



UN Committee on the Rights of Persons with Disabilities: 19 Session and 9 Pre-Sessional Working Group

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RESUME:

- Recommendations on SOGI for [Haiti](#) and [Slovenia](#) (first recommendations for these countries from CRPD), including on:
 - Consultations with persons with disabilities of different backgrounds (Haiti);
 - Awareness raising strategy to address stereotypes and stigmatization to prevent and address intersectional discrimination (Haiti);
 - Inclusion of intersectional discrimination in anti-discrimination legislation, policies and strategies (Slovenia);
 - No stand-alone references to LB women, trans and intersex persons.
- Questions on LGBTI for [Algeria](#), [Cuba](#), [New Zealand](#) and [Poland](#), including on:
 - Measures to protect LGBTI persons with disabilities from intersecting discrimination based on SOGI and disability (Poland), including through anti-discrimination legal frameworks (Algeria, Cuba & New Zealand);
 - Legislation prohibiting and preventing the practice of non-consensual treatments, including surgeries of intersex persons (New Zealand);
 - Prohibition of the so-called “conversion therapies” (Poland).
- A new [General comment](#) on equality and non-discrimination:
 - Three references to LGBTI persons/ GIESC when it comes to intersectional discrimination and consultations

- Next Session: 27 August to 21 September 2018
 - Countries (main review): Algeria, Bulgaria, Malta, Philippines, Poland, South Africa, the FYR Macedonia
 - NGO report deadline: 13 August 2018 (tbc)
 - Countries (for LoIPR): Austria, Azerbaijan, Germany, Mongolia, Sweden
 - NGO report deadline: 11 June 2018 (tbc)
- Next Pre-Sessional Working Group: 24 to 28 September 2018
 - Countries: Niger, Norway, Rwanda, Saudi Arabia, Senegal, Turkey, Vanuatu
 - NGO report deadline: 13 August 2018 (tbc)

1. SUMMARY

The UN Committee on the Rights of Persons with Disabilities published its Lists of Issues and Concluding Observations as a result of the **19th Session** (14 February to 9 March 2018) and the **9th Pre-Sessional Working Group** (12 to 16 March 2018).

Questions on LGBTI persons with disabilities or SOGI were sent to four (Algeria, Cuba, New Zealand and Poland) out of eleven countries, and SOGIESC recommendations were made for two (Haiti and Slovenia) out of seven other countries reviewed.

On several occasions, and in both Concluding Observations and Lists of Issues, the Committee referred to the situation of LGBTI persons with disabilities and intersectional discrimination faced by them. In the review of Haiti, CRPD made a specific recommendation on participation of LGBTI persons with disabilities. One specific question on medical treatment towards intersex persons, and another one stand-alone question on so-called “conversion therapies” were made for New Zealand and Poland, respectively.

Neither the situation of LB women nor specific challenges faced by trans and intersex persons have been addressed by the Committee.

A new General Comment on equality and non-discrimination, referring to LGBTI persons/ gender identity/ gender expression/ sex characteristics, has been adopted by the Committee during the 19th session.

1.1. Concluding Observations

During its 19th Session, the Committee reviewed initial reports of Haiti, Nepal, Oman, Russian Federation, Seychelles, Slovenia and Sudan.

SOGIESC recommendations were made for two countries. In the both cases, LGBTI issues have been addressed during the review process: either in CSS (Haiti) or during a constructive dialogue with the State delegation (Slovenia). However, with regard to three other countries Concluding Observations did not include any SOGIESC references, even though relevant issues have been addressed by CSS (Nepal), committee members in course of a constructive dialogue (Seychelles), or both (Russian Federation, where LGBTI groups, including the one working specifically with LGBT persons with disabilities, submitted stand-alone reports on LGBT for the pre-session and the main session, and then LGBTI problems have been quite widely discussed during the constructive dialogue).

