sex and combat discrimination and violence based on sexual orientation or gender identity (103.51)
- **France:** Guarantee the protection of LGBTI persons and end the discrimination that they are victims of (103.52)
- **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 (103.53)
- **Ireland:** Repeal Article 14.74 of the Penal Code and take concrete steps to eliminate harassment, discrimination and violence on the basis of sexual orientation or gender identity (103.54)
- **Italy:** Decriminalize same sex consensual relations and combat discrimination and abuse against LGBTI persons (103.56)
- **Mexico:** Decriminalize consensual adult same-sex relations and adopt legislative measures to prohibit discrimination and violence on the grounds of sexual orientation and gender identity (103.57)
- **Portugal:** Decriminalize same-sex relations between consenting adults and take specific measures to combat violence and discrimination based on sexual orientation or gender identity and ensure victims' access to justice (103.43)
- **Spain:** Decriminalize consensual relationships between adults of the same sex, repeal all discriminatory regulations against LGBTI people, and promote their social acceptance through awareness-raising campaigns on non-discrimination and diversity (103.44)
- **Timor-Leste:** Decriminalize same-sex sexual conduct between consenting adults (103.45)
- **United States of America:** Decriminalize same-sex sexual relations between consenting adults (103.46)

E. Recommendations for Cycle II (2015)

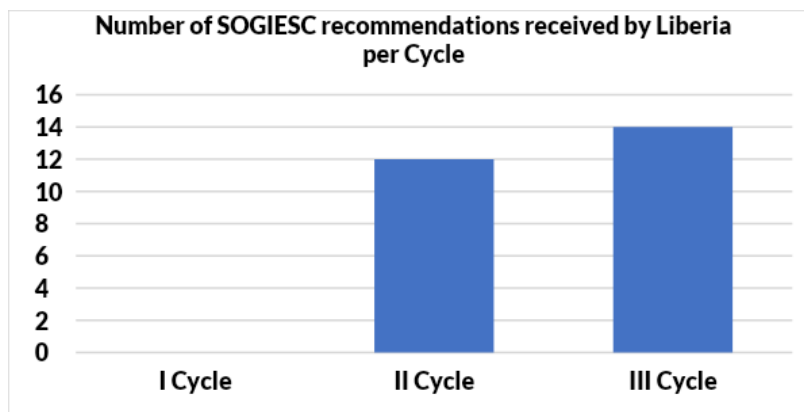
Recommendation	Recommending State	Response
Combat all forms of discrimination and abuse against LGBTI persons	Italy	Supported



Ensure to LGBTI persons the full enjoyment and equal treatment of their human rights by derogating norms that criminalize and stigmatize them	Argentina	Noted
Condemn discrimination, particularly that based on sexual orientation and identity	Madagascar	Supported
Take legislative and policy measures to prevent and fight violence and to combat discrimination on the ground of sexual orientation and gender identity	Colombia	Noted
Repeal sections of the Penal Code that criminalize sexual activities between consenting adults of the same sex and withdraw the two bills currently before the House of Representatives that would further criminalize same-sex relations	Canada	Noted
Repeal 14.74 of the Penal Code and take all necessary legislative and other measures to eliminate discrimination and violence on the basis of sexual orientation or gender identity	Ireland	Noted
Repeal the existing discriminatory regulation in its domestic law against the LGBT community	Spain	Noted
Revoke the law criminalizing consensual sex between adults of the same sex	Poland	Noted
Repeal the legal provisions which criminalize LGBT person	France	Noted
Consider decriminalizing consensual same-sex relations	Brazil	Noted
Amend discriminatory provisions based on sexual orientation or gender identity, in particular with regard to equality of access to services and public office	Uruguay	Noted
Implement provisions in the National Human Rights Action Plan for the protection of vulnerable individuals, including children, persons with disabilities, persons with albinism, LGBT persons, and persons diagnosed with HIV/AIDS	United Kingdom	Supported



F. Graphic Comparison Between Cycles (1–3)



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

1. To develop and enact an anti-discrimination legislation, ensuring universal human rights to all and protecting minorities groups, including LGBTI persons, and that categorically condemn discrimination, on the basis of sexual orientation, gender identity expression;
2. Amend all forms of legislation that discriminate on the basis of sexual orientation and gender identity including the repeal of provisions criminalizing same-sex relations.
3. To refrain from adopting any legislation that is discriminatory on the basis of sexual orientation and gender identity and veto any laws that comes to you for signing; call for the repeal of the New penal code sections that discriminate on the basis of sexual orientation or gender identity. End discrimination against lesbian, gays, bisexual and transgender people by repealing all existing laws criminalizing same-sex conducts
4. Reject adoption of new discriminatory legislation. In particular the anti-same-sex marriage bill and the amendment to the New penal code bill which would further criminalize same-sex relations.
5. Adopt a program to increase public awareness of human rights principles of non-discrimination and equality with special attention to issues regarding diversity of sexual orientation, gender identity and expression and sex characteristics.
6. Publicly condemn attacks or incitement to violence against individuals or groups on the basis of sexual orientation and gender identity or expression; and duly investigate and prosecute these crimes
7. Assess the harm from laws criminalizing same-sex conduct on the HIV epidemic;
8. Recognize the vulnerability of men who have sex with men (MSM), sex workers and Transgenders to HIV and include reference to MSM in national HIV/AIDS prevention programs;

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

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

- **Opening remarks:** On recommendations relating to Lesbian, Gay, Bisexual and Transgender (LGBT) rights, the protection of the rights of all citizens and foreign residents residing within our borders,



remains a constitutional duty and priority of Government. Article 11(3) of the 1986 Constitution of Liberia states: “All persons are equal before the law and are therefore entitled to the equal protection of the law”. The fact that the recommendations of LGBT were noted does not mean that the rights of LGBT persons are not guaranteed. In fact, the Government has remained engaged with all relevant stakeholders on the protection of LGBT persons from discrimination. The Independent National Commission on Human Rights (INCHR) established a desk and recruited paid staff to receive complaints of human rights violations/abuse, taking diversity into consideration. The INCHR is working with relevant government institutions, including the Ministry of Justice, the National AIDS Commission and the Coalition of LGBT advocacy organizations, to examine and review the Penal Code with respect to provisions which may prohibit same sex relationship. The INCHR, in collaboration with the LGBT community, has had engagements with the Government including, the Legislature, to provide information on violation of rights of community members and to review the laws to determine if they complied with international instruments Liberia is a signatory to. The INCHR, with the OHCHR, jointly launched a Participatory Review and Analysis of the Legal, Social and Human Rights Environment for People of Diverse Sexual Orientation and Gender Identity Report on November 12, 2020 titled: “Sexual Identity and Rights (SOGIR) in Africa, Liberia Country Report”, which was received by the Minister of Justice, with the aim to inform a policy direction. In addition to these steps being taken, it is noteworthy to recognize the role the government of Liberia has played by the deployment of its security apparatus to protect LGBTI persons or advocates from harm, whenever there is an attack on their persons.

- **ILGA World:** It regretted the fact that Liberia noted all 14 SOGIESC-related recommendations made to it. Liberia’s response mentioned that despite the fact it did not accept the recommendations, it “has remained engaged with all relevant stakeholders on the protection of LGBT persons from discrimination”. However, no steps were taken in previous years to achieve this protection and no action plans on the matter have been developed or implemented. Consensual same-sex relations between adults remain criminalised under section 14.74 of Liberia’s Penal Law, which perpetuates the exposure of LGBT persons to discrimination, abuse, and human rights violations by turning them into criminals and tainting them in the public eye. ILGA World also stated that LGBT persons and those living with HIV continue to face major obstacles in accessing basic services, particularly health services, including sexual and reproductive health. The COVID-19 pandemic has aggravated the situation, with these key populations lacking access to nutritional support and medication. At present, there are two Bills before the house of parliament seeking to increase the penalty for same-sex relations and explicitly prohibit same-sex marriage. According to members of the LGBT community, these Bills have already exacerbated discrimination, harassment, and stigmatization against them, and these issues could all worsen should the Liberian legislature actually pass these laws. ILGA World urged Liberia to amend its legislative and institutional framework in order to decriminalize same-sex consensual acts between adults, to prohibit discrimination based on sexual orientation and gender identity and to take further action to protect, promote and fulfill the human rights of LGBT persons in Liberia.
- **Rencontre Africaine pour la defense des droits de l'homme (RADDHO):** It called on Liberia to abolish the death penalty for all offenses, to fight against impunity for perpetrators of war crimes, and to fight against marital rape and discrimination against sexual minorities.



LIBYA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 11 NOVEMBER 2020, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 13 NOVEMBER 2020, 15:30 – 18:00

During the 36th UPR Working Group Sessions, Libya 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

N/A

B. SOGIESC Advanced Questions for Libya

N/A

C. Libya's Working Group Session

N/A

D. Recommendations for Cycle III (2020)

a) Remarks of States

N/A

b) The following recommendation has been examined and noted by Libya:

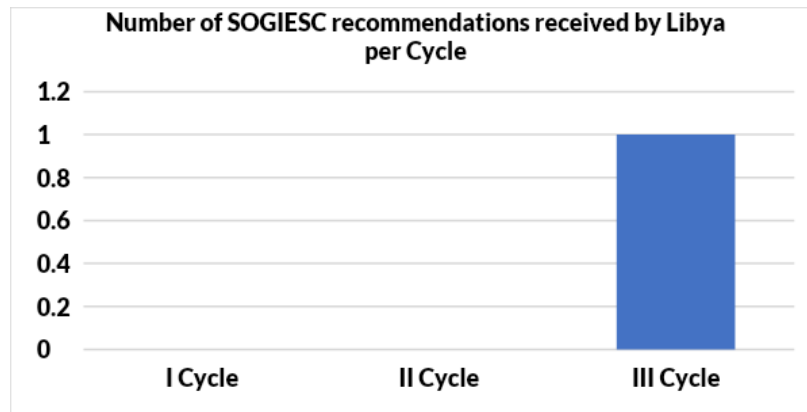
- **Iceland** : Decriminalize consensual sexual relations between adults of the same sex and expand its anti-discrimination legislation, to include a prohibition of discrimination on the basis of sexual orientation and gender identity (148.108)



E. Recommendations for Cycle II (2015)

N/A

F. Graphic Comparison Between Cycles (1–3)



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

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

- **Ingénieurs du Monde:** It expressed its alarm at the ongoing persecution of LGBT citizens. Articles 407 and 408 of the Penal Code criminalise consensual same-sex relations, with punishments of up to five years in prison. In areas under the control of the GNA, Libya's few LGBT activists face blackmail, sexual violence and humiliation at the hands of legal authorities. Ingénieurs du Monde called on Libya to decriminalise homosexuality, and to provide LGBT citizens with the legal freedoms to which they are entitled under the International Covenant on Civil and Political Rights. While the recent steps taken towards the establishment of an interim Government of National Unity in Libya were welcomed as a major step towards political stabilisation, Ingénieurs du Monde stated that it is unclear whether this will change Libya's culture of impunity or their state-sanctioned subjugation of marginalised groups. It therefore called on Libya to take concrete steps to meet its human rights obligations and end impunity for widespread abuses.



