



UN Committee on the Elimination of Racial Discrimination (CERD): 96th Session, 6-30 August 2018

States reviewed: Bosnia and Herzegovina, China, China (Hong Kong), China (Macau),
 Cuba, Japan, Latvia, Mauritius, Montenegro

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RESUME:

- No SOGIESC recommendations were issued during the Session.
- One question on SOGI in the List of Themes for **Cuba**:
 - Report on cases of and measures against multiple discrimination, on grounds of ethnic origin and sexual orientation/gender identity.

- Next Session: **26 November - 14 December 2018**
 - States (for LOT and main review): Albania, Honduras, Iraq, Norway, Qatar, Republic of Korea
 - **NGO report deadlines:**
 - LOTs: 15 September 2018 (to CERD@ohchr.org)
 - Main review: 5 November 2018 (to CERD@ohchr.org)

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1. SUMMARY

The UN Committee on the Elimination of Racial Discrimination (CERD) published its Lists of Themes (LOTs) and Concluding Observations for seven States as a result of its 96th Session (6 to 30 August 2018).

There were no SOGIESC¹ recommendations in the Concluding Observations for the States reviewed, though the inclusion of sexual orientation as a prohibited ground of discrimination in Cuba's Labour Code was noted as a positive measure.

Cuba was the only State to receive a question on sexual orientation and gender identity in its List of Themes (LOT). The Committee inquired about multiple discrimination on the basis of ethnic origin and sexual orientation/gender identity.

The Committee did not address LB women or TI persons in particular.

1.1. Concluding Observations

During its 96th Session, CERD reviewed the periodic reports of seven States: Bosnia and Herzegovina, China (including Hong Kong and Macau), Cuba, Japan, Latvia, Mauritius and Montenegro.

The Committee did not issue any recommendations related to SOGIESC for the States reviewed. However, sexual orientation was mentioned in the section on positive developments for **Cuba**. The Committee made note of the anti-discrimination provisions in the 2013 Labour Code, which include, inter alia, sexual orientation.

While SOGIESC-specific recommendations were not adopted in this Session, LGBTI issues were brought up in the constructive dialogues between the Committee and four of the State delegations: Bosnia and Herzegovina, Cuba, Latvia and Montenegro.

In the constructive dialogues with Cuba, the Committee enquired about measures to prevent discrimination based on SOGI, as well as intersectional discrimination faced by women and LGBTI persons. Latvia was asked about a political advertisement negatively depicting, among other groups, LGBT persons. In the dialogues for Bosnia and Herzegovina and Montenegro, LGBT(I) persons were mentioned by the State delegations when reporting on discrimination and hate crimes.

Sexual orientation and/or LGBTI persons were also brought up in the civil society submissions for Cuba, China, China (Hong Kong) and Mauritius, though none of the submissions were stand-alone reports on SOGIESC.

In the case of Cuba, all four of its civil society submissions mentioned SOGI, and one had a subsection on LGBT issues, including violence, hate crimes and homelessness. The submission on Mauritius described the cancellation of LGBTI Pride in June 2018, and was also the only civil society submission for the State. The submissions for China and China (Hong Kong) mentioned the lack of data on and protection for LGBT persons.

With regards to the remaining States, none of the civil society submissions for Japan or Latvia addressed SOGIESC. There were no submissions for Bosnia and Herzegovina, China (Macau) or Montenegro.

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

Country	SOGIESC in previous CO*	SOGIESC in LOT**	SOGIESC in the constructive dialogues***	SOGIESC in CSS****	SOGIESC in current CO*
Bosnia and Herzegovina	No	No	Yes	N/A	No
China	No	No	No	Yes	No
Cuba	No	Yes	Yes	Yes	Yes
Japan	No	No	No	No	No
Latvia	No	No	Yes	No	No
Mauritius	No	No	No	Yes	No
Montenegro	No	No	Yes	N/A	No

*Concluding Observations

**List of Themes

***According to the press releases

****Civil Society Submissions

Text in bold links to the source material.

