



## UN Committee against Torture (CAT): 66<sup>th</sup> Session, 23 April - 17 May 2019

State reports reviewed: Benin, Democratic Republic of the Congo, Germany, Mexico, South Africa and **United Kingdom of Great Britain and Northern Ireland**

Lists of Issues adopted: Burkina Faso, **Dominican Republic**, **Honduras**, **Kuwait**, **Lesotho**, **Mongolia** and **Uzbekistan**

*25 June 2019*

Prepared by Maria Ihler, edited by Kseniya Kirichenko  
ILGA's UN Programme (Treaty Bodies and Special Procedures)  
[kseniya@ilga.org](mailto:kseniya@ilga.org)

### RESUME:

- First SOGIESC recommendations to the **United Kingdom**:
  - Combat anti-transgender hate crimes.
  - End and give redress for unnecessary medical procedures on intersex persons.
- Eight LGBTI questions to **Dominican Republic**, **Honduras**, **Kuwait**, **Lesotho**, **Mongolia** and **Uzbekistan**, including:
  - Combat SOGI-based hate crimes and violence (all)
  - Train police, prison and immigration staff on SOGI (Dominican Republic)
  - Address police abuse (Uzbekistan) and prison protocols (Honduras) for LGBT.
  - Decriminalise trans persons and same-sex relations (Kuwait)
  - Two trans-specific questions (Dominican Republic, Kuwait)

- Next Session: **22 July to 9 August 2019**
  - Countries (main review): Bangladesh, Greece, Poland and Togo
  - **NGO report deadline**: 22 June 2019 (to [cat@ohchr.org](mailto:cat@ohchr.org))

## Table of Contents

1. SUMMARY .....	3
1.1. Concluding Observations .....	3
1.2. Lists of Issues and Lists of Issues Prior to Reporting .....	4
1.3. Individual Complaints .....	4
2. COMPILATION OF CONCLUDING OBSERVATIONS .....	5
<i>United Kingdom of Great Britain and Northern Ireland</i> .....	5
3. COMPILATION OF LISTS OF ISSUES .....	6
<i>Dominican Republic</i> .....	6
<i>Honduras</i> .....	6
<i>Kuwait</i> .....	6
<i>Lesotho</i> .....	7
<i>Mongolia</i> .....	7
<i>Uzbekistan</i> .....	7
4. CIVIL SOCIETY SUBMISSIONS .....	8
<i>Dominican Republic</i> .....	8
<i>Germany</i> .....	8
<i>Mexico</i> .....	8
<i>South Africa</i> .....	8
<i>United Kingdom of Great Britain and Northern Ireland</i> .....	8
<i>Uzbekistan</i> .....	8

## 1. SUMMARY

The UN Committee against Torture (CAT) published its Lists of Issues and Concluding Observations as a result of the [66th Session](#), held on 23 April to 17 May 2019. One State (United Kingdom) was issued SOGIESC<sup>1</sup> [recommendations](#), and six States (Dominican Republic, Honduras, Kuwait, Lesotho, Mongolia and Uzbekistan) received LGBTI [questions](#).

The Committee addressed the issues of anti-transgender hate crimes, criminalisation of same-sex relations and trans persons, violence by police and in prison, surgeries on intersex children, violence against LGBTI persons and access to justice. There was one stand-alone intersex recommendation (UK), one trans-specific recommendation (UK) and two trans-specific questions (Dominican Republic, Kuwait). Furthermore, four States received stand-alone LGBTI [civil society reports](#), of which two concerned intersex rights.

### 1.1. Concluding Observations

During its [66th Session](#), CAT reviewed the periodic reports of six States: Benin, Democratic Republic of the Congo, Germany, Mexico, South Africa and United Kingdom of Great Britain and Northern Ireland. Only the [United Kingdom](#) received SOGIESC recommendations: one trans-specific recommendation and one stand-alone intersex recommendation. These were also CAT's first LGBTI recommendations to the United Kingdom. However, these recommendations were not selected for the follow-up procedure.

