



UN Human Rights Committee (HRCtee): 126th Session, 1-26 July 2019

State reports reviewed: 🇪🇬 **Equatorial Guinea**, 🇲🇷 **Mauritania**, Netherlands, 🇳🇮 **Nigeria**,
🇵🇾 **Paraguay**, 🇹🇯 **Tajikistan**

Follow-up reports reviewed: Argentina, Ecuador, Burkina Faso, 🇳🇲 **Namibia**,
Turkmenistan

Lists of Issues adopted: 🇨🇮 **Chile**, 🇨🇾 **Cyprus**, 🇮🇳 **India**, 🇵🇹 **Portugal**,
🇰🇷 **Republic of Korea**, 🇺🇿 **Uzbekistan**

27 September 2019

Prepared by Kseniya Kirichenko
ILGA's UN Programme (Treaty Bodies and Special Procedures)
kseniya@ilga.org

RESUME:

- Eight LGBTI-inclusive recommendations to **Equatorial Guinea**, **Mauritania**, **Nigeria**, **Paraguay** and **Tajikistan**, including:
 - Decriminalisation of consensual same-sex sexual acts (Mauritania and Nigeria)
 - Investigation, prosecution and punishment of hate crimes (Nigeria and Paraguay)
 - Comprehensive anti-discrimination legislation (Equatorial Guinea, Mauritania, Nigeria, Paraguay and Tajikistan)
 - Education and awareness-raising campaigns (Equatorial Guinea, Nigeria, Paraguay and Tajikistan)
 - Trainings for public officials (Nigeria, Paraguay and Tajikistan)
 - LGBTI in detention (Paraguay)
 - Ending the practice of registering LGBT persons (Tajikistan)
 - One specific trans recommendation (Paraguay)
 - First SOGIESC recommendations from this Committee for Equatorial Guinea, Nigeria and Tajikistan
- Twelve LGBTI-inclusive questions to **Chile**, **Cyprus**, **India**, **Portugal**, **Republic of Korea** and **Uzbekistan**, including on:
 - Repealing provisions criminalising consensual same-sex sexual acts or on “crimes against morality” (Chile, Republic of Korea, Uzbekistan)
 - Prosecution and punishment for violence and discrimination based on SOGI (Chile)
 - Measures to combat violence and discrimination based on SOGI/against LGBTI (Chile, Cyprus, India, Republic of Korea, Uzbekistan)
 - Inclusive anti-discrimination legislation (India, Republic of Korea and Uzbekistan)
 - Freedom of assembly for LGBTI (Republic of Korea)
 - “Conversion therapies” (Republic of Korea)

- o Inclusive sex education programmes (Republic of Korea)
- o Same-sex marriage (Chile)
- o Specific questions on legal gender recognition (Chile, India, Republic of Korea and Uzbekistan) and violence against trans persons (India)
- o Stand-alone questions on intersex (Chile)
- Follow-up assessment of 2016 SOGI recommendations for **Namibia**:
 - o Reply (action) not satisfactory. The information requested should be addressed in the State party's next periodic report.

- Next Session: **14 October to 9 November 2019**
 - o Countries (main review): Belgium, Cabo Verde, Central African Republic, Czech Republic, Mexico and Senegal
 - o Countries (LOI): Bolivia, Nicaragua and Ukraine
 - o Countries (LOIPR): Croatia and Spain

Table of Contents

1. SUMMARY	4
1.1. <i>Concluding Observations</i>	5
1.2. <i>Lists of Issues (LOIs) and Lists of Issues Prior to Reporting (LOIPRs)</i>	10
1.3. <i>Individual Complaints</i>	11
2. COMPILATION OF CONCLUDING OBSERVATIONS	12
<i>Equatorial Guinea</i>	12
<i>Mauritania</i>	12
<i>Nigeria</i>	13
<i>Paraguay</i>	14
<i>Tajikistan</i>	15
3. COMPILATION OF LISTS OF ISSUES	17
<i>Chile</i>	17
<i>Cyprus</i>	17
<i>India</i>	18
<i>Portugal</i>	18
<i>Republic of Korea</i>	18
<i>Uzbekistan</i>	19
4. COMPILATION OF FOLLOW-UP ASSESSMENT	21
<i>Namibia</i>	21
5. CIVIL SOCIETY SUBMISSIONS	23
<i>Chile</i>	23
<i>Cyprus</i>	23
<i>Equatorial Guinea</i>	23
<i>India</i>	23
<i>Mauritania</i>	23
<i>Netherlands</i>	23
<i>Nigeria</i>	23
<i>Paraguay</i>	24
<i>Portugal</i>	24
<i>Republic of Korea</i>	24
<i>Tajikistan</i>	24
<i>Uzbekistan</i>	24

