

**28TH UPR WORKING GROUP SESSIONS
SOGIESC RECOMMENDATIONS
(6 NOVEMBER – 17 NOVEMBER 2017)**

This report contains a summary and the SOGIESC recommendations of the 28th 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.

For further information on the UPR, please contact: upr@ilga.org.

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ARGENTINA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 6 NOVEMBER 2017, 14:30—18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 NOVEMBER 2017, 15:00—17:30

During the 28th UPR Working Group Sessions, Argentina received 7 SOGIESC recommendations. It accepted all 7 recommendations.

A. SOGIESC Information

National Report

52. The national programme for sexual health and responsible procreation was established by Act No. 25.673. The 0800-national helpline on sexual and reproductive health is free and confidential, and provides comprehensive information on sexual and reproductive rights for the entire population.

53. By calling the 0800 helpline, individuals can receive information on contraception, including emergency contraception, and on the related obligations of the authorities of the public health system, of the national and provincial social insurance schemes and of other health insurance providers; on the rights of health-care users and on sexual violence and sexual abuse of children; on post-abortion care, legal termination of pregnancy, cervical cancer and breast cancer; on the sexual and reproductive rights of adolescents; and on providing care to the LGBT population, and on sexual dysfunctions and medically assisted reproduction. Callers may also submit complaints and follow-up on such complaints.

108. The Ministry of Security provides training to the Neighbourhood Crime Prevention Unit of the Federal Police Force, to the Neighbourhood Detachment of the Gendarmerie and to staff working for the National Coast Guard. Staff receive training that encompasses domestic and gender-based violence, sexual diversity, inclusion policies, addictions and police tactics, among other topics.

Compilation of UN Information

17. The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity commended Argentina for its progressive laws and policies, but urged it to do more to combat institutional violence. He called on Argentina to adopt a new anti-discrimination law with reference to sexual orientation and gender identity. The United Nations country team recommended that Argentina should promote the implementation of the Plan for LGBT Citizens and adopt it as public policy.

21. The Committee on the Elimination of Discrimination against Women was concerned about hate crimes against lesbian, bisexual, transgender and intersex persons, including reports of harassment by the police, murders of transgender women, and the killing of lesbian, bisexual, transgender and intersex activists.

51. The Independent Expert on sexual orientation and gender identity welcomed the law recognizing same-sex marriage.

55. The Human Rights Committee welcomed the adoption in 2015 of the Hiring Quota Act for Transvestites, Transsexuals and Transgender Persons of the Province of Buenos Aires.

63. The Committee on the Elimination of Discrimination against Women welcomed the adoption of Act No. 26862 on assisted fertilization, in 2013, and of a guide on the comprehensive health care of transgender persons, in 2015.

Summary of Stakeholder's Information

4. DPN¹ recommended raising awareness of the rights of the Afrodescendent population and eliminating structural discrimination against indigenous peoples, migrants and the lesbian, gay, bisexual and transgender (LGBT) community.

20. The Federación Argentina de Lesbianas, Gays, Bisexuales y Trans (FALGBT) noted that the current law on discriminatory acts recognized neither gender identity nor sexual orientation as prohibited grounds for discrimination.

25. Several organizations reported on the widespread use by the police of profiling and persecution practices against indigenous peoples, Afrodescendants and Latin-American migrants and LGBT persons, in particular trans and *travestis*.

26. FALGBT pointed out that the codes of misdemeanours and contraventions of some provinces still contained open-ended definitions of offences against "public morals", "decency" or "decorum", which were frequently used by the police to harass and prosecute LGBT persons.

52. FALGBT recommended passing a national law on employment quotas for trans people.

64. FALGBT observed that, even though the right to full health of trans people was guaranteed by law, their effective enjoyment of that right was limited by the lack of training of medical personnel and difficulties in obtaining medical insurance that covered the treatments needed for trans people to fully realize their trans identity.

69. FALGBT said that the complete or partial failure in some provinces to implement the National Comprehensive Sex Education Programme had hindered efforts to genuinely confront violence against and the bullying of LGBT children and adolescents.

B. SOGIESC Advanced Questions for Argentina

- **Czechia:** How is ensured protection of persons against discrimination based on sexual orientation and gender identity when the current Law on Discriminatory Acts does not recognize these as prohibited grounds for discrimination?

C. Argentina's Working Group Session

- **Opening Remarks:** Since taking government 22 months ago, we've received visits from ... the Independent Expert on sexual orientation and gender identity.
- **Intervention Made by Argentina After 39 Interventions:** We have actively supported the creation of the mandates of Independent Experts on the enjoyment of human rights of the elderly and on sexual orientation and gender identity.

¹ The National Ombudsman's Office.

- **Closing Remarks:** Argentina continues to push forward strategies so as to bolster its various dimensions, such as the [inaudible] Programme which currently has over 700,000 beneficiaries. Here, we promote the labour insertion of women, which since 2006 includes women from the LGBTI community.

We would like to point out that in 2015, under the National Office, we created a specialised unit on violence against women and LGBTI people. Its goal is to design a specific criminal policy and to develop strategic litigation. We also point out that Law 27352 from 2017 which provides greater definition of the crime of sexual violence so as to reduce the threshold of discretion that judges use when determining whether it is a crime or not. We have also started to use our generic database primarily for cases of gender identity. The overall goal is to protect victims and to improve the care that is provided to them.

Additionally, we are doing our best so as to bring about a paradigm shift around sexual and body image, so as to avoid stigmatization and to provide rights based on the law on gender identity and gender.

Following the recommendations made by the United Nations, we have been updating the register of people belonging to the LGBT community that aims at bringing in line the police procedures with the relevant law recognising the right of all individuals to be dealt with the free development of their gender identity.

D. Recommendations for Cycle III (2017)

a) Remarks of States

- **Albania:** While welcoming the progress made by Argentina in protecting against violence and discrimination based on sexual orientation and gender identity, Albania notes that institutional violence against sexual minorities remains problematic.
- **Ireland:** While we acknowledge that legislative processes have been advancing, implementation remains weak in some cases, and has been hampered by delays in the administration of justice. This implementation gap disproportionately affects vulnerable members of Argentine society, including members of indigenous communities, the poor, LGBTI people and people with disabilities.
- **Netherlands:** We welcome the impressive progress Argentina has made in the field of human rights, not only domestically, but also at the international level, in particular in defending and promoting the equal rights for women and LGBTI. The Netherlands welcomes the creation of a National Women's Council as well as a Department of Sexual Diversity at the Secretary for Human Rights.
- **Thailand:** We welcome the adoption of Argentina's first National Action Plan to combat violence against women as well as progressive efforts to promote LGBT rights and combatting violence and discrimination based on sexual orientation and gender identity.

b) The following recommendations have been examined by Argentina and have been accepted by Argentina

- **Albania:** Adopt a new law on anti-discrimination that makes specific reference to sexual orientation and gender identity (6.27).
- **Canada:** Enact pending legislation that would provide women legal access to fulsome reproductive health services, including comprehensive sexuality education, family planning,

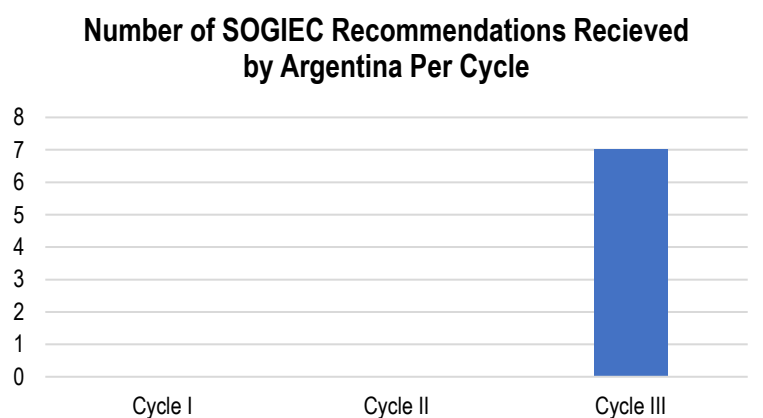
prevention and response to sexual and gender-based violence, safe and legal abortion, as well as post-abortion care (6.102).

- **Colombia:** Continue advancing in the adoption of measures aimed at the non-discrimination of people on the basis of their sexual orientation or gender identity (6.26).
- **Czechia:** Amend the Law on Discriminatory Acts to recognize sexual orientation and gender identity as prohibited grounds for discrimination before its next UPR Cycle (6.28).
- **Israel:** Provide training to security forces, penitentiary services, prosecutors and judges in order to reduce the cases of institutional violence and discrimination based on sexual orientation, gender identity and expression (6.40).
- **Netherlands:** Further mainstream human rights throughout its administration, both at national and provincial levels, to ensure that legal reforms result in improved human rights protection, especially for women and LGBTI persons (6.19).
- **South Africa:** Address hate crimes against LGBTI persons (6.39).

E. Recommendations for Cycle II (2012)

N/A

F. Graphic Comparison Between Cycles (1—3)



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

H. SOGIESC Mentions During Argentina's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Argentina (Closing Remarks):** On the question of the LGBTI community, let me say that our human rights department has ensured that we have been leaders of all resolutions on the LGBTI community in this very Human Rights Council.
- **Albania:** We are happy to acknowledge that the government has accepted most of the recommendations made under the UPR, including the two Albanian recommendations. (...) Secondly, the adoption of a new law to counter discrimination which makes particular reference to sexual orientation and gender identity.
- **Brazil:** We would urge Argentina to implement protocols for action in prisons, in order to ensure that LGBTI individuals who are deprived of their liberty also have their human rights guaranteed, especially the trans community.
- **Action Canada for Population and Development:** Action Canada for Population and Development drew attention to the importance of many recommendations received by Argentina,

including on police abuse of LGBTI persons. It called on Argentina to ensure an end of attacks and the creation of an employment quota for trans individuals, as well as for anti-discrimination based on sexual orientation and gender identity.

BENIN
UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 10 NOVEMBER 2017, 9:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 14 NOVEMBER 2017, 16:00—18:00

During the 28th UPR Working Group Sessions, Benin received 0 SOGIESC recommendations.

A. SOGIESC Information

National Report

Human rights, sexual orientation and gender identity (recommendations Nos. 110.1 to 110.5)

107. The position of Benin on the recommendations that it noted has not changed.

Compilation of UN Information

N/A

Summary of Stakeholder's Information

12. JS7² drew attention to cases of discrimination and violence against members of the lesbian, gay, bisexual, transgender and queer (LGBTQ) community, who were often arbitrarily stopped for questioning or arrested. JS7 also pointed out that certain media broadcast homophobic messages. JS7 recommended that national surveys be conducted on violence based on sexual orientation and gender identity, and that a legal framework be established to punish such violence.

B. SOGIESC Advanced Questions for Benin

N/A

C. Benin's Working Group Session

N/A

D. Recommendations for Cycle III (2017)

N/A

E. Recommendations for Cycle II (2012)

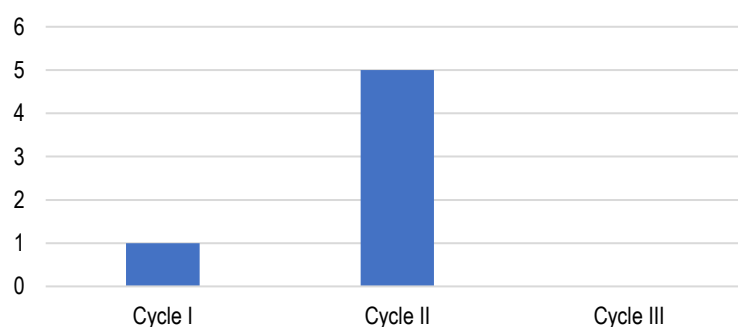
Recommending State	Recommendation	Response
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² Joint Submission 7 submitted by: Afro-Benin; Sexual Rights Initiative.

Argentina	Study the possibility of increasing the measures to eliminate all discriminatory treatment based on sexual orientation or gender identity	Noted
Canada	Bring legislation in conformity with its commitments to equality and non-discrimination by reviewing article 88 of the Penal Code and by decriminalizing homosexual relations between consenting adults	Noted
Germany	Formally abolish any punishment on the grounds of sexual orientation or gender identity	Noted
Norway	Intensify efforts to address discrimination on the basis of sexual orientation or gender identity, and investigate and prosecute crimes against lesbian, gay, bisexual and transgender (LGBT) community members	Noted
United States	Decriminalize sexual relations between consenting, same-sex individuals and establish educational programmes and appropriate policies for police that promote the personal security of all Benin citizens regardless of sexual orientation	Noted

F. Graphic Comparison Between Cycles (1—3)

Number of SOGIEC Recommendations Recieved by Benin Per Cycle



G. Video of Benin's UPR Working Group Session

H. SOGIESC Mentions During Benin's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Action Canada for Population and Development:** Action Canada for Population and Development drew attention to the high levels of discrimination and violence against persons who transgress from norms surrounding gender and sexuality. It stressed that criminalisation legitimises and perpetuates such acts and prevents perpetrators from being held to account.

CZECHIA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 6 NOVEMBER 2017, 9:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 NOVEMBER 2017, 15:00—17:30

During the 28th UPR Working Group Sessions, Czechia received 1 SOGIESC recommendation. It accepted the 1 recommendation.

A. SOGIESC Information

National Report

50. The registered partnership of same-sex persons has been recognised in the Czech Republic since 2006. In many respects, it has the same or similar status as marriage of persons of the opposite sex. Registered partners are next of kin to each other, have the same rights and duties in their partnership, decide on common matters, enter into obligations together and can mutually represent each other in common affairs. Partners have the duty to support each other and together they care for the children of either partner. The partnership does not restrict the partner's paternal responsibility or having a child entrusted in their care. In legal transactions, the partners have the same status as spouses; for instance, they can form a contract together to lease a flat and can mutually inherit property. However, some differences remain, particularly in family law. There exists no community property between the partners and a partner is not entitled to receive any widow's or widower's pension after the other partner dies. Registered partners are not permitted to adopt children together or use artificial conception methods.

51. Discrimination on the grounds of sexual orientation is banned by the anti-discrimination law throughout its applicability and any victim discriminated against because of sexual orientation may exercise all the options available for defending their rights. Yet some differences remain in respect of the rights of sexual minorities. Even though in 2016 the Constitutional Court cancelled the ban on adoption by registered partners, this has only allowed a partner as a single person, rather than a couple of partners, to adopt a child; moreover, a partner is not allowed to adopt the child of the other partner. Second-parent adoption of a partner's child is proposed in several amendments to the Act on Registered Partnership that have been submitted by the government or MPs and are now discussed by the Chamber of Deputies. The attitude of the general public suggests an increasing tolerance of same-sex families. Similarly, other issues may be discussed in future including the access of single women or women in a registered partnership to assisted reproduction or the legal gender recognition of trans persons and the necessity for surgical interventions. Methodology guidance from the Ministry of Education, Youth and Sports assists teachers in educating about the rights of LGBT persons and preventing homophobia among children and youth by outlining recommended practices and literature on this topic as well as information about the organisations focusing on the rights of LGBT persons.

Compilation of UN Information

N/A

Summary of Stakeholder's Information

15. CoE-ECRI³ recommended to revise the Criminal Code to include offences of incitement to violence and discrimination; public insults of racist nature; public expression, with racist aim, of an ideology which claims superiority of, or which depreciates or denigrates, a group of persons; and racial discrimination in the exercise of public office or occupation. The grounds of colour and language should also be included, as well as sexual orientation and gender identity.

B. SOGIESC Advanced Questions for Czechia

- **Belgium:** The Committee on the Elimination of Racial Discrimination and the Human Rights Committee noticed a lack of tolerance towards the LGBTI-community. What measures are planned or have been taken by the Czech Government to combat homophobia and negative stereotyping?

C. Czechia's Working Group Session

- **Intervention Made by Czechia After 40 Interventions:** One of the major regulations is the Anti-Discrimination Act in Czech Republic. This is cornerstone legislation which covers all the major discrimination grounds, be it race, ethnicity, gender, sex, age, religion, belief, disability and sexual orientation.

D. Recommendations for Cycle III (2017)

a) Remarks of States

- **Netherlands:** The Netherlands thanks the Czech government for its comprehensive report and commends Czechia for the measures taken to combat discrimination, including on the basis of sexual orientation and gender identity.

b) The following recommendation has been examined by Czechia and has been accepted by Czechia⁴

- **Israel:** Continue working on closing the gaps that still exist between the rights enjoyed by same-sex couples, compared with couples of opposite sexes (6.43).

E. Recommendations for Cycle II (2012)

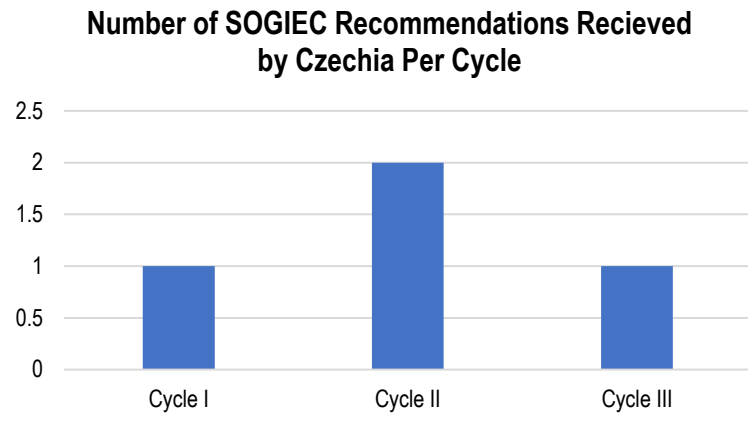
Recommending State	Recommendation	Response
Argentina	Take necessary measures aimed at eliminating all discriminatory treatment on the basis of sexual orientation or gender identity	Accepted
Netherlands	Work towards the equal status of same sex couples starting	Accepted

³ Council of Europe—European Commission against Racism and Intolerance.

⁴ Czechia also received a hostile recommendation from Egypt. **Egypt:** Provide necessary protection for the family as the natural and fundamental unit of the society (6.96). It accepted the recommendation.

	with legal recognition of same sex couples	
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F. Graphic Comparison Between Cycles (1—3)



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

H. SOGIESC Mentions During Czechia’s UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

N/A

**GABON
UPR SOGIESC RECOMMENDATIONS**

DATE AND TIME OF THE REVIEW: 7 NOVEMBER 2017, 9:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 NOVEMBER 2017, 15:00—17:30

During the 28th UPR Working Group Sessions, Gabon received 1 SOGIESC recommendations. It accepted 1 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 Gabon

N/A

C. Gabon's Working Group Session

N/A

D. Recommendations for Cycle III (2017)

a) Remarks of States

N/A

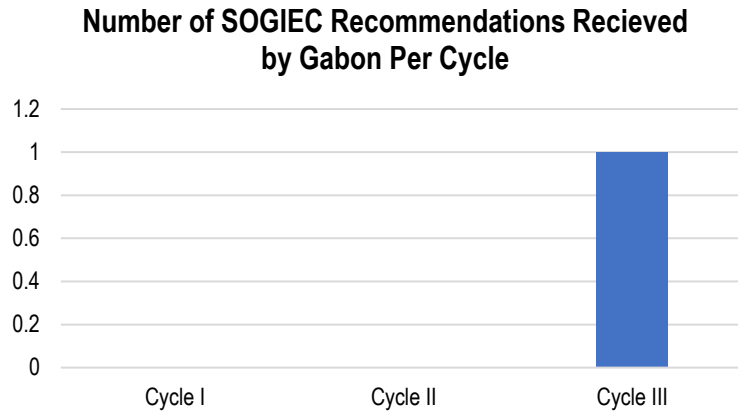
b) The following recommendations have been examined by Gabon and enjoy the support of Gabon

- **Mexico:** Strengthen public policies aimed at addressing the high number of people living with HIV/AIDS and not receiving treatment, particularly women, in order to reduce the rates of HIV transmission from mothers to children during childbirth; as well as for LGBTI people, guaranteeing medical care without discrimination based on sexual orientation and gender identity (118.118).

E. Recommendations for Cycle II (2012)

N/A

F. Graphic Comparison Between Cycles (1—3)



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

H. SOGIESC Mentions During Gabon's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

N/A

GHANA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 7 NOVEMBER 2017, 14:30—18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 NOVEMBER 2017, 15:00—17:30

During the 28th UPR Working Group Sessions, Ghana received 20 SOGIESC recommendations. It accepted 3 recommendations, partially accepted 1 recommendation and noted 16 recommendations.

A. SOGIESC Information

National Report

27. Under the DRS⁵ being implemented by CHRAJ⁶, the rights of persons based on their sexual orientation or gender identity are protected. These include protection against violence, access to healthcare, stigmatization and discrimination directed at such persons and etc.