First, CAT was concerned about the increase in anti-transgender hate crimes in the [UK](#) and the low rate of convictions. It recommended strengthening the investigation and prosecution of hate crimes, including through training the police. The second recommendation expressed concern about unnecessary, irreversible surgeries on intersex children. CAT urged the State to offer counselling, information and support to parents of intersex children, and to offer redress and rehabilitation to intersex persons who have been subjected to non-consensual treatment. The UK had also been asked about transphobic hate crimes in its [LOIPR](#), and about surgeries on intersex children in the [constructive dialogue](#).

On the other hand, Germany was not issued intersex recommendations, despite intersex questions from the Committee in both the [LOIPR](#) and [constructive dialogue](#)<sup>2</sup>, and a stand-alone [civil society report](#) on the issue. In addition to Germany, Mexico, South Africa and the UK had also received [civil society submissions](#) with entire sections or reports dedicated to LGBTI, including intersex rights (Germany, UK), LGBTI persons in detention (Mexico, South Africa) and trans persons (UK). Nevertheless, CAT only addressed SOGIESC for the UK.

Country	SOGIESC in previous CO*	SOGIESC in LOI/LOIPR**	SOGIESC in the constructive dialogues***	SOGIESC in CSS****	SOGIESC in current CO*
Benin	No	No	No	No	No
Democratic Republic of Congo	No	No	No	No	No
Germany	Yes	Yes	Yes	Yes	No
Mexico	No	No	No	Yes	No
South Africa	No	No	Yes	Yes	No
United Kingdom of Great Britain and Northern Ireland	No	Yes	Yes	Yes	Yes

\*Concluding Observations

\*\*List of Issues/List of Issues Prior to Reporting

\*\*\*According to the press releases

\*\*\*\*Civil Society Submissions

Text in colour links to the source material.

<sup>1</sup> SOGIESC: Sexual orientation, gender identity and expression, and sex characteristics.

<sup>2</sup> The questions followed up on Germany's [previous COs](#). The State's response to the question can be read [here](#).

## 1.2. Lists of Issues (LOIs) and Lists of Issues Prior to Reporting (LOIPRs)

During its **66th Session**, CAT adopted questions for seven States that are to be reviewed in the future: LOIs for Burkina Faso and Uzbekistan, and LOIPRs for the simplified reporting procedures of the Dominican Republic, Honduras, Kuwait, Lesotho and Mongolia. **SOGIESC questions** were issued to all States except Burkina Faso, and five of the countries received stand-alone SOGIESC questions (Honduras, Kuwait, Lesotho, Mongolia and Uzbekistan).

**Dominican Republic** received a question about measures to combat hate crimes against LGBTI persons, in particular trans women, and a question about training public officials, including police, armed forces, prison and immigration staff, to give proper treatment to SOGI minorities. A **civil society report** had also referred to SOGI hate crimes and discrimination.

**Honduras** also received two questions, concerning special protocols for LGBT prisoners, and measures to investigate and prosecute SOGI-based hate crimes and violence.

**Kuwait** was questioned about the criminalisation of trans people in the 2007 Penal Code, the criminalisation of same-sex relations, the deportation of 76 gay men in 2017, and about SOGI-based violence.

**Lesotho** was asked about measures to investigate and prosecute SOGI-based hate crimes and violence.

**Mongolia** was asked how the State would prevent discrimination and violence against LGBTI persons, including through legislation, and about measures to ensure such violence is investigated and prosecuted.

**Uzbekistan** was asked to respond to allegations that police have subjected LGBT people to torture and violence in detention and failed to investigate reports of SOGI-based violence. CAT urged the State to exercise due diligence to stop violence against LGBT persons, and asked for data on prosecutions and redress to victims. Three **civil society reports**, including a stand-alone submission, also discussed human rights violations against LGBT(I) people.

The Committee will review the State reports of Burkina Faso and Uzbekistan during its **68th Session**, on 11 November to 6 December 2019. The Session dates for the remaining States (simplified reporting procedure) have yet to be determined.

## 1.3. Individual Complaints

In relation to its **66th Session**, out of 20 decisions on individual communications published on the Committee's website,<sup>3</sup> none referred to SOGIESC.