1. SUMMARY

The UN Human Rights Committee (HRCtee) published six Concluding Observations and six List of Issues (prior to reporting) as a result of its **126th Session** (1 to 26 July 2019).

SOGIESC¹-inclusive **recommendations** were issued to five States. These recommendation covered such topics as decriminalization of consensual same-sex sexual acts (**Mauritania** and **Nigeria**); SOGI-inclusive anti-discrimination legislation (**Equatorial Guinea**, **Mauritania**, **Nigeria**, **Paraguay** and **Tajikistan**); investigation, prosecution and punishment for hate crimes (**Nigeria** and **Paraguay**); awareness-raising campaigns (**Equatorial Guinea**, **Nigeria**, **Paraguay** and **Tajikistan**); and trainings for public officials (**Nigeria**, **Paraguay** and **Tajikistan**). **Paraguay** received a recommendation on LGBTI persons in detention, with a specific focus on transgender detainees. **Tajikistan** was called on in relation to a register of LGBT persons compiled by law enforcement officials.

The first SOGIESC recommendations were made by the HRCtee to Equatorial Guinea, Nigeria and Tajikistan.

The **Netherlands** was the only State where the Committee's Concluding Observations did not mention LGBTI/SOGIESC at all. This reflected the lack of relevant data in CSO reports. At the same time, this also interrupted the HRCtee's practice of the last couple of years of addressing LGBTI/SOGIESC in every country review even in the absence of CSO data on the topics.

This time, no SOGIESC recommendations were chosen by the Committee for follow-up procedure.

Furthermore, all six **Lists of Issues** adopted by the Committee at the Session contained SOGIESC questions. The questions concerned criminalisation of consensual same-sex sexual acts or on "crimes against morality"; prosecution and punishment for violence and discrimination based on SOGI; measures to combat violence and discrimination based on SOGI/against LGBTI, including inclusive anti-discrimination legislation; freedom of assembly for LGBTI; "conversion therapies"; inclusive sex education programmes; and same-sex marriage. A number of countries was inquired about their legal gender recognition procedures and violence against trans persons. Finally, one country (Chile) received specific questions on intersex. At the same time, no specific references were made to LBQ women.

Overall, the Committee showed a willingness to address a broad range of issues and measures relevant for LGBT(I) persons. This includes fairly detailed references to discrimination against LGBTI persons in education, health and employment (**Paraguay**), a topic quite unusual for this Committee.

At the same time, a very low attention was paid to specific challenges faced by particular populations within the umbrella. This, however, reflected, to a certain extent, the data provided by CSOs. The only country where the Committee mentioned particular situation of **trans people** in the Concluding Observations was Paraguay, the same country where NGO reports addressed the issue. By contrast, while some data on the specific challenges faced by **lesbian women** in the Equatorial Guinea and in Paraguay were prepared by CSOs, it did not lead to any references to this group in the HRCtee's Lists of Issues, constructive dialogues with State delegations and Concluding Observations. No specific recommendations were also made on **intersex**.

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

Out of 34 decisions on individual communications published on the Committee’s website, none referred to SOGIESC.

While no General Comments were adopted by the Committee during the 126th Session, it continued discussing a [draft General Comment](#) No. 37 on Article 21 (Right of Peaceful Assembly) of the ICCPR. The current draft contains three references to homophobia and SOGI, including:

- the State obligation to protect participants of an assembly from homophobic, sexual or gender-based violence;
- an explanation that any restrictions on an assembly must not be aimed specifically at particular categories of potential participants, for example on the basis of SOGI; and
- another explanation that limitations on demonstrations involving sexually explicit material may potentially fall into the category of the protection of morals, but limitations based on opposition to expressions of sexual orientation may not.