Compilation of UN Information

15. The United Nations country team stated that some particularly vulnerable and marginalized groups, such as lesbian, gay, bisexual, transgender and intersex persons, drug users, prisoners and stateless or unregistered people, needed special support and protection in order to enjoy equal rights and hence not to be left behind in the pursuit of achieving the Sustainable Development Goals and other national goals. The Human Rights Committee stated that Ghana should take the steps necessary to protect lesbian, gay, bisexual and transgender persons against all forms of discrimination and violence.

29. The United Nations country team indicated that homosexual sex between consenting adults had not been decriminalized in Ghana. The Human Rights Committee recommended that Ghana ensure that sexual relations between consenting adults of the same sex were not punishable by law. The United Nations country team stated that sexual minorities often chose to avoid the justice system, even to bring charges of assault or harassment or of police brutality, out of fear of punishment or outing. Abuse of lesbian, gay, bisexual, transgender and intersex prisoners was a concern, exacerbated by prison overcrowding and reluctance to report abuse for fear of reprisals and further stigmatization.

Summary of Stakeholder's Information

8. JS3⁷ noted with concern that homophobia directed to lesbians, gays, bisexual, and queer/questioning people is highly prevalent in Ghana. For transgender, transsexual and intersex people, the social climate is such that individuals keep their gender identity almost completely hidden. Additionally, those who speak out about human rights violations perpetrated against people that are LGBTQI are also targets of homophobia.

⁵ Discrimination Reporting System.

⁶ Commission for Human Rights and Administrative Justice.

⁷ Joint Submission 3 submitted by: Solace Brothers Foundation; Perfector of Sentiment Foundation; Priorities on Rights and Sexual Health; Amnesty International Ghana; Human Rights Advocacy Centre; Centre for Popular Education and Human Rights Ghana; Society and Youth Development; Africa Centre for International Law and Accountability Ghana.

9. HRW⁸ stated that the criminalization of adult consensual same-sex conduct, in terms of section 104(1) (b) of the Criminal Code, which prohibits ‘unnatural carnal knowledge’ (widely interpreted to mean same-sex conduct) contributed to a climate in which violence and discrimination against LGBT people were widespread. It further noted that the law does not prevent discrimination against LGBT people including in access to health services, employment, housing, education, and facilitated blackmail and extortion. JS10⁹ expressed similar concerns and further noted that social stigma and religious prejudice were two major causes behind systematic violence and discrimination against LGBT-persons. HRAC made a similar statement and further noted that because of the extreme prejudice and discrimination they face, men who have sex with men were often not vocal about their status.

10. JS3 noted with concern that Chapter 6 Section 104 of Ghana’s Criminal Code (1960) is used to threaten, arrest and punish individuals who do have, or have been perceived to have, engaged in same-sex sexual activity. JS14¹⁰ noted with concern that individuals in Ghana are often arrested on the basis of conduct relating to their sexual orientation, even though their actions are not violating other Ghanaian laws.

11. JS3 regretted the severe lack of protection from physical attacks against LGBTQI individuals in Ghana and recommended that the Government take measures to prevent further hate crimes, hate speech, and discrimination based on sexual orientation or gender identity and to ensure that any crimes motivated by sexual orientation or gender identity are promptly investigated, prosecuted and punished, and that the victims are provided appropriate remedy.

38. JS3 recommended Ghana to provide clear national guidelines to prevent discrimination directed towards students on any grounds, including sexual orientation and gender identity and provide mechanisms for effective redress whenever a student faces such discrimination, including legal action unhampered by limitations based on financial capacity of the child, nor the family.

B. SOGIESC Advanced Questions for Ghana

- **Belgium:** The United Nations country team and the Human Rights Committee noted that lesbian, gay, bisexual, transgender and intersex persons are vulnerable and indicated that steps should be taken to better protect LGBTI persons against all forms of discrimination and violence. How is Ghana planning addressing violence, arbitrary arrest and discrimination against persons based on their alleged sexual orientation or gender identity?
- **Czechia:** How does the Government ensure protection of persons against discrimination and violence based on their sexual orientation or gender identity? What legal tools are available for protection of victims of such discrimination or violence and for prosecution of its perpetrators?
- **Germany:** Germany is concerned about the protection of all persons from discrimination. Which measures have been taken and will be taken to uphold the fundamental principles of equality and non-discrimination as set out in the Constitution of Ghana and international Human Rights Instruments and to ensure non-discrimination of LGBTI people as well as to prevent and prosecute violent attacks against this group?
- **Norway:** Numerous reports point to the fact that people belonging to the LGBT group face discrimination on a regular basis and that they do not have the same access as the rest of the population to basic health and social services. What measures will Ghana take to ensure equal treatment of this group?

⁸ Human Rights Watch.

⁹ Joint Submission 10 submitted by: The Swedish Association for Sexuality Education; Youth Harvest Foundation Ghana.

¹⁰ Joint Submission 14 submitted by: Sisters of the Heart; Centre for Popular Education Human Rights in Ghana; Sexual Rights Initiative.

- **Sweden:** In the last UPR review in 2012, Ghana accepted recommendations to prevent, ensure accountability for, and investigate acts of violence perpetrated on the basis of the victim's sexual orientation or gender identity. Could the Government of Ghana please elaborate on measures taken since 2012 in this regard?

C. Ghana's Working Group Session

- **Opening Remarks:** CHRAJ is presently training its staff to build the capacity towards the protection of the right of LGBTI persons, aimed at implementing Resolution 275 which was adopted by the African Commission on Human and People's Rights (ACHPR) in 2014. In this regard, CHRAJ has developed an Action Plan to build the capacity of its staff and key stakeholders on ACHPR's Resolution 275 as well as the 2006 Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity. These human rights instruments deal with cases of violence, harassment, exclusion, stigma, and discrimination based on sexual orientation and gender identity. The first capacity training for CHRAJ staff was held in October 2017. The rest of the activities under the Action Plan will be implemented under CHRAJ's Annual Plan for 2018. Under the Discrimination Reporting system, the right to a remedy for vulnerable persons, including LGBTI persons, is guaranteed.

D. Recommendations for Cycle III (2017)

a) Remarks of States

- **Australia:** Australia remains concerned by Ghana's criminalisation of consensual same-sex relationships. Human rights are universal, indivisible and inalienable for all people, which includes lesbian, gay, bisexual, transgender and intersex individuals.
- **Denmark:** Discrimination in any form is unacceptable. Denmark is deeply concerned that minority groups in Ghana, including LGBTI persons continue to be subject to violence, discrimination and heightened hate and homophobic speech, including from government officials and religious leaders, which incites violence and homophobia.
- **Ireland:** Ireland welcomes the positive steps being taken in the field on the promotion and protection of the human rights of the LGBTI community. However, Ireland is concerned by the ambiguous nature of some legislation in the criminal code. Ireland would also urge the government to protect the human rights defenders defending this community.
- **United States:** We note with concern the discrimination and prejudice against LGBT people, women and persons with disabilities, and urge the government to ensure equal protection before the law for all.
- **Uruguay:** We are very pleased to see that the complaints system for discrimination aims to protect the rights of persons on the grounds of their sexual orientation or gender identity. We particularly welcome the fact that the emphasis is on combatting violence and fully bringing about fundamental human rights.

b) The following recommendations have been examined by Ghana and enjoy the support of Ghana

- **Czechia:** Ensure that victims of discrimination and violence based on sexual orientation and gender identity have access to rehabilitation and remedy and that all perpetrators are punished (6.60).

- **Ireland:** Take the steps necessary to protect LGBTI persons from violence and discrimination on the basis of their sexual orientation and gender identity (6.59).
 - **Italy:** Take measures to fight against violence and discrimination based on sexual orientation and gender identity (6.61).
- c) **The following recommendations have been examined by Ghana and have been partially accepted by Ghana¹¹**
- **Colombia:** Continue strengthening the application of the Discrimination Complaint System that allows to protect the rights of people because of their sexual orientation and gender identity, and encourage that the education system include guidelines to prevent discrimination against students (7.2).
- d) **The following recommendations have been examined by Ghana and have been noted by Ghana**
- **Albania:** Ensure that sexual relations between consenting adults of the same sex are not punishable by law (7.32).
 - **Argentina:** Analyse amending legislation that penalizes consensual same sex relations between adults in order to guarantee the rights of the LGBTIQ community (7.34).
 - **Australia:** Decriminalise same-sex relationships between consenting adults and actively address discrimination based on sexual orientation or gender identity (7.36).
 - **Brazil:** Step up efforts to combat discrimination and violence by adopting measures to raise awareness among the population and public officials of the negative effects of public stigmatization on any grounds, including against individuals on the basis of their sexual orientation or gender identity (7.38).
 - **Canada:** Scale up and expand youth-friendly and gender sensitive programs on comprehensive sexuality education and sexual reproductive health and rights (7.39).
 - **Canada:** Take measures and demonstrate leadership to prevent, and ensure accountability for, any crimes motivated by sexual orientation or gender identity (7.40).
 - **Chile:** Adopt legislative and political measures to protect LGBTI persons against stigmatization and violence (7.1).
 - **France:** Take measures to decriminalise homosexuality and take special measures of non-discrimination with regard to LGBTI persons (7.8).
 - **Germany:** Decriminalize same-sex sexual relations between consenting adults by repealing Section 104 (1) (b) of the Criminal Code and introduce comprehensive anti-discrimination legislation to provide equal protection against discrimination for all persons and on all grounds (7.9).
 - **Greece:** Eliminate the type of crime of “unnatural carnal knowledge”, and adopt measures to eradicate discrimination motivated by sexual orientation and gender identity (7.10).
 - **Honduras:** Decriminalize same-sex sexual relations and adopt measures to put an end to discrimination and violence against LGBTI persons (7.12).
 - **Norway:** Prioritize and fund information campaigns for non-discrimination and universal access for the LGBT groups in Ghana (7.22).
 - **Slovenia:** Provide clear national guidelines to prevent discrimination in schools and universities on any ground, including on sexual orientation and gender identity (7.26).
 - **Sweden:** Decriminalize consensual same-sex sexual acts (7.27).

¹¹ The explanation for partially accepting this recommendation can be found below in the section ‘SOGIESC Mentions During Ghana’s UPR Outcome (Item 6 of the Agenda of the Human Rights Council)’.

- **United States:** Ensure full protection of the human rights of all people in Ghana, including LGBT people, women, and persons with disabilities, by eliminating discriminatory legislation, prohibiting discrimination based on sexual orientation and gender identity, and effectively implementing existing laws and policies on gender and disabilities (7.29).
- **Uruguay:** Efforts to strengthen the legislative framework to protect the LGBTI community from all forms of discrimination and intimidation or violence by amending laws which criminalise consensual same sex relations (7.30).

E. SOGIESC Recommendations Shared by HRDs During ILGA’s UPR Advocacy Week in Geneva

Solace Brothers Foundation

- The Ghana Education Service should provide clear national guidelines to prevent discrimination directed towards students on any grounds including SOGI.
- Provide mechanisms for effective redress whenever a student faces discrimination, including legal action unhampered by limitations based on financial capacity of the child, nor the family.
- Protect against violence and discrimination by speeding up the implementation of recommendation 124.8 (Cycle 2) to ensure accountability for acts of violence, including on the basis of their SOGI.
- To increase the current resources of the existing “Discrimination Reporting System,” to improve the system and implement complementary systems of reporting and redress.
- Implement recommendation 124.9 (Cycle 2) to ensure that complete and impartial investigations are fully conducted without prejudice into allegations of attacks and threats against persons based on their sexual orientation and gender identity. Finally, bring those responsible to justice in conformity with local laws and international standards.
- Guarantee the speedy implementation of recommendation 124.3 (Cycle 2) to ensure that local law enforcement and auxiliary personnel comport themselves in accordance to HR treaty obligations. Include members of the LGBTIQ community in the strategic implementation of recommendation 126.20 (Cycle 2). Mainstream training programs for law enforcement to achieve this goal.

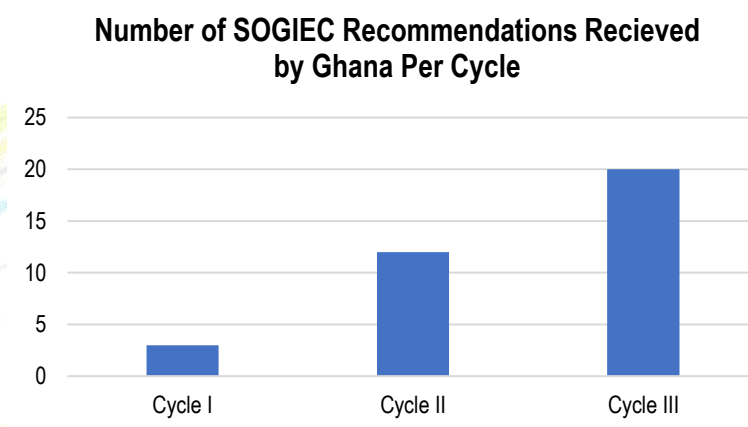
F. Recommendations for Cycle II (2012)

Recommending State	Recommendation	Response
Belgium	Ensure that complete and impartial investigations are conducted into allegations of attacks and threats against persons based on their sexual orientation or gender identity and bring those responsible to justice in conformity with the international standards	Accepted
Belgium	Adopt measures and take steps aimed at raising public awareness to fight against the	Noted

	climate of homophobia that prevails in the country	
Canada	Take steps to prevent, and ensure accountability for, acts of violence perpetrated against individuals, including on the basis of their sexuality	Accepted
Czech Republic	Decriminalize sexual activities between consenting adults and raise further awareness to promote tolerance in this area	Noted
France	Decriminalize same-sex relations between consenting adults	Noted
Netherlands	Consider the report of the High Commissioner on sexual orientation and gender identity and determine which of the recommendations can be taken into account in the further detailing of government policies	Noted
Norway	Ensure that the provisions in the Constitution that guarantee equality and dignity are equally applied to members of the lesbian, gay, bisexual and transgender (LGBT) community and ensure thorough and impartial investigation into all allegations of attacks and threats against individuals targeted because of their sexual orientation or gender identity	Noted
Portugal	Adopt proactive measures at all levels to combat violence, stigmatization and discrimination towards persons on the basis of their sexual orientation	Noted
Slovenia	Consider taking effective measures to combat the climate of homophobia	Noted
Slovenia	Decriminalize sexual activity between consenting adults of the same sex	Noted
Spain	Eliminate the type of crime of "unnatural sexual relations", and adopt measures to eradicate discrimination	Noted

	motivated by sexual orientation and gender identity	
US	Train police, first responders, justice system and social services officials to respect and fully protect all human rights of every Ghanaian, including those who are lesbian, gay, bisexual and transgender	Noted

G. Graphic Comparison Between Cycles (1—3)



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

I. SOGIESC Mentions During Ghana's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Ghana (Opening Remarks):** Ghana accepts the first part of the recommendation 147.2 which reads, and I quote, 'Continue strengthening the application of the Discrimination Complaint System that allows to protect the rights of people because of their sexual orientation and gender identity', end of quote, as it is consistent with the measures being instituted by the government of Ghana to protect the rights of all persons within its territory from discrimination of any kind, including discrimination based on their sexual orientation and gender identity. The second part of recommendation 147.2 which reads, and I quote, 'and encourage that the education system include guidelines to prevent discrimination against students', end of quote, has been noted by Ghana because it limits the scope of the government's efforts at fighting discrimination at all levels to just the education system. (...) Recommendations received covered many areas of human rights, including children's rights, the rights of persons belonging to the LGBTI community, mental health and harmful traditional practices, amongst others.
- **Honduras:** We regret that Ghana did not accept to decriminalize consensual sex between persons of the same gender and end discrimination against LGBTI persons.
- **COC Netherlands and ILGA:** COC Netherlands and ILGA, in consultation with the Centre for Popular Education and Human Rights, expressed concern over noted recommendations and reiterated calls to decriminalise consensual same-sex relations and to take positive steps to end discrimination and violence on the grounds of sexual orientation and gender identity. They nonetheless welcomed the accepted of general LGBTI recommendations by Ghana.

- **Swedish Association for Sexuality Education:** Swedish Association for Sexuality Education called on Ghana to repeal laws that criminalise consensual same-sex relations to make visible the needs of LGBTI persons.
- **Action Canada for Population and Development:** Action Canada for Population and Development noted with concern that once again Ghana did not accept recommendations on the decriminalisation of consensual same-sex relations and to reduce discrimination against persons on the grounds of their sexual orientation and gender identity and expression, or to implement education programmes to reduce homophobia.
- **International Humanist and Ethical Union:** International Humanist and Ethical Union expressed disappointment that Ghana had noted several recommendations to decriminalise consensual same-sex relationships given the prevalence of violence against persons on the grounds of their sexual orientation. It called on Ghana to take measures to end discrimination against LGBTI persons.

GUATEMALA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 8 NOVEMBER 2017, 14:30—18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 14 NOVEMBER 2017, 16:00—18:00

During the 28th UPR Working Group Sessions, Guatemala received 8 SOGIESC recommendations. It noted all 8 recommendations.

A. SOGIESC Information

National Report

Protection of vulnerable population groups (justice officials, human rights defenders, trade unionists and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons)

11. The Office for the Analysis of Attacks against Human Rights Defenders has held meetings continually since its establishment in 2008. In 2016 it held 47 meetings. To strengthen this body, in 2015 a hotline was set up with telephone number 1543 to receive emergency calls and complaints.

Protection of the LGBTI population (first cycle recommendations 89.16 and 89.35; second cycle recommendations 99.27, 99.23 and 99.24)

16. The Public Prosecution Service opened three complaints windows in its 24-hour public services office. Applying a victim-centred approach, the office carries out an assessment of primary needs, which may include crisis care, medical or psychological evaluation and/or legal assistance. The facts are recorded and appropriate protective measures are put in place. All complaints windows display the slogan “Yo no discrimino” (I do not discriminate), which is intended to heighten awareness among prosecutors who are involved in assisting victims.

17. A protocol for the provision of comprehensive assistance to crime victims was adopted in 2014.10 The protocol is grounded in respect for the human rights of crime victims, with emphasis on populations living in situations of vulnerability.

18. The Information System of the Public Prosecution Service includes an LGBTI category in the personal data it records. It also includes the name used by the individual concerned in his or her social relationships. A total of 11 complaints were registered between 2010 and 2015, of which 4 were rejected. From 2016 to June 2017, a total of 355 complaints were filed, of which 46 were rejected or dismissed.

19. In 2014 the Office of the Human Rights Advocate established a Sexual Diversity Unit, which, among other functions, is charged with referring and advising and following up on complaints of human rights violations against sexually diverse communities.

20. In November 2016, the Ministry of Public Health and Social Welfare launched the Comprehensive Differentiated Health Strategy for Transgender Persons in Guatemala 2016- 2030, the aim of which is to provide comprehensive differentiated services for transgender persons. The strategy focuses on (a) health promotion and disease prevention, (b) comprehensive health care, (c) institutional strengthening, and (d) monitoring and evaluation.

Compilation of UN Information

14. While noting the establishment of the Office of the Ombudsman for sexual diversity, the same Committee regretted the persistence of discrimination on the grounds of sexual orientation in employment, housing, access to education and health care. It recommended that Guatemala ensure that lesbian, gay, bisexual and transgender persons were not discriminated against on account of their sexual orientation or gender identity.

21. In December 2016, OHCHR condemned the violent incidents which had led to the deaths of five transgender women and urged the authorities to protect the lives and integrity of lesbian, gay, bisexual, transgender and intersex persons.

Summary of Stakeholder's Information

23. Referring to the recommendations made in the 2008 and 2012 universal periodic reviews, OASIS¹² recommended amending the Criminal Code to penalize hate crimes and crimes of social intolerance based on sexual orientation, gender identity and sexual characteristics. JS14¹³ recommended that Guatemala should accede to the Yogyakarta Principles with a view to achieving the integration, on an equal footing, of the lesbian, gay, bisexual, transgender and intersex (LGBTI) community.

24. OASIS indicated that, although significant resources had been invested in the treatment of HIV, there had been no effective action to eradicate the persecution and social exclusion based on sexual orientation and gender identity that gave rise to situations of vulnerability.

B. SOGIESC Advanced Questions for Guatemala

N/A

C. Guatemala's Working Group Session

- **Opening Remarks:** On the Agency for the Analysis for Attacks on Human Rights Defenders, this Agency was created on the basis of a ministerial agreement 09/2012 for a period of 4 years. Currently, this Agency is coordinated by a Vice Minister for Security of the Ministry of Interior and judges, lawyers, journalists and trade union representatives. The LGBT population participates in this work.
- **Closing Remarks:** We also have to consider the indigenous population, migrants, the LGBTI community as well as elderly inmates.

Additionally, so as to protect the LGBTI community, we have drafted an Action Plan to be implemented in 2017, and this is in keeping with the Trans Initiative by developing training in seven different areas of health.

D. Recommendations for Cycle III (2017)

a) Remarks of States

¹² Organizaci3n de Apoyo a una Sexualidad Integral frente al SIDA.

¹³ Joint Submission 14 submitted by: Pintando el Mundo; Sexual Rights Initiative.

