



UN Committee on Economic, Social and Cultural Rights: 62nd Pre-Sessional Working Group and 63rd Session

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RESUME:

- Recommendations on LGBTI issues for [Bangladesh](#) and [Mexico](#), including:
 - First recommendations from the Committee for Bangladesh;
 - Decriminalization of same-sex relations (Bangladesh)
 - Preventing and combating discrimination against LGBTI (Mexico) or based on SOGI (Bangladesh)
 - Follow-up recommendation (Bangladesh)
 - No stand-alone references to LB women or trans and intersex persons.
- Questions on LGBTI for [Cameroon](#), [Kazakhstan](#), [Mauritius](#) and [Slovakia](#), including on:
 - Decriminalisation of same-sex relations (Cameroon);
 - SOGI-inclusive anti-discrimination legislation (Mauritius);
 - Detailed questions on hate crimes, employment opportunities and access to health care for LGBT persons (Kazakhstan);
 - No references to intersex or sex characteristics; and
 - No stand-alone references to LB women or trans and intersex persons.

- Next Session: [24 September to 12 October 2018](#)
 - Countries (main review): Argentina, Cabo Verde, Germany, Mali, South Africa, Turkmenistan
 - NGO report deadline: 31 August 2018 (to cescr@ohchr.org)
- Next PSWG: [15 to 19 October 2018](#)
 - Countries (for LOI): Switzerland
 - Countries (for LOIPR): Belarus, Belgium, Norway & Ukraine
 - NGO report deadline: 17 August 2018 tbc (to cescr@ohchr.org)

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1. SUMMARY

The UN Committee on Economic, Social and Cultural Rights published its Lists of Issues and Concluding Observations as a result of the [63rd Session](#) (12 to 29 March 2018) and the [62nd Pre-Sessional Working Group](#) (3 to 6 April 2018).

Questions on LGBTI issues were sent to 4 out of 5 other countries (Cameroon, Kazakhstan, Mauritius, and Slovakia – having Estonia as the only country without SOGIESC-related questions), and SOGIESC **recommendations** were made for 2 (Bangladesh and Mexico) out of 6 countries reviewed.

Both questions and recommendations were almost always pertaining the right to equality and/or non-discrimination, without further specification. One set of questions was made in more detail, including the right to work, and to physical and mental health (Kazakhstan).

While the non-discrimination recommendations would sometimes encompass the decriminalization of same-sex relations between adults, no stand-alone recommendations were made on LB women and TI persons. The Committee consistently referred to SOGI and LGBT persons, but intersex or sex characteristics were mentioned by the Committee only once in its Concluding Observations on Mexico (a general recommendation concerning discrimination against LGBTI persons).

1.1. Concluding Observations

During its 63rd Session, the Committee reviewed periodic reports of Bangladesh, Central African Republic, Mexico, New Zealand, Niger and Spain.

SOGIESC recommendations were made for two countries. In both cases, LGBTI issues were addressed in civil society submissions, but the recommendations fell short in considering all the concerns raised by local defenders. The constructive dialogues between the Committee and State delegations also did not expand itself enough as to include all the points brought up by the civil society. For Bangladesh, the Committee wrote its first recommendations already including SOGIESC recommendations.

Country	SOGIESC in previous CO*	SOGIESC in LOI**	SOGIESC in the constructive dialogues***	SOGIESC in CSS****	SOGIESC in current CO*
Bangladesh	-	-	Yes	Yes	Yes
Central African Republic	-	-	Yes	Yes	No
Mexico	Yes	No	Yes	Yes	Yes
New Zealand	No	Yes	No	Yes	No
Niger	-	-	No	No	No
Spain	No	No	No	Yes	No

*Concluding Observations

**List of Issues

***According to the press releases

****Civil Society Submissions

[Bangladesh](#)

The country had its first review during this CESCR Session, and already had SOGIESC related topics included in its recommendations. Civil society has made strong contributions on the topic via its submissions to the Committee.

The [constructive dialogue](#) included explicit mentions to SOGIESC topics, and more specifically addressed the colonial roots of same-sex criminalization. Still according to the dialogues, *Hijra* and other LGBTI individuals enjoy full protection in the country, especially in the health system.

The Committee expressed its concern towards the criminalization of same-sex relations in the country. It has stressed that although it praises the recognition of *Hijras*, this does not exempt the country from working towards the decriminalization of same-sex relations. Notably, a recommendation in para 24 was included by the Committee into the follow-up list. That means that the State party has to provide, within 18 months of the adoption of the Concluding Observations, information on the implementation of this recommendation.

Mexico

Mexico has had mentions to SOGIESC topics in previous recommendations. Nonetheless, it has not had specific mentions to these matters in its List of Issues. Civil society made targeted contributions to the discussion by presenting reports that addressed specific topics, such as social security, health and the disproportionate effect of violence on members of vulnerable groups.

