



52nd Human Rights Council session

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ITEM 3 – Interactive dialogue with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Statement by International Lesbian and Gay Association

Delivered by Tashnuva Anan

Mr. President,

This statement is endorsed by the Trans Steering Committee of ILGA World. We celebrate the mentions made by the Special Rapporteur about the positive trends in the Latin-American region in including sexual orientation and gender identity among the grounds for discrimination as a purpose of torture.

We would like to further raise awareness about the structural forms of violence amounting to torture and ill-treatment threatening the rights, security, and lives of LGBTI persons, especially trans individuals. For instance, arbitrary detention¹, legal barriers to access protection schemes and justice, physical attacks² by State and non-State actors³, ‘conversion therapies’⁴, hate crimes, and ‘corrective’ rapes⁵, among others – have all been recognized as specific forms of torture and ill-treatment experienced by LGBTI individuals.

Trans sex workers are particularly targeted by police violence and ill-treatment, exposing them to risky situations that jeopardize the guarantee of their human rights⁶.

¹ REDRESS. Ending torture, seeking justice for survivors. (2022). [Unequal Justice: Accountability for torture against LGBTIQ+ persons in Africa. Case Study: Uganda](#). Pag. 52.

² Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran. (2016). [A/HRC/31/69](#): Punishment for hudud offences (including consensual same-sex relations between adults) in the Islamic Penal Code include forms or torture such as amputations, flogging and stoning.

³ REDRESS. Ending torture, seeking justice for survivors. (2020). [Groundbreaking ruling: Inter-American Court finds Peru responsible for discriminatory torture against an LGBTI person and orders the State to combat discrimination](#).

⁴ Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. (2020). [A/HRC/44/53](#): United Nations entities and human rights mechanisms have expressed concern about practices of “conversion therapy”, and the United Nations anti-torture machinery has concluded that they can amount to torture, cruel, inhuman or degrading treatment.

⁵ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. (2016). [A/HRC/31/57](#): Lesbian, gay, bisexual, transgender and intersex persons are disproportionately subjected to practices that amount to torture and ill-treatment for not conforming to socially constructed gender expectations (...) Sexual violence, including the practice of “corrective rape”, uniquely affects lesbian, gay, bisexual, transgender and intersex individuals.

⁶ Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity on his visit to Mozambique. (2019). [A/HRC/41/45/Add.2](#): The IE received information and anecdotal evidence from a

Trans women continue to be placed in male prisons, which put them at extremely high risks of sexual and other types of violence⁷. Among other violations faced by trans persons in detention are ill-treatment by security and prison personnel, humiliating body searches, and the lack of adequate services to address trans persons' needs. Concerns and recommendations on all these problems have been made by a number of human rights mechanisms, such as the Human Rights Committee, the Committee against Torture (CAT), and the Committee on Elimination of All Forms of Discrimination against Women⁸. We particularly highlight the CAT recommendations to protect LGBTI persons from violence by public officials and fellow inmates, and in particular, protect transgender women from violence inflicted by male detainees, and investigate promptly, impartially, and thoroughly all such allegations, and bring the perpetrators to justice.⁹

LGBTI communities still face challenges in accessing justice and effective investigations in cases of torture. This includes denials, delays, or willful obstruction in investigating allegations of torture made by trans individuals due to systemic discrimination coupled with the lack of adequate legal gender recognition procedures¹⁰.

Moreover, regulatory gaps in many national criminal laws continue impacting LGBTI people by not including sexual orientation and gender identity in the legal motives for cases of torture.

We strongly value the references to Ecuador and Mexico as good examples of criminalization of torture with a SOGI-inclusive approach. It is also crucial to conduct an in-depth analysis of those positive trends and encourage other States to implement SOGI-inclusive perspectives in their legal framework criminalizing torture.

We encourage the Special Rapporteur:

First, to consult with LGBTI groups, including trans groups and organizations, on this matter, Second, to consider the statistics on the vulnerability of LGBTI persons to acts of torture, and

Third, to make recommendations particularly related to protection measures and accountability guarantees that trans persons need for denouncing crimes of torture.

I thank you, Mr. President.

number of sources suggesting that police officers often harass and discriminate against trans sex workers and treat them inappropriately.

⁷ Report of the Special Rapporteur on violence against women, its causes and consequences. Mission to Italy. (2012) [A/HRC/20/16/Add.2](#). Para. 35.

⁸ See e.g. Human Rights Committee, Concluding Observations: Paraguay (2008), [CCPR/C/PRY/CO/4](#), paras. 26-27; Committee against Torture: Concluding Observations: Costa Rica (2008), [CAT/C/CRI/CO/2](#), para. 18; Concluding Observations: Namibia (2016), [CAT/C/NAM/CO/2](#), paras. 30-31; Concluding Observations: Panama (2017), [CAT/C/PAN/CO/4](#), para. 45; Concluding Observations: Argentina (2017), [CAT/C/ARG/CO/6](#), para. 35; Concluding Observations: Guatemala (2018), [CAT/C/GTM/CO/7](#), paras. 40-41; Concluding Observations: Belarus (2018), [CAT/C/BLR/CO/5](#), paras. 29-30; Concluding Observations: Nicaragua (2022), [CAT/C/NIC/PCO/2](#), para. 13 (c); Committee on the Elimination of Discrimination against Women: Concluding Observations: Paraguay (2017), [CEDAW/C/PRY/CO/7](#), para. 44 (d); List of Issues: Egypt (2020), [CEDAW/C/EGY/Q/8-10](#), para. 19; Concluding observations: Peru (2022), [CEDAW/C/PER/CO/9](#), paras 47-48.

⁹ Committee against Torture, Concluding Observations: Belarus (2018), [CAT/C/BLR/CO/5](#), paras. 29-30.

¹⁰ See e.g. Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. (2018). [A/73/152](#). Para. 18; REDRESS (2022). [Unequal Justice: Accountability for torture against LGBTIQ+ persons in Africa](#), pag. 45.