- **Australia:** Australia welcomes progress Guatemala has made towards achieving gender equality and improving health and wellbeing for LGBTI persons, however; Australia remains concerned that women, transgender and transsexual people remain a target of violence and discrimination, and that impunity for such crimes is high.
- **Brazil:** Likewise, Brazil suggests that Guatemala adopt effective measures to protect the life and physical integrity of lesbian, gay, bisexual, transgender and intersex persons.
- **Chile:** We welcome also the launch in November 2016 on a Differentiated Strategy on Health Care for Trans Persons in Guatemala 2016-2030 which goal is to provide comprehensive and differentiated care to transgender persons.
- **Netherlands:** Human rights defenders, judges, journalists, women and LGBTIQ persons are also facing continuing threats, stigmatisation, intimidation and attacks, including murder.
- **Sweden:** Gender-based violence remains a serious problem in Guatemala. Violence against LGBTI persons is frequent.
- **Uruguay:** We are grateful for information provided with regards to measures adopted to protect LGBTI persons. In particular, we welcome the creation of a sexual diversity defender.

b) The following recommendations have been examined by Guatemala and have been noted by Guatemala

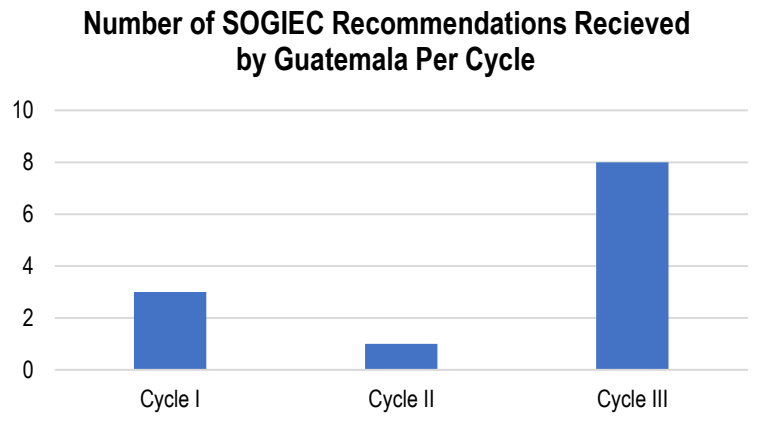
- **Australia:** Take steps to place higher priority on the prosecution of violence and discrimination against women, transgender and transsexual people, as well as access to justice for victims of these crimes (7.51).
- **Chile:** Adopt measures to ensure the protection of the life as well as the physical and psychological integrity of lesbian, gay, bisexual, transgender and intersex persons (LGBTI) (7.20).
- **France:** Better ensure respect for the human rights of lesbian, gay, bisexual, transgender and intersex persons, who are sometimes victims of discrimination, or even of hate crimes (7.17).
- **Israel:** Amend the legislation to penalize hate crimes and crimes of intolerance based on discrimination, especially in cases of race, sexual orientation, gender identity or expression (7.15).
- **New Zealand:** Develop government programs and strategies to prevent, investigate and punish human rights violations against women, in particular lesbian women, according to existing laws ratified by the State (7.50).
- **New Zealand:** Create a legislative framework and implement public policies and social awareness campaigns to eliminate violence and discrimination based on sexual orientations and gender identity (7.18).
- **Slovenia:** Amend the Criminal Code to penalise hate crimes and crimes of social intolerance based on sexual orientation, gender identity and sexual characteristics (7.19).
- **Uruguay:** Adopt raise-awareness measures to guarantee that people belonging to the LGBTI community are not discriminated against on grounds of their sexual orientation and gender identity (7.16).

E. Recommendations for Cycle II (2012)

Recommending State	Recommendation	Response
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Argentina	Consider the possibility of strengthening the necessary measures for the protection and integration of LGBT persons	Accepted
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F. Graphic Comparison Between Cycles (1—3)



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

H. SOGIESC Mentions During Guatemala’s UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Guatemala:** The recommendations 7.15, 7.16, 7.17, 7.18, 7.19 and 7.20 on the LGBTI population. Here, I should say that the Constitution of Guatemala recognises that all people of Guatemala are free and equal in dignity and rights. Thus, regardless of the adoption or not of specific policies, national institutions are obliged to provide the appropriate services to everybody. The Presidential Committee on Executive Polices on Human Rights has resumed institutional round tables with the goal of setting up a comprehensive public policy to address this group. On recommendations 7.50 and 7.51 relating to access to justice regarding violations of the rights of the LGBTI group, our State has made important efforts to prevent, investigate and punish violations of given rights of women, transgender and transsexual persons and to ensure access to justice for victims. However, since this falls under the specific competence of the judiciary and the Public Prosecution Service, we have taken note of these recommendations.
- **Chile:** We encourage Guatemala to continue working to fulfil its commitments to protect, respect and guarantee of human rights in the country, including measures to guarantee the protection of life and the physical and psychological integrity of LGBTI persons, in line with the recommendation made by Chile that was noted by Guatemala.
- **Plan International:** Plan International called on Guatemala to repeal laws such as Initiative 5272 that promotes discrimination against LGBTI persons.
- **Action Canada for Population and Development:** Action Canada for Population and Development urged the State of Guatemala to consider the SOGIESC recommendations noted and to carry out all the necessary actions for their implementation.
- **Amnesty International:** Amnesty International expressed disappointment at Guatemala’s rejection of eight recommendations to end discrimination against LGBTI persons and urged the State to adopt and implement policies to prevent all forms of violence against them.

- **International Humanist and Ethical Union:** International Humanist and Ethical Union noted disappointment on noted recommendations to penalise hate crimes based on sexual orientation and gender identity, and drew attention to widespread violence against LGBTI persons.

JAPAN UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 14 NOVEMBER 2017, 9:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 16 NOVEMBER 2017, 16:30—18:00

During the 28th UPR Working Group Sessions, Japan received 13 SOGIESC recommendations. It accepted 3 recommendations, partially accepted 3 recommendations and noted 7 recommendations.

A. SOGIESC Information

National Report

56. The GOJ recognizes that a racially discriminatory motive is proven to be a vicious motive accordingly in the criminal trials in Japan and that the court takes this into consideration in sentencing. The human rights bodies of the MOJ provide counseling on a wide range of human rights issues including racial discrimination and discrimination based on sexual orientation. When they become aware of a suspected human rights violation, the bodies investigate without delay and take appropriate measures depending on the case. In addition, the bodies conduct various awareness-raising activities.

79. In Japan, the “Act on Special Cases in Handling Gender Status for Persons with Gender Identity Disorders” came into effect in July 2004, and a revision made in 2008 relaxed the conditions necessary to change gender on the family register. The human rights bodies of the MOJ have established permanent and ad-hoc human rights counseling centers that provide counselling on a wide range of human rights issues including discrimination on the grounds of sexual orientation and gender identity. The bodies also conduct various awareness-raising activities to ensure that the rights of sexual minorities are respected. In the international context, on the basis of Japan’s belief that human rights violations based on sexual orientation and gender identity should not be tolerated, Japan continues to present its views on this agenda and explain the social circumstances in Japan at various intergovernmental fora.

Compilation of UN Information

15. The Human Rights Committee was concerned about reports of harassment and stigmatization of lesbian, gay, bisexual and transgender persons and discriminatory provisions that excluded same-sex couples from the municipal housing system. The Committee on the Elimination of Discrimination against Women urged Japan to pursue efforts to eliminate multiple and intersecting forms of discrimination against women with disabilities, lesbian, gay, bisexual, transgender and intersex women and migrant women, which affected their access to health, education, employment and participation in public life.

Summary of Stakeholder’s Information

13. JFBA¹⁴ stated that no law prohibiting discrimination based on sexual orientation and gender identity existed. KHRF¹⁵, AI¹⁶ and HRN¹⁷ reported some progress made to eliminate discrimination based on sexual orientations of LGBTI, despite Japan failing to implement previously accepted UPR

¹⁴ Japan Federation of Bar Associations.

¹⁵ Kaleidoscope Human Rights Foundation.

¹⁶ Amnesty International.

¹⁷ Human Rights Now.

recommendations and continued to be concerned that discrimination against them continued in various forms. KHRF stated that the Constitution prohibited discrimination on the basis of race, sex, social status or family origin, while excluding discrimination on sexual orientation, gender identity or intersex status. KHRF noted in 2012, Japan repealed Article 23(1) of the Basic Act for Housing, which previously excluded LGBTI couples from public housing rental. However, the amended law gave municipalities discretion in relation to public housing, resulting in continued discrimination. It also noted that no protections exist for LGBTI people under employment law. KHRF recommended enacting marriage equality law, to create a legally- recognized form of LGBTI partnership.

14. JS13¹⁸ was concerned that public awareness and understanding of LGBTI people remained low and urged measures to be taken to enact national laws that explicitly prohibit discrimination based on all grounds. It called for enforcement of the legislation prohibiting gender-motivated violence.

15. AI noted discrimination against LGBTI people in accessing essential services such as health, legal and welfare. It recommended that Japan allow individuals to change their name and gender through a quick, accessible, transparent procedure, and in accordance with the individual's sense of gender identity, and abolish requirements to undergo psychiatric assessment and other medical requirements.

16. HRW noted national law mandates people to obtain a mental disorder diagnosis and of other procedures, including sterilization to be legally recognized according to their gender identity. The current law contains a number of requirements that violate human rights and affect transgender children. HRW and JS13 urged Japan to revise the Gender Identity Disorder Law, to replace humiliating mandatory procedures with self-identification criteria for legal gender recognition.

B. SOGIESC Advanced Questions for Japan

- **Norway:** No law in Japan prohibits discrimination based on sexual orientation and gender identity. What measures will the Government take to prevent discrimination of LGBTI persons in law and in practice?

C. Japan's Working Group Session

- **Opening Remarks:** Japan will host the Tokyo Olympics and Paralympics in 2020, 56 years after the last Tokyo Olympics in 1964. Japan hopes for the 2020 Games to be an opportunity to foster an inclusive society based on diversity and harmony in which all kinds of differences are recognized, including race, gender, sexual orientation, and disabilities.
- **Intervention Made by Japan After 56 Interventions:** Next, I would like to respond to the question regarding same-sex marriage, which was a question from Spain. There is no expressed provision prohibiting same-sex marriage in the Civil Code. However, in the light of the expression of the provisions, the Civil Code is interpreted as saying that a marriage is inevitably premised on a union between man and woman. Thus, same-sex marriage is not permitted. Furthermore, there is no provision in the Civil Code about the so-called partnership system that grants quasi marriage legal status. Allowing same-sex marriage or introducing this partnership system at a national level will have great impact on the modality of family in Japan. Therefore, this matter should be given considerable degree of careful consideration.

¹⁸ Joint Submission 13 submitted by: Equality (Gay Japan News); RC-NET.

- **Closing Remarks:** We also have several comments and recommendations on the rights of LGBTI persons. Japan is of the view that human rights violations based on sexual orientation and gender identity should not be tolerated.

At school, to prevent concerns of students of sexual minorities and their self-denial, the Ministry of Education, Culture, Sport, Science, and Technology is taking measures, such as building support systems for students, conducting awareness raising activities for teachers and enhancement of educational counselling system.

At the workplace, the Government of Japan made an amendment to the principles concerning measures in light of employment management against issues of sexual behaviour by employers at the workplace, based on the Article 11 of the Act on Securing Equal Opportunity and Treatment Between Men and Women in Employment, in August 2016 in order to state clearly that sexual harassment includes sexual behaviour against those of any sexual orientation and gender identity. The Government of Japan continues to make efforts in preventing discrimination against sexual minorities in these areas and other areas, including health.

D. Recommendations for Cycle III (2017)

a) Remarks of States

- **Canada:** We appreciate Japan's promotion of equality internationally by voting in favour of UN Human Right Council resolutions on sexual orientation and gender identity.
- **Ireland:** We acknowledge that since then progress has been made to eliminate discrimination based on sexual orientation. We regret to note however that a legal framework to achieve equality and freedom from discrimination for LGBTI persons does not yet exist at the national level in Japan.
- **Switzerland:** Switzerland welcomes progress on the elimination of discrimination on the grounds of sexual orientation, particularly at the local level.
- **United States:** We applaud Japan's efforts to reduce discrimination against women, children, LGBTI persons, persons with disabilities, members of ethnic minorities, and foreigners, but we remain concerned that some legislative gaps remain that allow discrimination against members of some populations to continue.

b) The following recommendations have been examined by Japan and have been accepted by Japan

- **Colombia:** Continue developing the implementation of actions against any kind of discrimination for gender, ethnicity, skin colour, sexual orientation and gender identity, among others (6.74).
- **New Zealand:** Take steps to address discrimination based on sexual orientation and gender identity, including revising the Gender Identity Disorder Law (6.70).
- **Timor Leste:** Investigate all reports of domestic violence, including the same-sex couples (6.179).

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

- **Australia:** Take further steps to effectively address hate speech and protect the rights of minorities, including introducing legislation to prohibit discrimination on the grounds of race, ethnicity, sexual orientation and gender identity (6.84).

- **Canada:** Further the efforts of some local governments and private firms to eliminate discrimination based on sexual orientation and gender identity, including by extending at the national level formal recognition of same-sex partnerships (6.73).
- **Switzerland:** Continue the positive developments related to the elimination of discrimination based on sexual orientation and recognise same-sex unions at the national level (6.71).

d) The following recommendations have been examined by Japan and have been noted by Japan

- **Germany:** Adopt and implement a comprehensive anti-discrimination law that would prohibit and sanction any direct or indirect form of discrimination based on age, race, gender, religion, sexual orientation, ethnic origin or nationality (6.63).
- **Honduras:** Adopt a comprehensive legislation to combat discrimination in line with its international obligations and standards, which includes discrimination based on sexual orientation and gender identity (6.65).
- **Ireland:** Move quickly to introduce comprehensive anti-discrimination legislation to provide equal protection against discrimination for all persons and on all grounds, including sexual orientation or gender identity (6.75).
- **Mexico:** Eliminate legislative provisions that are discriminatory against women, children born out of wedlock, ethnic or national minorities, and LGBTI persons, with a view to expressly prohibit hate speech and penalize any non-consensual sexual conduct (6.58).
- **Netherlands:** Adopt a broadly applicable anti-discrimination law, including a comprehensive definition of discrimination, with a view to ensuring the prohibition of all forms of direct and indirect discrimination, including on the basis of age, gender, religion, sexual orientation, ethnicity or nationality (6.59).
- **Norway:** Enact a law prohibiting discrimination, including on the basis of age, gender, religion, sexual orientation or ethnicity, and that other necessary measures are undertaken to ensure gender equality (6.61).
- **United States:** Implement comprehensive anti-discrimination legislation to protect and promote the rights of LGBTI persons (6.72).

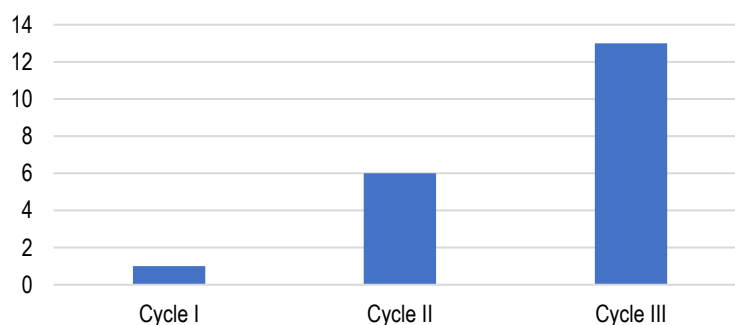
E. Recommendations for Cycle II (2012)

Recommending State	Recommendation	Response
Argentina	Consider further measures for the protection and integration of LGBT individuals, and for the elimination of all discriminatory treatment on the grounds of sexual orientation or gender identity	Accepted
Canada	Consider strengthening legislative protection from racial discrimination and discrimination based on sexual orientation	Accepted

Czechia	Review its national legislation with a view to eliminating discriminatory provisions based on a comprehensive list of grounds, including social status, gender and sexual orientation	Accepted
Norway	Define discrimination in national legislation in line with the ICERD, and prohibit all forms of direct and indirect discrimination, including on the basis of age, gender, religion, sexual orientation, ethnicity, or nationality	Noted
Switzerland	Ensure that the domestic legislation concerning discrimination is consistent with that contained in the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) which deals furthermore with all forms of direct or indirect discrimination based on age, sex, religion and sexual orientation	Accepted
United States	Lobby for and implement comprehensive anti-discrimination legislation to provide protection for the rights of LGBT persons	Noted

F. Graphic Comparison Between Cycles (1—3)

Number of SOGIEC Recommendations Received by Japan Per Cycle



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

H. SOGIESC Mentions During Japan's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Japan (Opening Remarks):** Finally, Japan will host the Tokyo Olympics and Paralympics in 2020. Japan hopes that the 2020 Games will be an opportunity to foster an inclusive society based on diversity and harmony in which all kinds of differences are recognized, including race, gender, sexual orientation, and disabilities.
- **Honduras:** Honduras hopes that as part of the review of Japan and the recommendations received over the course of the third cycle, they consider the possibility of acceding to the International Convention on the Protection of the Rights of All Migrant Workers and their Families, and they consider the approval of a broad-based legislation against discrimination, in keeping with the international obligations and standards upon them, which would include discrimination on the grounds of sexual orientation and gender identity.
- **Amnesty International:** Amnesty International welcomed progress on sexual orientation and gender identity issues in certain municipalities of Japan, including anti-discrimination provisions and partial recognition of same-sex partnerships. It called on Japan to introduce a comprehensive anti-discrimination law at the national level which includes sexual orientation, gender identity and sex characteristics.

PAKISTAN UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 13 NOVEMBER 2017, 9:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 16 NOVEMBER 2017, 16:30—18:00

During the 28th UPR Working Group Sessions, Pakistan received 7 SOGIESC recommendations. It accepted 2 recommendations and noted 5 recommendations.

A. SOGIESC Information

National Report

12. For the first time ever, the rights of Intersex and transgender persons have been recognized. In a judgment, the Supreme Court directed the National Database Regulatory Authority to issue national identity cards and passports to the transgender persons. The issue of transgender is being discussed at different forums which include Senate's Special Committee on Marginalized Segments of Society, Senate's Functional Committee on Human Rights and National Council for Social Welfare and Capital Administration and Development Division.

13. Transgender and Intersex Persons (Promotion and Protection of Rights) Bill, 2017 is under consideration. KP Government has allocated a special fund of Rs200 million for the welfare of transgender community in budget of 2016/2017 for the first time. The other provinces are also devising practical measures for protection of rights of transgender persons.

Compilation of UN Information

9. The Committee on Economic, Social and Cultural Rights recommended the revision of articles 25 to 27 of the Constitution with a view to ensuring prohibition of discrimination on all grounds, including colour, language, political or other opinion, national or social origin, property, disability, sexual orientation and gender identity or other status. It also recommended that comprehensive anti-discrimination legislation be adopted. The Human Rights Committee made a similar recommendation.

14. The United Nations country team welcomed the announcement, following a court ruling, that transgender persons would be counted for the first time in the national census from March 2017. The Committee on Economic, Social and Cultural Rights recommended that Pakistan decriminalize same-sex relations between consenting adults and take the measures necessary to combat discrimination based on sexual orientation and gender identity. The Human Rights Committee made a similar recommendation.

84. The Committee on the Rights of the Child reiterated its previous recommendation that Pakistan combat and prevent discrimination and negative societal attitudes and mobilize political, religious and community leaders to support efforts to eradicate traditional practices and attitudes that discriminated against children belonging to religious or other minority groups, children with disabilities, children living in poverty, children from Dalit communities, children living in rural or remote areas and lesbian, gay, bisexual and transgender children.

Summary of Stakeholder's Information

17. Joint Submission 7 (JS7)¹⁹ stated that, due to the criminalization of homosexuality in the Penal Code, LGBTIQ individuals were reluctant to reveal their sexual orientation and identity. The Supreme Court granted transgender people the right to vote and attain a National Identity Card in 2011, but this had not been translated into legal and policy remedies to guarantee their rights. Joint Submission 15 (JS15)²⁰ reported that transgender people, in particular transgender women, faced harassment, mistreatment and exclusion from society.

18. Kaleidoscope Australia Human Rights Foundation (KHRF) recommended that Pakistan: decriminalise consensual same-sex sexual relations; introduce laws prohibiting discrimination on the basis of sexual orientation, gender identity and intersex status in all areas of public life; introduce legislation recognising the rights of same-sex couples, including the right to marry and parenting rights; and codify the recent fatwa recognising marriage, inheritance and funeral rights for transgender people into binding legislation.

94. JS2²¹ reported that children working in small hotels, restaurants and in the deep-sea fishing and transport industries were among the most susceptible to sexual exploitation. Unlike female prostitution, the sexual exploitation of boys was more visible. More freedom of movement allowed to boys put them at higher risk. Boys were reported to be sexually abused also in schools or madrassas. Transgendered children were also at heightened risk.

