



UN Committee against Torture (CAT): 67th Session, 22 July to 9 August 2019

State reports reviewed: 🇧🇩 **Bangladesh**, Greece, 🇵🇱 **Poland**, Togo

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RESUME:

- SOGIESC recommendations to **Bangladesh** and **Poland**, including:
 - On decriminalization of consensual same-sex sexual acts (Bangladesh)
 - On hate crimes against LGBTI (Bangladesh, Poland)
 - First SOGIESC recommendations from this Committee for Bangladesh.

- Next Session: **11 November to 6 December 2019**
 - Countries (main review): Burkina Faso, Cyprus, Latvia, Niger, Portugal, Uzbekistan
 - Countries (LOI): Cuba
 - Countries (LOIPR): Armenia, Ecuador, Finland, Monaco, Namibia
 - **NGO report deadline:** 14 October 2019 for main review (to cat@ohchr.org)

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1. SUMMARY

The UN Committee against Torture (CAT) published its Concluding Observations as a result of the **67th Session**, held on 22 July to 9 August 2019. Two States (Bangladesh and Poland) were issued SOGIESC¹ [recommendations](#).

The Committee addressed the issues of hate crimes and criminalisation of consensual same-sex sexual acts. At that, no specific references to trans or intersex persons, as well as LBQ women were made. This coincided with relatively low level of civil society engagement. There were no stand-alone shadow reports on LGBTI issues, and quite a few submissions addressed SOGIESC among other topics.

The Committee also adopted decisions on nine individual complaints, neither on SOGIESC.

1.1. Concluding Observations

During its **67th Session**, CAT reviewed the periodic reports of four States: Bangladesh, Greece, Poland and Togo. Only **Bangladesh** and **Poland** received SOGIESC recommendations, none on specific issues faced by trans or intersex persons and LBQ women. At that, Bangladesh received its first recommendations from this Committee, and no LGBTI recommendations were picked up for the follow-up process.

While recommendations to Bangladesh were made after LGBTI issues being discussed in the constructive dialogue with the State party and in the presence of CSO information on the topic, the same factors (SOGIESC-inclusive dialogue and CSO data) did not lead to any LGBTI recommendations to Greece. In contrast, Poland received LGBTI recommendations notwithstanding the lack of references to the topic in the constructive dialogue and CSO reports (however, both the previous Concluding Observations on Poland, and the LOIPR did refer to sexual orientation/LGBT).

Country	SOGIESC in previous CO*	SOGIESC in LOI/PR**	SOGIESC in the constructive dialogues***	SOGIESC in CSS****	SOGIESC in current CO*
Bangladesh	NA	NA	Yes	Yes	Yes
Greece	No	No	Yes	Yes	No
Poland	Yes	Yes	No	No	Yes
Togo	No	No	No	Yes	No

*Concluding Observations

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

***According to the press releases and summary records

****Civil Society Submissions

Text in colour links to the source material

Bangladesh:

CAT reviewed the initial report of Bangladesh, and therefore there were neither any previous Concluding Observations nor a List of Issues for the State.

Some information on the situation of LGBTI persons in Bangladesh, including data on criminalization of consensual same-sex sexual acts, violence and harassment, has been provided by civil society.

During the [constructive dialogue](#) with the Committee, a representative of Bangladesh stated that “the Government took the opinions and religious beliefs of the majority into account when addressing LGBTI issues. Laws in that area had been inherited from the colonial legal system. Nevertheless, the Constitution provided for protection from torture for all citizens, regardless of their sexual orientation or gender identity. Charges had been brought against

¹ SOGIESC: Sexual orientation, gender identity and expression, and sex characteristics.

eight individuals in the case of the murders of activists Xulhaz Mannan and Mahbub Rabbi Tonoy, and the trial was under way.”

As a result of the review, CAT **expressed** its concerns on anti-LGBT violence by private individuals as well as by law enforcement officials, which was facilitated by the State party's criminalization of consensual same-sex sexual relations as “unnatural behavior.” The Committee recommended Bangladesh to decriminalise consensual same-sex sexual acts, and to take measures to address violence, including collecting data, investigation, prosecution and punishment.

Greece:

The Committee reviewed the seventh periodic report of Greece. Previous Concluding Observations on the State party did not mention LGBTI, neither did the LOIPR developed by CAT in 2014.

Three **alternative reports** submitted for the Committee's session referred to LGBTI persons, particularly seeking asylum in Greece, and similar questions were asked by CAT during the **constructive dialogue** with the State party.

However, this did not transform into any SOGIESC-inclusive references or recommendations in the **Concluding Observations**.

Poland:

CAT reviewed the seventh periodic report of Poland, and issues related to sexual orientation/LGBT have been already addressed by the Committee in its previous Concluding Observations on the State party. In 2007, CAT **expressed** its concerns on “hate speech and intolerance against homosexuals and lesbians” and recommended the State to amend its Penal Code respectively. In 2013, the Committee **considered** again that Polish legislation did not provide enough protection against discrimination based on sexual orientation, and expressed concerns on the significant rise in manifestations of hate speech and intolerance directed at LGBT people. Consequently, CAT recommended Poland to criminalise hate crimes and discrimination and violence based on sexual orientation; and to take all necessary measures, including trainings for officials, to combat discrimination and violence against LGBT people.

In its **LOIPR** for the seventh report of Poland, the Committee requested information on the measures taken to ensure that all crimes and acts of violence that target persons on the basis of their sexual orientation are properly and promptly investigated and prosecuted.