MALAWI UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 3 NOVEMBER 2020, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 6 NOVEMBER 2020, 15:00 – 18:00

During the 36th UPR Working Group Sessions, Malawi received 15 SOGIESC recommendations. It noted all 15 recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

24. Noting the criminalization of same-sex relations, the United Nations country team stated that lesbian, gay, bisexual, transgender, queer and intersex persons experienced violence and discrimination. In addition, the challenges that such persons faced had been further exacerbated by the lack of clarity and divergent opinions regarding the legality of a moratorium on arrests and prosecutions for consensual homosexual acts, issued by the Ministry of Justice and Constitutional Affairs in 2012.

Summary of Stakeholder's Information

31. Referring to a relevant supported recommendation from the previous review, JS12¹² stated that the criminalization of same sex conduct had a direct impact on the levels of violence against persons based on their sexual orientation and gender identity and expression and their ability to access justice and services. It added that the moratorium placed on the prosecution of persons for consensual same-sex acts in 2012, was suspended in 2016, which represented a significant barrier to the implementation of the aforementioned recommendation.

72. Referring to a relevant supported recommendation from the previous review, JS12 stated that the National AIDS Prevention Strategy included a number of positive actions to be taken in increasing the HIV prevention and response outcomes for key populations. However, two of the key populations were very narrowly defined to include men who have sex with men and not LGBTI persons, and female sex workers, excluding male sex workers and trans* women sex workers.

¹² Joint Submission 12 by M Community Health Rights Advocacy, Lilongwe (Malawi), African Sex Workers Alliance, Nairobi (Kenya) and Sexual Rights Initiative, Geneva (Switzerland)



B. SOGIESC Advanced Questions for Malawi

- **Belgium:** Will the government of Malawi consider decriminalizing same-sex relations, and how does it plan to prevent discrimination and acts of harassment and violence against persons to be perceived lesbian, gay, bisexual, transgender and intersex as well as their families?
- **Germany:** Considering that there have not been any sentences since 2012, does the new government consider reviewing laws that impede rights of LGBTI, for example, provisions criminalizing consensual same-sex sexual conduct? What efforts does the government undertake in order to promote acceptance of LGBTI persons within society?
- **United States of America:** What is the Government of Malawi doing to protect the human rights and fundamental freedoms of LGBTI persons? Will Malawi take steps to decriminalize LGBTI status and conduct?
- **United Kingdom:** What steps is the Government of Malawi taking to end all forms of discrimination based on sexual orientation or gender identity, and to enact the Disability Bill of 2019 that incorporates into domestic law the UN Convention on the Rights of Persons with Disabilities?

C. Malawi's Working Group Session

- **Final remarks:** The last question I will address is on what the government is doing to protect the human rights and fundamental freedoms of LGBTI persons. Sexual conducts between people of the same sex is an offense in Malawi but Malawi Human Rights Commission has been asked to conduct an inquiry on the issue. So, we will wait for the result of the inquiry of the Malawi Human Rights Commission.

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Netherlands:** the Netherlands remains concerned about ongoing violence and discrimination against LGBTI persons in Malawi.
- **New Zealand:** Despite a moratorium on prosecution, laws prohibiting consensual same-sex relations remain in force in Malawi.
- **Mexico:** We also welcome efforts to prevent and protect LGBTI people from violence and commend them for continuing to implement measures in this area.
- **United States of America:** we urge Malawi to ensure its legislation respects individuals' rights, regardless of their real or perceived LGBTI status and/or conduct.

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

- **Australia:** Repeal all legal provisions criminalizing sexual activity between consenting adults, and mandate the Malawi Human Rights Commission to protect the rights of the LGBTI community (124.25)
- **Canada:** Repeal those sections of the Malawi penal code that criminalise same sex sexual activity between consenting adults as well as those that criminalise the gender identity and/or expression of transgender people such as the prescription for the appearance of men (124.14)



- **Canada:** Prohibit discrimination based on gender, gender identity or sexual orientation in all aspects of social life (124.15)
- **Chile:** Increase the access and availability to quality health services for LGBTI persons (124.16)
- **France:** Protect and fight against discrimination and stigmatisation against LGBTI persons (124.17)
- **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 (124.19)
- **Ireland:** Uphold the principle of non-discrimination by decriminalising consensual same-sex relations, and to explicitly include sexual orientation and gender identity among the grounds of discrimination prohibited by the Constitution (124.20).
- **Italy:** Repeal all legal provisions criminalizing consensual same sex relations and prevent discrimination and abuses against LGBTI persons (124.21)
- **Netherlands:** Repeal sections 153, 154, 156 and 137A of the Penal Code and develop comprehensive legislation that prohibits any discrimination on the base of sexual orientation or gender identity (124.22)
- **New Zealand:** Decriminalize formally consensual same-sex relations between adults, and introduces comprehensive anti-discrimination laws inclusive of the LGBTQI community (124.23)
- **Norway:** Decriminalise same-sex relationships and repeal legislation that discriminates against LGBTI people (124.24)
- **Portugal:** Take concrete legal and policy measures, including the provision of adequate human rights training to health personnel, to eliminate all forms of stigma and discrimination in health settings, in particular against women and girls, LGBTI persons, persons affected by HIV/AIDS and persons with mental health conditions and psychosocial disabilities (124.36).
- **Spain:** Decriminalize consenting relations between persons of the same sex, prosecute the perpetrators of the growing attacks against persons belonging to the LGBTI community, and guarantee that they do not face de jure or de facto discrimination (124.12).
- **Switzerland:** Take measures against discrimination against LGBTI people and fight impunity for violence based on gender identity and sexual orientation by revising national legislation in order to explicitly include gender identity and sexual orientation among the prohibited grounds of discrimination (124.18)
- **United States of America:** Decriminalize LGBTI status and conduct (124.13).

E. Recommendations for Cycle II (2015)

Recommendation	Recommending State	Response
Combat, in law and in practice, discrimination based on sexual orientation	Uruguay	Noted
Eliminate existing norms against homosexuality, in particular articles 137, 153, and 156 of the Penal Code	Spain	Noted
Decriminalize homosexuality and revise sections 137A, 153, 154 and 156 of the Penal Code and revise the law on marriage, divorce and family relations in order to bring it in line with the international instruments ratified by Malawi	Switzerland	Noted

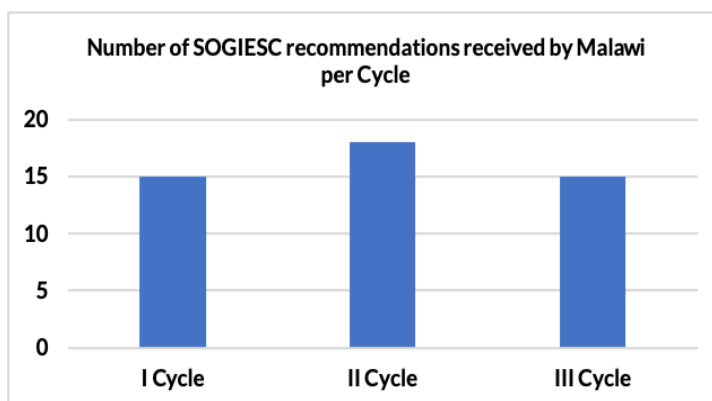


Repeal provisions of the Malawi Criminal Code that criminalize consensual, adult same-sex conduct (sections 153, 154 and 156) and provide adequate protection to lesbian, gay, bisexual and transgender persons	Sweden	Noted
Repeal the provisions in the Criminal Code that criminalize consensual same-sex conduct, and any other legislation which discriminates on the basis of sexual orientation or gender identity, and bring its legislation in line with Malawi's obligations under international human rights law	Netherlands	Noted
Bring its legislation in conformity with international law, by decriminalizing consensual same-sex relations between adults and by prohibiting all discrimination based on sexual orientation and gender identity	Luxembourg	Noted
Ensure to lesbian, gay, bisexual, transgender and intersex persons the full enjoyment and equal conditions in terms of their human rights by repealing the rules that criminalize and stigmatize them	Argentina	Noted
Consolidate the policy gains into legal reforms on issues such as treatment of same-sex relations and access to information	Norway	Noted
Repeal all legal provisions criminalising sexual activity between consenting adults and encourage the Malawi Human Rights Commission to include in its mandate the protection of the rights of the lesbian, gay, bisexual, transgender and intersex community	Australia	Noted
Abrogate legislation criminalizing homosexuality, in order to fully respect the principles of equality and non-discrimination for all persons	France	Noted
Repeal legal provisions that criminalize homosexuality, and take all necessary measures to ensure respect for all human rights of lesbian, gay, bisexual, transgender and intersex people, including access to public health services and support initiatives, such as education programmes and the provision of disease and infection care	Slovenia	Noted
Modify the criminal code to decriminalize same-sex sexual activity between consenting adults and to criminalize all forms of sexual abuse of children, regardless of the sex of the child	United States	Noted
Repeal all legal provisions criminalizing sexual activities between people of the same sex	Italy	Noted
Repeal provisions criminalizing consensual same-sex sexual conduct in order to bring the penal code in line with international human rights obligations	Germany	Noted
Include sexual orientation and gender identity among the prohibited grounds of discrimination and repeal the provisions criminalizing homosexual relations between consenting adults	Chile	Noted
Review and reform its national legislation with a view to eradicating all discrimination on the basis of sexual orientation and gender identity	Brazil	Noted



Guarantee that people of the lesbian, gay, bisexual, transgender and intersex communities have effective access to health services, including treatment for HIV/AIDS	Honduras	Supported
Take effective measures to protect lesbian, gay, bisexual and intersex persons from violence and prosecute the perpetrators of violent attacks	Austria	Supported

F. Graphic Comparison Between Cycles (1–3)



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

1. Repeal sections 153, 154, 156 and 137A of the Penal Code that criminalize adult consensual same sex conduct.
2. Increase access and availability to quality health services, including quality treatment, care and support for LGBTI people. This includes delivery of services in a stigma free environment.
3. Ensure that what is defined as “Essential Health Package” meets the needs of the LGBTI community; this includes increasing access to lubricants, oral condoms, and other services targeted at MSM and LGBTI communities.
4. Develop comprehensive legislation that prohibits all forms of discrimination, including on the basis of sexual orientation and gender identity and expression.
5. Ensure that victims of violence based on sexual orientation and gender identity have access to effective and adequate remedy domestically.
6. Regularly and routinely consult LGBTI-led community-based organizations to help tailor approaches and policies serving LGBTI people.
7. Disseminate messages and awareness in places of work, schools, colleges and business places on human rights and anti-discrimination for key populations.
8. Issue clear directives to all police officers instructing them to respect the moratorium issued in 2012 by the Ministry of Justice and Constitutional Affairs pending repeal of the relevant provisions of the Penal Code and end arbitrary arrests and detention of LGBT individuals.