B. SOGIESC Advanced Questions for Pakistan

- **Czechia:** What measures are being taken to prevent and prosecute attacks against persons belonging to religious or sexual minorities? Does the Government consider revision of the Law on Blasphemy so that it cannot be abused against religious minorities?

C. Pakistan's Working Group Session

- **Opening Remarks:** A bill on the protection and the welfare of transgenders is also under review in the very active Functional Committees of Human Rights both in the Senate and the National Assembly.
- **Intervention Made by Pakistan After 97 Interventions:** It was the Standing Committee on Human Rights of the Senate that highlighted the exploitation and discrimination faced by transgender persons which has led now to the introduction in the Senate of the Transgender Persons Protection of Rights Bill which is a landmark case where all categories of transgenders - male, female, unisex and intersex - are covered. Developed through extensive and broad-based consultations, it is a consensus bill tabled in the Senate and expected to be passed soon. A Special Committee on Marginalised Segments of Society has also been formed in the Senate of Pakistan to promote and protect rights of the transgender community. It was for the first time ever that transgenders were counted in the recently concluded census and now being issued national identity cards by the National Database Regulatory Authority through inclusion of the third gender category. There is also a 2% reserved quota in government jobs and a right to vote established for the transgender community.

¹⁹ Joint Submission 7 submitted by: The Sexual Rights Initiative; Rahnuma Family Planning Association of Pakistan on behalf of Right Here Right Now Alliance.

²⁰ Joint Submission 15 submitted by: Forum for Dignity Initiatives-FDI; NAZ Pakistan; Blue Veins; Forum for Dignity Initiatives; Dareecha Male Health Alliance; Dostana Male Health Alliance; GIA Foundation; Humraz Male Health Society; HYPE – Multan and Karachi Network; Khawaja Sira Society; Pireh Male Health Society; Sub Rang Society; Transaction; Wajood; Dr. Fahad Abbasi; Maya Zaman; Inaya Zarakhel.

²¹ Joint Submission 2 submitted by ECPAT International; Pakistan Paediatric Association.

D. Recommendations for Cycle III (2017)

a) Remarks of States

- **Albania:** Albania warmly welcomes Pakistan's decision to recognize the rights of intersex and transgender people. We also congratulate Pakistan for choosing to issue a first passport with a transgender category.
- **Chile:** We also value the measures taken in favour of women, children, persons with disabilities and minorities, as well as the efforts aimed at protecting the rights of the elderly and the recognition of the rights of transgender and intersex people.
- **Honduras:** We congratulate the decision of the Supreme Court of Pakistan in favour of the rights of transgender people.
- **Iceland:** While welcoming the progress made in the promotion of human rights including steps towards legally recognizing and protecting transgender people, there is still room for important improvements.
- **Spain:** We welcome the recent presentation in the National Assembly of two bills designed to guarantee the rights of transgender people.

b) The following recommendations have been examined by Pakistan and have enjoy the support of Pakistan

- **Albania:** Ensure that the 2017 law presently being reviewed on the recognition of the rights of intersex and transgender persons pays necessary attention to both women and men transgenders (6.92).
- **Spain:** Rapidly adopt and implement the two draft bills recently presented before the National Assembly to ensure the rights of transgender persons (6.91).

c) The following recommendations have been examined by Pakistan and have been noted by Pakistan

- **Australia:** Enact and enforce legislation to afford legal protections from violence and discrimination to all its citizens, including women, girls, the LGBTI community and religious minorities, including through effective prosecutions in accordance with the rule of law (6.93).
- **Chile:** Adopt legislative measures to decriminalize homosexuality and consensual sexual relations between people of the same sex (6.89).
- **France:** Accelerate the enactment of laws for the protection of LGBTI people, in particular the Transgender Protection of Rights Bill (6.90).
- **Mexico:** Protect the rights of LGBTI people and take necessary measures to guarantee their protection and a life free from discrimination (6.88).
- **Netherlands:** Adopt effective measures to prevent and punish all forms of discrimination against minority groups by adding clear provisions to articles 25 to 27 of the Constitution to ensure prohibition of discrimination on all grounds, including sexual orientation and gender identity, as well as by adding clear protection provisions in criminal laws concerning public assembly, obscenity and public nuisance (6.86).

E. SOGIESC Recommendations Shared by HRDs During ILGA's UPR Advocacy Week in Geneva

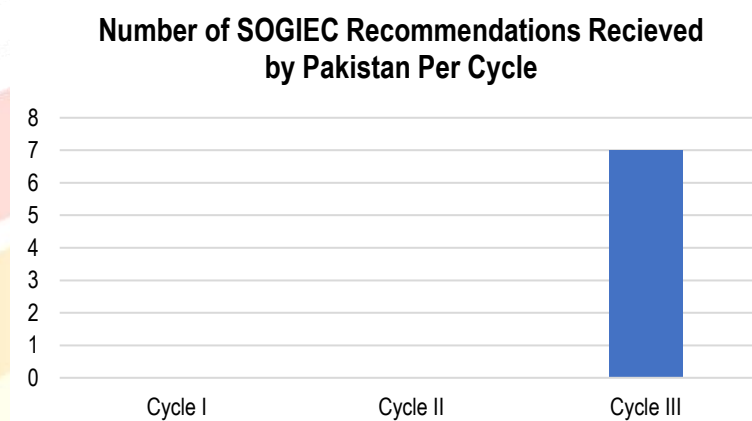
[NAZ Pakistan and Forum for Dignity Initiatives](#)

- The Government should immediately ensure smooth and prompt passage and subsequent implementation of the Transgender Persons (Protection of Rights) Bill, 2017 and Criminal Law Amendment (2017) Bill through the National Assembly and the Senate to be written into law.
- The State party should revise articles 25 to 27 of the Constitution, with clear provisions to ensure that the Constitution prohibits discrimination on all grounds, including colour, language, political or other opinion, national or social origin, property, disability, sexual orientation and gender identity or other status.
- Adopt comprehensive anti-discrimination legislation prohibiting all direct, indirect and multiple forms of discrimination on any ground and provide for effective remedies for victims of discrimination, including within judicial and administrative proceedings.
- Take all necessary measures to repeal Section 377 of the Pakistan Penal Code and the Hudood Ordinance under the Sharia law for consenting adults and take necessary measures to raise public awareness to combat discrimination based on SOGIE including the adoption of comprehensive anti-discrimination legislation.
- Include men and transgender persons in the existing rape legislation.
- Ensure immediate and effective implementation of the National Action plan on Human Rights, including marginalized minority rights, to sensitize judiciary, law enforcement officers and police in order to eradicate transphobia and other forms of discrimination and violence in these institutions.
- Immediately reform laws concerning public assembly, obscenity and public nuisance (section 141-144, 290-91, 292, 294) as well as beggary (Punjab Vagrancy Ordinance 1958) to prevent violence and discrimination against marginalized communities.
- Provide provisions for protection of gender and sexual minorities in public and private spaces.
- The Government should take steps to develop laws and policies to ensure universal access to medical services, which are free of stigma/discrimination and judgment are offered to all, including sexual and gender minorities.
- Sensitize medical professionals regarding specific health care needs of gender and sexual minorities, particularly transgender people, to combat discrimination and promote inclusive services that are equally accessible to all people.

F. Recommendations for Cycle II (2012)

N/A

G. Graphic Comparison Between Cycles (1—3)



H. Video of Pakistan's UPR Working Group Session

I. SOGIESC Mentions During Pakistan's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Pakistan (Closing Remarks):** We have also accepted the recommendations to uplift our transgender community. Following the principles of an open democratic society and with the judicial process taking its due course, the transgender community was able to secure the government recognition of their separate status. As a result, special passports and identity documents were issued to the transgender population to enable their mainstreaming into the society in full consonance with ideals of human dignity.
- **Action Canada for Population and Development:** Action Canada for Population and Development welcomed the acceptance of recommendations to implement the Transgender Protection of Rights Bill.
- **International Federation for Human Rights Leagues:** International Federation for Human Rights Leagues expressed disappointment that Pakistan noted all recommendations aimed to protect persons based on their sexual orientation or gender identity.

PERU
UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 8 NOVEMBER 2017, 9:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 10 NOVEMBER 2017, 15:00—17:30

During the 28th UPR Working Group Sessions, Peru received 20 SOGIESC recommendations. It accepted all 20 recommendations.

A. SOGIESC Information

National Report

18. In January 2017, following representations by a delegation of law-making powers, the executive branch issued Legislative Decree No. 1323, which included a person's sexual orientation or gender identity among the motives for intolerance or discrimination that constitute aggravating circumstances in connection with crime in general and with discrimination and incitement to discrimination in particular. On 5 May 2017, however, Congress overturned the inclusion of those motives. This decision was vetoed by the executive branch, so the matter is pending.

22. In the National Human Rights Plan 2012-2016, priority was given to groups of persons in need of special protection, including women, children and adolescents, persons with disabilities and older persons. The new version of the Plan, the National Human Rights Plan 2017-2021, will include lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, human rights defenders and domestic workers.

28. The Yogyakarta Principles are being used as a guide in the formulation of documents in various spheres of State activity, such as the National Human Rights Plan 2017-2021 and report No. 175 of the Ombudsman's Office, on the human rights of LGBTI persons and the need for an equality policy in Peru. They are also used to guide the formulation of preambles to bills, such as the bills on same-sex civil unions (in respect of which the executive branch issued a favourable technical opinion), gender identity, marriage equality and hate crimes, and to inform the activities of working groups for the promotion of the rights of lesbian women and GBTI persons.

Compilation of UN Information

11. The country team said that the proposed database and platform for the follow-up of recommendations was a positive step, although they were still in the testing phase and not yet publicly accessible. It also noted that the National Human Rights Plan 2012-2016 included recommendations from the universal periodic review, but excluded lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. It added that there continued to be challenges with the coordination, implementation, monitoring and evaluation of other plans.

14. The Committee on the Rights of the Child was concerned at the prevalence of structural discrimination against certain groups of children, including indigenous, Afro- Peruvian children, children living in rural areas, lesbian, gay, bisexual, transgender and intersex children and children with disabilities, particularly regarding their access to education and health care.

17. Two Committees were concerned at the absence of legislation explicitly prohibiting discrimination based on sexual orientation or gender identity, and recommended that Peru explicitly prohibit

discrimination on those grounds. The country team recommended the promotion of information campaigns to prevent discrimination and homophobic and transphobic violence.

26. The same Committee was concerned at reports of harassment and violent attacks, some of which had resulted in death, against the lesbian, gay, bisexual and transgender community by members of the national police, armed forces, municipal security patrols and prison officials.

Summary of Stakeholder's Information

20. The Runa Institute, the Centro de Investigación Interdisciplinaria en Sexualidad, Sida y Sociedad (CISSS), the National Human Rights Coordinator and Joint Submission (JS) JS9²² said that all mention of protection on the grounds of sexual orientation and gender identity had been removed from the National Human Rights Plan 2014-2016, despite the fact that lesbian, gay, bisexual, transgender and intersex (LGBTI) groups had participated in its preparation and that a new National Human Rights Plan 2017-2020 was under consultation.

22. CISSS and AI drew attention to discrimination against the LGBTI population, including hate crimes on the grounds of sexual orientation and gender identity, which created barriers to access to rights such as health care, education, employment and housing. CISSS said that the State did not have effective mechanisms in place to deal with the problem and protect the LGBTI population. The Runa Institute noted with concern the issue of non-recognition of the identity of transgender persons.

23. CISSS, JS9 and JS12²³ referred to Legislative Decree No. 1323, which amended the Criminal Code by adding sexual orientation and gender identity as prohibited grounds for discrimination. They warned that the legislation was being challenged in the Congress. The Runa Institute reported that same-sex sexual relations continued to be punishable under the disciplinary code of the National Police.

24. The Runa Institute and JS9 stated that, owing to the opposition of various conservative groups, a number of bills aimed at eradicating discrimination against the LGBTI community had been unsuccessful.

25. JS9 reported on the establishment of the National Anti-Discrimination Commission, on the creation in the Ministry of Women of the Working Group to Promote the Rights of Lesbians and on the publication of handbooks for the National Police and the media prohibiting discrimination on the grounds of sexual orientation and gender identity.

36. JS20²⁴ drew attention to violence against women sex workers by the police authorities and local government security forces. With regard to recommendation 116.16, JS11²⁵ reported that transgender women involved in sex work were the primary victims of State officials. JS9 noted the violence against lesbians and transgender women.

²² Joint Submission 9 submitted by: Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer — CLADEM; CLADEM PERU; DEMUS, Estudio para la Defensa de los Derechos de las Mujeres; LIFS, Lesbianas Independientes Feministas Socialistas. (Peru).

²³ Joint Submission 12 submitted by: Centro de la Mujer Peruana FLORA TRISTAN; DEMUS — Estudios para la defensa de los derechos de la mujer; Coordinadora Nacional de Derechos Humanos CNDDHH. (Peru).

²⁴ Joint Submission 20 submitted by: RedTraSex: Asociación de Mujeres Meretrices de Argentina (AMMAR, Argentina), Organización Nacional de Activistas por la Emancipación de la Mujer (ONAEM, Bolivia), Fundación Margen de Apoyo y Promoción de la Mujer (Chile), Asociación de Mujeres Buscando Libertad (ASMUBULI, Colombia), Asociación de Trabajadoras Sexuales La Sala (Costa Rica), Movimiento Orquídeas del Mar (El Salvador), Organización Mujeres en Superación (OMES, Guatemala), Red Nacional de trabajadoras Sexuales de Nicaragua, Red Nacional de Trabajadoras Sexuales de Honduras, Mujeres con Dignidad y Derechos (Panamá), Unidas en la Esperanza (UNES, Paraguay), Red Nacional de Trabajadoras Sexuales de Perú y Organización de trabajadoras sexuales (OTRASEX, República Dominicana).

²⁵ Joint Submission 11 submitted by: Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos — PROMSEX; Centro IDEAS — Piura; la Comunidad Homosexual Esperanza Región Loreto — CHERL. (Peru).

38. CISSSS reported on discrimination in access to justice faced by the LGBTI community and Centro de Desarrollo Ético (CEDET) drew attention to the discrimination faced by Afro-descendent women. JS9 noted the evidentiary standards that hindered access to justice for transgender persons. JS12 drew attention to the barriers faced by rural and indigenous women in obtaining access to the State justice system, while JS20 said that there was a lack of trust in the administration of justice among women sex workers.

60. The Runa Institute said that the imposition of barriers preventing access to the right to work was the most striking example of discrimination against the transgender population.

65. JS9 noted that the national guidelines for comprehensive sexual and reproductive health care and the National Sexual and Reproductive Health Strategy focused on heterosexual women. The Runa Institute pointed out that health-care protocols did not take account of transgender persons.

74. The Runa Institute said that the education provided was based on binary male- female gender models, which meant that educational content was detrimental to transgender students.

B. SOGIESC Advanced Questions for Peru

- **Czechia:** What measures have been taken to review municipal security policies in Lima that mention the "eradication of homosexuals" from public spaces? Is Peru considering inclusion of sexual orientation and gender identity based violence among the motives for intolerance that constitute aggravating circumstances in connection with crime?
- **Slovenia:** Are you considering adopting legislation prohibiting discrimination based on sexual orientation and gender identity? What measures have been taken to prevent and eliminate discrimination based on sexual orientation and gender identity?

C. Peru's Working Group Session

- **Opening Remarks:** In addition, I must emphasize that for the first time our State has foreseen the adoption of public policies for traditionally neglected collectives, among them, that of LGBTI persons and domestic workers.

Regarding the concerns raised by the Czech Republic and Slovenia, it should be noted that the Yogyakarta Principles are being used as a guide in the formulation of documents in various state areas such as the National Human Rights Plan 2017-2021 and other policies implemented by the Government and other sectors, including the Ministry of Women and Vulnerable Populations.

With regard to the adoption of measures to protect people from the LGTBI collective, the Human Rights Manual applied to the police function provides that the police should treat these people with the same respect as any other citizen, and should avoid any discriminatory or humiliating act.

In the same line, the Legislative Decree of the Disciplinary Regime of the PNP indicates as a serious infraction "acting for the exercise of its function, discriminating for various reasons or of any kind".

For its part, the MIMP has been developing services that provide care and protection to victims of gender violence.

In this sense, the "Guidelines for the care of LGTBI people in the care services of the National Program against Family and Sexual Violence" have been approved in order to standardize criteria and methodologies for the care of lesbians, gays, trans, bisexuals and intersex in public services specialized in gender violence, with emphasis on violence in family relationships and sexual violence, guaranteeing free attention to discrimination.

It should be noted that the Regulation of Law No. 30364 has included the Risk Assessment Card for women victims of intimate partner violence and its supplement to vulnerability factors that complements it, which includes a section on violence based on sexual orientation.

It is also important to create the "Working Table to promote the rights of Gays, Transsexuals, Bisexuals and Intersex (GTBI)", whose purpose is to be a mechanism for coordination between the MIMP and civil society to promote targeted awareness-raising proposals to society as a whole to combat discrimination against the GTBI population and develop actions for the protection of their fundamental rights and the promotion of their exercise, as well as for the preparation of guidelines for inclusive public policies.

Previously, the Working Group called "Working Table to promote the rights of lesbians" was formed, to enable and eliminate the situation of exclusion and discrimination of lesbian women and develop actions in the promotion and protection of their rights.

It is important to point out that the new National Human Rights Plan incorporates, among others, the LGBTI population as a group in a special protection situation, in order to design and implement policies in their favor and fully exercise their fundamental rights.

- **Intervention Made by Peru After 44 Interventions:** Moving on now to the issue of the LGBTI community. There are measures to protect persons in the LGBTI community. We have a human rights manual for the police force which says that the police must always treat these persons with respect.

D. Recommendations for Cycle III (2017)

a) Remarks of States

- **Brazil:** We congratulate Peru for the designation of an institution in charge of the National Mechanism for the Prevention of Torture and other cruel, inhuman or degrading treatment or punishment (MNPT), and the definitive repeal of the disciplinary norm of the National Police of Peru, which sanctioned sexual relations between people of the same gender.
- **Chile:** We're concerned at the prevalence of structural discrimination on the grounds of sexual orientation and gender identity.
- **Costa Rica:** We are concerned that the death penalty, limitations on the legal capacity of persons with disabilities, excessive use of force by law enforcement authorities during social protests, and discrimination based on sexual orientation and gender identity have not been abolished.
- **Iceland:** We are concerned about the absence of legislation explicitly prohibiting discrimination based on sexual orientation or gender identity.
- **Israel:** Israel recognizes many steps taken by Peru since its last UPR, such as the adoption of the Trafficking in Persons and Smuggling of Migrants Act; the repeal of Police's regulation imposing sanctions on personnel for having same-sex relationships.

- **Mexico:** Likewise, Mexico is pleased by the commitment of the Peruvian State to include in the National Human Rights Plan 2017-2021 specific strategies for the LGTBI population, human rights defenders and domestic workers.
- **Montenegro:** In addition, we encourage a continuation of efforts for elimination of discrimination against LGBTI persons in law and in practice.
- **Spain:** In relation to the rights of the LGTBI collective, Spain recognizes the commitments acquired by Peru.
- **United Kingdom:** We commend Peru's efforts to develop a national human rights strategy, which will include a reference to LGBTQI+ rights for the first time.
- **Uruguay:** Uruguay would like to commend the fact that the Yogyakarta Principles are being used as a guide in formulating documents in various spheres of state in order to protect and promote the rights of LGBT persons.

b) The following recommendations have been examined by Peru and have been accepted by Peru

- **Argentina:** Take appropriate measures in order to investigate and punish any act of discrimination or violence against LGBTIQ persons (6.33).
- **Belgium:** Systematically collect and analyse data on the prevalence of violence perpetrated against persons, because of their real or perceived sexual orientation or gender identity (6.34).
- **Brazil:** Incorporate within the Public Prosecution Service's criminality observatory and in the statistical yearbook of the national police detailed data on acts of violence and discrimination against LGBTI persons (6.35).
- **Canada:** Amend existing legislation to recognise sexual orientation and gender identity as grounds for discrimination and allow for the prosecution of hate crimes on this basis (6.27).
- **Canada:** Adopt public policies to increase access to family planning and emergency contraception, comprehensive sexuality education and to decriminalize abortion in the cases of rape, incest, non-viability of the foetus and endangerment to the mother's health (6.98).
- **Chile:** Consider in the drafting of the National Human Rights Plan the promotion and protection of LGBTI persons (6.15).
- **Colombia:** Implement all efforts and adopt regulatory measures that expressly prohibit discrimination and violence based on sexual orientation and gender identity (6.28).
- **Costa Rica:** Implement specialized protocols to address and investigate cases of violence and discrimination for reasons of sexual orientation and gender identity, particularly when the victims are children and adolescents (6.36).
- **Czechia:** Eliminate the municipal citizen security policies in Lima that mention "eradication of homosexuals" from public spaces and consider investigation and prosecution of persons responsible for such calls for human rights violations (6.37).
- **France:** Enact legislation to ensure effective protection against all crimes committed against persons or against their property because of their sexual orientation or gender identity (6.38).
- **Honduras:** Criminalize the discrimination and violence based on sexual orientation and gender identity, including hate crimes (6.39).
- **Iceland:** Enact legislation to recognize LGBTI people's equal rights to enter into marriage (6.29).
- **India:** Develop a basic education curriculum imparting quality education in rural areas, promoting gender equality, non-discrimination based on sexual orientation and addressing problems in the community education systems (6.104).
- **Israel:** Ensure that sexual orientation, gender identity and expression are included as prohibited grounds for discrimination in the legislation, and to take steps towards the legal recognition of the identity of transgender persons (6.40).