Upon the completion of the first reading of the draft General Comment, all stakeholders including civil society, will be invited to provide their comments.

In addition, the HRCtee adopted follow-up reports on concluding observations for Argentina, Ecuador, Burkina Faso, Namibia and Turkmenistan, with [Namibia](#) having recommendations on SOGI included into the follow-up list in 2016. These recommendations covered several topics, such as criminalisation of consensual same-sex sexual relations and legislation on hate crimes and discrimination. The Committee assessed the implementation of these recommendations under grade [C] (reply/action not satisfactory) and requested additional information to be included into the next State party’s periodic report with the deadline on 31 March 2020.

1.1. Concluding Observations

During its [126th Session](#), CRC reviewed six States: Equatorial Guinea, Mauritania, the Netherlands, Nigeria, Paraguay and Tajikistan. Five States (all reviewed, except for the Netherlands) received SOGIESC recommendations, three (Equatorial Guinea, Nigeria and Tajikistan) for the first time.

As can be seen from the table below, the HRCtee continue to be very open to addressing LGBTI issues. It did so in all the LOI/PRs, all the constructive dialogues and most of the Concluding Observations. SCOs also showed a serious interest in engaging with the Committee providing relevant data for every country reviewed.

Country	SOGIESC in previous CO*	SOGIESC in LOI/PR**	SOGIESC in the constructive dialogue***	SOGIESC in CSS****	SOGIESC in COs
Equatorial Guinea	N/A	Yes	Yes	Yes	Yes
Mauritania	Yes	Yes	Yes	Yes	Yes
Netherlands	No	Yes	Yes	Yes	No
Nigeria	No	Yes	Yes	Yes	Yes
Paraguay	Yes	Yes	Yes	Yes	Yes
Tajikistan	No	Yes	Yes	Yes	Yes

* CO – Concluding Observations

** LOI – List of Issues;

LOIPR – List of Issues prior to reporting

*** According to the press releases

**** CSS – Civil Society Submission

Text in bold links to the source material.

Equatorial Guinea:

The Committee reviewed the initial report of the Equatorial Guinea, therefore previously there were no Concluding Observations on the State.

However, in its [List of Issues](#) prepared as a result of a previous session, the HRCtee already paid attention to SOGI/LGBT. The State party was asked about anti-discrimination legislation mentioning SOGI as protected grounds, and also about the measures taken to combat and prevent discrimination, stigmatization and violence against LGBT persons. Notably, these questions were formulated in the absence of CSO information on the topic.

For the main session, the Committee received a report by [EG Justice](#) mentioning different problems faced by LGBT persons, including alleged forced pregnancy among LGBTI women.

During the [dialogue](#) with the State delegation, the Committee's experts requested again information on any measures to prevent stigmatization of LGBT persons. As a response, a representative of the State mentioned that the country's Constitution guarantees the rights of all individuals. However, the majority of citizens have a fairly patriotic mind set, and any form of homosexuality was "ill-looked upon" for that reason; it was not the Government's doing. He mentioned that "what people did at home stayed within the realm of the home" and denied the allegations concerning violations of the "rights of homosexuals."

As a result of the review, the HRCtee [expressed](#) its concerns on the lack of comprehensive anti-discrimination legislation in the country, including with regard to SOGI as protected grounds. It also mentioned reports of discrimination and stigmatization against LGBT persons. Consequently, the State party was recommended: to adopt comprehensive anti-discrimination legislation; to effectively protect LGBT persons, to safeguard their fundamental rights and to ensure that all cases of discrimination are properly addressed; and to take education and awareness-raising measures.

Mauritania:

Mauritania submitted its second periodic report to the HRCtee. The [first Concluding Observations](#) adopted in 2013 already included a recommendation to "decriminalize homosexuality" (the Committee particularly pointed out that same-sex sexual relations were punishable by the death penalty in the country), and to protect the person's freedom and privacy.

In its [second report](#) to the HRCtee, the State party explained that "The Mauritanian legal system is based on sharia law, which is the sole source of law and which bans homosexuality and any other relationship contrary to nature and to Muslim principles and values."

Several reports by CSOs, including one report submitted for the List of Issues, confirmed that consensual same-sex sexual acts between consenting adults are criminalised and punishable by the death penalty in Mauritania.