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



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

- **Centre pour les Droits Civils et Politiques (Centre CCPR):** It expressed concern over the fact that Malawi did not accept the SOGIESC-related recommendations made to it, and also opined that Malawi does not respect its obligations under the African Charter for Human and Peoples' Rights to protect LGBTI persons, especially in accordance with Resolution 275 on the Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity. Centre CCPR stated that it believes States can act with due diligence to repeal laws which continuously perpetrate violence against LGBTI persons.
- **Action Canada for Population and Development:** It regretted Malawi's rejection of 14 recommendations relating to the decriminalisation of same-sex conduct and 5 recommendations about the right to health and sexual and reproductive health and rights. As a State Party to the African Charter, Malawi must respect, protect and fulfil the rights of all persons. These obligations are elaborated on by ACHPR Resolution 275. Action Canada stated that Malawi's rejection of these recommendations represents the government's deliberate abrogation of the duty to serve, defend and protect the Constitution and the rights of all. Concern was further expressed about legal, policy, social and economic conditions for sex workers in Malawi. These conditions remain challenging and, despite advocacy efforts, did not receive attention from recommending States during the UPR. Action Canada recommended that Malawi respect its obligations under the African Charter in accordance to Resolution 275, decriminalise all aspects of voluntary sex work, and place a moratorium on the use of all laws that are used to harass, detain or extort money or sex from sex workers, and repeal laws that criminalise LGBTI people, same-sex relations, and those who work with the LGBTI community.
- **International Bar Association:** It echoed concerns regarding torture, the death penalty and the rights of LGBTI persons in Malawi. It expressed concern that consensual same-sex relations are criminalised in Malawi. In 2016, a High Court order suspended the 2012 *de facto* moratorium on arrests and prosecutions pending a constitutional review of its legality. LGBTI persons face discrimination and violence due to their sexual orientation and gender identity, as well as restrictions to their right to freedom of association. The IBA urged Malawi to support and implement without delay UPR recommendations on issues mentioned in its statement, including amending the Penal Code to abolish the death penalty, explicitly criminalising torture and ill-treatment, decriminalising consensual same-sex sexual activity among adults, prosecuting perpetrators of attacks against LGBTI persons in line with international human rights standards, and amending legislation to explicitly prohibit discrimination based on sexual orientation and gender identity.
- **Amnesty International:** It expressed regret for Malawi's rejection of all recommendations to decriminalise consensual same-sex relations and to prohibit discrimination against LGBTI individuals.
- **Rencontre Africaine pour la defense des droits de l'homme (RADDHO):** It strongly urged Malawi to fight against political abuse, gender-based violence, and discrimination against, and the marginalisation of, lesbian, gay, bisexual, and transgender persons.



MALDIVES UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 4 NOVEMBER 2020, 14:30 – 18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 6 NOVEMBER 2020, 15:00 – 18:00

During the 36th UPR Working Group Sessions, Maldives received 7 SOGIESC recommendations. It noted all 7 recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

15. The Committee on the Rights of the Child urged Maldives to ensure that all children within its jurisdiction enjoyed all the rights enshrined in the Convention without discrimination. The Committee also urged Maldives to amend its legislation in order to eliminate any discrimination against girls, children born out of wedlock or following out-of-court marriages and lesbian, gay, bisexual, transgender or intersex children. The Committee encouraged Maldives to use legislative, policy and educational measures, including sensitization and awareness-raising, to end the stigmatization of girls, children born out of wedlock or following out-of-court marriages and lesbian, gay, bisexual, transgender or intersex children.

Summary of Stakeholder's Information

N/A

B. SOGIESC Advanced Questions for Maldives

- **United States of America:** How is the government working to protect the human rights and fundamental freedoms of LGBTI persons? What steps is the Maldivian government taking to improve investigations of violence against LGBTI persons and to hold perpetrators accountable?

C. Maldives' Working Group Session

N/A

D. Recommendations for Cycle III (2020)

a) Remarks of States

N/A



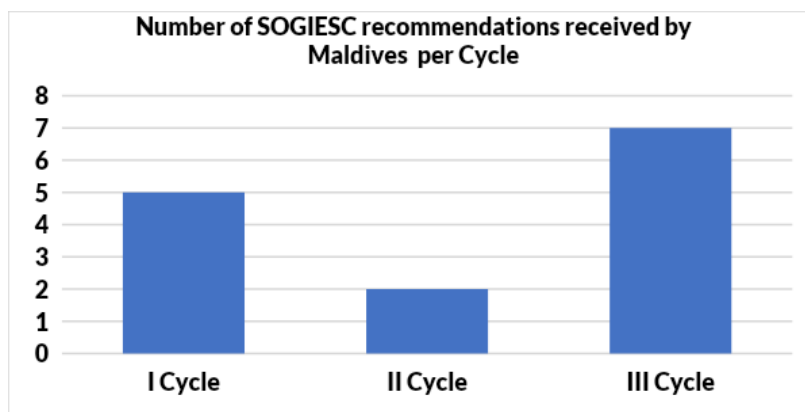
b) The following recommendations have been examined and noted by Maldives:

- **Argentina** : Guarantee the full and equal enjoyment of human rights to LGTBI persons, by repealing the norms that penalize and stigmatize them (133.66)
- **Chile**: Repeal the laws that criminalize consensual same-sex relationships and immediately reinstate the moratorium on arbitrary arrest and detention of people based on their sexual orientation (real or perceived), gender identity and expression (133.67)
- **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 (133.69)
- **Italy**: Ensure full protection of the rights of LGBTI persons without discrimination (133.70)
- **Mexico**: Repeal all the provisions that discriminate and stigmatise persons on the basis of their gender identity or sexual orientation and guarantee the full enjoyment by them of their rights (133.73)
- **Myanmar**: Adopt measures to establish anonymous helpline and counseling services for victims of discrimination and violence, especially for the vulnerable groups such as women, girls, people of religious minorities and LGBTI community (133.236)
- **New Zealand**: Decriminalise consensual same-sex relationships between adults, and takes action to prevent discrimination based on sexual orientation or gender identity (133.74)

E. Recommendations for Cycle II (2015)

Recommendation	Recommending State	Response
Guarantee that lesbian, gay, bisexual, transgender and intersex persons have full and equal enjoyment of their human rights by repealing the norms that criminalize and stigmatize them	Argentina	Noted
Speed up the adoption of the law against discrimination ensuring the incorporation of a prohibition of discrimination on the basis of sexual orientation and gender identity	Chile	Noted

F. Graphic Comparison Between Cycles (1–3)





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

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

- **Asian Forum for Human Rights and Development:** It welcomed the Maldives' acceptance of several key recommendations to protect the rights to the freedoms of expression, assembly and association, as well as the rights of human rights defenders. Without protection of the right to freedom of religion or belief and prohibition of discrimination based on sexual orientation and gender identity, the exercise of these rights remains under threat.
- **International Humanist and Ethical Union:** It expressed concern that a recommendation articulating requirements for freedom of religion and non-discrimination was merely noted by the Maldives. Concern was expressed that those promoting tolerance and secularism in the country have continued to face online and offline violence for the past ten years. The media often carry names and photos of individuals with allegations of apostasy, atheism, secularism, homosexuality or support for homosexuality. The Union also stated that due to the actions of religious hardliners using Islam to justify killings and discrimination, gender-based violence and homophobia have thrived in the country.



MARSHALL ISLANDS UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 9 NOVEMBER 2020, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 13 NOVEMBER 2020, 15:30 – 18:00

During the 36th UPR Working Group Sessions, Marshall Islands received 5 SOGIESC recommendations. It noted all 5 recommendations.

A. SOGIESC Information

National Report

25. RMI's Constitution recognizes the right of all persons to equality under the law and prohibits discrimination based on multiple grounds, including gender. In 2017, the adoption of temporary special measures in the form of electoral quotas for women in Nitijelā and the inclusion of sexual orientation and disabilities as grounds for non-discrimination were both proposed as amendments to the Constitution. However, both proposals were unfortunately defeated during the 2017 Constitutional Convention.

37. The GRMI continues to uphold the rights enshrined in the Constitution. The national HRC recognizes the need to consider and undertake more research on the issues relating to sexual orientation and gender identity before embarking on national consultations with government and relevant statutory bodies regarding these culturally sensitive topics.

54. The measures provided for by the law are interpreted and applied in a way that is not discriminatory on any ground, such as race, color, religion, belief, age, family status, culture, language, ethnicity, national or social origin, citizenship, gender, sexual orientation, political or other opinion, disability, property, birth, immigration status, the fact that the person has been trafficked or has participated in the sex industry, or other status.

55. Child victims are expected to be treated fairly and equally regardless of their or their parents or the legal guardian's race, color, religion, belief, age family status, culture, language, ethnicity, national or social origin, citizenship, gender, sexual orientation, political or other opinion, disability, property, birth, immigration status, the fact that the person has been trafficked or has participated in the sex industry etc.