Country	SOGIESC in previous CO*	SOGIESC in LOI**	SOGIESC in the constructive dialogue***	SOGIESC in CSS****	SOGIESC in COs
Haiti	na	No	No	Yes	Yes
Nepal	na	No	No	Yes	No
Oman	na	No	No	No	No
Russian Federation	na	No	Yes	Yes	No
Seychelles	na	No	Yes	No	No
Slovenia	na	No	Yes	No	Yes
Sudan	na	No	No	No	No

* CO – Concluding Observations

** LOI – List of Issues

*** According to the press releases

**** CSS – Civil Society Submission

Haiti:

LGBTI issues have been addressed by two civil society [submissions](#) for the pre-session and the main session. The former included a specific paragraph on the situation of LGBTI persons with disabilities and then suggested a question on when will the State party review the legal framework and public policies to eradicate discrimination and stereotypes against marginalized groups.

While SOGIESC have not been discussed during the constructive dialogue¹ with the State party (at least, according to the [press release](#) published on OHCHR website), resulted Concluding Observations included two paragraphs explicitly mentioning sexual orientation and gender identity. Haiti was recommended to consult with persons with disabilities through their representative organizations in the development of all laws, policies and programmes that include all person with disabilities regardless of, inter alia, gender identity or sexual orientation, and to formulate a national awareness raising strategy and implementation plan to address stereotypes related to disability and stigmatization to prevent and address discrimination, including multiple and intersectional discrimination, against persons with disabilities.

Nepal:

While no LGBTI issues have been addressed during the constructive dialogue with the State party and in the Concluding Observations, one CSS did refer to gay and lesbians in a paragraph on diversity of persons with disabilities.

Russian Federation:

Russian LGBT Network and “Queer Peace” initiative submitted [two stand-alone reports](#)² on the situation of LGBT persons with disabilities for both the pre-session and the main session of the Committee. A representative of the groups also came to Geneva and participated in NGO briefings.³

Issues related to so-called “conversion therapies”, anti-propaganda legislation, and a specific case of two children taken away from a trans foster parent, have been discussed during the [constructive dialogue](#)⁴ with the Russian delegation.

What steps Russia would take to return two children with disabilities who had been taken away from their foster parents on the grounds of the suspicion that the mother, Yulia Savinovskikh, was a transgender person, and because she was deemed unfit to foster because of her ‘male behaviour’?

Ms. Theresia DEGENER, a chair of CRPD Committee

However, quite surprisingly, no SOGIESC references were made as a result in the Committee’s Concluding Observations on Russia.

¹ Full video records are available online: the [1st part](#) (15 February 2018) and the [2nd part](#) (16 February 2018) of the dialogue on Haiti.

² A report for the pre-session is available here: https://lgbtnet.org/sites/default/files/rus_lois_submission_to_crpd_0.pdf.

³ See the Russian LGBT Network’s [press release](#).

⁴ Full video records are available online: the [1st part](#) (27 February 2018) and the [2nd part](#) (28 February 2018) of the dialogue on the Russian Federation.

Seychelles:

While no LGBTI issues have been addressed by CSS published on the Committee's webpage, during the [constructive dialogue](#)⁵ with the State party CRPD asked about specific political and legal remedies that had been adopted by Seychelles to protect persons with disabilities who identified themselves as LGBTI.

However, no recommendations followed in the Concluding Observations.

Slovenia:

Neither of CSS on Slovenia published on CRPD webpage contained any SOGIESC references.

Nevertheless, during the [constructive dialogue](#)⁶ with the delegation of Slovenia, a question on the existence of laws to combat intersectional discrimination, particularly of LGBTI persons with disabilities, has been asked.

As a result of the review, CRPD expressed its concerns on the lack of information about discrimination against LGBTI persons with disabilities, and recommended Slovenia to explicitly incorporate in its anti-discrimination legislation, policies and strategies, the recognition of multiple and intersectional discrimination on the basis of, inter alia, sexual orientation.

1.2. Lists of Issues

During its 19th Session, CRPD has developed four sets of Lists of Issues prior to reporting, and the one on New Zealand did include LGBTI references.