1.2. Lists of Themes (LOTs)

Prior to the 96th Session, the Committee produced a List of Themes for each of the seven State parties to guide its reviews. [Cuba](#) was the only State to receive a SOGIESC-related question in its LOT. The Committee inquired about cases of and measures against multiple discrimination based on ethnicity and sexual orientation/gender identity.

2. COMPILATION OF CONCLUDING OBSERVATIONS

Cuba – Concluding Observations – 96th Session, 20 September 2018, 19th to 21st review²

B. Positive aspects

4. The Committee notes the legislative measures adopted by the State party during the period under consideration, in particular:

(a) The adoption of the Labour Code, Act No. 116, of December 2013, which introduced a ban on discrimination, including discrimination based on “colour, gender, religious beliefs, sexual orientation, place of origin, disability or any other differentiation detrimental to human dignity” (art. 2 (d));
[...]

States with no SOGIESC recommendations:

- Bosnia and Herzegovina
- China (China, Hong Kong and Macau)
- Japan
- Latvia
- Mauritius
- Montenegro

² [CERD/C/CUB/CO/19-21](#)

3. COMPILATION OF LISTS OF THEMES

Cuba – List of Themes – 96th Session, 18 June 2018, 19th to 21st review³

Multiple forms of discrimination (arts. 2 and 5)

15. Information on cases of multiple discrimination on grounds of ethnic origin and sexual orientation or gender identity. Information on the steps taken to incorporate an ethno-racial perspective in the fight against discrimination based on sexual orientation and gender identity.

States with no SOGIESC questions:

- Bosnia and Herzegovina
- China (China, Hong Kong and Macau)
- Japan
- Latvia
- Mauritius
- Montenegro

³ [CERD/C/CUB/Q/19-21](#)

4. CIVIL SOCIETY SUBMISSIONS

China

- Submission by [International Service for Human Rights \(ISHR\)](#) for the 96th Session (*mentions the strong government pressure on NGOs working in anti-discrimination, including sexual orientation*).

China (Hong Kong)

- Joint submission by [Centre for Comparative and Public Law](#) for the 96th Session (*mentions sexual orientation as one of the grounds not protected by the equal opportunities legislation*).
- Joint submission by [Centre for Comparative and Public Law \(CCPL\) - Status of Ethnic Minorities in Hong Kong 1997-2014](#) for the 96th Session (*notes lack of data on LGBT families in the ethnic minority population*).
- Submission by [Equal Opportunity Action Coalition \(EOAC\)](#) for the 96th Session (*mentions lack of data collection on subpopulations, including LGBTI persons from ethnic minority groups*).

Cuba

- Submission by [La Asociación Cubana para el Desarrollo de la Educación Infantil \(ACDEI\)](#) for the 96th Session (*subsection on SOGI, including: children made homeless due to their SOGI, LGBT violence, bullying and invisibility, lack of data on and legal protection against hate crimes*).
- Submission by [The Cuban Association of the United Nations \(ACN\)](#) for the 96th Session (*mentions the National Plan under consultation which includes the principle of anti-discrimination, based on, inter alia, SOGI*).
- Submission by [Comité Ciudadanos por la Integración Racial \(CIR\)](#) for the 96th Session (*reiterates a CSS to CEDAW asking Cuba to provide data on discrimination against women disaggregated by, inter alia, SOGI*).
- Submission by [The Cuban Union of Jurists \(UNJC\)](#) for the 96th Session (*refers to anti-discrimination clauses in the 2014 Labour Code and the Cuban Communist Party's main objectives, which include sexual orientation*).

Mauritius

- Submission by [Affirmative Action](#) for the 96th Session (*describes the cancellation of LGBTI Pride in June 2018, and mentions the discrimination reported by the British ex-High Commissioner based on his sexuality*).