63. The RMI, like the majority of Pacific Island countries, has low representation of women in parliament compared to countries in other regions. In 2017, the adoption of a temporary special measure in the form of electoral quotas for women in Parliament and the inclusion of sexual orientation as a ground for non-discrimination were both proposed as amendments to the Constitution. Both proposals were defeated during the 2017 Constitutional Convention. However, the issue concerning temporary special measures under the Gender Equality Act 2019 may be used to justify consideration of a Constitutional Amendment.

Compilation of UN Information

N/A



Summary of Stakeholder's Information

N/A

B. SOGIESC Advanced Questions for Marshall Islands

- **Belgium:** How does the government of the Marshall Islands intend to further strengthen and protect the rights of LGBTQIA+ persons?
- **Canada:** What is the Government doing to protect the rights of LGBTI persons, and to protect them against discrimination?

C. Marshall Islands' Working Group Session

- **Final remarks:** The government also notes the recommendations put forward by members with respect to sexual orientation. We will continue to work on this issue and looking to our policies where is necessary to improve our legislation. As highlighted earlier, with our Bill of Rights in our Constitution is very clear to prohibit any form of discrimination based on sexual orientation. This is a mandate of the government and will continue to do our work accordingly with respect to authorities in respect to this very issue. We recognize there is a need to do more and this is a thing, Mr. Vice President, we will continue to work as I noted earlier.

D. Recommendations for Cycle III (2020)

a) Remarks of States

N/A

- b) The following recommendation has been examined and partially accepted by Marshall Islands. More specifically, the anti-discrimination element of the recommendation has been accepted and the SOGIESC element has been noted:**

- **New Zealand:** Approve comprehensive anti-discrimination legislation including protections from discrimination because of sexual orientation and gender identity (106.39)

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

- **Canada:** Incorporate in national law a prohibition on discrimination based on gender identity, gender expression and sexual orientation (106.41)
- **Cuba:** Grant constitutional status to the prohibition of discrimination based on sexual orientation, gender identity, disability, or any other condition or personal circumstance that may be used as a reason for discrimination (106.42)
- **Iceland:** Pass and implement laws that would recognize same-sex partnerships and define the rights and obligations of co-habiting couples in same-sex unions (106.43)

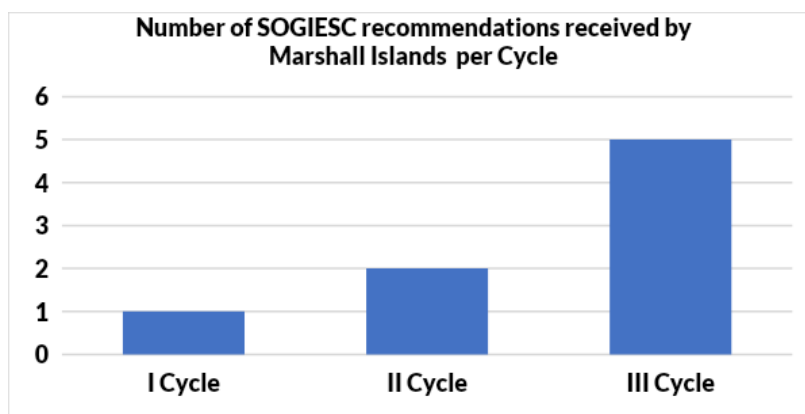


- **Israel:** Take steps to include sexual orientation, gender identity or expression as grounds in anti-discrimination legislation (106.44)

E. Recommendations for Cycle II (2015)

Recommendation	Recommending State	Response
Continue with the current law reform effort to include measures protecting against discrimination based on sexual orientation, gender identity or disability	Israel	Supported
Ensure that all forms of discrimination based on gender or sexual orientation are fully prohibited, implement the legal protection foreseen and provide assistance to victims of gender-based, sexual or domestic violence	Germany	Supported

F. Graphic Comparison Between Cycles (1–3)



G. [Video of Marshall Islands’ UPR Working Group Session](#)

H. [SOGIESC Mentions During Marshall Island’s UPR Outcome](#)

- **Opening remarks:** The Marshall Islands continually aims to protect marginalized groups and accepts the Recommendations regarding anti-discrimination and gender equality. Our nation will continue to further consider how to better incorporate protections for LGBT persons into our legislation and culture, and notes Recommendations 106.41-106.44.



MONGOLIA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 04 NOVEMBER 2020, 09:00 – 12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 6 NOVEMBER 2020, 15:00 – 18:00

During the 36th UPR Working Group Sessions, Mongolia received 15 SOGIESC recommendations. It noted 3 recommendations and accepted the other 12 recommendations.

A. SOGIESC Information

National Report

On combatting all types of discrimination, including discrimination against LGBT people (Recommendations – 108.55, 108.56)

48. The revised Criminal Code criminalizes discrimination. Incorporation of prohibition of discrimination "on the basis of sexual orientation and gender identity" in the law provides a great legal incentive for protecting the rights of persons with different sexual orientation and gender identity. Besides, all the laws adopted within the framework of the criminal legal system reform incorporate the principle of non-discrimination on the basis of sexual orientation and gender identity. Should there be violation of these laws, filing and handling of complaints about discrimination are legalized.

51. In 2016–2018, Mongolia acted as the member of the UN Human Rights Council for the first time. In that period Mongolia actively pursued the policy of protecting the civil society space, supporting human rights defenders and the National Human Rights Commission, enhancing freedom of expression, preventing discrimination based on sexual orientation and gender identity, collaborating with holders of special procedures mandate of the Human Rights Council, abolishing death penalty, protecting rights of women, children and persons with disabilities.

On combatting all forms of discrimination, especially against LGBT people (Recommendations – 108.19, 108.20, 108.21, 108.41, 108.42, 108.53, 108.57)

122. The National Legal Institute has conducted a study on "Enforcement of Clauses against Discrimination in the Legislation in force: Clauses related to the Sexual Minority" and has found that instead of passing an independent separate law prohibiting discrimination, a more effective way for enforcement is incorporating relevant clauses prohibiting discrimination, in the legislations regulating sectors. This issue will continue receiving proper attention.

123. The Ministry of Labor and Social Protection organizes a monthly campaign to Promote Youth Development each year, and in 2019, it was organized under the title "Equal Rights, Pride Days" calling upon youth and the general public to respect differences and diversity of people with different sexual orientation, raising awareness, informing about sexual minorities, and calling to stop any violation of their human rights.



124. Also the Ministry of Health organized advocacy events entitled “Stop Discrimination because of HIV/AIDS”, “You and I, We can CHANGE”, “We share the same sky” to raise awareness and instill positive attitude towards people with different sexual orientation as well as those with HIV.

125. Training on “Changing attitudes and building capacity of healthcare providers when dealing with at-risk populations” was delivered for medical doctors in residency, to improve their understanding of sexual orientation, gender expression and prevention, diagnostics and treatment of common STDs, HIV and AIDS.

[Compilation of UN Information](#)

13. The Committee on Economic, Social and Cultural Rights expressed concern about the persistence of discrimination against lesbian, gay, bisexual, transgender and intersex persons in the areas of employment, housing, health care and education, and the lack of recognition of same-sex couples. The Human Rights Committee recommended that Mongolia intensify its efforts to combat stereotypes and prejudices against lesbian, gay, bisexual, transgender and intersex persons, and ensure that acts of discrimination and violence directed against them were investigated, that perpetrators were prosecuted and, if convicted, punished with appropriate penalties, and that victims were provided with full reparation. It should also consider legal recognition and protection of same-sex couples. The Committee against Torture made similar recommendations.

50. The Committee on Economic, Social and Cultural Rights recommended that Mongolia reinforce its measures to prevent HIV/AIDS, including through the reestablishment of the National Committee on AIDS and the effective implementation of related laws and policies. It also recommended that Mongolia intensify its efforts aimed at combating alcohol abuse, including through awareness-raising campaigns, and redouble its preventive and treatment measures to combat hepatitis B and C. The Committee on the Elimination of Discrimination against Women called upon Mongolia to improve the information on health, especially sexual and reproductive health and rights, provided to women and girls with disabilities and to lesbian, bisexual, transgender and intersex women, and train medical personnel to respond to their needs.

[Summary of Stakeholder’s Information](#)

6. According to the NHRCM, the Government has failed to draft or implement comprehensive anti-discrimination legislation that would ensure the legal protection of all individuals regardless of age, race, ethnicity, gender identity, sexual orientation, ability, religion or political belief.

7. The NHRCM observed that Mongolia provided legal protections to protect people from discrimination and harassment based on their sexual orientation, gender identity, intersex status or gender expression within the scope of the provision of crime of “discrimination” in the new Criminal Code 2015 and terms of “hate crime”. However, further training and awareness raising activities for investigators and prosecutors were required.

21. LGBT Centre of Mongolia (LGBTM) observed that the Mongolian Constitution provided for the equality of all persons lawfully resident within the state before the law and courts. It also noted that discrimination was not defined leaving the scope of protection and the forms of prohibited discrimination



unclear. The Constitution did not specifically require the adoption of positive action measures to address substantive inequalities in line with international standards and best practice. The list of prohibited grounds omitted reference to several personal characteristics recognised under international law, including sexual orientation and gender identity.

22. LGBTCM also noted that Mongolia had failed to adopt comprehensive equality legislation in line with its international human rights obligations. It recommended that Mongolia adopt a comprehensive equality legislation prohibiting all forms of discrimination on all grounds recognized in international law, including sexual orientation and gender identity; require the adoption of positive action measures to address substantive inequalities; and launch a public awareness-raising campaign to fight and prevent discrimination and violence against lesbian, gay, bisexual, transsexual and inter-sex persons and to promote tolerance.

23. LGBTCM claimed that there was a lack of information on sexual orientation and gender identity, and that stereotypes regarding lesbian, gay, bisexual, transsexual and intersex persons (LGBTI) were prevalent. Violence and discrimination at home and in schools appeared common, and had been identified as a major barrier to the realisation of rights for LGBTI children. LGBTCM recommended that Mongolia: introduce a universal nondiscrimination policy that is inclusive of sexual orientation and gender identity/expression in all educational institutions in order to ensure a safe environment for LGBTI youth to develop and express themselves without fear of retribution by faculty or peers.