Additionally, as a result of the 9th Pre-Sessional Working Group, the Committee issued Lists of Issues for seven countries, including on Algeria, Cuba and Poland, where SOGIESC have been mentioned.

In its questions to the State parties, CRPD referred to measures to protect LGBTI persons with disabilities from intersecting discrimination based on SOGI and disability ([Poland](#)), including through anti-discrimination legal frameworks ([Algeria](#), [Cuba](#) and [New Zealand](#)).

It also asked [New Zealand](#) about legislation prohibiting and preventing the practice of non-consensual treatments, including surgeries of intersex persons. Notably, a stand-alone report on the situation of intersex persons in the country has been submitted for the Committee's pre-session.

Last but not least, the Committee addressed so-called "conversion therapies" in its List of Issues for [Poland](#), following information provided by CSO (a stand-alone report on intersections between disabilities and sexual orientation, gender identity and sex characteristics).

Algeria and Poland will be reviewed by the Committee during its 20th Session that will take place in Geneva from 27 August to 21 September 2018. Civil society groups are invited to submit their shadow reports to the Committee by 13 August 2018 (tbc).

⁵ Full video records are available online: the [1st part](#) (26 February 2018) and the [2nd part](#) (27 February 2018) of the dialogue on Seychelles.

⁶ Full video records are available online: the [1st part](#) (22 February 2018) and the [2nd part](#) (23 February 2018) of the dialogue on Slovenia.

1.3. General Comment

A new [General comment](#) on equality and non-discrimination has been adopted by CRPD at its 19th session. The final version of the General comment includes three references to LGBTI persons/ gender identity/ gender expression/ sex characteristics in paragraphs on intersectional discrimination and consultations.

The General comment was adopted as a result of wide discussions with civil society, organisations of persons with disabilities, individual experts and states. ILGA, together with other groups, has been involved in these discussions from the very early stage and provided information on discrimination faced by LGBTI persons with disabilities, LGBTI persons discriminated against because their SOGIESC were seen as disability, and the situation of intersex persons.⁷

Unfortunately, the final version of the General comment did not take into account ILGA's suggestions and left behind many important aspects of intersections between disability and SOGIESC. This problem was highlighted during the closing session⁸ of the Committee by several representatives of civil society, including [International Disability Alliance](#), [Sexual Rights Initiative](#), [Center for Reproductive Rights](#), [Abosex](#) and [ILGA](#).

⁷ See: [Outline](#) of the Draft General Comment and ILGA's [submission](#) prepared in consultation with TGEU, InterACT and the Russian LGBT Network (all written submissions on the Outline available [here](#)); first [draft](#) of the General comment and ILGA's [submission](#) prepared in consultation with TGEU, NNID, ILGA Intersex Secretariat, and OII-Europe and supported by Hivos on behalf of the Right Here Right Now Coalition and Campaign Against Homophobia (all written submissions on the draft available [here](#)).

⁸ Closing session – [video](#) and [press release](#).

2. COMPILATION OF CONCLUDING OBSERVATIONS

Haiti – Concluding Observations – 19th session, 28 February 2018, initial review

A. General principles and obligations (arts. 1-4)

6. The Committee is concerned that:

[...]

(c) Persons with disabilities, including women and children with disabilities, through their representative organizations are not actively, sufficiently and meaningfully consulted in the development of laws, public policies, plans of action, and training and awareness-raising activities in all sectors.

7. The Committee recommends that the State party:

[...]

(c) Effectively and meaningfully consult with persons with disabilities through their representative organizations in the development of all laws, policies and programmes that include all person with disabilities regardless of age, sex, faith, race, gender identity or sexual orientation, migrant or other status.

[...]

Awareness-raising (art. 8)

14. The Committee notes with concern:

(a) The high prevalence of taboos and negative stereotypes of disability, including discriminatory beliefs that disabilities are supernatural in origin or contagious;

(b) That negative attitudes resulting in stigmatization on grounds of sex, sexual orientation, gender identity, albinism, and the combination of these factors with disability, are highly prevalent in society and a major obstacle to the participation and inclusion of persons with disabilities;

(c) The absence of a coherent national strategy and policy for raising awareness on the human rights based approach to disability with adequate representation of organizations of persons with disabilities, which continues to perpetuate and reproduce negative attitudes towards persons with disabilities.

