



## UN Committee on Enforced Disappearances: 14<sup>th</sup> Session

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### RESUME:

- One recommendation on LGBTI issues was made in this session:
  - Establishing reparations that are sensible to the individual scenario of each victim, considering *inter alia* their gender identity and sexual orientation (the first recommendation from the Committee to [Honduras](#));
  - No stand-alone references to LB women or trans and intersex persons.
- No questions on LGBTI issues were posed to the countries.

- Next Session: [5 November to 16 November 2018](#)
  - Countries (main review): Japan, Mexico & Portugal
  - NGO report deadline: 12 August 2018 TBC (to [ced@ohchr.org](mailto:ced@ohchr.org))
  - Countries (for LOI): Chile, Italy & Peru
  - NGO report deadline: 12 October 2018 TBC (to [ced@ohchr.org](mailto:ced@ohchr.org))

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## 1. SUMMARY

The UN Committee on Enforced Disappearances published its Lists of Issues and Concluding Observations as a result of the [14<sup>th</sup> Session](#) (22 May 2018 to 01 June 2018).

No **questions** on LGBTI issues were sent to the countries that received the List of Issues (Japan, Portugal), and only one SOGIESC **recommendation** was made for Honduras among all the countries reviewed (Albania, Austria, Honduras).

Reference was recurrent to sexual violence in the reports and lists of issue, but no mention was made to sexual orientation, gender identity/expression, or sexual characteristics in most cases. No stand-alone recommendation was made, as the LGBTI community was addressed altogether and among other vulnerable groups.

### 1.1. Concluding Observations

During its 14<sup>th</sup> Session, the Committee reviewed periodic reports of Albania, Austria, Honduras.

A SOGIESC recommendation was made for one country. In the other two cases, there was no mention to the LGBTI community. Civil society also did not address LGBTI-related topics in any case. The constructive dialogues also did not discuss SOGIESC issues, reflecting the absence of mentioning in both the LOIs and Civil Society Submissions.

Country	SOGIESC in previous CO*	SOGIESC in LOI**	SOGIESC in the constructive dialogues***	SOGIESC in CSS****	SOGIESC in current CO*
Albania	No	No	No	No	No
Austria	No	No	No	No	No
Honduras	No	No	No	No	Yes

\*Concluding Observations

\*\*List of Issues

\*\*\*According to the press releases

\*\*\*\*Civil Society Submissions

### Honduras

SOGIESC issues were not addressed by civil society submissions. Moreover, no mention was made in the List of Issues. Being the first review of Honduras by the committee, there were no previous LOIs or COs to refer to.

The [constructive dialogues](#) also did not make mentions to LGBTI topics, not even among other vulnerable groups.

Nonetheless, in the Concluding Observations, the Committee specifically addressed the need for the country to consider the specificities of each of the cases before granting reparations. This one-by-one analysis is to be done by considering the sexual orientation and gender identity of the victims.

### 1.2. Lists of Issues

As a result of its 14<sup>th</sup> Session, the Committee also produced a set of questions for the States that will be reviewed in the future. However, no specific questions were made on SOGIESC related topics to the countries (Japan, Portugal).

Three countries will be reviewed by the Committee during its upcoming 15<sup>th</sup> Session that will take place in Geneva from 05 November 2018 to 16 November 2018 – more information about the Session can be [found here](#). The countries listed under the LOI section will have their Sessions for Concluding Observations during these days.

## 2. COMPILATION OF CONCLUDING OBSERVATIONS

Honduras – Concluding Observations – 14<sup>th</sup> Session, 31 May 2018, 1<sup>st</sup> review

### **Medidas de reparación y de protección de los niños contra las desapariciones forzadas (arts. 24 y 25)**

#### ***Definición de víctima y derecho a reparación y a una indemnización rápida, justa y adecuada***

36. Preocupa al Comité que la definición de víctima contemplada en el artículo 17 del Código Procesal Penal no abarque todas las personas establecidas en el artículo 24, párrafo 1, de la Convención. Observa con preocupación que la legislación interna no establece un sistema de reparación integral bajo la responsabilidad del Estado, que incluya todas las medidas de reparación previstas en el artículo 24, párrafo 5, de la Convención. Preocupa también al Comité la falta de avances en relación con la promoción del derecho a la verdad, a la justicia, a la reparación y a las garantías de no repetición, para las víctimas de desapariciones forzadas, en particular las de las décadas de 1980 y 1990 (art. 24).

**37. El Comité recomienda al Estado parte que tome las medidas necesarias para:**

- a) Establecer una definición de víctima en la legislación interna que se ajuste al artículo 24, párrafo 1, de la Convención, a fin de que toda persona que haya sufrido un perjuicio directo como consecuencia de una desaparición forzada pueda ejercer los derechos enunciados en este artículo;**
- b) Establecer un sistema completo de reparación que sea sensible a las condiciones individuales de las víctimas teniendo en cuenta, por ejemplo, su sexo, orientación sexual, identidad de género, edad, origen étnico, situación social y discapacidad, y se ajuste plenamente a lo dispuesto en el artículo 24, párrafos 4 y 5, de la Convención, del cual sea responsable el Estado, y que sea aplicable con independencia del proceso penal;**
- c) Garantizar el derecho a la verdad a todas las víctimas de desapariciones forzadas, incluidas las que ocurrieron durante las décadas de 1980 y 1990.<sup>1</sup>**

<sup>1</sup> English version of the Concluding Observations is not available yet. Below is an unofficial translation of the references into English:

#### **Protective and reparatory measures for children against enforced disappearances (art 24 and 25)**

##### ***Definition of victim and right to reparation and to a prompt, just and adequate compensation***

36. The Committee is concerned that the definition of victim laid out by article 17 of the Code of Criminal Procedure does not include all persons established in article 24.1 of the Convention. The Committee notes with concern that domestic legislation does not establish a system of integral reparation under the responsibility of the State – which includes all the reparatory measures provided for in article 24.5 of the Convention. The Committee is also concerned about the absence of progress in relation to the promotion of the right to truth, justice, reparation and non-repetition guarantees for victims of enforced disappearances, particularly those of the 1980s and 1990s (Article 24).

**37. The Committee recommends the State party to take the necessary measures to:**

- a) Establish a definition of victim in domestic legislation that complies with article 24.1 of the Convention, so that any person who has suffered direct harm as a result of an enforced disappearance may exercise the rights guaranteed by this Article;**
- b) Establish a complete reparation system that is sensitive to the individual conditions of the victims, taking into account, for example, their sex, sexual orientation, gender identity, age, ethnic origin, social situation and disability, and fully complies with the provisions of article 24.4 and 24.5 of the Convention – for which the State is responsible, and that are applicable independently from the criminal process;**
- c) Guarantee the right to truth for all victims of enforced disappearances, including those that occurred during the 1980s and 1990s.**

### **3. COMPILATION OF LIST OF ISSUES**

No questions were made regarding SOGIESC issues.

### **4. CIVIL SOCIETY SUBMISSIONS**

Civil Society did not submit documents related to SOGIESC issues.