24. LGBTCM recommended that Mongolia improve the implementation of the new Criminal Law to protect minorities from hate crimes; ensure privacy and confidentiality of information; emphasize education and conciliation; provide for speedy and effective criminal, administrative and civil remedies.

30. LGBTCM recommended that Mongolia provide continued training for the law enforcement and judicial sectors on the prevalence of sexuality and gender-based violence against LGBTI persons; and provide social services and support for sexual minorities who are victims of familial violence.

54. LGBTCM recommended that Mongolia: enable LGBTI people to access needs-based healthcare and ensure that healthcare providers are informed about both the physical and psychological issues that pertain to sexual minorities, and that equality and nondiscrimination are prescribed as ethical standards in the provision of healthcare.

B. SOGIESC Advanced Questions for Mongolia

- **United Kingdom:** What steps and measures is the Government of Mongolia taking to implement anti-discrimination legislation to protect the LGBT community from discrimination?
- **Uruguay:** Following the recommendation submitted by Uruguay in the second cycle of the UPR, which was accepted by Mongolia and expressing our congratulations on the prohibition by law of discrimination on the grounds of sexual orientation and gender identity, additional information would be appreciated on the measures the country has taken to promote the equal enjoyment of human rights by LGBTI persons.



C. Mongolia's Working Group Session

- **Opening remarks:** The revised Criminal Code criminalizes discrimination. As defined in this code, acts of discrimination based on sexual orientation or gender identity are included within the definition of the crime of discrimination. This constitutes a legal guarantee to protect people with diverse sexual orientations and gender identities. Within the criminal justice reform, the principle of non-discrimination based on sexual orientation and gender identity has been reflected in several of the laws and regulations. In 2018 and 2019, by the orders of the Ministry of Labour and Social Welfare and within the framework of the Development Month, the government organized the equality and pride days and with the initiative of participation of the civil society organizations to call for understanding and to share respect for LGBTIQ people in our society and to stop human rights violations against LGBT people as well as the hope and visibility marathon which promoted public and youth engagement against all forms of discrimination.
- **Intervention made after 31 interventions:** Now on discrimination, the question expressed by Canada, Chile, Denmark and Israel. We applaud these recommendations and I would like to specify that Mongolia is making every effort to this issue and will continue progressing with this matter. Also, with respect to registration of transgender persons and persons who change their sex. In 2018 we had amendments to the civil registration legislation and currently these individuals enjoy full rights to get registered. (...) On the issues of LGBTIQ persons in special in respect to allowing same-sex marriage. In the Constitution of Mongolia, it is specified that marriage shall be contracted by men and women based on voluntary will and equal rights of these two. This is very clear on the constitution of Mongolia. Also, the issue related to discrimination of LGBTI people, these are the articulation of several issues on the articulation of more than 500 laws in the country. So, all these issues are already addressed in our legislation.

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Australia:** We further commend the action taken by the Mongolian Government in criminalising hate crimes to increase protections for LGBTI persons.
- **Denmark:** We recognize efforts to combat harmful stereotypes and attitudes. However, we remain concerned with the persistence of discrimination against LGBTI persons.
- **Iceland:** Iceland welcomes the delegation of Mongolia, welcomes steps taken to tackle discrimination and applauds the revision of the penal code with the inclusion of sexual orientation as a basis of discrimination.
- **Ireland:** Ireland previously recommended that Mongolia "Adopt comprehensive legislation to counter discrimination, and take steps to ensure that equality enshrined in such legislation or in existing law is achieved in practice". We commend the actions that have been taken in this regard to combat discrimination against LGBTI persons.
- **Israel:** We would further like to applaud Mongolia for adopting legal provisions to protect people from discrimination and harassment based on sexual orientation, gender identity, intersex status or gender expression.
- **Netherlands:** With the revision of its Criminal Code, Mongolia has also established the necessary legal framework to combat discrimination against LGBTI persons. However, challenges remain with implementation and regarding the recognition and protection of LGBTI rights.



- **Spain:** Although Mongolia accepted numerous recommendations regarding discrimination against LGBTI people and has developed a new legal framework for hate crimes or discrimination on the basis of sexual orientation.

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

- **Australia:** Continue training of lawyers and law enforcement officers on offences related to hate crimes against LGBTI persons and increasing public awareness of the law (116.38)
- **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 (116.28).
- **Iceland:** Launch a public awareness-raising campaign to fight and prevent discrimination and violence against LGBTI persons and to promote tolerance (116.29).
- **Israel:** Further develop and implement the legal provisions to protect people from discrimination and harassment based on sexual orientation, gender identity, intersex status or gender expression (116.30).
- **Israel:** Abolish the requirements from the Civil Registration Law of Mongolia, Article 14, for medical interventions for transgender and intersex people who wish to obtain legal recognition of their gender (116.31)
- **Luxembourg:** Step up its action against stereotypes and prejudices against LGBTI persons and ensure that investigations are carried out into any acts of discrimination or violence against this community (116.32).
- **Netherlands:** Introduce a non-discrimination policy inclusive of sexual orientation and gender identity in all educational institutions, to ensure a safe environment for LGBTI youth and to develop and express themselves without the fear of retribution by educational institutions or peers (116.33)
- **Netherlands:** Combat stereotypes and prejudice against LGBTI persons by raising public awareness and implementing effective training of law enforcement agencies (116.34)
- **Portugal:** Provide training on human rights and on combating discrimination, including based on sexual orientation and gender identity, to health personnel, members of the judiciary, police forces and prison officers (116.35)
- **Spain:** Implement effectively the newly established legal framework for hate crimes and discrimination on the grounds of sexual orientation (116.36)
- **Switzerland:** Take awareness-raising measures on domestic violence and violence against the LGBTI community in conformity with the Sustainable Development Goals 5.2 and 16.1 (116.37)
- **Thailand:** Consider making efforts to address the prejudices against LGBT persons and ensure access to social services for people with disabilities (116.39)

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

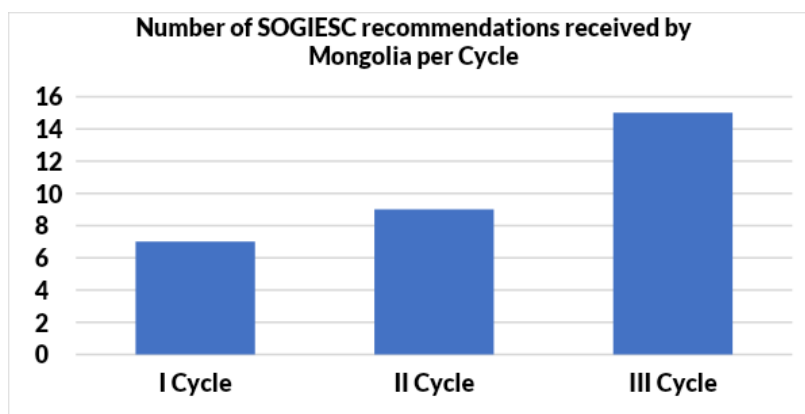
- **Canada:** Adopt comprehensive anti-discrimination laws to protect the rights of minority groups, including ethnic minorities, indigenous peoples and the LGBTI community (117.11)
- **Luxembourg:** Consider giving legal recognition to same-sex couples to ensure that they are protected by law (117.12)
- **Denmark:** Consider giving legal recognition to same-sex couples to ensure that they are protected by law (117.13)



E. Recommendations for Cycle II (2015)

Recommendation	Recommending State	Response
Step up its efforts to counter discrimination and violence on the basis of sexual orientation or gender identity, and to structurally collect data and provide statistics and information in this regard	Netherlands	Supported
Launch a public awareness-raising campaign to fight and prevent discrimination and violence against LGBT persons and to promote tolerance	Brazil	Supported
Amend its criminal legislation to include crimes of hatred and of discrimination on the grounds of sexual orientation and gender identity	Spain	Supported
Promote equality in the enjoyment of human rights of LGBTI persons incorporating it into national legislation	Uruguay	Supported
Ensure that all forms of discrimination are prohibited, including on the basis of sexual orientation, gender identity and health status	Timor-Leste	Supported
Prohibit all forms of discrimination, including discrimination on the basis of sexual orientation and gender identity	Slovenia	Supported
Develop pertinent legislation to guarantee the effective protection of the human rights of LGBTI persons, as well as undertake impartial investigations on the allegations of attacks against them in accordance with the Special Rapporteur on extreme poverty and human rights	Honduras	Supported
Combat all forms of discrimination, including based on sexual orientation or sexual identity	France	Supported
Introduce comprehensive anti-discrimination legislation that would protect the rights of all members of minority groups including LGBT persons	United Kingdom	Supported

F. Graphic Comparison Between Cycles (1–3)





G. SOGIESC recommendations shared by HRDs during ILGA's UPR advocacy week in Geneva: LGBT Centre Mongolia

1. Mongolia should adopt comprehensive equality legislation appropriate for the implementation of the rights to equality and non-discrimination. The state should engage in further meaningful consultations with civil society in the development of such a law and establish an independent equality body with a large mandate and institutional guarantees to secure its enforcement.
2. Mongolia should invite the Independent Expert on SOGI to assess the implementation of existing international human rights instruments with regard to ways to overcome violence and discrimination on the basis of their SOGI and to identity and address the root causes of violence and discrimination.
3. Consider abolishing the requirements from the Civil Registration Law of Mongolia, Article 14, for medical interventions for transgender and intersex people who wish to obtain legal recognition of their gender.
4. Enable the LGBTQI+ people to access culturally competent and needs-based healthcare through comprehensive efforts to identify and cater to the specific needs of each sub-community of LGBTQI+ people, through the prescription of ethical standards of non-discrimination in healthcare provision, including equal coverage of LGBTQI+ -specific health concerns under the existing health insurance scheme.
5. Review the legislative frameworks to enable effective recognition and protection of same-sex couples and their children in line with Mongolia's international obligations to provide the widest possible protection and assistance to all consenting adults to marry, form domestic partnership and found a family without discriminations.
6. Introduce a universal non-discrimination policy inclusive of sexual orientation and gender identity/expression in all educational institutions to ensure a safe environment for LGBTQI+ youth to develop and express themselves without fear of retribution by faculty or peers.
7. Launch a public awareness-raising campaign to fight and prevent discrimination and violence against LGBTQI+ persons and to promote tolerance.