<sup>3</sup> Communications nos. 624/2014, 729/2016, 735/2016, 749/2016, 757/2016, 760/2016, 766/2016, 768/2016, 771/2016, 772/2016, 776/2016, 777/2016, 788/2016, 797/2017, 820/2017, 825/2017, 827/2017, 829/2017, 845/2017 and 846/2017.

## 2. COMPILATION OF CONCLUDING OBSERVATIONS

### **United Kingdom of Great Britain and Northern Ireland – Concluding Observations – 66<sup>th</sup> Session, 7 June 2019, 6<sup>th</sup> review<sup>4</sup>**

#### **Hate crimes**

62. While acknowledging the legislative and other measures taken by the State party to tackle hate crime and prejudice, the Committee is concerned by the reports it has received from both government sources and community-based organizations reflecting a marked increase in the incidence of racist, xenophobic, anti-Semitic, anti-Muslim, anti-disabled and anti-transgender crimes in recent years, and by estimates that only 2 per cent of all hate crimes result in a successful conviction with an enhanced sentence for hostility on the basis of a protected characteristic (art. 16).

**63. The State party should strengthen its efforts to investigate alleged hate crimes and prosecute perpetrators, including by improving hate crimes training for the police and improving their initial handling of hate crimes reports.**

#### **Intersex persons**

64. While noting that in January 2019 the Government Equalities Office launched a call for evidence to better understand the experiences of intersex persons in the United Kingdom, the Committee remains concerned about reports of cases of unnecessary surgery and other medical treatment with lifelong consequences, including severe pain and suffering, to which intersex children have been subjected. The Committee is further concerned about the lack of legal provisions providing redress and rehabilitation in such cases (arts. 14 and 16).

**65. The State party should ensure that:**

**(a) The parents or guardians of intersex children receive impartial counselling services and psychological and social support, including information on the possibility of deferring any decision on unnecessary treatment until they can be carried out with the full, free and informed consent of the person concerned;**

**(b) Persons who have been subjected to such procedures without their consent and resulting in severe pain and suffering obtain redress, including the means for rehabilitation.**

#### **States with no SOGIESC recommendations:**

- Benin
- Democratic Republic of the Congo
- Germany
- Mexico
- South Africa

<sup>4</sup> CAT/C/GBR/CO/6

### 3. COMPILATION OF LISTS OF ISSUES

#### **Dominican Republic** – List of Issues Prior to Reporting – 66<sup>th</sup> Session, 11 June 2019, initial reviews

##### **Article 10**

15. Please provide information on training programmes conducted by the State party with a view to ensuring that all public officials, including, in particular, members of the armed forces, police officers, law enforcement officials, prison officers and immigration and border control officers: [...] (b) treat members of vulnerable groups appropriately, with due regard for their gender, cultural or ethnic affiliation and sexual orientation or gender identity; [...]. Please indicate whether this training is mandatory or optional, how often it is provided, how many officers, as a proportion of their total number, have received the training, whether there are plans to provide training for officers who have yet to receive it, and whether the State party has developed a methodology to assess the effectiveness and impact of its training programmes in terms of reducing the number of cases of torture and ill-treatment. If so, please provide information on the methodology's content and application.

##### **Article 16**

35. Please indicate what legislative and other measures have been taken by the State party to combat hate crimes and acts of intolerance against specific groups, including: [...] (b) lesbian, gay, bisexual, transgender and intersex persons, particularly transgender women. Please provide data on cases of hate crime identified over the past five years disaggregated by grounds for discrimination, the sex, age group and ethnic origin or nationality of the victim and whether the perpetrator was a public official. Please provide information on the outcome of the investigations and prosecutions conducted in each case and the sentences and penalties imposed.

#### **Honduras** – List of Issues Prior to Reporting – 66<sup>th</sup> Session, 12 June 2019, 3<sup>rd</sup> review<sup>6</sup>

##### **Article 11**

21. [...] Please indicate whether there are protocols in place for meeting the needs of other groups of prisoners with special needs, such as persons with disabilities, older adults and lesbian, gay, bisexual and transgender persons.