The [List of Issues](#) for Mauritania adopted by the Committee included questions on anti-discrimination legal frameworks, particularly covering SOGI, any intention to decriminalise same-sex sexual acts, and measures to protect the privacy and freedom of "persons belonging to sexual minorities." Essentially, the Committee based the questions on its previous recommendations to the State party.

During the [dialogue](#) with Mauritania, the Committee's experts mentioned that such criminalisation goes against the State's obligations under the ICCPR. They also pointed out

that the State party has an obligation to protect LGBT people, and asked what steps was the Government taking to protect them from discrimination. However, responding to the question, a representative of the State delegation only reiterated that “homosexual acts ran counter to Mauritania’s law and culture.”

As a result of the review, the Committee **expressed** its concerns on the shortcomings in the recently adopted anti-discrimination legislation, particularly no mentioning of SOGI as protected grounds. It was also concerned about acts of discrimination and stigmatization based on SOGI, as well as criminalization and punishment with the death penalty of consensual same-sex sexual acts between adults (article 308 of the Criminal Code). Accordingly, the State party was recommended to explicitly include SOGI as protected grounds in anti-discrimination legislation, to repeal article 308 of the Criminal Code and to release any person detained on the basis of this article.

Netherlands:

The Committee considered the fifth periodic report by the Netherlands. Previously, no LGBTI/SOGIESC recommendations were made to this country by the HRCtee.

While no CSO submissions for the List of Issues prior to reporting (as well as for the main session) mentioned any problems faced by LGBTI persons in the Netherlands, the Committee **did ask** the State party about measures to combat discrimination and violence against LGBTI persons in the context of reception facilities and the situation of refugees and asylum seekers.

In its **report** to the Committee, the State provided the following answer to the above-mentioned question: “In the opinion of the government, it is indeed important that harassment, threats, discrimination and violence against LGBTI asylum-seekers or refugees in reception facilities are effectively investigated and prosecuted. On 31 March 2016 it sent a detailed letter to the House of Representatives setting out stricter measures to tackle anti-social and criminal asylum seekers: it proposed tightening up the rules in reception facilities to allow for a sharper focus on the prohibition of unacceptable behaviour, such as discrimination, and on the sanctions already in place. These measures are over and above possible sanctions under the criminal law. Victims will be encouraged to report such behaviour.”

During the **dialogue** with the State party, only a question of the possible inclusion of sexual orientation into the anti-discrimination legislation was briefly addressed. However, no substantial discussions took place, and the resulted **Concluding Observations** did not mention either LGBTI or SOGIESC.

Nigeria:

Nigeria submitted its second periodic report to the Committee. The **previous Concluding Observations** did not address LGBTI/SOGIESC issues.

While no comprehensive information about LGBTI was provided by civil society for the List of Issues, one of the CSO reports mentioned criminalisation of consensual same-sex sexual acts in the country.

The **List of Issues** adopted by the Committee included question on SOGI as protected grounds in anti-discrimination national law; measures to combat and prevent discrimination, stigmatization and violence against LGBT people; criminalisation of consensual same-sex sexual acts (section 214 of the Criminal Code) and the Same Sex Marriage (Prohibition) Act prohibiting a marriage contract or civil union between persons of the same sex; increased harassment, threats and mob violence against LGBT persons after the adoption of the Same

Sex Marriage (Prohibition) Act; and allegations of torture, sexual violence, arbitrary detention and extortion committed by law enforcement agents on LGBT persons.

Replying to the Lists of Issues, the government of Nigeria provided the following information: “Same-sex marriage is not provided for in Nigerian laws because it is against the country’s National values. A fundamental human rights poll conducted by NOI Polls Ltd on the Anti same-sex marriage Act has shown that 92% of Nigerians support the law. Sexual and gender minorities are not visible in Nigeria and there are no officially registered associations of gay and lesbians. In spite of the Same-Sex Marriage (Prohibition) Act which criminalizes open display of gay and lesbianism and prohibits same-sex marriage, there is no case of discrimination on basis of sexual identity. Isolated cases of stigmatization and violence are addressed in line with the civil liberties of the Constitution and other relevant laws.”