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

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

- **Opening remarks:** The 20 recommendations Mongolia would not be in a position to accept and thus note are 116.170, 117.1 to 117.17, 117.19 and 117.20 as listed in order in the Report of the UPR Working Group, which suggest recognition of competence of the Committee against Torture to receive individual complaints, accession to international treaties such as the International Convention on the Rights of All Migrant Workers and Members of their Families, ILO Domestic Workers Convention, Convention relating to the Status of Refugees and its 1967 Protocol, Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness, giving legal recognition to same-sex couples, removing reference to death penalty from the Constitution and adoption of a comprehensive anti-discrimination law. Many of these recommendations overlap with ones which Mongolia was not able to accept during the second cycle of UPR.
- **National Human Rights Commission of Mongolia:** It encouraged the government to accept and implement all recommendations made by States. It expressed appreciation for the fact that



Parliament criminalised all forms of discrimination and stated that it continues to encourage the adoption of comprehensive anti-discrimination law. The National Human Rights Commission further stated that it is concerned that there is a need to provide legal recognition and protection for same-sex couples.

- **United Kingdom:** The UK also welcomes Mongolia's commitment at the UPR to implement activities aimed at protecting the rights of lesbian, gay, bisexual, transgender and intersex persons, migrant workers, stateless persons and persons with disabilities. We commend Mongolia's gender equality record and support its Government's efforts to end violence against women and girls and increase women's economic empowerment. It is important to commit government resources to ensure that Mongolia's existing anti-discrimination laws are fully implemented.
- **COC Nederland:** It stated that since Cycle II of the UPR, huge strides have been made to allow all people to enjoy human rights regardless of their sexual orientation or gender identity. In the past 4 years, Mongolia outlawed hate crimes and hate speech through classifying discrimination as a crime with protected grounds including sexual orientation and gender identity. However, there is a seeming lack of implementation and commitment from the government. COC Nederland stated that criminal justice alone is insufficient to address social attitudes and eliminate prejudices still prevalent against LGBTQI persons in Mongolia. It stated that Mongolia has failed to draft comprehensive anti-discrimination legislation which would ensure legal protection of all individuals regardless of age, race, ethnicity, sexual orientation, gender identity, ability, religion and political beliefs. This means LGBTQI persons continue to suffer from various types of discrimination and hate crimes, some to the extent of losing their lives. Human rights violations against LGBTQI persons are still going unpunished. COC Nederland regretted that at the 36th Working Group Session, Mongolia noted the recommendation to adopt comprehensive anti-discrimination legislation. As long as the government continues to neglect this domestic and international legal obligation, the lives of all Mongolians will be affected by intolerance, hate violence and discrimination. COC Nederland concluded by urging Mongolia to uphold the UDHR and the Mongolian Constitution, to ensure equality before the law and non-discrimination to everyone, to train public servants on the human rights of LGBTQI persons, and to reassess its human rights programmes and projects to include the LGBTQI community in the process of assessment, planning, implementation and evaluation.



PANAMA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 03 NOVEMBER 2020, 14:30 – 18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 06 NOVEMBER 2020, 15:00 – 18:00

During the 36th UPR Working Group Sessions, Panama received 18 SOGIESC recommendations. It accepted 4 recommendations and noted the other 14 recommendations.

A. SOGIESC Information

National Report

N/A

Compilation of UN Information

12. The United Nations country team recommended the adoption of specific legislation to explicitly prohibit discrimination on the grounds of sexual orientation or gender identity and to punish those who practised such discrimination.

Summary of Stakeholder's Information

3. The Ombudsman's Office stated that there is still no law prohibiting discrimination in all its forms, including discrimination on the grounds of sexual orientation, and that there is also no law on gender identity. The Office reported that, although Act No. 7 of 14 February 2018 establishes penalties for harassment, sexual harassment, racism and sexism in various settings, it does not expressly provide protection for lesbian, gay, bisexual, transsexual and intersex persons. The Office added that, pursuant to Executive Decree No. 204 of 3 September 1997, homosexuality is still considered very serious misconduct for members of the police force.

22. Joint Submission 1 (JS1)¹³ noted that there is no law prohibiting and punishing discriminatory acts committed against lesbian, gay, bisexual, transsexual and intersex persons, and that these persons are subjected to verbal, psychological, property-related, economic and physical violence. JS2 stated that Act No. 7 (the Anti-Discrimination Act) prohibits acts of racism, sexism, harassment and sexual harassment but does not address sexual orientation or the concept of gender. Similar observations were made by JS7¹⁴ and JS8¹⁵. JS2¹⁶ observed that the law also failed to address intersectional discrimination, thus leaving

¹³ Joint submission 1 submitted by: Fundación Coalición Internacional de Mujeres y Familias (CIMUF); Fundación de Independientes Pro Derechos Humanos (IPDH); Fundación (en formación) World Pride Panama (WPP) (Panamá)

¹⁴ Joint submission 7 submitted by: Red Continental de Personas; Mayores de América Latina y el Caribe; Voces de Mujeres Afrodescendientes en Panamá; Unión Nacional de Mujeres Panameñas; Red de Jóvenes Frente al Cambio Climático de Panamá; Fundación Coalición Internacional de Mujeres y Familias; Fundación de Independientes Pro Derechos Humanos; Fundación World Pride Panamá (Panamá)

¹⁵ Joint submission 8 submitted by: Red Continental de Personas Mayores (United States of America)

¹⁶ Joint submission 2 submitted by: Asociación de Mujeres Ngäbe, ASMUNG; la Coordinadora Nacional de Mujeres Indígenas de Panamá, CONAMUIP y la Organización de Mujeres Indígenas Unidas por la Biodiversidad de Panamá, OMIUBP (Panamá)



indigenous women who face multiple discrimination based on their gender, ethnicity and social and economic status without protection.

23. JS1 mentioned that the Government of Panama needed to commit to ensuring respect for the right to equality and non-discrimination of lesbian, gay, bisexual, transsexual and intersex persons, undertaking to adopt laws and public policies for countering discrimination on the basis of sexual orientation and gender identity, and that it should act in a manner consistent with the pledge to “Leave No-one Behind” that is central to the Sustainable Development Goals and to which it committed when adopting Agenda 2030.

24. JS1 stated that, under the disciplinary regulations of the National Police adopted in 1997, homosexuality and lesbianism are still considered very serious misconduct within the Panamanian State security forces

31. JS1 and JS7 referred to the invisibility of the everyday violence that lesbian, gay, bisexual, transsexual and intersex persons suffered. JS7 also drew attention to the abuse that persons of different sexual orientations received at the hands of the security forces.

B. SOGIESC Advanced Questions for Panama

- **United Kingdom:** What measures is the Government of Panama taking to adopt more comprehensive anti-discrimination legislation and policies that prohibit discrimination in all its forms, and on all grounds, including sexual orientation and gender identity, race and ethnicity, age, and disability?
- **Uruguay:** As a follow-up to the recommendation submitted by Uruguay during the second cycle of the UPR, which was accepted by Panama, we would appreciate receiving updated information on the measures taken to guarantee the prohibition of discrimination on the grounds of sexual orientation and gender identity in the country.
- **Canada:** What steps has Panama taken to bring its legislation into conformity with its commitment to equality and non-discrimination, by prohibiting discrimination based on sexual orientation?

C. Panama's Working Group Session

- **Intervention made after 31 interventions:** With respect to the questions of Uruguay, Canada and the United Kingdom, referring to efforts to prevent discrimination against LGBTIQ persons, the national government continues to work on these themes on an administrative, legal and other issues that impede the full enjoyment of the rights of the LGBTIQ persons and together with the Interamerican System of Protection of Human Rights we seek to assess the changes and requirements to achieve that goal. With reference to specific action and analysis when it comes to identity, the Electoral Tribunal has kept open a space of dialogue with Asociación Panameña de Personas Trans, Fundación Iguales and Asociación Hombres Trans We held daily workshops to attend group and individual cases on procedures for name changes as well as for legal guidance on applicable laws and norms. Furthermore, during the 2019 elections we communicated to the bureau of the election corporations the changes in identification of trans persons who changed their names following the issuing of the final electoral guidelines. With respect to ID documents, all persons without distinction can change their photographs in their personal ID without the need to



change their names or sex. Furthermore, with respect of the pandemic and the restrictions of mobility that have been implemented, the Security Ministry has instructed all security personnel to avoid all kinds of discrimination towards the LGBTIQ community. Highlighting moreover, the national government, its emphatic rejection of any kind of hostility, violence, homophobia, transphobia, or discrimination regardless by whom it might be committed.

D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Netherlands:** Also, the persistent discrimination against LGBTI persons continues to raise concerns. It is regrettable that Law 7 against discrimination does not include the initial provisions against discrimination based on sexual orientation and gender identity.
- **Portugal:** Portugal would appreciate further information on (...) what is the state-of-play regarding the recognition of same-sex marriage in Panama following the Inter-American Court on Human Rights rule?
- **Denmark:** We additionally stress the need to protect and promote human rights for all, including the LGBTI-community.
- **Germany:** Germany would like to encourage Panama to engage more actively in the protection of the vulnerable groups, such as women and LGBTI.

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

- **France:** Guarantee the protection and promotion of the rights of LGBTI persons and take all measures to guarantee their inclusion without discrimination in society, including in the labour market and in access to health care (104.45)
- **Israel:** Commit to ensuring respect for the right to equality and non-discrimination of LGBTI persons (104.42)
- **Italy:** Fully implement the 7/2018 law aiming at combating any form of discrimination, including against women, children and LGBTI persons (104.41)
- **Spain:** Adopt legal measures that prevent discrimination against LGBTI persons (104.30).

