



## UN Committee on the Elimination of Racial Discrimination: 95th Session

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### RESUME:

- Recommendations on LGBTI issues for **Kyrgyzstan** and **Sweden**:
  - First recommendations from the Committee for the both countries;
  - Intersectionality between race and SOGIESC (Kyrgyzstan);
  - Concern over the lack of data on hateful violence against LGBTI individuals (Sweden); and
  - No stand-alone references to LB women or trans and intersex persons.
- No LGBTI references in the Lists of Issues prior to reporting.

- Next Session: **6 to 30 August 2018**
  - Countries (main review): Bosnia and Herzegovina, China, China (Hong Kong), China (Macau), Cuba, Japan, Latvia, Mauritius, Montenegro
  - **NGO report deadline**: 16 July 2018 (to [CERD@ohchr.org](mailto:CERD@ohchr.org))

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## 1. SUMMARY

The UN Committee on the Elimination of Racial Discrimination published its Lists of Themes and Concluding Observations as a result of the [95<sup>th</sup> Session](#) (23 April 2018 to 11 May 2018).

No **questions** on LGBTI issues were sent to the country that received its List of Issues prior to reporting (Botswana), and SOGIESC **recommendations** were made for 2 (Kyrgyzstan, Sweden) out of 6 countries reviewed (Kyrgyzstan, Mauritania, Nepal, Peru, Saudi Arabia and Sweden).

Both recommendations made mention to the intersectional interface between SOGIESC and racial discrimination. Nonetheless, no separate recommendations were made to lesbian, gay, bisexual, transgender and intersex persons, as they were considered altogether.

### 1.1. Concluding Observations

During its 95<sup>th</sup> Session, the Committee reviewed periodic reports of Kyrgyzstan, Mauritania, Nepal, Peru, Saudi Arabia and Sweden.

SOGIESC recommendations were made for two countries. In only one of the cases LGBTI issues were also addressed in civil society submissions (Kyrgyzstan). On the other hand, civil society submissions to Peru have mentioned interfaces between racial and LGBTI discrimination, but the committee made no specific recommendation in this regard. The constructive dialogues mentioned SOGIESC topics for three countries: Kyrgyzstan, Peru and Sweden.

Country	SOGIESC in previous CO*	SOGIESC in LOT**	SOGIESC in the constructive dialogues***	SOGIESC in CSS****	SOGIESC in current CO*
Kyrgyzstan	No	No	Yes	Yes	Yes
Mauritania	No	No	No	No	No
Nepal	No	No	No	No	No
Peru	No	No	Yes	Yes	No
Saudi Arabia	No	No	No	No	No
Sweden	No	No	Yes	No	Yes

\*Concluding Observations

\*\*List of Themes

\*\*\*According to the press releases

\*\*\*\*Civil Society Submissions

#### Kyrgyzstan

SOGIESC issues were addressed by a civil society submission mentioning the rise of homophobic speech in the country. No mention to LGBTI issues was made in the List of Themes, and the country had not received recommendations on sexual orientation and gender identity before.

The [constructive dialogues](#) dealt with several topics of LGBTI discrimination in the country, and there were requests for information pertaining these topics.

In the Concluding Observations, the Committee specifically addressed the intersection between racial and LGBTI discrimination. In that sense, the Committee recommended the State to investigate cases effectively, prosecute perpetrators and adequately compensate victims.

## **Sweden**

No civil society submissions mentioned SOGIESC issues in the case of Sweden. Also, no mention to LGBTI issues was made in the List of Themes, and the country had not received recommendations on sexual orientation and gender identity before.

The [constructive dialogues](#) dealt with SOGIESC-motivated hate crimes, the creation of a follow-up system and mapping of racism and LGBTI-phobia.

In the Concluding Observations, the Committee limited itself to mentioning its concern with the lack of data on hate crimes affecting the LGBTI community.

### **1.2. Lists of Issues**

As a result of its 95<sup>th</sup> Session, the Committee also produced a set of questions for Botswana that will be reviewed in the future. Nonetheless, no SOGIESC references were made during the current session.

The following countries will be reviewed by the Committee during its 96<sup>th</sup> Session: Bosnia and Herzegovina, China, China (Hong Kong), China (Macau), Cuba, Japan, Latvia, Mauritius, Montenegro. The session will take place in Geneva from 06 August 2018 to 30 August 2018 – more information about the Session can be [found here](#).

The country listed under the present LOIPR section (Botswana) has its Session dates yet to be determined by the Committee.