The [constructive dialogue](#) indicated a broad understanding of LGBTI issues, with Mexico recalling its campaign against homophobia and transphobia initiated in 2005. Moreover, it was also acknowledged that Mexico's President has chaired a meeting with the civil society to address the discrimination faced by LGBTI individuals. It was also noted that some states have adopted the legal recognition of gender self-identification.

The Committee expressed its concern about the lack of legislative harmonization in the country, creating difficulties for an adequate protection of vulnerable groups. In this regard, the Committee has recommended the country to double its efforts in preventing and combating discrimination against vulnerable groups, including LGBTI individuals.

1.2. Lists of Issues

As a result of its 62nd Pre-Sessional Working Group, the Committee produced a set of questions for the States that will be reviewed in the future. While for Estonia there were no specific questions on SOGIESC, the Committee did ask Cameroon, Kazakhstan, Mauritius, and Slovakia about the situation of LGBTI discrimination and same-sex relations criminalization in these countries.

The Committee also specifically requested **Kazakhstan** to provide updated statistical data and information on the State's work to increase employment among disadvantaged and marginalized groups and individuals (including LGBT persons), as well as data and information on the access of LGBTI individuals to health-care services. However, no specific mentions to LB women was made notwithstanding the fact that *Feminita* group submitted a stand-alone report on the issue and participated in an NGO briefing in Geneva. Nor any particular questions has been asked by the Committee regarding trans or intersex persons.

Six countries will be reviewed by the Committee during its 64th Session that will take place in Geneva from 24 September to 12 October 2018. Civil society groups are invited to submit their shadow reports to the Committee by 31 August 2018. Five other countries will receive LOI/PR from the Committee as a result of the 63rd PSWG (15 to 19 October 2018), and civil society groups may submit their reports to CESCRC by 17 August 2018 (tbc).

Please note that the countries involved in the 62nd PSWG will not be analysed then, but in a future session with dates yet to be announced (most likely in March 2019).

2. COMPILATION OF CONCLUDING OBSERVATIONS

Bangladesh – Concluding Observations – 63rd Session, 18 April 2018, initial report

Non-discrimination

23. The Committee is concerned that article 28 of the Constitution prohibits discrimination only on limited grounds, and that the State party has delayed the adoption of comprehensive anti-discrimination legislation. While welcoming the legal recognition of hijras, it remains concerned that same-sex relations between consenting adults are criminalized (art. 2 (2)).

24. The Committee recommends that the State party expedite the adoption of comprehensive anti-discrimination legislation that prohibits direct, indirect and multiple forms of discrimination on an open list of grounds and that provides for effective remedies for victims of discrimination, including in judicial and administrative proceedings. It also recommends that the State party decriminalize same-sex relations between consenting adults and take the measures necessary to raise public awareness regarding, and combat discrimination based on, sexual orientation and gender identity.

D. Other recommendations

77. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 18 months of the adoption of the present concluding observations, information on the implementation of the recommendations contained in paragraphs 24 (adoption of comprehensive anti-discrimination legislation), 28 (Rohingya refugees) and 41 (victimization of trade union activists) above.

Mexico – Concluding Observations – 63rd Session, 17 April 2018, 5th and 6th periodic reports

Discrimination

18. Although the Committee takes note of the existence of a federal law on the prevention of discrimination and the fact that the 32 federative entities also have anti-discrimination legislation, it is concerned that the lack of legislative harmonization makes it impossible to provide adequate and equal protection against the types of discrimination prohibited under the Covenant. It is also concerned at the persistent discrimination faced by specific groups and the fact that there are no appropriate policies to combat the multiple discrimination faced by certain groups, such as indigenous women with disabilities (art. 2).

19. The Committee recommends that the State party:

(a) Review and harmonize its legislation in order to establish a comprehensive legal framework that guarantees a similar level of protection for all persons in the State party against all the types of discrimination enumerated in article 2 (2) of the Covenant;

(b) Redouble its efforts to prevent and combat persistent discrimination, in particular against members of indigenous peoples, persons of African descent, persons with disabilities, migrants, asylum seekers and refugees, and lesbian, gay, bisexual, transgender and intersex persons, including by carrying out awareness-raising campaigns, with a view to ensuring the full exercise of the rights recognized in the Covenant, particularly access to employment, social security, health care and education;

(c) Adopt specific policies, in consultation with the affected groups, to combat the multiple discrimination faced by some persons.

3. COMPILATION OF LIST OF ISSUES

Cameroon – List of Issues – 62nd PSWG, 25 April 2018, 4th periodic review

Non-discrimination (art. 2 (2))

7. Please provide information, including statistical data, on the impact of the measures described in paragraphs 40 and 41 of the State party's fourth report, on the employability and participation in public life of persons with disabilities. Please say whether the State party intends to take steps to protect lesbian, gay, bisexual and transgender persons from discrimination on the grounds of sexual orientation, including by decriminalizing homosexuality.