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

- **Argentina:** Take necessary measures towards the adoption of specific legislation to explicitly outlaw discrimination on grounds of sexual orientation and gender identity, which includes sanction mechanisms for the perpetrators of such discrimination (104.33).
- **Australia:** Adopt comprehensive anti-discrimination legislation prohibiting all forms of discrimination, including on the grounds of sexual orientation and gender identity (104.34).
- **Canada:** Prohibit discrimination based on sex, gender identity or sexual orientation in all aspects of social life (104.35)
- **Chile:** Adopt legislation prohibiting discrimination on grounds of sexual orientation and gender identity, and take measures to promote the rights of LGBTI people and prevent all forms of discrimination (104.36)



- **Denmark:** Include in its legislation an explicit prohibition of discrimination on the grounds of sexual orientation and gender identity (104.37)
- **Germany:** Combat arbitrary treatment of as well as physical and psychological violence against lesbian, gay, bisexual, transgender and intersex persons by members of the security forces, adopt legislation to explicitly prohibit discrimination on the grounds of sexual orientation or gender identity and punish those who practice such discrimination (104.43)
- **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 (104.38)
- **Iceland:** Pass and implement laws that would recognize same-sex partnerships and define the right and obligations of co-habiting couples in the same-sex unions (104.46)
- **Ireland:** Adopt specific legislation to explicitly prohibit discrimination on the grounds of sexual orientation or gender identity, and ensure accountability for those practising such discrimination (104.39)
- **Israel:** Adopt legislation for prohibiting discrimination in all its forms including on the basis of sexual orientation and gender identity (104.40)
- **Mexico:** Adopt legislation to prohibit all forms of discrimination, including on the grounds of sexual orientation or gender identity, and adopt the necessary measures to guarantee the rights and security of the LGBTI population, including in the area of civil unions (104.32).
- **Netherlands:** Adopt comprehensive mechanisms, including a monitoring process, to ensure the full implementation of Law 7, and explicitly extend the law on the basis of sexual orientation and gender identity, to prevent discrimination against LGBTI individuals (104.44).
- **Slovenia:** Adopt legislation prohibiting discrimination in all its forms, including on the grounds of sexual orientation and gender identity (104.29)
- **United Kingdom:** Adopt, in consultation with civil society organisations, comprehensive legislation and policies against discrimination and violence based on sexual orientation or gender identity (104.31).

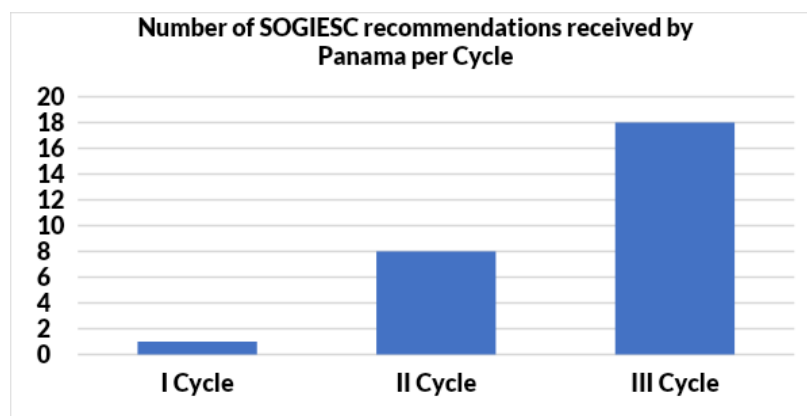
E. Recommendations for Cycle II (2015)

Recommendation	Recommending State	Response
Adopt legislation prohibiting all forms of discrimination, including on the grounds of sexual orientation and gender identity, and abolish all provisions of Executive Decree No. 204/1997 determining homosexuality as a serious misconduct for members of the national police	Slovenia	Noted
Continue the efforts to promote the right to health, in particular by giving priority to primary health care and by strengthening the attention paid to mental health problems. Likewise, promote the right to health of persons with disabilities and lesbian, gay, bisexual, transgender and intersex persons	Colombia	Supported
Include sexual orientation and gender identity and expression among the prohibited grounds of discrimination	Uruguay	Supported
Adopt the necessary judicial and administrative measures to ensure effectively the investigation and punishment of cases of discriminatory treatment by law enforcement officers, in particular against lesbian, gay, bisexual, transgender and intersex people	Argentina	Supported



Adopt legislation prohibiting acts of discrimination on the grounds of sexual orientation and gender identity, and adopt measures to promote the rights of lesbian, gay, bisexual, transgender and intersex people and prevent their discrimination	Chile	Supported
Adopt comprehensive anti-discrimination legislation, including on the basis of sexual orientation and gender identity	Netherlands	Supported
Adopt and implement comprehensive anti-discrimination legislation which prohibits discrimination on all grounds, including on the basis of race, ethnicity, sexual orientation and gender identity	Ireland	Supported
Bring its legislation into conformity with its commitment to equality and non-discrimination, including by prohibiting discrimination based on sexual orientation	Canada	Supported

F. Graphic Comparison Between Cycles (1–3)



G. SOGIESC recommendations shared by HRDs during ILGA’s UPR advocacy week in Geneva: CIMUF - Coalición Internacional de Mujeres y Familias

1. Enact a comprehensive anti-discrimination legislation explicitly prohibiting discrimination on the basis of sexual orientation and gender identity.
2. Adapt its legislation and policies according to the advisory opinion 24/17 of the Interamerican Court of Human Rights, recognizing all the rights derived from a family relationship between same-sex couples, including the right to marriage and to allow legal gender recognition based on self-identification and through an administrative procedure.
3. To refrain from, according to its legislation, having referendum on issues concerning rights of minorities, including the rights of LGBTI persons.
4. To include comprehensive and disaggregated data collection regarding sexual orientation and gender identity in the upcoming national census, following a human rights-based approach to prevent misuse of the collected data.

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



I. SOGIESC Mentions During Panama's UPR Outcome ([Part 1](#) and [Part 2](#))

- **Opening remarks:** Equality and non-discrimination are two principles enshrined in numerous international instruments that emphasize equality in the enjoyment of all human rights and oblige States Parties to develop specific approaches in our public policies in relation to those groups with the greatest vulnerability and those who are victims of multiple discrimination, including women, people with disabilities, people of different sexual orientations and gender identity, migrants, people in situations of poverty or social marginalization, people of African descent and, those deprived of freedom, people belonging to indigenous peoples and people belonging to ethnic, racial, national, linguistic, religious and rural groups, among others.
- **Ombudsman's Office, Defensoria del Pueblo Panama:** It stated that Panama is still facing a health emergency as a result of COVID-19, which has made it necessary to introduce restrictions to reduce levels of infection among the population. These restrictions have curtailed the free enjoyment of some human rights. It is therefore important to have public policies and programmes to support children and adolescents, women, persons of African descent, members of the indigenous population, the LGBTI community and migrants, and ensure their full enjoyment of human rights. Equality and non-discrimination must be respected and actions which jeopardise human dignity must be avoided. There must be harmonious cooperation by all State entities with a view to ensure that all efforts are pooled and full protection is ensured for vulnerable groups.
- **ILGA World:** It expressed appreciation for the 18 recommendations made to Panama on LGBTI issues but regretted that Panama noted 14 and accepted only 4 recommendations. More effort is needed in the face of the discrimination experienced by LGBTI persons in Panama. Compliance with international commitments is fundamental, e.g., Advisory Opinion 24/17 of the Inter-American Court of Human Rights on civil marriage as a right for same-sex couples, and eliminating Articles 22 and 26 of the Draft General Adoption Law, which exclude LGBTI persons from adoption and limit the right of girls and boys to a family. ILGA World requested that Panama consider reviewing current policies in reference to the protection of the life and dignity of LGBTI persons as it is urgent to create an anti-discrimination law for sexual orientation and gender identity, as evidenced in the Supreme Court's lack of response to demands for the recognition of Equal Marriage, and reduce institutional violence, as evidenced by the increase in excessive police violence during the pandemic against transgender persons. Due to the very real social vulnerability experienced by LGBTI persons, ILGA World requested that sexual orientation and gender identity be included as a question in the next national census. It further encouraged Panama to work with the international community, and accept and implement recommendations made during the UPR, thus improving the quality of life of LGBTI persons, respecting their human rights and guaranteeing equality of social conditions.



UNITED STATES OF AMERICA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 9 NOVEMBER 2020, 14:30 – 18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 13 NOVEMBER 2020, 15:30 – 18:00

During the 36th UPR Working Group Sessions, the United States of America received 4 SOGIESC recommendations. It accepted all 4 recommendations.

A. SOGIESC Information

National Report

22. The United States federal government and most states have hate crime laws. State hate crime laws vary, but almost all hate crime laws prohibit violence motivated by race, color, religion, and national origin. Federal law, and some state laws, also prohibit violence motivated by gender, disability, sexual orientation, and gender identity. The federal government, like many states, has enacted substantive hate crime laws. Other jurisdictions choose to add a penalty enhancement to the sentence a defendant would otherwise receive, if it can be proved that the defendant was motivated by bias. Hate crimes generally cover violent acts like assault, stalking, murder, sexual assault, arson, robbery and other serious offenses. Hate crime laws also cover threats to commit violent conduct. DOJ aggressively prosecutes cases involving hate crimes, and its annual reports on hate crimes statistics provide law enforcement authorities with important information that assists in combatting such crimes.

Compilation of UN Information

15. The Working Group on the issue of discrimination against women in law and in practice stated that lesbian, bisexual, transgender and intersex persons faced heightened exposure to hate crimes and physical violence

Summary of Stakeholder's Information

11. CCR¹⁷ indicated that the USA had attempted to exclude transgender people from the military and had rescinded guidance or changed agency rules protecting LGBTQIA+ people's access to healthcare and their rights in school. HRC¹⁸ indicated that LGBTQ people remained vulnerable to hate crimes particularly in those states that did not provide them with specific protection and AI¹⁹ reported that incidents of hate crimes based on sexual orientation or gender identity had increased each year from 2015 to 2017.

57. JS47²⁰ stated that racial minority populations often experienced higher hunger rates linked to the poverty rates experienced by such groups, noting the higher poverty rates for African Americans and

¹⁷ Center for Constitutional Rights, New York (United States of America)

¹⁸ Human Rights Campaign, Washington D.C. (United States of America)

¹⁹ Amnesty International, London (United Kingdom of Great Britain and Northern Ireland)

²⁰ Joint submission 47 submitted by: Human Rights Clinic, University of Miami School of Law; Why Hunger; FIAN International; Food Studies Program at Syracuse University; Center for Hunger-Free Communities; Coral Gables (United States of America)



Hispanics. HRC indicated that LGBTQ families and older adults were at an increased risk of poverty. JS53²¹ highlighted that the Native American population suffered from high poverty and unemployment rates.