Two CSO reports for the main session covered the situation of LGBT persons in detail, including a **stand-alone report** on LGBT with references to specific violations faced by LBT women, such as “corrective rape” or forced marriages.

During the **dialogue** with State party, the Committee’s experts asked about any plans to repeal section 214 of the Criminal Code or the Same Sex Marriage (Prohibition) Act, as well as allegations of torture and murder of LGBT persons. However, the State delegation answered that “issues related to LGBT people constituted a ‘red line.’ Same-sex marriage was discussed in Parliament, which rejected it. Opinion polls confirmed that Nigerians were against it.” They also added that “it’s alien to us” and asked “why do those that were economically or militarily more powerful think that they could impose their views on Nigerians?”

The **recommendations** made by the HRCtee to Nigeria as a result of the review included: decriminalizing consensual same-sex sexual acts between adults, considering repealing the Same Sex Marriage (Prohibition) Act, and prohibiting arrest, prosecution and punishment based on SOGI or advocacy of rights for LGBT persons; providing effective protection to LGBT persons and ensuring the investigation, prosecution and punishment of any act of violence motivated by SOGI; and organising sensitization campaign for the general public, as well as trainings to public officials.

Paraguay:

The Committee reviewed the fourth periodic report of Paraguay. Its previous **Concluding Observations** made in 2013 already included some recommendations on LGBT, particularly with regard to SOGI-inclusive anti-discrimination legislation and the promotion of equality, particularly equal access to services for LGBT people.

The involvement of CSO covering LGBTI issues was also very active in the review of Paraguay. A stand-alone report on this population was submitted for the List of Issues prior to reporting, and then two other submissions with detailed information, including specific data on the situation of lesbian women and trans persons, were prepared for the main session.

The Committee’s **List of Issues prior to reporting** included several questions on LGBTI, covering such topics as equal opportunities and access to services (following up the previously made recommendations), violence and discrimination, and reproductive health services.

The **fourth report** of the State party did address some measures to prevent violence and discrimination and to ensure the rights of trans persons, particularly the usage of “social” names in public health sector, and programmes to address discrimination against trans sex workers.

During the dialogue with the State delegation, the Committee's experts **asked** for statistics on crimes motivated by SOGI and information on measures taken to combat discrimination on those grounds. The delegation was also invited to comment the reports of discrimination against LGBTI persons, including the allegation that there had been no investigation into the cases of the 60 transgender persons murdered since 1999. In addition, the State delegation was asked to comment on reports that LGBT persons lacked access to reproductive health services tailored to their specific needs. Finally, the State was asked about measures to protect vulnerable groups, such as transgender persons, in detention facilities, and guarantees of detainees' right to intimate visits without discrimination based on their gender or sexual orientation.

The delegation **provided** some information on measures to guarantee the equality and non-discrimination in the field of health care, particularly reproductive health, and protocols for dealing with allegations of human rights violations or acts of torture reported by, *inter alia*, trans persons.

Based on this, the HRCtee **made** a number of LGBTI recommendations to Paraguay. Apart from such problems as violence and discrimination, the Committee also expressed its concerns on the restrictions of LGBTI association and on funding of homophobic organisations with public funds. The State party was called on to ensure full protection against discrimination against LGBTI persons, including through trainings for law enforcement and security officers and awareness-raising campaigns; to adopt and implement policies for the protection of LGBTI persons and to ensure investigation, punishment and redress in cases of discrimination and violence; and to ensure the respect for the rights of LGBTI persons deprived of liberty, including through trainings to personnel in all places of deprivation of liberty.

The resulting Concluding Observations also contained two specific concerns on the situation of trans persons in relation to hate crimes and violence, and on penitentiary system, as well as one trans-specific recommendation on the latter topic.

Tajikistan:

The Committee considered the third periodic report of Tajikistan, and previous Concluding Observations did not mention LGBTI/SOGI/IESC.

CSO involvement in the review has been quite significant, and detailed information on the situation of LGBT persons were provided for both the List of Issues, and, especially, for the main session (here including a stand-alone report on human rights violations based on SOGI).