- **Mexico:** Step up legislative and program reform including the development of criteria for the implementation of policy in order to guarantee the rights of LGBTI populations (6.30).
- **Nicaragua:** Continue efforts to combat racism, racial discrimination and related forms of intolerance motivated by gender, age, nationality, language, religion, beliefs, opinions, political activity, trade union activity, kinship, health status, disability, sexual orientation or other personal characteristics, paying special attention to the structural elements of discrimination that may affect the effective exercise of the rights to health, education, decent work and participation in decision-making (6.25).
- **Slovenia:** Enact legislation that would prohibit discrimination based on sexual orientation and gender identity (6.26).
- **Slovenia:** Ensure the implementation of comprehensive sexuality education for women and girls, including information on sexual and reproductive health and rights (6.94).
- **Spain:** Identify lesbian, gay, transgender, bisexual and intersex group as a vulnerable population and include the group in the next National Plan (6.31).
- **Timor Leste:** Undertake information campaigns to prevent discrimination, homophobic and transphobic violence (6.32).

E. SOGIESC Recommendations Shared by HRDs During ILGA’s UPR Advocacy Week in Geneva

PROMSEX (English/Spanish)

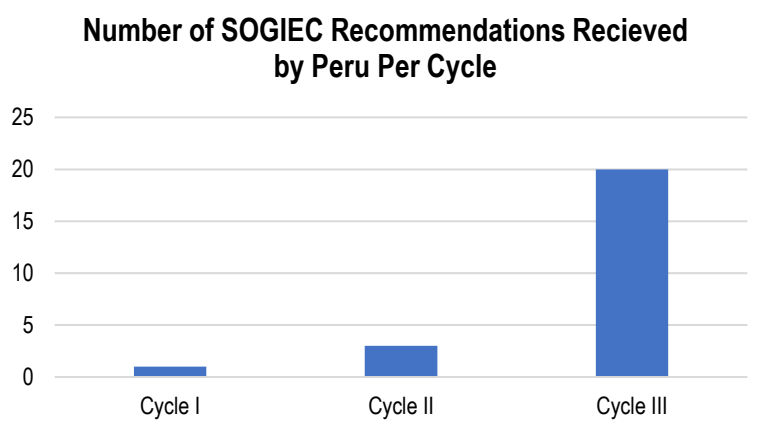
- Include sexual orientation and gender identity as prohibited grounds of discrimination in Article 323 of the Criminal Code, as well as criminally sanction hate speeches that incite violence, with aggravated punishments in the case of public officials.
- Incorporate in the Crime Observatory of the Office of The Attorney General and the Statistical Yearbook of the National Police Force a detailed record of violence and discrimination acts against LGBT persons.
- Implement specialized protocols for the attention, investigation and judgment of cases of violence and discrimination against LGBT persons, especially in cases regarding children and adolescents.
- Include in the System Specialized in Reports on Cases of School Violence (SiseVe Program) the possibility to denounce violence and discrimination based on gender identity.
- Implement the National Basic Education Curriculum published in the year 2016 without making modifications that eliminate the approach of gender equality and non-discrimination based on sexual orientation.

F. Recommendations for Cycle II (2012)

Recommending State	Recommendation	Response
Canada	Consider enacting legislation that addresses crimes based on sexual orientation	Accepted
Slovenia	Consider applying the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and	Accepted

	Gender Identity as a guide to assist in policy development	
Slovenia	Repeal penal sanctions on homosexuality in the police force	Accepted

G. Graphic Comparison Between Cycles (1—3)



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

I. SOGIESC Mentions During Peru's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Peru:** The third pillar of the National Plan establishes 13 groups with special protection, including people of African descent, girls, boys and young persons, detainees, victims of terrorism, women, LGBTI persons and some other groups.
- **Brazil:** We congratulate Peru on designating an institution responsible for the national mechanism for torture prevention and with regards to progress on respect for the rights of LGBTI persons.
- **Honduras:** We look forward to Peru's support in recommendations made by Honduras during the review, including those on prevention of violence and discrimination based on sexual orientation and hate crimes.
- **PROMSEX:** PROMSEX welcomed Peru's acceptance of its SOGIESC recommendations. However, it expressed concern that the new National Human Rights Plan 2018-2021 does not adequately protect non-heterosexual couples, trans persons or LGBTI children.

REPUBLIC OF KOREA
UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 9 NOVEMBER 2017, 14:30—18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 14 NOVEMBER 2017, 16:00—18:00

During the 28th UPR Working Group Sessions, Republic of Korea received 22 SOGIESC recommendations. It noted all 22 recommendations.

A. SOGIESC Information

National Report

15. The Constitution, the National Human Rights Commission of Korea Act, and 90 other legislations prohibit discrimination in a number of sectors based on various grounds, including sexual orientation and gender identity. Since 2006, the Government collected various opinions and continued with its research for the sake of legislative integrity in an effort to enact general anti-discrimination laws. Nevertheless, legislative procedure did not proceed, as a number of legislative bills proposed by the Government and lawmakers did not make it to the discussion at the National Assembly and were discarded upon expiration of the term. In 2013, the Government presented the enactment of anti-discrimination act as one of the policy tasks, organizing a working group to undertake the enactment of the law and conducting research on foreign legislations and precedents. Nonetheless, legislative process has been stagnant because of social controversy related to prohibited grounds of discrimination such as sexual orientation. The Government will carry on research and review a number of issues pertaining to the general anti-discrimination law and listen to public opinion. (Recommendations 21, 22, 23, 24, 30, 33)

18. The crime of indecent act stipulated under Article 92-6 of the *Military Criminal Act* does not intend to impose criminal punishment by reason of one's sexual orientation, but is set out to uphold military order and discipline, taking into account the nature of communal living in barracks. The Constitutional Court has also ruled several times in favour of the constitutionality of the concerned provision for this reason. Nonetheless, an amendment bill to abolish the provision has been submitted to the National Assembly and the Ministry of National Defence is considering the necessity of the amendment. (Recommendation 34)

Compilation of UN Information

10. The Human Rights Committee recommended adopting comprehensive anti- discrimination legislation, explicitly addressing all spheres of life and prohibiting discrimination on any ground, including race, sexual orientation and gender identity.

16. The Human Rights Committee was concerned about the discrimination against lesbian, gay, bisexual, transgender and intersex persons, including violence and hate speech. It recommended, inter alia, that the Government not tolerate any form of social stigmatization of, or discrimination against, persons based on their sexual orientation or gender identity, that it strengthen the legal framework to protect them and that it facilitate access to the legal recognition of gender reassignment.

Summary of Stakeholder's Information

21. JS1²⁶ stated that the Government should enact a comprehensive anti-discrimination act that prohibits all forms of discrimination, including race, gender, sexual orientation, and gender identity through discussions with civil society and key stakeholders.

27. JS1 and JS5²⁷ stated that lesbian, gay, bisexual, transgender and intersex (LGBTI) persons were subject to discrimination and stigmatization in public and private spheres. JS5 reported on incidents of hate crimes against them. LGBTI adolescents remained a vulnerable group, at the risk of being exposed to hate speech and bullying and of terminating their studies. JS5 concluded that the authorities failed to provide equal protection to LGBTI persons.

28. AI reported that the Military Criminal Act continued to punish consensual sexual activity between people of the same sex in the military. Gay men faced considerable difficulties in fulfilling their military obligations free from violence, bullying or verbal abuse. JS1, JS5 and Kaleidoscope made similar observations.

29. AI reported that civil society LGBTI groups continued to face discrimination, including at the hands of authorities. In 2015, the Beyond the Rainbow Foundation was refused registration, and the Seoul Metropolitan Police refused to grant a permit to the Pride Parade. The ban was only overturned when the organizers filed a petition to the court. JS1 and JS5 made similar observations.

30. Kaleidoscope Australia Human Rights Foundation (Kaleidoscope) stated that the Republic of Korea did not recognise marriage between same-sex couples. The legislation did not specifically state that marriage was between a man and a woman, but all rights and duties in the legislation described marriage as between a husband and wife. JS5 made similar observations.

31. Kaleidoscope stated that LGBTI persons faced discrimination in the context of adoption as they were effectively prohibited from adopting children under the age of 15.

²⁶ Joint Submission 1 submitted by: 77 members of the South Korean NGOs Coalition for the 3rd UPR: Advocates for Public Interest Law (APIL), Catholic Human Rights Committee, Certified Public Labor Attorney's for Labor Human Rights, GongGam Human Rights Law Foundation, Immigrants Advocacy Center GAMDONG, International Child Rights Center, Joint Committee with Migrants in Korea (16 organisations: Asan Foreign Worker's Center, Bucheon Migrant Welfare Center, Chungbuk Migrant Support Center, Global Love and Sharing, Incheon Migrant Worker's Center, Migrant Health Association in Korea We Friends, Namyangju Migrant Welfare Center, Paju Migrant Worker Center Shalom House, Pocheon Nanum House, Seoul Migrant Workers Center, Solidarity for Asian Human Rights and Culture, The Association Migrant Workers Human Rights, Uijeongbu EXODUS Migrant Center, Women Migrants Human Rights Center of Korea, Yongin Migrant Worker Shelter, Yongsan Nanum House), Korea TransNational Corporations Watch (6 organisations: Advocates for Public Interest Law (APIL), Corporate for All, GongGam Human Rights Law Foundation, Korean Confederation of Trade Unions, Korean House for International Solidarity, Korean Lawyers for Public Interest and Human Rights), Korea Women's Hot Line, Korea Women's Political Solidarity, Korean Confederation of Trade Unions, Korean House for International Solidarity, Korean Lawyers for Public Interest and Human Rights, Korean Progressive Network Jinbonet, Korean Refugee Rights Network (9 organisations: Advocates for Public Interest Law (APIL), GongGam Human Rights Law Foundation, NANCEN (Center for Refugee Rights in South Korea), Save the Children Korea, EcoFemme, Immigrants Advocacy Center GAMDONG, Dongcheon Foundation, MAP Migration to Asia Peace, Human Asia), Korean Women Workers Association, Korean Women's Association United, MINBYUN-Lawyers for a Democratic Society, NHRCK-Watch, Organization Unwed Moms Changing the Future, People's Solidarity for Participatory Democracy, Rainbow Action against Sexual Minority Discrimination (27 organisations: Chingusai – Korean Gay Men's Human Rights Group, Christian Solidarity for a World without Discrimination (Chasegiyeon), Daegu Queer Culture Festival, Daejeon LGBTQ Human Rights Group Solongos, GongGam Human Rights Law Foundation, Gruteogi: 30+ Lesbian Community group, Korea Queer Culture Festival Organizing Committee, Korean Lawyers for Public Interest and Human Rights (KLPH), Korean Sexual- Minority Culture and Rights Center (KSCRC), Labor Party Sexual Politics Committee, Minority Rights Committee of the Green Party, Lesbian Counseling Center in South Korea, Lesbian Human Rights Group 'Byunnal' of Ewha Womans University, Lezpa : The Korean lesbian community radio group, LGBTQ Youth Crisis Support Center : DDing Dong Network for Global Activism, QUV: Korean LGBTQ University Student Alliance, Rainbow Solidarity for LGBT Human Rights of Daegu, Sexual Minority Committee of the Justice Party, Sinnaneun Center: LGBT Culture, Arts & Human Rights Center, Social and Labor Committee of Jogye Order of Korean Buddhism, Solidarity for HIV/AIDS Human Rights: Nanuri+, Solidarity for LGBT Human Rights of Korea, Pinks: Solidarity for Sexually Minor Cultures & Human Rights, The Korean Society of Law and Policy on Sexual Orientation and Gender Identity, Unni network, Yeohaengja: Gender non-conforming people's community), South Korean NGOs Coalition for Law Enforcement Watch (6 organisations: Catholic Human Rights Committee, Dasan Human Rights Center, Democratic Legal Studies Association, Human Rights Movement Space 'Hwal', Korean Lawyers for Public Interest and Human Rights, Sarangbang Group for Human Rights), Supporters Health And Right of People in Semiconductor Industry, World Without War (Republic of Korea).

²⁷ Joint Submission 5 submitted by: the Rainbow Action against Sexual Minority Discrimination, a coalition of 27 NGOs, Republic of Korea.

32. JS1 stated that the Government should officially state that it does not tolerate any form of social stigmatization and discrimination, including violence against persons based on their sexual orientation or gender identity and develop and carry out public campaigns and training to public officials to promote sensitivity and respect for diversity in respect of sexual orientation and gender identity. AI recommended repealing Article 92(6) of the Military Criminal Act, which prohibits and punishes consensual sexual activity between people of the same sex in the military. It recommended protecting all persons from hate speech and violence, regardless of ethnicity, gender, real or perceived sexual orientation or gender identities.

33. JS5 reported that transgender persons were forced to undergo irreversible surgeries for legal gender recognition. Kaleidoscope reported that the requirements to be eligible for gender affirmation surgery were complex, discriminatory and restrictive. It recommended that the Government does not impose a requirement that gender affirmation surgery be performed to legally change gender and should remove the stringent requirements regarding marriage and parental status as requirements to undergo gender affirmation surgery.

B. SOGIESC Advanced Questions for Republic of Korea

- **Germany:** How many persons have been convicted for consensual same-sex relations, based on Article 92-6 of its Military Criminal Act in the last year, and how many convictions were there in total?
- **Germany:** Have there been concrete steps to develop a comprehensive anti-discrimination law, which includes a ban of discrimination based on sexual orientation?
- **Sweden:** Could the Government of the Republic of Korea inform what steps are taken to repeal Article 92-6 in the Military Criminal Act?
- **United Kingdom:** What is the government of the ROK doing to ensure that LGBTI people are afforded the same levels of rights, protections and freedoms as everyone else, in both civilian and military fields?

C. Republic of Korea's Working Group Session

- **Closing Remarks:** In the process of legislating a general anti-discrimination act, a legislative procedure at the government and the National Assembly has been interrupted because of controversies over prohibited grounds for discrimination, such as sexual orientation. The Ministry of Justice plans to make analysis of a European standard for various issues, including prohibited grounds for discrimination, burden of proof in discrimination cases, and exceptional grounds in areas for discrimination. The Ministry of Justice will use this analysis in the legislative procedure.

The Article 92-6 of the Military Criminal Act is a provision to maintain military discipline considering the unique nature of the military barrack life which punishes abnormal sexual activities between soldiers, not because a certain individual is a gay or a lesbian. A bill to repeal the said provision has been submitted to and is being discussed in the National Assembly. Under the Military Criminal Act, there has been no reported cases of conviction in 2015 and 16. And 10 people have been accused of violating the provision and are currently standing on trial.

Meanwhile, regarding broadcasting programmes or online discriminatory expression against certain races, or hate speech pertaining to foreigners or sexual minorities and other social minorities that incite prejudice or make derisive or disparaging remarks. The KCSC or Korean Communications and Standards Commission, in accordance with the Broadcasting Act and review regulations, imposes sanctions.

D. Recommendations for Cycle III (2017)

a) Remarks of States

- **Denmark:** We welcome steps taken by the Republic of Korea to ensure human rights protection regardless of sexual orientation or gender identity. However, Denmark notes with concern that LGBTI persons continue to face discrimination.
- **Chile:** We highlight efforts to combat discrimination in Korea but we're concerned at the prevalence of acts of violence and hate speech against LGBTI people.
- **Ireland:** We regret however that members of the LGBTI community continue to face discrimination in the Republic of Korea, including those serving in the military.
- **Montenegro:** We took note on efforts towards combating discrimination in practice. We noted certain gaps in implementation, or absence of explicit prohibition of discrimination based on sexual orientation and gender identity. In that regard, we encourage the state to adopt a comprehensive antidiscrimination legislation, prohibiting discrimination on any grounds, including race, sexual orientation and gender identity.
- **United Kingdom:** We also urge further legislation to protect LGBTI people as reports indicate that LGBTI people are not ordinarily afforded the same rights, protections and freedoms as everyone else, in both civilian and military fields.
- **United States:** We are also concerned that there is no enforceable national anti-discrimination legislation that would extend human rights protection to LGBTI individuals.
- **Uruguay:** We welcome the openness of the government to continue to adopt measures against discrimination and violence based on sexual orientation and gender identity.

b) The following recommendations have been examined by Republic of Korea and have been noted by Republic of Korea

- **Albania:** Adopt complete legislation against discrimination dealing with all parts of life explicitly and prohibiting discrimination on all grounds, notably based on race, sexual orientation and gender identity (8.32).
- **Argentina:** Follow up on the recommendation made in 2012, strengthening its legislation, investigating and punishing effectively the discrimination based on sexual orientation and gender identity, expressed through hate speeches and acts of violence (8.57).
- **Australia:** Adopt a comprehensive anti-discrimination law, including protection for LGBTI persons (8.38).
- **Brazil:** Continue and step up its government's laudable efforts towards implementation of anti-discrimination laws, in order to fight all kinds of intolerance and inequality, especially on the grounds of sexual orientation and gender identity (8.43).
- **Canada:** Protect the rights of LGBTI persons through the adoption of a comprehensive anti-discrimination law that prohibits all forms of discrimination, including based on sexual orientation and gender identity, and abolish Article 92-6 of the Military Criminal Act, which criminalizes consensual same-sex relations (8.65).
- **Chile:** Continue to work to eliminate all forms of stigmatization or discrimination based on sexual orientation or gender identity (8.61).
- **Colombia:** Adopt general legislation to combat discrimination on any ground, particularly on the grounds of race, sexual orientation or gender identity, and strengthen the mechanisms to eliminate xenophobic speech against migrants and multi-cultural families (8.36).
- **Costa Rica:** Repeal article 92-6 of the Military Criminal Code which criminalizes consensual sexual relations between people of the same sex in the army (8.66).

- **Denmark:** Adopt a comprehensive anti-discrimination act prohibiting discrimination based on sexual orientation, gender, religion, belief, and race (8.40).
- **Denmark:** Repeal article 92(6) of the Military Criminal Act prohibiting and punishing consensual sexual activity between people of the same sex in the military (8.68).
- **France:** Adopt a general antidiscrimination law, which includes prohibition of discrimination on the basis of gender identity and sexual orientation, to ensure the protection of the rights of LGBTI persons, repeal the provision of the Military Penal Code, which prohibits and punishes same-sex consensual sexual relations in the army, increase public awareness on the need to respect gender identity and sexual orientation of every individual (8.44).
- **Honduras:** Approve general legislation to combat discrimination, which expressly covers all spheres of life and prohibits discrimination on any ground, particular on grounds of race, sexual orientation and gender identity (8.26).
- **Ireland:** Establish a timeline to present anti-discrimination legislation to the National Assembly, and repeal Article 92 (6) of the Military Criminal Act to end restrictions on consensual same sex relations (8.45).
- **Israel:** Step up efforts to end discrimination based on sexual orientation and sexual identity, including through relevant legislation (8.59).
- **Italy:** Strengthen efforts to combat all forms of discrimination, including against LGBTI persons, by adopting a comprehensive law and running national awareness campaigns (8.62).
- **Netherlands:** Abolish Article 92-6 of the Military Criminal Act, which views consensual same-sex intimacy in the armed forces as a criminal offense, in order to comply with international human rights standards (8.67).
- **Norway:** Adopt a comprehensive Anti-Discrimination Act to protect the human rights of LGBTI individuals and other marginalized groups (8.39).
- **Slovenia:** Adopt without delay a comprehensive Anti-Discrimination Act that prohibits all forms of discrimination, including race, gender, sexual orientation and gender identity (8.27).
- **Sweden:** Include a specific prohibition on discrimination on the basis of sexual orientation in the Anti-Discrimination Law (8.60).
- **United Kingdom:** Take further action to end discrimination based on gender or sexual orientation in all fields, including in the military (8.58).
- **United States:** Adopt comprehensive anti-discrimination legislation to provide protections for and to promote the rights of LGBTI persons (8.64).
- **Uruguay:** Strengthen legal framework to protect people belonging to the LGBTI community, avoiding practices, known as conversion therapies in state premises (8.63).