##### **Article 16**

34. With reference to the preceding concluding observations (paras. 49 and 50), please provide information on the steps taken to ensure that all crimes and acts of violence that target persons on the basis of their sexual orientation or gender identity are properly and promptly investigated and prosecuted.

#### **Kuwait** – List of Issues Prior to Reporting – 66<sup>th</sup> Session, 14 June 2019, 4<sup>th</sup> review<sup>7</sup>

##### **Article 16**

40. Please indicate what practical measures have been taken by the State party to combat violence against individuals based on their sexual orientation or gender identity. Please comment on reports that, in 2017, Kuwait deported 76 men on suspicion of being gay and that transgender people can be arrested under a 2007 Penal Code provision that prohibits "imitating the opposite sex in any way". Has the State party taken any steps to decriminalize consensual sexual relations between same-sex adults?

<sup>5</sup> CAT/C/DOM/QPR/1

<sup>6</sup> CAT/C/HND/QPR/3

<sup>7</sup> CAT/C/KWT/QPR/4

## **Lesotho** – List of Issues Prior to Reporting – 66<sup>th</sup> Session, 17 June 2019, initial review<sup>8</sup>

### **Article 16**

52. Please provide information on the measures taken to ensure that all crimes and acts of violence that target persons on the basis of their sexual orientation or gender identity are properly and promptly investigated and prosecuted.

## **Mongolia** – List of Issues Prior to Reporting – 66<sup>th</sup> Session, 18 June 2019, 3<sup>rd</sup> review<sup>9</sup>

### **Article 16**

24. With reference to the Committee's previous concluding observations (paras. 29 and 30), please provide updated information on measures taken to prevent discrimination and violence against lesbian, gay, bisexual, transgender and intersex persons. Please provide information on steps taken to establish a comprehensive legal framework to prevent violence, such as physical attacks and other ill-treatment, and to ensure the protection of vulnerable groups, including persons with HIV/AIDS and lesbian, gay, bisexual, transgender and intersex persons. Please provide information concerning any policing, enforcement and complaints mechanism that has been established to ensure that reports of violence are registered and investigated by the police. Please provide information on the measures taken to ensure that the perpetrators of violent acts against vulnerable populations on the basis of their sexual orientation or gender identity are brought to justice. Please indicate whether there is a provision in the new Criminal Code about lesbian, gay, bisexual, transgender and intersex persons.

## **Uzbekistan** – List of Issues – 66<sup>th</sup> Session, 12 June 2019, 5<sup>th</sup> review<sup>10</sup>

### **Articles 2, 4 and 15**

9. Please provide information on whether the State party has investigated allegations that members of the police have subjected lesbian, gay, bisexual and transgender people to torture and violence while in detention and have failed to investigate acts of violence perpetrated against them by private persons. Please indicate any measures that the State party is taking to exercise due diligence to prevent, stop and sanction violence against lesbian, gay, bisexual and transgender people, including by collecting:

- (a) Data on any prosecutions and convictions of public officials for subjecting lesbian, gay, bisexual and transgender people to torture and violence;
- (b) Data on investigations, prosecutions and convictions of private individuals for engaging in violence against lesbian, gay, bisexual and transgender people during the reporting period;
- (c) Information on whether any lesbian, gay, bisexual and transgender victims of violence have obtained redress.

## **States with no SOGIESC questions:**

- **Burkina Faso**

<sup>8</sup> CAT/C/LSO/QPR/1

<sup>9</sup> CAT/C/MNG/QPR/3

<sup>10</sup> CAT/C/UZB/Q/5

## 4. CIVIL SOCIETY SUBMISSIONS

### Dominican Republic

- Submission by [Comisión Nacional de los Derechos Humanos](#) for the 66<sup>th</sup> Session (*recommends including SOGI in anti-discrimination and hate crime legislation, and sensitising health personnel to LGBTI persons, particularly in regard to HIV*).