The **List of Issues** for Tajikistan developed by the Committee included some questions on LGBTI/SOGI, such as those related to inclusive anti-discrimination national legislation, discrimination, violence and harassment against LGBT people and different forms of abuse by law enforcement officials, particularly the creation of a register of LGBT persons and charging LGBT individuals with amoral behaviour and crimes against morality.

In its **reply** to the List of Issues, the State party declared that there are no provisions in Tajik legislation that restrict the rights and lawful interests of persons on the basis of their sexual orientation. It also explained that there is no criminal liability for consensual same-sex sexual acts between adults.

The Committee's members **asked** a number of questions on LGBT/SOGI during the constructive dialogue with the State delegation. This included questions on domestic anti-discrimination legislation, on discrimination, hate speech and violence against LGBT community in practice, on criminal laws, on trainings for law enforcement bodies, on a

statement by the national Ombudsman denying international LGBT human rights recommendations on the basis of “moral and ethical norms” of the country, and on any positive steps taken by the State party to protect LGBT persons. The delegation was also invited to comment on reports that a register of individuals suspected of being LGBT, had led to repeated instances of the arbitrary arrest, detention and extortion of such persons. However, the only statement made by the State delegation in response concerned the alleged register of LGBT persons compiled by the police. The delegation said there no such register existed in Tajikistan.

As a result of the review, the HRCtee recommended Tajikistan to adopt comprehensive anti-discrimination legislation covering SOGI; to provide effective protection against discrimination and violence on the basis of SOGI and to ensure that such conduct is properly addressed and remedied; to combat homophobic and transphobic discourse, including through trainings to law enforcement and other officials and awareness-raising activities for the general public; and to investigate law enforcement practices to ensure that LGBT individuals are not registered, and end any such practices.

1.2. Lists of Issues (LOIs) and Lists of Issues Prior to Reporting (LOIPRs)

During its **126th Session**, the HRCtee produced questions for six States that are to be reviewed in the future: LOIs for Portugal and Uzbekistan, and an LOIPR for the simplified reporting procedure of Chile, Cyprus, India and the Republic of Korea.

SOGIESC questions were issued to all State parties. One question concerned specifically intersex children, and four were about legal gender recognition procedures and some specific requirements under them. There was also one question on violence against trans persons. More general issues concerned measures against discrimination, violence and stigma, inclusive anti-discrimination legislation, prosecution and punishment for violence and discrimination against LGBTI, criminalisation of consensual same-sex sexual acts and “offending against decency or morality”, inclusive sex education, freedom of assembly, “conversion therapies” and same-sex marriage.

Chile was asked about measures against violence and discrimination based on SOGI, including awareness-raising campaigns, and in the education system; prosecution and punishment for such acts; repealing provisions of Criminal Code providing penalties for anyone who “offends against decency or morality”, as well as article 365 of the Criminal Code; and the Same-Sex Marriage Bill. The State also received a specific question on legal gender recognition procedure, including with regard to trans adolescents and ending marriage requirement. A stand-alone question was related to irreversible surgeries towards intersex children and refusals to register intersex children’s birth.

Cyprus received a question on measures to prevent and combat discrimination against LGBTI persons.

India was asked about SOGI-inclusive anti-discrimination legislation, as well as measures to combat discrimination and violence, including police abuses, against LGBT persons. Regarding specific situation of trans people, the State was asked about legislation, mandatory sex reassignment surgery requirement for legal gender recognition, and the light sentence imposed for serious offences against trans people.

Portugal received a question regarding the Bill on LGBTI people’s rights.

Republic of Korea was asked about SOGI-inclusive anti-discrimination legislation and measures against discrimination and violence targeting LGBTI persons. More concrete questions were related to “conversion therapies”, freedom of assembly, criminalisation of

same-sex sexual acts in military, and inclusive sex education programmes. One particular question concerned legal gender recognition procedures.

Uzbekistan received questions on SOGI-inclusive anti-discrimination legislation, decriminalisation of consensual same-sex sexual acts between men, and measures to combat stigmatization, harassment, violence and discrimination against LGBT individuals by both state officials and private individuals, including extortion and arbitrary arrest and detention. A specific question was related to legal gender recognition procedures and particularly the requirement of a minimum of one-month hospitalization in a psychiatric clinic.