E. SOGIESC Recommendations Shared by HRDs During ILGA's UPR Advocacy Week in Geneva

Rainbow Action Against Sexual Minority Discrimination

- Include sexual orientation and gender identity in the equality and non-discrimination clause of the Constitution.
- Take all administrative, legislative, and judicial measures to prohibit discrimination based on sexual orientation and gender identity at the central and local levels, including the establishment of a National Action Plan for LGBTI persons.
- Take all necessary measures to prevent, investigate and prosecute homo/transphobic hate speech and hate crimes through the creation of a specialised complaints mechanism.
- Develop human rights education programmes on sexual orientation, gender identity and HIV/AIDS in consultation with civil society, and encourage government officials, judges, counselling specialists, and health professionals to undertake such training.

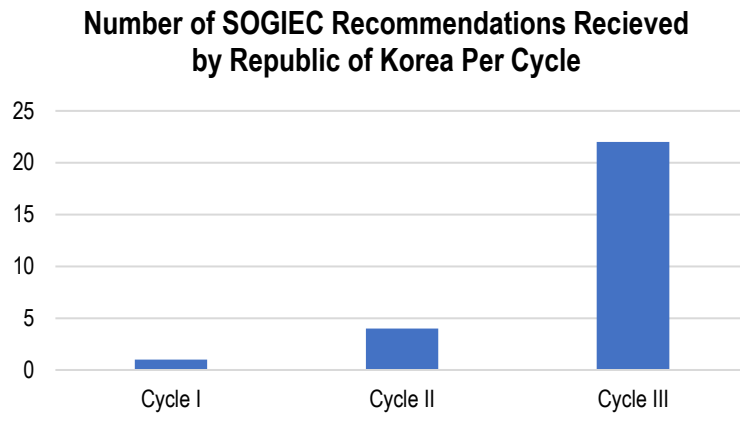
- Ensure the freedom of assembly for LGBTI persons (e.g. hosting Korean Queer Culture Festival and pride march without obstruction), freedom of association (e.g. registration of LGBTI organization and foundation), and ban the restriction put on LGBTI related contents in the media in terms of freedom of expression.
- Enact an anti-discrimination law that prohibits all forms of discrimination, including based on sexual orientation and gender identity.
- Disclose specific contents and a timeline of research that is being conducted to develop a comprehensive anti-discrimination law and implement an immediate and effective nationwide public education campaign to increase awareness of the necessity to have a comprehensive anti-discrimination law.
- Abolish Article 92-6 of the Military Criminal Act which criminalizes consensual same-sex acts.
- Ensure that LGBTI rights are guaranteed in the curriculum and educational policies, including the provision of comprehensive sex education.
- Prevent and address homophobic and transphobic bullying in the school system including but not limited to students, teachers, counsellors, and nurses.
- Exclude forced sterilization surgery, genital reconstructive surgery, and other surgical procedures as the preconditions of legal gender recognition of transgender persons.
- Ensure the bodily integrity of intersex persons, especially infants, children and adolescents, by prohibiting unnecessary medical interventions carried out without their free and fully informed consent.
- Take steps to ensure that same-sex couples are not discriminated in terms of economic, social rights and benefits, including legal recognition of same-sex marriage or civil union.
- Include LGBTI persons as one of the vulnerable groups in national level suicide prevention plan.
- Develop appropriate guidelines on how to ban conversion therapy and sanction practitioners of conversion therapies.
- Take necessary measures to prevent infringement of health rights and discrimination such as denying people living with HIV and AIDS patients their access to medical institutions.

F. Recommendations for Cycle II (2012)

Recommending State	Recommendation	Response
Argentina	Study the possibility of intensifying measures aiming at eliminating all discriminatory treatment on the basis of sexual orientation or gender identity	Accepted
Czech Republic	Adopt the Anti-Discrimination Act as a matter of priority while encompassing also grounds for discrimination on the basis of sexual orientation	Noted
Spain	Include in the Anti-Discrimination Law a specific prohibition on discrimination on the basis of sexual orientation	Noted
US	Review the possibility of repealing laws that criminalize	Noted

	on the basis of sexual orientation within the military	
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G. Graphic Comparison Between Cycles (1—3)



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

I. SOGIESC Mentions During Republic of Korea's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Honduras:** We hope that Korea can reconsider its position regarding recommendations on the abolition of the death penalty and the adoption of general legislation to combat discrimination that covers all spheres of life and prohibit discrimination on any grounds, in particular on the basis of race, sexual orientation and gender identity.
- **Albania:** We look forward to more in-depth consideration of our recommendations on Article 22 of the ICCPR and to adopt complete legislation against discrimination based on all grounds of race, sexual orientation and gender identity.
- **ILGA:** ILGA, in consultation with Rainbow Coalition Against Sexual Minority Discrimination, commended the government for engaging with civil society yet expressed deep concern over the noting of 22 SOGIESC recommendations. It reiterated key recommendations such as comprehensive anti-discrimination which includes sexual orientation and gender identity and the repeal of Article 92-6 of the Military Criminal Act.
- **Forum-Asia:** Forum-Asia expressed concern that the Republic of Korea noted key recommendations, including to address discrimination based on sexual orientation and gender identity.
- **Amnesty International:** Amnesty International expressed regret that the Republic of Korea did not accept the many recommendations to protect LGBTI persons, including to adopt a comprehensive anti-discrimination which includes sexual orientation and gender identity and to repeal Article 92-6 of the Military Criminal Act.
- **Human Rights Watch:** Human Rights Watch drew attention to the fact that the Republic of Korea merely noted recommendations to adopt anti-discrimination legislation for LGBTI persons and to repeal Article 92-6 of the Military Criminal Act.

SRI LANKA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 15 NOVEMBER 2017, 14:30—18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 17 NOVEMBER 2017, 17:00—18:00

During the 28th UPR Working Group Sessions, Sri Lanka received 10 SOGIESC recommendations. It supported 3 and noted 7 recommendations.

A. SOGIESC Information

National Report

14. A new Bill of Rights is currently being considered as part of constitutional reforms. A Parliamentary Sub-Committee on Fundamental Rights has already presented its final report. The report included explicit rights to life and privacy and extended the right to non-discrimination by including additional grounds such as disability, gender identity and sexual orientation.

33. The final report of the parliamentary Sub-Committee on Fundamental Rights, recommended that the Fundamental Rights Chapter in the Sri Lankan Constitution include express guarantees of non-discrimination on the grounds of disability, gender identity and sexual orientation. Moreover, the current NHRAP 2017-2021 commits to eliminating any discriminatory provisions in Sri Lanka's Penal Code.

137. Among the key priorities highlighted during the public consultations are: Expediting constitutional reforms and ensuring a strengthened fundamental rights chapter that provides for (i) specific rights such as the right to life and non-discrimination based on sexual orientation and gender identity.

Compilation of UN Information

12. The Committee on Economic, Social and Cultural Rights expressed concern that discrimination against lesbian, gay, bisexual, transgender and intersex persons was widespread, including in law enforcement, employment, health care, housing and education, and that lesbian, gay, bisexual, transgender and intersex persons had been subjected to threats and attacks on social media on the basis of their sexual orientation or gender identity.

52. The Human Rights Committee remained concerned at the continued applicability of sections 365, 365A and 399 of the Penal Code to criminalize lesbian, gay, bisexual, transgender and intersex persons and the widespread discrimination and stigmatization of persons on the basis of their sexual orientation and gender identity. It recommended that Sri Lanka amend its Penal Code and consider amending article 12 of its Constitution to explicitly state that sexual orientation and gender identity were prohibited grounds for discrimination. It also recommended that Sri Lanka strengthen measures to protect against violations of the rights of lesbian, gay, bisexual, transgender and intersex persons as well as strengthen awareness-raising and training on their rights.

61. The United Nations country team also expressed concern about the lack of availability of youth-friendly health services for adolescents and the lack of access to professional mental health care in the context of post-war reconciliation. It was also concerned that doctors and other medical staff were often unaware of and insensitive to the health needs of lesbian, gay, bisexual and transgender people.

Summary of Stakeholder's Information

6. Joint Submission 12 (JS12)²⁸ expressed concern about certain legislation such as sections in the Penal Code that discriminate based on sexual orientation and gender identity. JS12 highlighted that legislation such as the Vagrants Ordinance, the Brothels Ordinance, and certain sections of the Penal Code indiscriminately marginalized and discriminated against the LGBTIQ community and sex workers by means of criminalizing these lifestyles, and allowing persons in positions of authority such as police officers to detain, torture, and verbally and physically discriminate against members of these communities.

7. Joint Submission 3 (JS3)²⁹ recommended that a framework of legal reform be implemented, which actively prevents and prohibits discrimination against LGBTI persons, particularly in the context of education, housing, employment, accommodation and access to healthcare. Human Rights Watch (HRW) expressed similar concerns.

45. Joint Submission 13 (JS13)³⁰ noted that lesbian, gay, bi-sexual, trans-gender and inter- sex (LGBTI) organisations operating in Sri Lanka had suffered from purposefully prohibitive bureaucratic delays to impede their activities. JS13 specifically noted that an NGO, "Equal Ground" had suffered repeated harassment for organizing events that promote the rights of LGBTI people in Sri Lanka, including experiencing unjustified delays in gaining permission from authorities when coordinating activities.

47. JS3 noted that Sections 365 and 365A of the Penal Code criminalized sexual relations between same-sex individuals, classifying same-sex relations as an "unnatural offence" subject to punishment of up to 10 years in prison.

50. JS12 stated that LGBTIQ persons had been shunned from their homes, discriminated in the work place, and that it was difficult for them to find work.

B. SOGIESC Advanced Questions for Sri Lanka

- **Brazil:** What measures has the country undertaken to protect and promote the rights of the LGBTI community and decriminalize consensual same sex relations between adults?
- **Germany:** Does the Government of Sri Lanka plan to include the rights of LGBTIQ persons and address sexual and gender-based violence in the final version of the National Human Rights Action Plan (2017-2022)? If not, for what reason?
- **Norway:** Norway is concerned about the *existence of legislation that contradicts principles of equality and non-discrimination*. The National Report shows that Sri Lanka is considering reform of articles in the Constitution (16(1) and 80(3)) that allow for this. The National Report also says (point 33) that "The final report of the parliamentary Sub-Committee on Fundamental Rights, recommended that the Fundamental Rights Chapter in the Sri Lankan Constitution include express guarantees of non-discrimination on the grounds of disability, gender identity and sexual orientation." Which steps will Sri Lanka take to follow up the report of the parliamentary Sub-Committee on Fundamental Rights with respect to non-discrimination?

²⁸ Joint Submission 12 submitted by: Family Planning Association of Sri Lanka, Colombo (Sri Lanka); Centre for Policy Alternatives, Colombo (Sri Lanka); the Grassrooted Trust, Mount Lavinia (Sri Lanka); EQUAL GROUND, Colombo (Sri Lanka); Women and Media Collective, Colombo (Sri Lanka); Youth Advocacy Network Sri Lanka, Colombo (Sri Lanka); Shanthy Maargam, Colombo (Sri Lanka); Hashtag Generation, Colombo (Sri Lanka).

²⁹ Joint Submission 3 submitted by: EQUAL GROUND, Colombo (Sri Lanka); Kaleidoscope Australia, Clayton (Australia).

³⁰ Joint Submission 13 submitted by: World Alliance for Citizen Participation, Geneva (Switzerland); INFORM: Human Rights Documentation Centre, Colombo (Sri Lanka).

- **United States:** We are concerned by the continued use of Penal Code Sections 365, 365A, 399, and the Vagrants Ordinance, which in practice outlaw same-sex relations and are used by law enforcement to harass members of the LGBTI community. What steps is the government taking to address these concerns raised by Canada and Argentina in the previous UPR cycle, and to protect members of the LGBTI community from undue harassment?

C. Sri Lanka's Working Group Session

- **Intervention Made by Sri Lanka After 61 Interventions:** Mr. Vice President, in response to issues raised pertaining to non-discrimination and protecting and promoting of the LGBTIQ community. It may be noted that Sri Lanka is in the process of taking measures to guarantee right to non-discrimination inter-alia on the grounds of sexual orientation and gender identity. Permit me to refer to three significant developments in this regard.

First, the government has made a commitment to reform the Penal Code of Sri Lanka to ensure that all of offences contained in the Code are in compliance with international human rights standards. This commitment is reflected in the National Human Rights Action Plan 2017-2021 which was approved by the Cabinet of Ministers.

Second, as the government has emphasised before the numerous UN treaty bodies, the general right to equality and non-discrimination reflected in the Constitution of Sri Lanka implicitly includes non-discrimination on the grounds of sexual orientation. Moreover, the present constitutional reform process includes the concentration of the specific guarantee of non-discrimination on the grounds of sexual orientation. This was in fact recommended by the Parliamentary Side Committee on Fundamental Rights.

Third, the Supreme Court of Sri Lanka has made recent pronouncement on the Penal Code offences that may be applied to same-sex sexual conduct. In 2011, the Court acknowledged "contemporary thinking that consensual sex between adults should not be policed by the state, nor should it be grounds for criminalisation". By acknowledging that such offences are part of Sri Lanka's criminal law, the Court hailed that imposing custodial sentences would be inappropriate in cases where the acts are between consenting adults.

Despite the social, political and cultural challenges that remain with respect to reforming law, Sri Lanka remains committed to law reform and guaranteeing non-discrimination on the grounds of sexual orientation and gender identity.

D. Recommendations for Cycle III (2017)

a) Remarks of States

- **Australia:** However, discriminatory laws against women and LGBTI persons, and attacks on religious minority groups, continue to undermine Sri Lanka's progress on human rights.
- **Uruguay:** We welcome the fact that the Sub-Parliamentary Committee on Fundamental Rights has recommended that the chapter on fundamental rights of the Constitution include expressed guarantees of non-discrimination based on disability, gender identity and sexual orientation.

b) The following recommendations have been examined by Sri Lanka and enjoy the support of Sri Lanka

- **Argentina:** Ensure respect for the rights and fundamental freedoms of LGBTI persons, by investigating and sanctioning acts of discrimination and violence against LGBTI persons (6.38).
- **Italy:** Prevent and combat all kind of discrimination, in particular those on the ground of ethnicity and sexual orientation (6.37).
- **Portugal:** Adopt measures to eliminate all forms of discrimination in health care settings, including in the context of HIV/AIDS, while paying particular attention to the specific needs of key populations, including LGBTI persons (6.39).

c) The following recommendations have been examined by Sri Lanka and have been noted by Sri Lanka

- **Australia:** Amend its laws that discriminate against women, and decriminalise consensual same-sex conduct (7.19).
- **Brazil:** Decriminalize same-sex relations and take concrete measures to combat discrimination and violence against LGBTI community (7.21).
- **Canada:** Decriminalize same-sex conduct by repealing Sections 365 and 365A of the penal code (7.22).
- **Honduras:** Decriminalise same-sex consensual relationships and to adopt all necessary measures to combat discrimination and violence based on sexual orientation or gender identity, and to guarantee access of the LGBTI people to health services (7.25).
- **Netherlands:** Amend the Penal Code, particularly Sections 365 and 365A to decriminalize consensual same-sex conduct and displays of affection (7.20).
- **Sweden:** Amend the Penal Code, particularly Sections 365 and 365A, to decriminalize consensual same-sex conduct as well as displays of affection (7.23).
- **Uruguay:** Modify the criminal code in order to decriminalize consensual sexual behaviour between persons of the same sex, suppress degrading terms that could be used against the LGBTI community and avoid abuse and harassment by police authorities (7.24).

E. SOGIESC Recommendations Shared by HRDs During ILGA's UPR Advocacy Week in Geneva

EQUAL GROUND

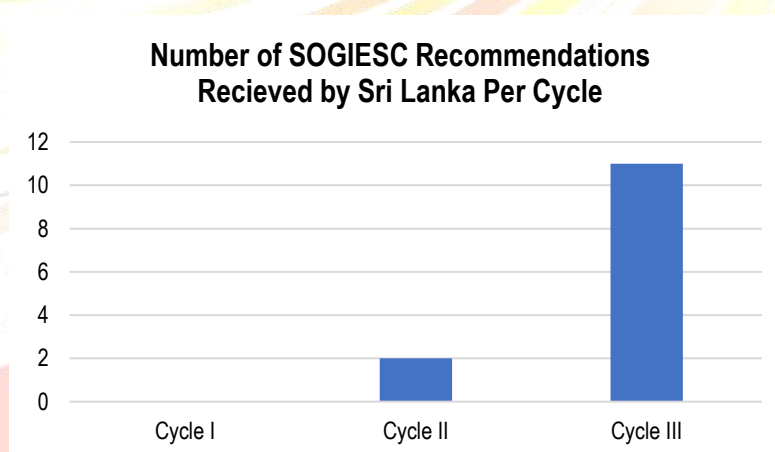
- Amend the Penal Code, particularly Sections 365 and 365A, to decriminalize consensual same-sex conduct and displays of affection.
- Review the application of Section 399 of the Penal Code and the Vagrants Ordinance, to clarify that it should not be used to harass transgender persons or persons using non-conventional gender expressions or persons of different sexual orientations.
- Expand the non-discrimination clause under Article 12(2) of the Constitution, that explicitly prohibits discrimination on the grounds of race, religion, language, caste, sex, political opinion, and place of birth, to include SOGIESC.
- Recognise and eliminate intersecting forms of discrimination, including adopting an intersectional approach in the National Human Rights Action Plan, any human rights educational programmes, and the National Plan of Action to address Sexual and Gender-based Violence.
- Adopt comprehensive anti-discrimination legislation enshrining the principles of equality.
- Ensure systematic collection and analysis of data on all forms of discrimination and violence against LGBTIQ persons, disaggregated by age, ethnic group, region and relationship between the victim and the perpetrator.

- Repeal Articles 16(1) and 80(3) of the Constitution and introduce post-enactment judicial review of all legislation that may be inconsistent with the Constitution, to ensure that such legislation can be reviewed and its validity pronounced upon by an independent judiciary.
- Enable the participation of LGBTIQ persons in policy making efforts where civil society is being consulted.
- Reinstate and implement the commitment to decriminalise same-sex sexual conduct and expressions of affection in the National Human Rights Action Plan, initiate public awareness efforts to educate law enforcement, teachers, health care workers, public employees and the general public and call for an end to attacks, abuse and discrimination based on SOGIESC.
- Introduce legislation that allows for the legal recognition of the gender of transgender and intersex people through a process which is quick, transparent, accessible and based on self-determination.

F. Recommendations for Cycle II (2012)

Recommending State	Recommendation	Response
Argentina	Strengthen the measures to eliminate all discriminatory treatment based on sexual orientation or gender identity	Noted
Canada	Decriminalize consenting homosexual relationships between persons over the age of consent by repealing Section 365A of the penal code	Noted

G. Graphic Comparison Between Cycles (1—3)



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

I. SOGIESC Mentions During Sri Lanka's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **COC Netherlands:** COC Netherlands, in consultation with EQUAL GROUND, urged the Sri Lankan government to include sexual orientation as a basis for non-discrimination in the

Constitution and National Human Rights Action Plan, as well as to devise education campaigns for public officials and the general public on sexual orientation and gender identity.

SWITZERLAND UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 9 NOVEMBER 2017, 9:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 14 NOVEMBER 2017, 16:00—10:30

During the 28th UPR Working Group Sessions, Switzerland received 12 SOGIESC recommendations. It accepted 4 recommendations and noted 8 recommendations.

A. SOGIESC Information

National Report

48. The amendment to legislation on adoption adopted by the parliament on 17 June 2016 establishes a procedure that, in similar fashion to the adoption of a spouse's child in a married couple, will enable persons living in a registered partnership or de facto union to adopt the child of their heterosexual or homosexual partner.

49. In a report of 25 March 2015, the Federal Council addressed the modernization of family law and concluded that it was necessary to adopt laws equating registered partnerships with marriage or allowing homosexual couples to marry. The Legal Affairs Committees of the two houses of parliament have in the meantime decided to proceed with parliamentary initiative No. 13.468 on civil marriage for all and will submit proposals for putting it into effect. Moreover, homosexual couples in a registered partnership have been able to use the same family name since 1 January 2013.

50. The Federal Council has expressed its readiness to address the issue of the legal protection of transgender persons and, against that backdrop, to consider acting on the recommendations made in resolution 2048 (2015) of the Council of Europe. The Federal Civil Status Office issued a legal opinion requesting the cantonal civil status authorities not to make surgical sterilization or reconstruction of opposite-sex genital organs a prerequisite for a legal change of sex. This opinion also argues that legal recognition of a sex change should not require dissolution of the marriage or registered partnership of the persons concerned against their will.

51. In principle, in cases of intersexuality, an amendment to the sex recorded in the civil register should also, under current law, be ordered by a judge at the request of the parents, the child him or herself or the cantonal authorities responsible for overseeing civil status. The decision will then be recorded in the civil register and the reference to the sex will be changed. The Federal Civil Status Office has issued official statements setting out the conditions for the automatic correction of records by the civil status authorities or for correction by a judge, the aim being to facilitate corrections. In addition, discussions on drafting a law establishing a simplified procedure for recording a sex change in the civil register are currently under way.