While no LGBTI topics were covered by CSO reports on Poland, and apparently they were not discussed during the constructive dialogue of the Committee with the State delegation, the resulted **Concluding Observations** did address the problem of hate crimes and discrimination.

CAT was concerned by the continuing reports on violent incidents against LGBTI persons and the lack of adequate investigation and prosecution in such cases. Consequently, Poland was recommended to take all necessary measures to combat discrimination and violence against LGBT people, and to take effective measures to prevent all manifestations of hate crimes and ensure prompt and effective investigation and appropriate prosecutions of all such incidents.

Togo:

CAT reviewed the third periodic report of Togo, and no LGBTI/SOGIESC issues were addressed by the Committee in its previous Concluding Observations on the State, as well as documentation for the current review cycle, including LOIPR and resulted **Concluding Observations**. Neither any LGBTI topics were discussed during the constructive dialogue of

the Committee with the State delegation, and only one brief reference to LGBBTI human rights defenders **was made** by civil society.

1.2. Individual Complaints

In relation to its **67th Session**, out of 9 decisions on individual communications published on the Committee's website,² none referred to SOGIESC.

² Communications nos. 723/2015, 775/2016, 780/2016, 791/2016, 813/2017, 816/2017, 828/2017, 854/2017 and 857/2017.

2. COMPILATION OF CONCLUDING OBSERVATIONS

Bangladesh – Concluding Observations – 67th Session, 8 August 2019, initial review³

Violence against indigenous, ethnic, and religious minorities and other vulnerable groups

23. [...] The Committee is also concerned at reports of violence against LGBT individuals, by private individuals as well as by law enforcement officials, which is facilitated by the State party's criminalization of consensual same-sex sexual relations as "unnatural behavior" (arts. 2, 12, 13, 14 and 16).

24. The State party should:

(a) Ensure that independent investigations are carried out into reports of attacks and violence directed against indigenous, ethnic, religious and other vulnerable minorities, including those detailed above;

[...]

(d) Provide redress, including compensation and rehabilitation, to the Santal community and members of other minorities and vulnerable groups who suffered physical violence, damage to and looting of their property; and implement in practice the Restoration of Vested Property Act, 2001 (Act No. 16) in order to ensure the return of "vested" property to their original owners;

(e) Repeal Section 377 of the Penal Code of Bangladesh criminalizing "unnatural behavior" which the State party considers to prohibit consensual same-sex sexual conduct;

(f) Collect and publish statistical information about attacks on violence against indigenous, ethnic, and religious minorities and other vulnerable groups including members of the LGBTI community;

(g) Prosecute and punish the perpetrators all acts of violence committed by police and non-State actors against members of vulnerable groups.

Poland – Concluding Observations – 67th Session, 8 August 2019, 7th review⁴

Situation of vulnerable persons and hate crimes

35. The Committee is concerned:

[...]

(d) While acknowledging the State party's statement that all hate crimes are of "particular interest" to the Public Prosecutor's Office and Police, the Committee remains concerned at the incidents of physical assaults and hate speech against migrants from Africa, Asia, Arab migrants, as well as Roma and Ukrainians; and that cases of hate crimes are substantially underreported due to lack of confidence in the police, according to a recent Survey report on the nature and scale of unreported hate crimes developed by ODIHR and the NHRC of Poland; and that the violent incidents against LGBTI persons continue to be reported and that these acts of violence are not adequately investigated and prosecuted;

[...].

36. The State party should:

[...]

(e) Ensure that all cases of hate crimes are reported and that reasons for the gross underreporting are addressed as a matter of urgency through appropriate measures, including training of and trust-building activities within the national police. The Committee reiterates its

³ CAT/C/BGD/CO/1

⁴ CAT/C/POL/CO/7

previous recommendation to take all necessary measures to combat discrimination and violence against persons of Arab, Asian and African origin, lesbian, gay, bisexual and transgender people as well as persons belonging to the Roma community; and to take effective measures to prevent all manifestations of hate crimes and ensure prompt and effective investigation and appropriate prosecutions of all such incidents;

[...].

States with no SOGIESC recommendations:

- Greece
- Togo

3. CIVIL SOCIETY SUBMISSIONS

Bangladesh

- Submission by [ODRI](#) for the 67th Session (*a separate section on the situation of LGBTI persons, including on criminalization of consensual same-sex sexual acts, violence and harassment*).
- Submission by [Human Rights Forum Bangladesh](#) for the 67th Session (*a paragraph on violations against 'sexual minorities' and hijras, including on criminalization of consensual same-sex sexual acts, violence and harassment*).

Greece

- Submission by [The Greek Council for Refugees](#) for the 67th Session (*a brief reference to SO in the context of asylum seekers*).
- Submission by [World Organisation Against Torture, the Greek Helsinki Monitor \(GHM\) and Refugee Rights Europe \(RRE\)](#) for the 67th Session (*a section on the situation of LGBTIQ+ asylum seekers*).
- Submission by [ODRI](#) for the 67th Session (*a section on LGBTI persons*).

Poland

- No SOGIESC-inclusive CSO reports published.

Togo

- Submission by [Coalition Togolaise des défenseurs des droits de l'Homme \(CTDDH\) and ISHR](#) for the 66th Session (*a brief reference to SO in the context of LGBTIQ HRDs' situation*).