15. The Committee recommends that the State party:

(a) Adopt and implement the human rights based approach to disability to combat fear, prejudice and stereotypes against persons with disabilities;

(b) Formulate a national awareness raising strategy and implementation plan to effectively address stereotypes related to disability and stigmatization based on negative beliefs to prevent and address discrimination, including multiple and intersectional discrimination, against persons with disabilities;

(c) Implement continuous awareness campaigns, involving all stakeholders such as religious leaders and community opinion leaders and representative organizations of persons with disabilities;

(d) Increase the visibility of persons with disabilities in society including more media coverage against the abuse of persons with disabilities.

Slovenia – Concluding Observations – 19th session, 5 March 2018, initial review

Equality and non-discrimination (art. 5)

6. The Committee is concerned about:

(a) The lack of public policies and measures focusing on and prioritizing equality, and the protection of persons with disabilities against all forms of discrimination, and the lack of recognition of the denial of reasonable accommodation as a form of disability-based discrimination;

(b) The lack of capacity, coordination and measurable impact of focal points designed for combating discrimination, and the absence of effective affirmative actions in this regard;

(c) Multiple and intersectional forms of discrimination against persons with disabilities, including Roma, Sinti and persons with disabilities of other ethnic groups, and the lack of information about discrimination against LGBTI persons with disabilities.

7. The Committee recommends that the State party:

(a) Enact legislation that explicitly recognises and sanctions the denial of reasonable accommodation, across all areas of life, as a form of disability-based discrimination;

(b) Strengthen the capacity and role of the focal points designed for combating discrimination, including discrimination against persons with disabilities, and provide them with adequate resources and capacity to effectively respond to cases of disability-based discrimination, including the denial of reasonable accommodation and multiple and intersectional discrimination;

(c) Explicitly incorporate in its anti-discrimination legislation, policies and strategies, the recognition of multiple and intersectional discrimination on the basis of sex, gender, age, disability, migrant, asylum seeking, refugee, ethnic background, sexual orientation and any other status. The Committee also recommends that the State party provides for judicial and quasi-judicial remedies in cases of discrimination from public and/or private actors, disseminate information among persons with disabilities about such remedies, provide redress and adequate compensation, and establish sanctions for perpetrators;

[...]

3. COMPILATION OF LISTS OF ISSUES

Algeria – List of Issues – 9th PSWG, 19 March 2018, initial review

Equality and non-discrimination (art. 5)

3. Please specify whether:

[...]

(c) There are legal provisions prohibiting intersecting and multiple forms of discrimination against persons with disabilities, including those belonging to ethnic, religious or linguistic minorities, such as Amazigh, Sahraoui and black people, migrants, refugees and asylum seekers with disabilities, as well as women, children and LGBTI persons with disabilities.

Cuba – List of Issues – 9th PSWG, 19 March 2018, initial review

Igualdad y no discriminación (artículo 5)

5. Sírvase informar sobre las medidas que prevé el Estado parte para adoptar una ley integral que prohíba la discriminación contra las personas con discapacidad y que incluya la denegación de ajustes razonables y la discriminación múltiple e interseccional, incluyendo protección contra la discriminación por más de un motivo, por ejemplo, de discapacidad, sexo, identidad de género, orientación sexual, origen étnico, y otros aspectos como condición social o entorno rural.

New Zealand – List of Issues Prior to Reporting – 19th session, 6 March 2018, 2nd-3rd review

Equality and non-discrimination (art. 5)

5. Please provide information about:

(a) Measures to ensure that the anti-discrimination framework in the State party encompasses all forms of discrimination on the basis of disability, including the denial of reasonable accommodation, discrimination by association, and multiple and intersectional discrimination faced by children, women, migrants, refugees, asylum seekers, Māori and Pacific and LGBTI persons with disabilities; [...]