## 2. COMPILATION OF CONCLUDING OBSERVATIONS

### Kyrgyzstan – Concluding Observations – 95<sup>th</sup> Session, 11 May 2018, 8<sup>th</sup> to 10<sup>th</sup> review

#### Intersecting forms of discrimination

15. Despite the steps taken by the State party to combat discrimination based on sexual orientation and gender identity, the Committee is concerned that lesbian, gay, bisexual, and transgender (LGBT) individuals belonging to ethnic minorities are subject to multiple forms of discrimination and a range of human rights violations from State and non-State actors, which often result in impunity. The Committee is also concerned that women and children belonging to ethnic minorities are subject to intersecting forms of discrimination on grounds of sex, race, ethnicity and age, and at the emergence of harmful practices, such as child marriage and polygamy (art. 5).

**16. The Committee recommends that the State party take the necessary measures to combat the multiple forms of discrimination faced by LGBT individuals as well as women and children belonging to ethnic minorities, including by mainstreaming gender, sexual orientation and gender identity dimensions in its measures to combat racial discrimination. The Committee also recommends that the State party take effective measures to investigate human rights violations committed, including by law enforcement officials, against LGBT individuals, prosecute perpetrators, and compensate victims. Recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee furthermore calls on the State party to pay particular attention to women and children belonging to ethnic minorities, and take effective measures to combat child marriage and polygamy.**

### Sweden – Concluding Observations – 95<sup>th</sup> Session, 11 May 2018, 22<sup>nd</sup> to 23<sup>rd</sup> review

#### Racist hate speech and violence

10. The Committee is concerned at reports that racist hate speech against Afro-Swedes, Jews, Muslims and Roma continues in the State party, particularly during election campaigns, as well as in the media and on the internet. While welcoming the establishment of national contact points and special hate crime groups in the three metropolitan areas, the Committee regrets that these do not exist throughout the country. The Committee commends the State party's efforts to ameliorate its data collection methods and address CERD/C/SWE/CO/22-23 3 underreporting, however, remains concerned with the high number of reported hate crimes and the continuation of racist violence and hate crimes in the State party. The Committee is particularly concerned with reports of arson attacks against mosques and reception centers for asylum seekers. The Committee is further concerned at the gap between reported cases of hate speech and hate crimes and investigations, prosecutions, and convictions of alleged perpetrators. The Committee is concerned on the lack of information on persons affected by hate crimes on the grounds of multiple and intersecting forms of discrimination such as gender, ethnicity, color, religious belief, disability, gender identity or sexual orientation. (art. 4).

**11. Recalling its general recommendation No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party step up its efforts to: (a) Effectively implement and enforce existing legislation and continue taking necessary measures to protect vulnerable groups from racist hate speech, racist violence, and other hate crimes; (b) Effectively identify, register and investigate cases of racist hate speech, or incitement to racial hatred and racially motivated violence and hate crimes, and prosecute and sanction those responsible; (c) Provide mandatory and continuous training on racist hate speech, racist violence, and hate crimes to law enforcement officials at all levels, and continue addressing the issue of underreporting; (d) Publicly condemn and distance itself, including in online media, from racist hate speech and xenophobic statements made by public officials and politicians, and fully apply the relevant legislation. (e) Provide in its next report detailed information on the number and nature of racist hate crimes including hate speech, and racist violence and other**

hate crimes including cases reported, prosecutions initiated as well as numbers of convictions and sentences imposed on perpetrators and on compensation awarded to victims. Also provide information, taking into account victimization surveys, hate crimes on the basis of intersecting forms of discrimination.

### **3. COMPILATION OF LISTS OF ISSUES**

No questions were presented in the LOTs of the present session.

## 4. CIVIL SOCIETY SUBMISSIONS

### Kyrgyzstan

- Submission by [ADC Memorial and Bir Duino Kyrgyzstan](#) for the 95<sup>th</sup> Session (*briefly mentions the rise of homophobic speech in the past years*)

### Peru

- Submission by [Centro de Desarrollo de la Mujer Negra Peruana](#) for the 95<sup>th</sup> Session (*refers to a decision from the constitutional court that mentions the prohibition of discrimination on grounds of sexual orientation*)
- Submission by [Office for the Defense of Rights and Intersectionality](#) for the 95<sup>th</sup> Session (*mentions problems with the data gathering about imprisoned LGBTI individuals by the State*)
- Submission by [The Peruvian Women Center Flora Tristan, DEMUS Estudio para la Defensa de los Derechos de la Mujer and the National Coordinator of Human Rights -CNDDHH](#) for the 95<sup>th</sup> Session (*mentions the Legislative Decree N° 1323 that includes sexual orientation and gender identity as prohibited forms of discrimination*)