Kazakhstan – List of Issues – 62nd PSWG, 23 April 2018, 2nd periodic review

Non-discrimination (art. 2 (2))

7. Please provide information on the measures taken to prevent discrimination on grounds of sexual orientation or gender identity and to extend protection to those who might be exposed to discrimination on such grounds. Please also provide detailed information on investigations launched into reported attacks or harassment against lesbian, gay, bisexual and transgender persons and the judgments in the relevant court cases.

Right to work (art. 6)

11. Please provide updated statistical data on unemployment rates disaggregated by sex, age, disability, ethnic origin and rural/urban distribution. Please also provide information on the measures taken, and their impact, to increase employment opportunities among disadvantaged and marginalized groups and individuals, including non-ethnic Kazakh people from lower socioeconomic backgrounds, persons with disabilities and lesbian, gay, bisexual and transgender persons.

Right to physical and mental health (art. 12)

24. Please provide updated information on the impact of the measures taken to ensure adequate access to health care (including to technologically advanced treatment) by persons with HIV/AIDS or hepatitis C, including those held in detention facilities. Please also provide information on the measures taken to remove practical obstacles faced by lesbian, gay, bisexual and transgender persons in access to health-care services, due to stereotyping and prejudices, including among medical personnel.

Mauritius – List of Issues – 62nd PSWG, 19 April 2018, 5th periodic review

Non-discrimination (art. 2 (2))

7. Please provide information on the steps taken to review anti-discrimination provisions in the Constitution and the Equal Opportunities Act 2012, with a view to ensuring the prohibition of direct, indirect and multiple forms of discrimination on any ground, including language, religion, property, birth, disability, sexual orientation and gender identity and other status, in line with article 2 (2) of the Covenant. Please also provide information on the cases of discrimination brought to the Equal Opportunities Commission and the Equal Opportunities Tribunal, including the main grounds of discrimination identified through complaints, the number of cases reported to and dealt with by the Commission and the Tribunal, and the result of such cases.

Slovakia – List of Issues – 62nd PSWG, 19 April 2018, 3rd periodic review

Non-discrimination (art. 2 (2))

6. Please provide information on the impact of the measures taken to combat discrimination on the grounds of gender identity and/or sexual orientation, particularly with respect to the exercise of economic, social and cultural rights.

4. CIVIL SOCIETY SUBMISSIONS

Bangladesh

- Submission by [Association for Land Reforms and Development](#) for the 63rd Session (*mentions third-gender persons and their right to identity*)
- Submission by [Human Rights Forum Bangladesh](#) for the 63rd Session (*dedicates a section to gender identity and sexual orientation*)

Central African Republic

- Submission by [All Survivors Project Foundation](#) for the 63rd Session (*mentions rape of male victims as stigmatization mechanism due to homophobia in the country*)

Estonia

- Submission by [IHRC Loyola Law School](#) for the 62nd PSWG (*mentions discrimination derived from the prohibition of in vitro fertilization by homosexual couples*)

Kazakhstan

- Submission by [IHRC Loyola Law School](#) for the 62nd PSWG (*mentions discrimination derived from the prohibition of in vitro fertilization by homosexual couples*)
- Submission by [Equal Rights Trust](#) for the 62nd PSWG (*mentions inclusion of SOGI as prohibited grounds of discrimination, and the access to health and employment by LGBTI individuals*)
- Submission by [Equal Rights Trust – In the Name of Unity, Addressing Discrimination and Inequality in Kazakhstan 2016](#) for the 62nd PSWG (*whole section dedicated to discrimination and inequality based on SOGI grounds*)
- Submission by [Feminita](#) for the 62nd PSWG (*dedicated to discrimination of LBT women in employment, and hate crimes on SOGI grounds*)

Mexico

- Submission by [Joint submission Fundación Arcoiris, Akahatá, Heartland Alliance and others for LGBTI rights](#) for the 63rd Session (*addresses non-discrimination, right to family, social security and health*)
- Submission by [Joint Submission Red Nacional de DDHH, Comité de DDHH de Base de Chiapas Digna Ochoa and others](#) for the 63rd Session (*mentions disproportionate effect of violence on members of vulnerable groups, including LGBTI individuals*)

New Zealand

- Submission by [Action for Children and Youth Aotearoa & Child Poverty Action Group](#) for the 63rd Session (*mentions disproportionate effect of violence on LGBTI individuals in schools*)
- Submission by [Inclusive NZ](#) for the 63rd Session (*calls for better data collection and disaggregation based on SOGI*)

Slovakia

- Submission by [IHRC Loyola Law School](#) for the 62nd PSWG (*mentions discrimination derived from the prohibition of in vitro fertilization by homosexual couples*)

Spain

- Submission by [Plataforma DESC España](#) for the 63rd Session (*mentions bullying effects on LGBTI individuals in schools*)