Notably, in most of the LOI/PRs the Committee referred to its previous recommendations to State parties, including follow-up recommendations and respective reports. This could be seen as a positive trend towards a stronger implementation system and more effective recommendations.

The two States that received LOIs (Portugal and Uzbekistan) will have their periodic reports reviewed by the Committee at its **128th Session**, on 2 to 27 March 2020. The four States which received LoIPRs will be reviewed later: Chile, Cyprus and India in 2021, and the Republic of Korea in 2022, according to the Committee's new [predictable calendar](#).

1.3. Individual Complaints

In relation to its **126th Session**, out of 34 decisions on individual communications published on the Committee's website,² none referred to SOGIESC.

² Communications nos. 2035/2011, 22137/2012, 2269/2013, 2302/2013, 2306/2013, 2311/2013, 2315/2013, 2346/2014, 2383/2014, 2410/2014, 2416/2014, 2417/2014, 2420/2014, 2495/2014, 2541/2015, 2542/2015 and 2543/2015, 2560/2015, 2570/2015, 2582/2015, 2603/2015, 2655/2015, 2670/2015, 2683/2015, 2685/2015, 2697/2015, 2699/2015, 2701/2015, 2716/2016, 2750/2016, 2751/2016, 2773/2016, 2989/2017, 2401/2014, 2545/2014.

2. COMPILATION OF CONCLUDING OBSERVATIONS

Equatorial Guinea – Concluding Observations – 126th Session, 25 July 2019, initial review³

C. Principal matters of concern and recommendations

[...]

Combating discrimination

24. The Committee notes the legislative framework, including constitutional provisions that prohibit discrimination. Nevertheless, it regrets the absence of legislation defining and prohibiting direct and indirect discrimination, and covering all prohibited grounds for discrimination enumerated in articles 2 and 26 of the Covenant, in particular sexual orientation, gender identity and disability. It further regrets the lack of information regarding a legislative framework offering effective remedies for victims of discrimination. The Committee is concerned about the information received regarding acts of discrimination and stigmatization against lesbian, gay, bisexual, transgender and intersex persons and persons living with HIV/AIDS, and about the lack of action taken to ensure that persons with disabilities are not discriminated against in practice (arts. 2 and 26).

25. The State party should take the necessary measures to:

(a) Enact comprehensive legislation providing full and effective protection against multiple discrimination, both direct and indirect, in all spheres and on all grounds enumerated in the Covenant;

(b) Provide access to effective and appropriate remedies for all victims of discrimination;

(c) Effectively protect lesbian, gay, bisexual, transgender and intersex persons, persons living with HIV/AIDS and persons with disabilities, and safeguard their fundamental rights, while ensuring that all cases of discrimination are duly addressed;

(d) Conduct wide-ranging education and awareness-raising campaigns that promote equality, tolerance and respect for diversity.

Mauritania – Concluding Observations – 126th Session, 25 July 2019, 2nd review⁴

C. Principaux sujets de préoccupation et recommandations

[...]

Non-discrimination

12. Le Comité note les dispositions constitutionnelles qui prohibent la discrimination, ainsi que l'adoption de la loi n° 2018-023 du 18 janvier 2018 relative à l'incrimination de la discrimination. Il est néanmoins préoccupé par l'absence d'une définition et incrimination claires de la discrimination directe et indirecte couvrant tous les motifs prévus dans le Pacte, et englobant l'orientation sexuelle et l'identité de genre. Le Comité craint que l'absence de clarté juridique de nombreuses dispositions de cette loi puisse ouvrir la voie à des interprétations susceptibles de conduire à des restrictions dans la jouissance de certains droits et libertés et à la persistance de pratiques discriminatoires. Le Comité est, en outre, préoccupé par les actes de discrimination et de stigmatisation à l'encontre de certaines

³ [CCPR/C/GNQ/CO/1](#).

⁴ [CCPR/C/MRT/CO/2](#).

minorités à raison de leur orientation sexuelle et de leur identité de genre, et déplore que l'article 308 du Code pénal criminalise et punit toujours de la peine de mort les activités sexuelles entre personnes adultes et consentantes de même sexe (art. 2, 6, 19, 20 et 26).