80. JS12²² stated that sexual violence against women and girls remained a prevalent issue, and that young girls were at the highest risk. JS24²³ indicated that women of African-descent faced higher instances of domestic violence; and JS12 stated that LGBTI people and women of colour had less access to support services. JS49²⁴ stated that low-paid migrant women workers risked deportation if they reported gender-based violence (GBV). JS34²⁵ stated that women and girls with disabilities were more likely to experience abuse over a longer period of time.

B. SOGIESC Advanced Questions for United States of America

- **Sweden:** Sweden notes the increase in hate crimes based on sexual orientation or gender identity, and that many states lack reference to sexual orientation and gender identity in their laws. How does the United States of America intend to ensure LGBTI-person's full enjoyment of human rights, without discrimination?
- **Germany:** Germany welcomes that there has been significant improvement in the field of LGBTI rights, not least due to a landmark Supreme Court decision in 2020. However, some of the content of the final report by the Commission on Unalienable Rights relegates sexual and reproductive rights to the status of "divisive social and political controversies", which seems not in line with the Supreme Court decision. Similarly, the Commission's report introduces a notion of hierarchy between rights. What steps will the U.S. take to demonstrate its commitment to the indivisibility of human rights?

C. United States of America's Working Group Session

- **Opening remark:** The United States federal government and most states in the United States have hate crime laws. State hate crime laws vary, but virtually all hate crime laws prohibit violence motivated by race, color, religion, and national origin. Federal law and some state laws also prohibit violence motivated by gender, disability, sexual orientation, and gender identity.

²¹ Joint submission 53 submitted by: Pocasset Pokanoket Land Trust; The Land and Water Sovereignty Campaign Project; Pocasset Wampanoag Tribe of the Pokanoket Nation; Indigenous People's Network; Auburn (United States of America)

²² Joint submission 12 submitted by: The United Nations Association-Southern California Division; The United Nations Association-Greater Chicago Chapter; The United Nations Association-Greater Detroit Chapter; The United Nations Association-Kentucky Division; The United Nations Association-Whittier Chapter; The United Nations Association of the United States of America; Santa Monica (United States of America)

²³ Joint submission 24 submitted by: World Council of Churches Commission of the Churches on International Affairs; National Council of Churches of the Christ USA; Geneva (Switzerland)

²⁴ Joint submission 49 submitted by: University of Miami School of Law Human Rights Clinic; Miami Workers Center; WeCount!; Community Justice Project; National Domestic Workers Alliance; Coral Gables (United States of America)

²⁵ Joint submission 34 submitted by: Women Enabled International; The Lurie Institute for Disability Policy at Brandeis University's Heller School; Washington D.C. (United States of America)



D. Recommendations for Cycle III (2020)

a) Remarks of States

- **Canada:** Canada commends the United States for its active fight against human trafficking, and welcomes the recent U.S. Supreme Court ruling protecting gay, lesbian, and transgender employees from workplace discrimination based on sexual identity and orientation.
- **Cyprus:** Cyprus welcomes the bipartisan “First Step Act” that was passed by Congress, as well as the recent US Supreme Court ruling on Title VII.
- **Denmark:** We commend the US for the passing of the Elie Wiesel Genocide and Atrocities Prevention Act and we welcome the Supreme Court’s decision on LGBTI discrimination.
- **Greece:** We welcome the positive steps taken since the last review, including the adoption of the First Step Act, and the recognition of the applicability of the Civil Rights Act to victims of discrimination in the workplace based on sexual orientation and gender identity.
- **Spain:** Spain acknowledges the progress made by the United States authorities in the field of human rights, particularly appreciating the expansion of labour protection for LGBTI people by the Supreme Court and the abolition of the death penalty in four states.

b) The following recommendations have been examined and accepted by the United States of America:

- **Belgium:** Take all possible steps at state and federal level to prohibit discrimination based on sexual orientation or gender identity in credit, education, employment, housing, jury service, public accommodations, and taxpayer funded programs (26.146)
- **Iceland:** Strengthen activities and laws aimed at the elimination of discrimination in society and other intolerance against minorities and other groups, including based on race, ethnicity, sexual orientation and gender identity (26.140)
- **France:** Guarantee the protection of LGBTI persons and put an end to the discrimination they suffer (26.147)
- **Malta:** Strengthen measures to prevent and combat violence, especially the rate of murder experienced by transgender women of colour, as well as the violence experienced by the broader LGBTQ community (26.148)

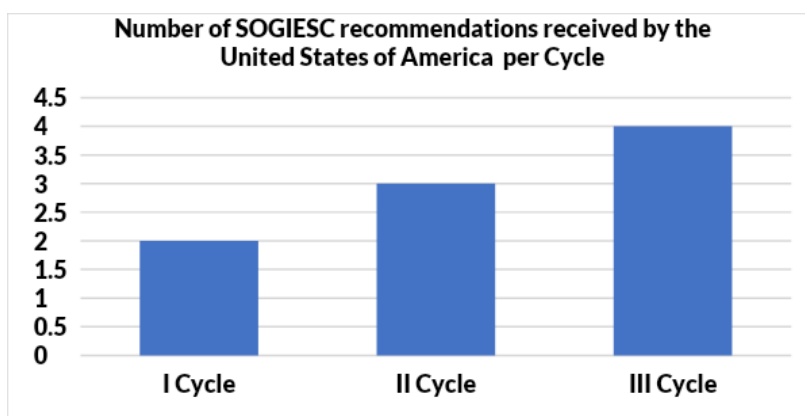
E. Recommendations for Cycle II (2015)

Recommendation	Recommending State	Response
Take affirmative steps to ensure that individuals’ religious refusals are regulated to conform with international human rights standards that protect sexual and reproductive rights and the rights to equality and non- discrimination on the basis of sex, gender, sexual orientation or gender identity	Sweden	Noted



Keep promoting progress in lesbian, gay, bisexual, transgender and intersex issues, especially in preventing discrimination based on gender or sexual orientation	Israel	Supported
Heighten efforts to promote non-discrimination of any kind, including discrimination on the basis of sexual orientation and gender identity	South Africa	Supported

F. Graphic Comparison Between Cycles (1–3)



G. SOGIESC recommendations shared by HRDs during ILGA's UPR advocacy week in Geneva: Human Rights Campaign

1. Take all possible steps at the state and federal level, including enactment of the Equality Act, to prohibit discrimination based on sexual orientation or gender identity in credit, education, employment, housing, jury service, public accommodations, and taxpayer funded programs.
2. Strengthen measures to prevent and combat violence, especially the alarming rate of murder experienced by transgender women of color, as well as the violence experienced by the broader LGBTQ community.
3. Increase funding for research, prevention, and treatment to combat HIV/AIDS, which disproportionately affects gay and bisexual men and transgender women.
4. Comprehensively address immigration issues and end the inhumane treatment of immigrants, refugees and asylum seekers, including those who are LGBTQ, at the US border.
5. Take all necessary steps to ensure that transgender people have equal opportunities and access to necessary health care.

H. [Video of the United States of America's UPR Working Group Session](#)

I. [SOGIESC Mentions During the United States of America's UPR Outcome](#)

- **Opening remarks:** The notion of equal opportunity is the bedrock of American democracy, but for too many this ideal has not translated to reality simply because of the color of their skin.



Entrenched disparities in our laws and public policies, and in our public and private institutions, have often denied that equal opportunity to individuals and communities.

- We are committed to addressing this and making it right. On his first day in office, President Biden issued an Executive Order directing that the “Federal Government ... pursue a comprehensive approach to advancing equity for all, including African-Americans, Latinos, Asian-Americans and Pacific Islanders, Native Americans and other persons of color, persons with disabilities, and LGBTQI+ communities and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.”
- Several states, including Belgium, France, and Malta, asked us to do more to address discrimination against LGBTQI+ individuals. Others, including India, Moldova and Montenegro, asked us to better address gender-based discrimination.
- Despite the extraordinary progress we have made securing equal rights for LGBTQI+ individuals, discrimination is still rampant in many areas of our society. This Administration believes that every person should be treated with respect and dignity and should be able to live without fear, no matter who they are or whom they love, and that all persons should receive equal treatment under the law, no matter their gender identity or sexual orientation. That is why, on his first full day in office, President Biden issued an executive order directing federal agencies to develop a plan to fully implement laws that prohibit discrimination on the basis of sex, sexual orientation, or gender identity. He followed up just a few days ago, on March 8, by establishing the White House Gender Policy Council, which will further advance gender equity and equality, including for those in marginalized and underserved communities. And on January 25, 2021, the President issued an executive order ensuring that transgender individuals who wish to serve in the United States military shall be able to do so openly and free from discrimination.
- **ILGA World:** It applauded the passing of the Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation, which broadly applies existing sex non-discrimination laws to protect LGBTQ persons, and the Presidential Memorandum on Advancing the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Persons Around the World. However, it also expressed concern about the fact that LGBTQ individuals in the United States still lack basic legal protections in many jurisdictions. The lack of explicit and codified federal LGBTQ civil rights protections leaves millions subject to uncertainty and potential discrimination, which impacts their safety, families, and daily lives. ILGA World urged the United States to take all possible steps, including the enactment of the Equality Act, to codify and expand non-discrimination protections on the basis of sexual orientation and gender identity in its domestic and foreign policy, including protections in credit, education, employment, housing, jury service, public spaces and services, and taxpayer funded programs. It further pointed out the epidemic of violence against transgender persons, particularly Black and Brown transgender women, and characterised it as a national crisis. 2020 was the most deadly year on record, with 44 transgender persons losing their lives to violence. Crimes against LGBTQ persons remain at disturbingly high levels. ILGA World therefore recommended that the United States devote more resources at the state and federal level to combating violence and hate crimes, including education and training, and outreach to communities.
- **Action Canada for Population and Development:** It welcomed the acceptance of recommendations related to sexual orientation and gender identity. Action Canada stated that the implementation of these recommendations must address the unique and intersectional experiences of lesbian, trans, gay and bisexual persons. However, Action Canada also stated that undoing previous policies isn't enough. It expressed concern about silence on the rights of sex workers, including in relation to



harmful policies under the Stop Enabling Sex Traffickers Act (SESTA) and the Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA), which incorrectly conflate trafficking with consensual sexual activity, and about violence against Black transgender persons.