Protecting the integrity of the person (art. 17)

16. Please provide information on:

(a) Measures to enact legislation prohibiting and preventing the practice of non-consensual treatments on persons with disabilities, including forced sterilization, genital mutilation and conversion surgeries of intersex persons, with particular attention to children with disabilities; [...]

Poland – List of Issues – 9th PSWG, 8 March 2018, initial review

Equality and non-discrimination (art. 5)

10. Please provide information on any measures taken and envisaged to combat the intersectional discrimination faced by LGBTI persons with disabilities. Please also indicate whether the State party has the intention to prohibit so-called “conversion therapies”.

4. GENERAL COMMENTS

General comment no. 6 (2018) on equality and non-discrimination⁹

V. Normative content

[...]

C. Article 5 (2) on prohibition of discrimination and equal and effective legal protection

[...]

21. Protection against “discrimination on all grounds” means that all possible grounds of discrimination and their intersections must be taken into account. Possible grounds include but are not limited to: disability; health status; genetic or other predisposition towards illness; race; colour; descent; sex; pregnancy and maternity/paternity; civil, family or career status; gender expression; sex characteristics; language; religion; political or other opinion; national, ethnic, indigenous or social origin; migrant, refugee or asylum status; belonging to a national minority; economic or property status; birth; and age, or a combination of any of those grounds or characteristics associated with any of those grounds.

[...]

VI. General obligations of States parties under the Convention relating to non-discrimination and equality

[...]

33. Regarding the consultation obligations of States parties, article 4 (3) and article 33 (3) of the Convention emphasize the important role that organizations of persons with disabilities must play in the implementation and monitoring of the Convention. States parties must ensure that they consult closely and actively involve such organizations which represent the vast diversity in society, including children, autistic persons, persons with a genetic or neurological condition, persons with rare and chronic diseases, persons with albinism, lesbian, gay, bisexual, transgender or intersex persons, indigenous peoples, rural communities, older persons, women, victims of armed conflicts and persons with an ethnic minority or migrant background. Only then can it be expected that all discrimination, including multiple and intersectional discrimination, will be tackled.

34. States parties have information obligations in relation to article 5 of the Convention in that they must collect and analyse appropriate data and research information in order to identify inequalities, discriminatory practices and patterns of disadvantage, and analyse the effectiveness of measures promoting equality. The Committee has observed that, in many States parties, there is a lack of updated data on disability discrimination and that often, in cases where the national law and regulations allow it, no differentiation is made according to impairment, gender, sex, gender identity, ethnicity, religion, age or other layers of identity. Such data and its analysis are of paramount importance for developing effective anti-discrimination and equality measures.

[...]

⁹ [CRPD/C/GC/6](#).

5. CIVIL SOCIETY SUBMISSIONS

Cuba

- Submission by [La Red de Cultura Inclusiva Cuba](#) for the PSWG (*mentioning SOGI in passing*)

Haiti

- Submission by [civil society coalition](#) for the PSWG (*a paragraph on LGBTI persons with disabilities*)
- Submission by [civil society coalition](#) for the Session (*mentioning LGBT persons in passing*)

Nepal

- Submission by [NIDA, NIDWAN and AIPP](#) for the PSWG (*reference to gay and lesbians in the paragraph on diversity of persons with disabilities*)

New Zealand

- Submission by [StopIGM.org / Zwischengeschlecht.org](#) for the PSWG (*a stand-alone report on intersex*)

Poland

- Submission by civil society coalition for the PSWG (*a stand-alone report on LGBTI titled “Intersections between disabilities and sexual orientation, gender identity and sex characteristics: The situation in Poland”*)
- Submission by [Konwencja](#) for the PSWG (*mentioning “sexual orientation and sexual identity” in passing*)

Russian Federation

- Submission by Queer Peace and Russian LGBT Network for the PSWG (*a stand-alone report on the situation of LGBT persons with disabilities*)
- Submission by Queer Peace and Russian LGBT Network for the Session (*a stand-alone report on the situation of LGBT persons with disabilities*)