52. Where criminal law is concerned, the parliament decided to proceed with a parliamentary initiative to expand the scope of article 261 bis to include discrimination based on sexual orientation. It has extended the deadline for addressing the initiative to the spring 2019 session.

Compilation of UN Information

17. The Committee on the Rights of the Child was concerned about incidents of hate speech against lesbian, gay, bisexual, transgender and intersex persons and recommended that Switzerland adopt comprehensive legislation against discrimination on the grounds of sexual orientation and gender identity.

18. The same Committee, the Committee on the Elimination of Discrimination against Women and the Committee against Torture recommended that Switzerland ensure that no one was subjected to unnecessary medical or surgical treatment during infancy or childhood, in line with the recommendations of the National Advisory Commission on Biomedical Ethics on issues relating to intersexuality.

Summary of Stakeholder's Information

13. JS1³¹ noted that during the 2012 UPR, Switzerland had not supported recommendations calling for new comprehensive legislation on discrimination. It referred to a study indicating considerable gaps and deficits related to the legal protection from discrimination, especially in the context of private law and with regard to LGBTI persons.

15. JS1 recommended that Switzerland: close protection gaps by adopting new and/or adapting existing legislation at federal and cantonal level aimed at creating effective and comprehensive protection against discrimination with explicit provisions for vulnerable LGBTI persons; adapt criminal law in order to provide effective and explicit protection from hate speech against different groups including women, LGBTI, persons with disabilities, refugees and others. AI and JS2³² made related observations and recommendations.

17. AI noted that a bill, allowing marriage for homosexual couples, was under discussion in Parliament. Moreover, though persons in same-sex relationships should soon be allowed to adopt the children of their partners, same-sex couples did not have access to adoption in general. It recommended that Switzerland take the necessary steps to put an end to discrimination faced by same-sex couples, in particular, by ensuring that they can marry and adopt children.

18. Transgender Network Switzerland (TGNS) indicated that Trans people were still a highly-stigmatized group at the margin of Swiss society and recommended training and awareness raising about trans people and their rights especially for decision-makers at all levels of the state. JS1 was concerned that

³¹ Joint Submission 1 submitted by: The Sexual Rights Initiative, Sexual Health Switzerland, Ottawa (Canada).

³² Joint Submission 2 submitted by: ACT212, AGILE Behinderten-Selbsthilfe Schweiz, Aids-Hilfe Schweiz, Aktion der Christen für die Abschaffung der Folter, Alliance Sud, Amnesty International, Arbeitsgruppe Schweiz – Kolumbien, Arbeitskreis tourismus & entwicklung, Arbeitskreis tourismus & entwicklung, Association for the Prevention of Torture, Association Mondiale pour l'Ecole Instrument de Paix, Association Regard, Augenauf, AvenirSocial, Bahá'í Switzerland, Bereich OeME-Migration Reformierte Kirchen Bern-Jura-Solothurn, Brot für alle, Brücke - Le pont, Caritas, Centre de conseils et d'appui pour les jeunes en matière de droits de l'Homme, Centre de Contact Suisses-Immigrés, Centre international de formation à l'enseignement des droits de l'homme et de la paix, Centre international de formation à l'enseignement des droits de l'homme et de la paix, Dachverband Regenbogenfamilien, Demokratische Juristinnen und Juristen Schweiz, Dialog EMRK, Dialogai, Fachstelle Frauenhandel und Frauenmigration, Fachstelle für die Beratung und Integration von Ausländerinnen und Ausländern, Fastenopfer, Feministische Friedensorganisation, FoodFirst Information and Action Network, Forum Aussenpolitik, Frauen für den Frieden Schweiz, Freidenker- Vereinigung der Schweiz, Freikirche der Siebenten-Tags- Adventisten, Genève pour les Droits de l'Homme - Formation Internationale, Gesellschaft für bedrohte Völker, Gesellschaft Minderheiten in der Schweiz, grundrechte.ch, Gruppe für eine Schweiz ohne Armee, Hilfswerk der evangelischen Kirchen Schweiz, Humanrights.ch, Inclusion Handicap, Indigenous Peoples' Center for Documentation, Research and Information, Informationsstelle für Ausländerinnen- und Ausländerfragen, Internationalen Vereinigung zur Verteidigung und Förderung der Religionsfreiheit, Kinderlobby Schweiz, Lesbenorganisation Schweiz, Ligue Internationale Contre le Racisme et l'Antisémitisme, Ligue suisse des droits de l'Homme - Section de Genève, Migration & Menschenrechte, Multiwatch, National Coalition Building Institute, Netzwerk Kinderrechte Schweiz, NGO-Koordination post Beijing Schweiz, Observatoire suisse du droit d'asile et des étrangers, Peace Brigades International Schweiz, Peace Watch Switzerland, Pink Cross, PSYCHEX, Public eye, Sans- Papiers Anlaufstelle Zürich, Santé Sexuelle Suisse, SAPI international, Schweizerische Beobachtungsstelle für Asyl- und Ausländerrecht, Schweizerische Evangelische Allianz, Schweizerische Flüchtlingshilfe, Schweizerische Gesellschaft für Völkerstrafrecht, Schweizerische Sektion der Internationalen Juristenkommission, Schweizerische Stiftung des Internationalen Sozialdienstes, Schweizerischer Friedensrat, Schweizerischer Verband des Personals öffentlicher, DiensteSchweizerisches Komitee für UNICEF, Schweizerisches Rotes Kreuz, Service d'Aide Juridique aux Exilé-e-s, Solidarité sans frontières, sozialinfo.ch, Stiftung gegen Rassismus und Antisemitismus, Terre des Femmes, Transgender Network Switzerland, Unisours, United Nations Association Switzerland Gesellschaft Schweiz-Uno, Unser Recht, Verein für soziale und kulturelle Arbeit / Projekt gggn/Vivre ensemble - Service d'information et de documentation sur le droit d'asile, Bern (Switzerland).

in many cases, the courts force transgender people to undergo medical interventions and to prove their infertility as a requirement for legal gender recognition, though there was no legal base for this and recommended ensuring that in legal gender recognition procedures, the civil courts do not force trans persons to undergo involuntary medical treatment.

19. JS1 noted measures recently initiated to ensure the respect of the human rights of persons with variations in sex characteristics but indicated that in practice, recommendations by the Swiss National Advisory Commission on Biomedical Ethics, endorsed by the Federal Council in 2016, were not yet implemented. JS1 recommended that Switzerland take all necessary measures to protect the bodily integrity, autonomy and self-determination of intersex persons.

78. AI recommended guaranteeing that persecution based on sexual orientation or gender identity was recognised as a valid asylum ground. TGNS highlighted the situation of trans people seeking asylum and difficulties faced in their asylum procedures and recommended a more careful evaluation of their specific situation.

B. SOGIESC Advanced Questions for Switzerland

- **Belgium:** The Committee on the Rights of the Child (CRC) has expressed concern about cases of hate speech against lesbian, gay, bisexual, transgender and intersex people. What measures does Switzerland intend to take to combat discrimination on grounds of sexual orientation and gender identity?
- **Norway:** The Council of Europe Commission against Racism and Intolerance, ECRI, recommended in 2014 that the Swiss authorities task one or more independent authorities to promote understanding of LGBTI persons and combat the discrimination from which they suffer, with a budget. In 2017 ECRI considered that this recommendation had not been implemented. Which concrete measures will be undertaken to ensure an effective compliance with this recommendation?
- **United Kingdom:** What steps has the Government of Switzerland taken to promote LGBTI rights and to end discrimination against same sex couples, in particular ensuring that they can marry and adopt children?

C. Switzerland's Working Group Session

- **Intervention Made by Switzerland After 53 Interventions:** I would like to say something now about gender identity and sexual orientation which was raised by South Africa and Canada. Although the situation in Switzerland does not endanger the life of LGBTI individuals, the challenges remain. We'd like to answer some of the questions raised by the United Kingdom and Belgium and mention three ongoing measures.

First of all, the review of our Adoption Law decided in 2016 provides for the possibility to adopt the child of the spouse in a married couple be they heterosexual or homosexual. This new Adoption Law will come into force the 1st of January next year.

Secondly, the two Legal Affairs Committees of both chambers have decided to follow-up on the parliamentary initiative 'Civil Marriage For All' as it's known. This initiative is currently being debated. Were it to be adopted, important fiscal law adaptations would have to be made also in the ways of social insurance adoption and medically assisted procreation.

The Parliament, thirdly, accepted a parliamentary initiative which will aim to extend the criminal norm against racial discrimination based on also sexual identity and sexual orientation. The reform of our criminal code in that regard is ongoing.

In order to fully guarantee respect, protection and the understanding of society vis-à-vis persons with these gender variations, a reform of our Civil Code is contemplated. This aims to have a simplified procedure for registering your sex change in the civil register.

Currently, these premature interventions or youth interventions are contrary to the law governing physical integrity. As far as possible, one should wait until the child is old enough in order to take their own stance on the treatment envisaged. By principle, each individual is ceased in the civil status register at birth with their complete identity, with their affiliation and gender. When there is intersexuality, a rectification when it comes to the part pertaining to gender in the civil registry must be ordered by the judge in principle at the request of the parents or the child itself. On the 1st of February 2014, the Confederation adopted an official communication setting out the conditions for a rectification as a matter of cause when it comes to registering this by the civil state authorities. Surgical operations and non-necessary invasive medical treatments cannot be carried out on an individual without their free and informed consent.

D. Recommendations for Cycle III (2017)

a) Remarks of States

- **Canada:** Canada welcomes the adoption by the Swiss Parliament of a legislative amendment that allows same-sex couples living under a registered partnership or common-law relationship to adopt children of the same age. their partner. This is another constructive step towards recognizing the rights of LGBTI people, and we hope that Switzerland will give same-sex couples the same access to adoption as any other family. We also support the work of the Committee on Legal Affairs of the Swiss Parliament to determine how to grant equality to marriage rights in Switzerland by the summer of 2019.
- **New Zealand:** New Zealand welcomes that from January 2018 Swiss persons in same-sex relationships will be able to adopt the children of their partners as planned in the Adoption Law passed in the Swiss Parliament in June 2016.
- **United Kingdom:** We note with concern gaps in existing protection against discrimination for LGBT persons. We encourage more comprehensive legislation to redress this imbalance and urge further consideration to afford same sex couples the right to marry and to become parents.

b) The following recommendations have been examined by Switzerland and enjoy the support of Switzerland

- **Colombia:** Redouble efforts in all the cantons to avoid discrimination based on race, origin, and sexual orientation and gender identity (6.47).
- **Germany:** Take the necessary steps to put an end to discrimination faced by same-sex couples, in particular, by ensuring they can marry and adopt children (7.34).
- **Israel:** Promote awareness-raising campaigns on preventing discrimination and bullying based on sexual orientation and gender identity to the broader public, and in particular to students and teachers (7.32).
- **Sweden:** Adopt legislation to eliminate the sterility prerequisite for legal change of gender, in conformity with the European Convention on Human Rights (6.48).

c) **The following recommendations have been examined by Switzerland and have been noted by Switzerland³³**

- **Australia:** Introduce specific legislation prohibiting discrimination based on gender identity or intersex status (7.33).
- **Greece:** Take appropriate measures to introduce a law on equality of treatment taking particularly into account the interests of LGBTI minorities, persons with disabilities, women and other vulnerable groups (8.43).
- **Honduras:** Adopt a policy and an action plan at the federal level to combat discrimination and violence against LGBTI persons, and in particular include them in national surveys on suicides (8.44).
- **Ireland:** Introduce legislation uniformly across the Confederation that explicitly protects LGBTI persons from discrimination. In preparing this Act, the issues faced by LGBTI persons should be taken into account (8.42).
- **Netherlands:** Take measures on awareness-raising and education about the LGBTI-community, by developing and implementing a concrete national action plan in cooperation with LGBTI civil society organizations for all levels of the state (7.35).
- **Portugal:** Provide state and cantonal authorities with training on human rights for the protection of the rights of transgender people (7.36).
- **Slovenia:** Adapt the surveys conducted by the Swiss Federal Statistical Office in order to include trans people and reflect the findings in the following UPR cycle (8.45).
- **South Africa:** Ensure effective human rights training for the protection of transgender persons (7.37).

E. **SOGIESC Recommendations Shared by HRDs During ILGA's UPR Advocacy Week in Geneva**

Transgender Network Switzerland

- Develop and implement in cooperation with trans civil society organizations a comprehensive national strategy or an action plan to respect, protect and fulfil the human rights of all trans persons by all levels of the State.
- Adapt the surveys used by the Federal Statistical Office in order to include trans people and have their gender identity as well as their lived realities reflected.
- Provide state and canton authorities, including law enforcement and judicial officials, decision-makers and administration with human rights training for the protection of trans persons rights.
- Support trans civil society organizations with sufficient (financial) resources
- Adapt the respective regulation to ensure reimbursement by basic health insurance of all indicated gender affirming treatment for all trans people.
- Make use of the Federal Councils competence (Federal Health Insurance Act) to ensure genital surgery performed by specialists abroad is reimbursed by basic health insurance.
- Include trans people as specific group at risk and increase activities to protect them in the national suicide prevention plan.
- Include trans people as specific group at risk and increase activities to protect them in the next National Program on HIV and other sexually transmitted infections (NPHS 2018–2021).
- Enact guidelines ensuring the fundamental rights of trans pupils and students by all Cantons in consultation with trans NGOs.

³³ Switzerland also received a hostile recommendation from Kenya. **Kenya:** Protect and support the family as the natural and fundamental group unit of society and in doing so maintain the definition of marriage as the right of men and women of marriageable age to marry and to found a family, in keeping with article 23 of the International Covenant on Civil and Political Rights (8.58). This recommendation was noted.

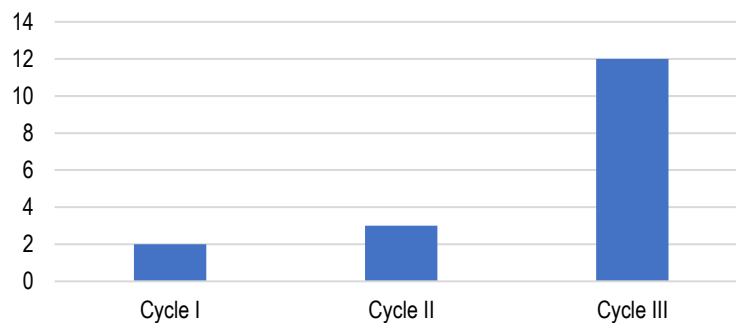
- Enact guidelines to deal with the claims of trans asylum seekers in a non-evasive, reasonable and sensitive manner, and to ensure careful consideration of the risk of persecution in their country of origin and in other countries they could be deported to especially as a result of the “Dublin System”.
- Ensure that all trans asylum seekers and their partners are not accommodated in asylum camps but provided with safe housing.
- Introduce, implement and monitor guidelines for all Cantons to ensure trans prisoners human rights.
- If a law on legal gender recognition shall be drafted, fully include trans civil society organisations as experts in all steps of the procedure; include a third gender marker (beside “F” or “M”); and lift or lower significantly the costs for legal gender recognition.

F. Recommendations for Cycle II (2012)

Recommending State	Recommendation	Response
Canada	Take necessary measures to expand the provisions of the Criminal Code on hate speech in order to include grounds which go beyond hatred based on race, religion or origin of the individual, integrating such factors as language, colour, sex, mental or physical disability, sexual orientation or other similar grounds	Noted
Ireland	Introduce legislation, uniformly across the Confederation, that explicitly protects LGBT persons from discrimination, and take into account the issues faced by LGBT persons when creating a general act on equal treatment	Noted
Norway	Adopt federal legislation in order to provide protection against all forms of discrimination, including on grounds of sexual orientation and gender identity	Noted

G. Graphic Comparison Between Cycles (1—3)

Number of SOGIEC Recommendations Received by Switzerland Per Cycle



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

I. SOGIESC Mentions During Switzerland's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Switzerland (Opening Remarks):** Switzerland continues to protect the rights of the LGBTI community. Human rights training, for example, is part of the training of the police and judiciary authorities. Other measures are under discussion, such as gender modification or changing the name in the civil register. Rather than adopting a national action plan to promote the rights of LGBTI individuals, Switzerland believes it is more effective and wiser to support the specific organisations and projects, in particular at the local level, which is why Switzerland took note of recommendations 147.35-37. (...) Switzerland has not accepted recommendations 147.29 and 147.33 calling for provision of effective legal protection and equitable conservation in cases of violations of rights linked to acts of racial discrimination. It also requires the introduction of specific legislation prohibiting discrimination based on gender identity or discrimination against intersex individuals. The two recommendations were noted since we believe that Article 261 Bis of the Swiss Criminal Code does provide comprehensive legal protection against discrimination. Moreover, Swiss legislation already provides for various mechanisms for protection against discrimination based on sexual identity or orientation. Moreover, the Parliamentary Commission implemented a draft bill that provides for the inclusion of discrimination based on sexual orientation in that same Article 261 Bis of the Criminal Code. (...) The Law on Registered Partnerships offers homosexual couples in large the same rights that married couples enjoy. The Law on the Right to Adoption was updated in 2016 and allows an individual to adopt children of his partner registered as the same-sex.
- **Honduras:** Honduras hopes that Switzerland will examine the need to adopt a policy and a federal action plan to combat discrimination and violence against lesbian, gay, bisexual, transgender and intersex persons, in particular include these people on national surveys on suicide.
- **ILGA:** ILGA, in consultation with Transgender Switzerland, welcomed the acceptance of 4 SOGIESC recommendations yet expressed great concern that Switzerland noted a further 8 SOGIESC recommendations, including recommendations from Honduras and Slovenia to include LGBTI persons in national surveys on suicides.
- **Action Canada for Population and Development:** Action Canada for Population and Development welcomed the acceptance of recommendations addressing discrimination, including those based on discrimination against LGBTI persons. However, it expressed concern that Switzerland rejected numerous recommendations during the interactive dialogue that would have led to comprehensive legislative changes or new legislation to address such discrimination.

UKRAINE UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 15 NOVEMBER 2017, 9:00—12:30

DATE AND TIME OF THE ADOPTION OF THE REPORT: 17 NOVEMBER 2017, 17:00—18:00

During the 28th UPR Working Group Sessions, Ukraine received 13 SOGIESC recommendations. It accepted 10 recommendations and noted 3 recommendations.

A. SOGIESC Information

National Report

93. The Labour Code of Ukraine was amended in 2015 to specifically prohibit discrimination based on sexual orientation and gender identity in employment and occupation.

94. In 2016, the Ministry of Health abolished its Order No. 60, which foresaw an extensive psychiatric observation of transgender people before undergoing gender reassignment surgery. Instead, the new Order No. 1041 foresees a procedure, in which the extent of the surgical operation is defined by the transgender person.

Compilation of UN Information

13. The Committee on the Elimination of Racial Discrimination welcomed the adoption of the 2012 Act on the principles of preventing and combating discrimination, but was concerned at the absence of national origin and descent as grounds for racial discrimination. Similarly, the Human Rights Committee raised concern about the absence of sexual orientation and gender identity as prohibited grounds for discrimination.

17. The United Nations country team noted that, in 2015, Ukraine had adopted labour legislation prohibiting discrimination on the grounds of sexual orientation, although no criminal sanctions had been foreseen.

14. Both Committees were also concerned at reports of increased racist hate speech and discriminatory statements in the public discourse, as well as racially motivated incidents and hate crimes, against, inter alia, Roma, Crimean Tatars, Jews, lesbian, gay, bisexual and transgender persons, Africans, asylum seekers and refugees in Ukraine. Such crimes and incidents were not always adequately and effectively investigated, and those responsible were not prosecuted and punished. In addition, requirements for the application of article 161 of the Criminal Code to acts of racial discrimination had hampered its effectiveness, resulting in difficulties in proving racial motivation.

Summary of Stakeholder's Information

20. Several stakeholders, while noting that the amendments to the anti-discrimination legislation in 2014 had brought several improvements, expressed concern that the list of protected grounds did not explicitly mention sexual orientation or gender identity.

22. Several submissions indicated that there was no specific law on hate crimes in Ukrainian legislation, and that Article 161 of the Criminal Code on "violation of citizens' equality based on their race, nationality

or religion” limited the grounds for complaint to this list. It was consequently not possible to invoke this article for hate crimes based on sexual orientation or/and gender identity. JS3³⁴ noted that lesbians and female bisexual and transgender persons were twice more vulnerable to hate crime as they belonged to both Lesbian, Gay, Bisexual and Transgender (LGBT) persons and women categories.

23. JS3 recommended amending several articles of the Criminal Code of Ukraine to ensure punishment for crimes motivated by homophobia. The Nash Mir Center (NMC) recommended including homophobic motivation as an aggravating circumstance.