### Germany

- Submission by [StopIGM.org / Zwischengeschlecht.org](#) for the 66<sup>th</sup> Session (*stand-alone report on intersex genital mutilation, including data, recent developments and previous recommendations*).
- NHRI submission by [German Institute for Human Rights](#) for the 51<sup>st</sup> Session (*stand-alone section on intersex minors, recommends prohibiting unnecessary, irreversible surgeries without consent*).

### Mexico

- Submission by [Asilegal](#) for the 66<sup>th</sup> Session (*stand-alone SOGIE chapter, with sections on LGBT persons deprived of liberty, homicides, migration and conversion therapy*).
- Submission by [Grupo Impulsor Contra la Detención Migratoria y la Tortura](#) for the 66<sup>th</sup> Session (*mentions vulnerability of LGBTTTI persons in detention*).
- Submission by [Mexican Civil Society Organisations](#) for the 66<sup>th</sup> Session (*stand-alone section on LGBTIQ issues, including violence, homicides, police abuse, imprisonment and sex work*).
- Submission by [The Advocates for Human Rights](#) for the 66<sup>th</sup> Session (*stand-alone report on LGBTI human rights violations in Mexico, based on information from LGBTI asylum seekers*).

### South Africa

- Submission by [African Policing Civilian Oversight Forum \(APCOF\)](#) for the 65<sup>th</sup> Session (*section on the safety and rights of LGBTI persons in custody*).
- Submission by [CSV](#) for the 66<sup>th</sup> Session (*mentions vulnerability of LGBTIQ+ persons to torture*).
- NHRI submission by [South African Human Rights Commission](#) for the 66<sup>th</sup> Session (*section on LGBTI persons in detention and recommends SOGIESC standards of care in detention*).

### United Kingdom of Great Britain and Northern Ireland

- Submission by [INQUEST Charitable Trust](#) for the 66<sup>th</sup> Session (*mentions deaths of transgender women in men's prisons, including suicide*).
- Submission by [National Survivor User Network](#) for the 66<sup>th</sup> Session (*mentions increase in both sexual orientation and gender identity-based hate crimes*).
- Submission by [REDRESS](#) for the 66<sup>th</sup> Session (*mentions increase in SOGI-based hate crimes, deaths of trans women in prisons, and the vulnerability of LGBTI persons to torture*).
- Submission by [StopIGM.org, IntersexUK \(iUK\) and UK Intersex Association \(UKIA\)](#) for the 66<sup>th</sup> Session (*stand-alone report on intersex genital mutilation in the UK, with data and case studies*).
- Submission by [Human Trafficking Foundation](#) for the 66<sup>th</sup> Session (*concerns sexual minorities et al.*).
- NHRI submission by [Equality and Human Rights Commission](#) for the 66<sup>th</sup> Session (*notes increase in transphobic hate crimes and recommends specialised mental health services for trans women*).
- NHRI submission by [Northern Ireland Human Rights Commission](#) for the 66<sup>th</sup> Session (*stand-alone sections on gender recognition, intersex genital mutilation and transphobic hate crimes*).
- NHRI submission by [Scottish Human Rights Commission](#) for the 66<sup>th</sup> Session (*section on LGBTI domestic abuse and violence, in particular against trans persons*).
- NHRI submission by [Scottish Youth Parliament and Children's Parliament](#) for the 66<sup>th</sup> Session (*recommends educating teachers on LGBT and including non-binary GI in hate crime legislation*).

### Uzbekistan

- Submission by [AHRCA and IPHR](#) for the 66<sup>th</sup> Session (*mentions criminalisation of homosexuality and the physical and sexual abuse of LGBTI persons in prison*).
- Submission by [Eurasian Coalition on Male Health \(ECOM\)](#) for the 66<sup>th</sup> Session (*stand-alone report on human rights violations of LGBTQ people, including criminalisation, youth, violence and extortion, freedom of association, and forced marriage of lesbians*).
- NHRI submission by [Office of the Ombudsman of Uzbekistan](#) for the 66<sup>th</sup> Session (*mentions cooperation with LGBTI NGOs as an area of improvement*).