24. HRW noted some progressive policies supporting LGBT persons. However, it stated that anti-LGBT sentiment remained strong among State officials and the public, as exemplified by attacks against LGBT events. It recommended ensuring that LGBT people and activists were protected from homophobic and transphobic violence and harassment. LGBT Association ‘LIGA’ (LIGA) recommended including topics of hate crimes on the grounds of sexual orientation and gender identity into educational programs for police officers. NMC recommended establishing a channel of communication between the police and the local communities, particularly the LGBT community. LIGA recommended developing and launching a governmental program to promote tolerance towards LGBT people at the national level.

47. Front Line Defenders (FLD) listed cases of human rights defenders who had been physically attacked and/or harassed since 2012 because of their work in denouncing corruption, documenting human rights violations committed by security forces or promoting LGBT rights.

51. NMC, while noting some positive developments, stated that the realisation of the right to peaceful assembly for LGBT people in Ukraine totally depended on the readiness of the local authorities and police to ensure security of those events. JS6³⁵, LIGA and FLD mentioned several cases where LGBT rallies had either been challenged by local authorities before courts, or attacked by radical groups.

57. JS15³⁶ noted that Parliament voted for the inclusion of sexual orientation and gender identity to the list of protected grounds into the Labour Code. However, Parliament was working on a new version of the Labour Code which did not contain sexual orientation and gender identity among the list of protected grounds. It added that there were no clear mechanisms for filing complaints about discrimination in employment.

63. JS17³⁷ stated that HIV prevention projects among street children had since 2015 not been supported by neither national, nor local budgets. LIGA noted that transgender people were not recognized in Ukraine as a key population when responding to HIV, and stated that their rights required special protection.

68. JS4³⁸ reported that Ukraine still did not have a specific crime of domestic violence, though noting that a proposed package of laws to address violence against women, including a new domestic violence law, passed the first hearing in 2016 in Parliament. However, the legislative package was returned to the Working Group because it contained references to gender and sexual orientation. JS4 added that the

³⁴ Joint Submission 3 submitted by: Coalition against discrimination consisting of more than 50 NGOs all-over Ukraine, Kyiv (Ukraine).

³⁵ Joint Submission 6 submitted by: CIVICUS: World Alliance for Citizen Participation, Johannesburg (South Africa); Centre for Civil Liberties; DeJuRe Foundation.

³⁶ Joint Submission 15 submitted by: Gender Strategic Platform, Kyiv (Ukraine); Civil Organisation La Strada- Ukraine; Women’s Information Consultative Centre; Public Organization International School of Equal Opportunities; Ukrainian National NGO Democracy Development Centre; Center for Social and Gender Research New Life; Insight; National Council of Women of Ukraine; World Federation of Ukrainian Women’s Organizations.

³⁷ Joint Submission 17 submitted by: NGO Coalition Child’s Rights in Ukraine, Kyiv (Ukraine); Association of the Young Professionals Class; Danish Refugee Council in Ukraine; Environmental Children’s Organisation Flora; Women’s Consortium of Ukraine; International Charity Partnership for Every Child; Human Rights Centre Postup; Kharkiv Regional Foundation Public Alternative; MART; Charitable Fund the Right to Protection; Public Movement Faith, Hope and Love; Kharkiv Institute for Social Researches; Kalynove Grono; Charitable Foundation Rokada; Center of Public Initiatives Intelligence of Sumy Region; International Charitable Foundation AIDS Foundation East-West; Human Rights Information Centre.

³⁸ Joint Submission 4 submitted by: The Advocates for Human Rights, Minneapolis (the United States of America); Centre Women’s Perspectives.

ongoing conflict in eastern Ukraine had exacerbated the problem of domestic violence. JS15 stated that it was difficult to collect data on sexual and gender-based violence associated with the on-going conflict.

B. SOGIESC Advanced Questions for Ukraine

- **Germany:** Germany commends Ukraine for improvements regarding the situation of the LGBTBI community. Notably the Kyiv Pride events of 2016 and 2017 were successful. However, we are worried about reports of aggression against members of the community in smaller villages and rural areas and of attacks against peaceful assemblies. Reports about lack of effective law enforcement adds to our worries. Therefore, we would like to know by which means the rights of LGBTBI in the country at large are to be protected?
- **Norway:** In light of the findings by the Commission against Racism and Intolerance (ECRI) and the UN OHCHR, minorities including LGBT-persons and Roma remain targeted groups for violent discrimination. How will Ukraine ensure that all minorities enjoy the same rights and protection as are due Ukrainian citizens?
- **United Kingdom:** What action is the Government of Ukraine taking to ensure the full implementation of the LGBT components of the National Human Rights Strategy?
- **United States:** We commend Ukraine for taking steps to ensure that LGBTBI individuals are increasingly able to exercise their rights to free assembly and association, including by providing significant protection to the 2017 Kyiv March for Equality. What further steps will the government take to foster tolerance in Ukrainian society towards LGBTBI persons and support the ability of LGBTBI individuals to exercise their rights?

C. Remarks of Ukraine (Opening and Closing Speech)

- **Opening Remarks:** Several delegations in their questions noted positively the recent developments in Ukraine in the protection of the rights of LGBTBI people. Following the recommendations from the previous cycle, Draft Law 11729 prohibiting the so-called LGBT propaganda was withdrawn from the Parliament in 2012.

Already, the Labour Code of Ukraine was amended in 2015 to specifically prohibit discrimination based on sexual orientation and gender identity in employment and occupation.

In 2016, the Ministry of Health abolished its Order No. 60 which foresaw an extensive psychiatric observation of transgender people before undergoing gender reassignment surgery. Instead, the new procedure is defining the extent of the surgical operation to the extent that includes the specific will of the transgender person.

In 2016 and 2017, the Equality March peacefully took place in Kiev under the full protection of the national police and we're pledging to continue to constructively deal with this sensitive issue.

D. Recommendations for Cycle III (2017)

a) Remarks of States

- **Chile:** We remain concerned nevertheless at the high levels of acts of violence and hate speech against lesbian, gay, bisexual, transgender and intersex individuals.
- **Finland:** Finland welcomes Ukraine's progress in improving the status of sexual and gender minorities in line with our recommendations during the last UPR-cycle. However, there is still

work to be done to prevent discrimination in the workplace or elsewhere in the society based on sexual orientation or gender.

- **Mexico:** We further applaud modification of the Ukrainian Labour Code so as to expressly prohibit discrimination based on sexual orientation and gender identity in the workforce.
- **Sweden:** The period following the Revolution of Dignity in 2014 has seen some steps strengthening the enjoyment of human rights for LGBTI persons in Ukraine, in particular the introduction of anti-discrimination legislation. At the same time incidents of hate crime are common and impunity is widespread.
- **Uruguay:** We welcome the modification of the Labour Code whose goal is to expressly prohibit discrimination based on sexual orientation and gender identity in the work place as well as their efforts to protect the rights and the dignity of trans people in the area of health.

b) The following recommendations have been examined by Ukraine and have been accepted by Ukraine

- **Belgium:** Take effective measures to combat hate speech and acts of hate relating to ethnic origin or sexual orientation (6.51).
- **Brazil:** Continue to work on effective measures to ensure legal and judicial advances in the fight against hate crimes, including those related to racial discrimination or sexual orientation and gender identity (6.52).
- **Canada:** Fully implement its 2015 National Human Rights Strategy, including with respect to protecting the rights of internally displaced persons; ending discrimination based on gender and sexual orientation through the ratification of the Istanbul Convention; and addressing hate crimes through a strengthened criminal justice framework (6.34).
- **Chile:** Continue working to eliminate all forms of stigmatisation or discrimination based on sexual orientation or gender identity (6.180).
- **Finland:** Carry out awareness programs and sensitivity trainings on violence and discrimination to law enforcement, judicial and other authorities to prevent discrimination in the society based on sexual orientation or gender (6.35).
- **France:** Ensure respect for freedom of expression, in particular with regard to journalists, associations and non-governmental organisations defending fundamental rights, including the rights of LGBTI persons (6.87).
- **Germany:** Further strengthen the protection of the rights of minorities, including LGBTI and the Roma community, by effective implementation of existing legislation and effective law enforcement (6.179).
- **Italy:** Strengthen efforts to prevent and combat all kinds of discrimination, in particular against women and LGBTI persons (6.183).
- **Sweden:** Review relevant legislation and its application in order to eliminate impunity for hate crime based on sexual orientation and gender identity (6.185).
- **Uruguay:** Continue strengthening measures to prevent and combat discrimination based on sexual orientation, ensuring the free expression of, and respect for, persons belonging to the LGBTI community (6.186).

c) The following recommendations have been examined by Ukraine and have been noted by Ukraine

- **Chile:** Consider introducing amendments to Ukraine's Criminal Code with a view to punishing homophobic crimes (6.181).
- **Honduras:** Adopt comprehensive legislation to combat discrimination based on sexual orientation and gender identity and protect the rights of LGBTI persons (6.182).

- **Spain:** Recognise civil unions between people of the same sex as a first step in the fight against discrimination based on sexual orientation and gender identity (6.184).

E. SOGIESC Recommendations Shared by HRDs During ILGA’s UPR Advocacy Week in Geneva

LGBT Association ‘LIGA’

- Enact legislation on hate crimes based on sexual orientation or gender identity and thoroughly investigate and prosecute all acts of violence against vulnerable groups, including lesbian, gay, bisexual, transgender and intersex persons.
- Ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence.
- Implement awareness programs and sensitivity trainings on violence and discrimination based on sexual orientation and gender identity to law enforcement, judicial and other authorities.
- Include sexual orientation and gender identity into the list of characteristics under the article on prohibition of discrimination in the Constitution of Ukraine.
- Implement human rights awareness and anti-discrimination education programs, particularly with respect to ending discrimination on the basis of sexual orientation.
- Develop and adopt legislation to establish an officially recognized form of same-sex unions and provide same-sex partners with equal marital rights and obligations.
- Ensure that human rights defenders, including groups campaigning for equality and against discrimination based on perceived sexual orientation and gender identity, are allowed to carry out their work, guarantee adequate protection, and ensure that the rights to freedom of expression and association are respected in line with international human rights standards.

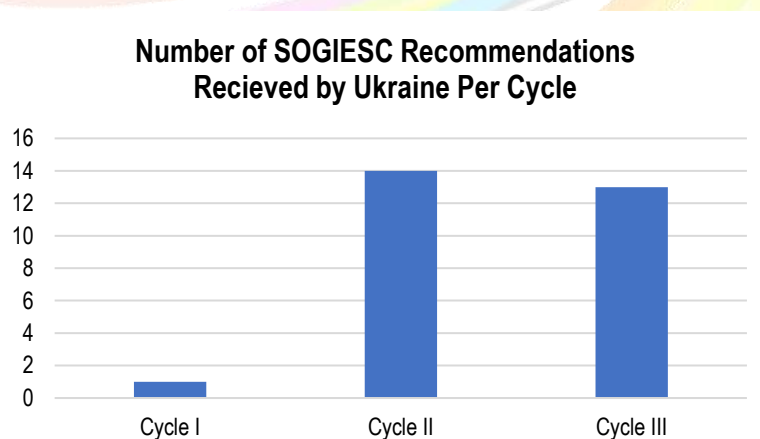
F. Recommendations for Cycle II (2012)

Recommending State	Recommendation	Response
Australia	Withdraw its draft legislation criminalizing the promotion of homosexuality, and refrain from adopting any other legislation that restricts freedom of expression	Noted
Canada	Remove from the legislation discriminatory provisions based on race, sex or sexual orientation, and adopt comprehensive anti-discrimination legislation	Accepted
Finland	Step up the efforts to fight against discrimination by refraining from contradictory legislation and by amending the anti-discrimination legislation to include explicit references to sexual orientation and gender	Noted

	identity as possible grounds of discrimination	
France	Respect its international commitments on fundamental rights related to non-discrimination, prevent the adoption of a law prohibiting freedom of expression with regards to homosexuality and raise awareness of civil society on combating all forms of discrimination, including discrimination based on sexual orientation and gender identity	Accepted
Germany	Increase efforts to improve the effective protection of LGBT persons, abandon legislation work on draft law no. 8711 on so-called "propaganda of homosexuality" and refrain from other legislation infringing on the human rights and fundamental freedoms of LGBT persons	Noted
Ireland	Enact legislation that explicitly protects LGBT persons from discrimination and ensure that laws that contain discriminatory provisions against LGBT persons are amended	Noted
Norway	Reject any proposed legislation that would restrict freedom of expression relating to sexual orientation	Noted
Portugal	Adopt a comprehensive anti-discrimination law that addresses the worrying trend of incidents based on gender, sexual orientation, racial and ethnic discrimination	Accepted
Slovenia	Reject any proposed legislation that would restrict freedom of expression relating to sexual orientation	Noted
Slovenia	Apply the Yogyakarta principles in policy development	Noted
Sweden	Take an active stance to stop any actions or laws that constitute an infringement of the rights of LGBT persons	Noted

Switzerland	Implement the recommendation issued in 2010 by the Committee of Ministers of the Council of Europe on measures to combat discrimination based on sexual orientation or gender identity	Noted
UK	Ensure that legislation, including the proposed Bill 8711, is fully compliant with Ukraine's international commitments, including under the European Convention on Human Rights	Accepted
Uruguay	Adopt legislative and other measures to correct and prevent discrimination based on sexual orientation, and to ensure full respect for freedom of expression and association of LGBT persons	Noted

G. Graphic Comparison Between Cycles (1—3)



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

I. SOGIESC Mentions During Ukraine's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **ILGA:** ILGA, in consultation with LGBT Association 'LIGA', commended Ukraine for its acceptance of recommendations to counter hate crimes on the basis of sexual orientation and gender identity. It called on the government to take an active approach to dealing with discrimination against LGBTI persons.

ZAMBIA UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 13 NOVEMBER 2017, 14:30—18:00

DATE AND TIME OF THE ADOPTION OF THE REPORT: 16 NOVEMBER 2017, 16:30—18:00

During the 28th UPR Working Group Sessions, Zambia received 8 SOGIESC recommendations. It noted all 8 recommendations.

A. SOGIESC Information

National Report

Impartial investigation into all allegations of attacks and threats against individuals targeted because of their sexual orientation or gender identity

26. There are no restrictions under Zambian law towards the investigation and prosecution of crimes committed against a person. All allegations of attacks and threats against individuals, irrespective of the offence are required by law to be effected without discrimination of any kind.

Compilation of UN Information

15. The United Nations country team stated that the public environment relating to lesbian, gay, bisexual, transgender and intersex persons remained largely hostile, particularly in some faith-based organizations. The Penal Code criminalized men having sex with men and anal sex in general. However, the National Aids Council, which managed the funds for capacity-building for key populations groups secured from the Global Fund to Fight AIDS, Tuberculosis and Malaria, had an adviser on lesbian, gay, bisexual, transgender and intersex persons.

Summary of Stakeholder's Information

32. Citing cases of persons being arrested on charges related to sexual orientation or gender identify, HRW stated that those persons were subjected to forced anal examinations, which was a form of cruel, degrading and inhuman treatment that could rise to the level of torture.

33. RFSU³⁹ stated that Article 155 of the Penal Code had been widely interpreted as the legal basis for criminalizing same-sex relations while the Constitution prohibited discrimination and provided for the rights to equality and privacy. This ambivalence, coupled with the lack of a sound policy against discrimination based on sexual orientation and gender identity has led to a systematic denial of the rights of lesbian, gay, bisexual and transgender persons. RFSU made recommendation including the decriminalization of same-sex relations between consenting adults.

62. JS5⁴⁰ stated that marginalized groups – sex workers, men who have sex with men, gay, bisexual and transgender individuals, adolescents and youth – were disproportionately affected by HIV and AIDS due

³⁹ The Swedish Association for Sexuality Education.

⁴⁰ Joint Submission 5 submitted by: Engender Rights Centre for Justice, Friends of Rainka, Generation Alive, TransBantu Zambia, The Lotus Identity, Women's Alliance for Equality, Coalition of African Lesbians and Sexual Rights Initiative.

to factors such as discrimination, poverty, lack of access to education, health, mental wellbeing and other services that promote the access to health awareness.

B. SOGIESC Advanced Questions for Zambia

N/A

C. Zambia's Working Group Session

- **Opening Remarks:** The recommendation of impartial investigations into all allegations of attacks and threats against individuals targeted because of their sexual orientation or gender identity is of paramount concern to Zambia. I wish to report that there are no restrictions under Zambian law towards the investigation and prosecution of crimes committed against any persons, irrespective of their gender. All allegations of attacks and threats against individuals irrespective of the offence are investigated without discrimination of any kind.

D. Recommendations for Cycle III (2017)

a) Remarks of States

- **Netherlands:** The Netherlands also commends the government of Zambia for the adoption of the National HIV/AIDS Strategic Framework for 2017-2020. We however regret the fact that Zambia has not accepted any of the recommendations made related to legalizing same-sex relations or protecting the rights of LGBTI people in previous UPR cycles.
- **Slovenia:** Furthermore, we are concerned that the public environment relating to LGBTI persons remains hostile and that Penal Code criminalizes homosexual relations. We wish to encourage Zambia to abolish the death penalty in law or in practice.

b) The following recommendations have been examined by Zambia and have been noted by Zambia

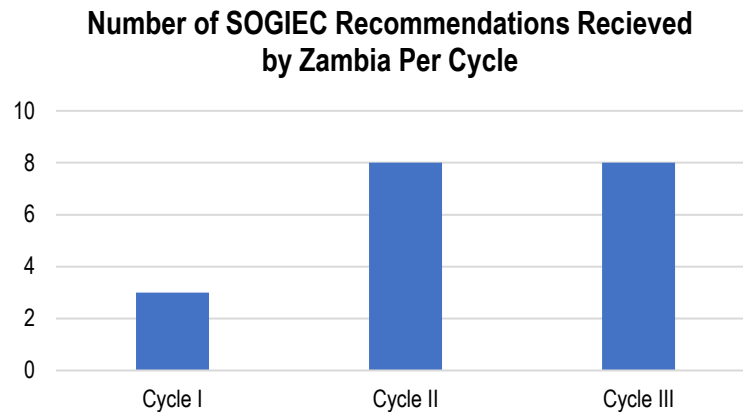
- **Argentina:** As recommended during UPR in 2012, respect the rights and fundamental freedoms of the LGBTI people through the repeal of all norms that criminalize and stigmatize the LGBTI person (8.97).
- **Australia:** Decriminalize same sex relationships between consenting adults and strengthen efforts to address inequality and discrimination based on sexual orientation and gender identity (8.96).
- **Canada:** Repeal laws that criminalize same-sex conduct between adults and review all legislation, policies and programs to foster equality and prevent discrimination on the basis of sexual orientation or gender identity (8.95).
- **France:** Take steps to decriminalize homosexuality and promote respect for the principles of equality and non-discrimination against LGBTI persons (8.55).
- **Honduras:** Adopt legislation that combats discrimination based on sexual orientation and gender identity and protects the rights of LGBT people (8.54).
- **Spain:** Undertake actions aimed at putting an end to discrimination based on sexual orientation, beginning by eliminating the criminalisation of consensual sexual relationships among adults of the same gender (8.56).
- **Sweden:** Decriminalize same-sex relationships between consenting adults (8.94).

- **Uruguay:** Review and repeal the legislation that criminalizes consensual sexual behaviour between people of the same sex; and prohibit degrading practices imposed on people of the LGBTI community, such as forced anal examinations (8.98).

E. Recommendations for Cycle II (2012)

Recommending State	Recommendation	Response
Argentina	Study the possibility of strengthening measures to eliminate all discriminatory treatment based on sexual orientation and gender identity	Noted
Australia	Decriminalize same-sex relationships between consenting adults and strengthen efforts to address inequality and discrimination based on sexual orientation	Noted
Canada	Repeal laws that criminalize a person's sexuality	Noted
France	Repeal the law criminalizing same-sex relations among consenting adults	Noted
Netherlands	Follow up on the recommendations by its National Aids Council, and include men having sex with other men in its HIV/AIDS policies	Noted
Norway	Ensure thorough and impartial investigation into all allegations of attacks and threats against individuals targeted because of their sexual orientation or gender identity	Accepted
Spain	Eliminate criminalization of homosexual relations as well as the elimination of all discriminatory practice towards LGBT persons	Noted
Uruguay	Review and repeal domestic law which criminalizes sexual orientation	Noted

F. Graphic Comparison Between Cycles (1—3)



G. Video of Zambia's UPR Working Group Session

H. SOGIESC Mentions During Zambia's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)

- **Honduras:** We hope that Zambia will reconsider their position on the abolition of the death penalty and to strengthen their legal framework for the protection of human rights, consider examining the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and their Families, as well as approve legislation to counter discrimination based on the grounds of sexual orientation or gender identity and to protect the rights of lesbian, gay, bisexual and transgender individuals.
- **Action Canada for Population and Development:** Action Canada for Population and Development expressed concern that Zambia noted recommendations in multiple cycles on decriminalisation of consensual same-sex relations or anti-discrimination and violence based on sexual orientation and gender identity. They noted that criminalisation affects LGBTI person's access to justice and social services.