13. L'État partie devrait réviser la loi n° 2018-023 afin de la rendre pleinement conforme au Pacte en incluant une définition de la discrimination, directe et indirecte, y compris dans la sphère privée, comportant une liste exhaustive des motifs de discrimination prévus dans le Pacte, et englobant l'orientation sexuelle et l'identité de genre. L'État partie devrait s'assurer que cette loi présente des garanties suffisantes de recours civils et administratifs efficaces contre toutes les formes de discrimination. Il devrait, en outre, abroger l'article 308 du Code pénal afin de décriminaliser les relations sexuelles entre adultes consentants de même sexe et remettre en liberté toute personne se trouvant en détention sur la base de cet article.⁵

Nigeria – Concluding Observations – 126th Session, 25 July 2019, 2nd review⁶

C. Principal matters of concern and recommendations

[...]

Non-discrimination and gender equality

16. The Committee is concerned about a lack of comprehensive anti-discrimination legislation and the absence of a definition of discrimination in the State party's legislation. [...] (arts. 2, 3, 14, 25 and 26)

17. The State party should adopt comprehensive anti-discrimination legislation that (a) includes a comprehensive list of prohibited grounds of discrimination, including race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, sexual orientation, gender identity and other status; (b) covers direct, indirect and intersecting forms of discrimination; and (c) provides for effective remedies, including judicial. [...]

Discrimination on the basis of sexual orientation and gender identity

18. The Committee is concerned that the Criminal Code criminalizes consensual same-sexual activity and that the Same-Sex Marriage (Prohibition) Act provides for 14 years imprisonment for a person who enters into a same sex union and ten years imprisonment for anyone who supports, meet with, or forms a group advocating for the human rights of lesbian, gays, bisexual and transgender (LGBT) persons. The Committee is further

⁵ Unofficial translation into English (the official one will be available on a later point):

C. Principal matters of concern and recommendations

[...]

Non-discrimination

12. The Committee notes the constitutional provisions prohibiting discrimination, as well as the adoption of Act No. 2018-023 of 18 January 2018 on the criminalization of discrimination. Nevertheless, the Committee is concerned at the lack of a clear definition and criminalization of direct and indirect discrimination covering all grounds provided for in the Covenant, including sexual orientation and gender identity. The Committee is concerned that the lack of legal clarity in many provisions of the Act may open the way to interpretations that could lead to restrictions on the enjoyment of certain rights and freedoms and to the persistence of discriminatory practices. The Committee is also concerned about acts of discrimination and stigmatization against certain minorities on the grounds of their sexual orientation and gender identity, and regrets that article 308 of the Code criminalizes and still punishes with the death penalty sexual activities between adult and consenting persons of the same sex (arts. 2, 6, 19, 20 and 26).

13. The State party should review Act No. 2018-023 to bring it fully into line with the Covenant by including a definition of discrimination, direct and indirect, including in the private sphere, including a comprehensive list of grounds for discrimination provided for in the Covenant, and including sexual orientation and gender identity. The State party should ensure that this law provides sufficient guarantees for effective civil and administrative remedies against all forms of discrimination. It should also repeal article 308 of the Criminal Code in order to decriminalize sexual relations between consenting adults of the same sex and release any person in detention on the basis of that article.

⁶ [CCPR/C/NGA/CO/2](#).

concerned about reports that, since the adoption of the Act, harassment and violence against LGBT persons has increased as well as the number of arrests and detention of young people based on their actual or perceived sexual orientation and gender identity. (arts. 2, 6, 7 and 26)

19. The State party should de-criminalize consensual same-sex relationships between consenting adults and ensure that arrest, prosecution and punishment based on actual or perceived sexual orientation or gender identity or advocacy of rights for LGBT persons are prohibited and should consider repealing the Same Sex Marriage (Prohibition) Act, and reviewing all other relevant legislation. Pending such revisions, these measures should not be used. The State party should provide effective protection to LGBT persons and ensure the investigation, prosecution and punishment of any act of violence motivated by the victim's sexual orientation or gender identity. The State party should take efforts to combat stereotypes and prejudice against LGBT persons, including by launching a sensitization campaign aimed at the general public and providing appropriate training to public officials so as to put an end to the social stigmatization of LGBT persons.

Paraguay – Concluding Observations – 126th Session, 25 July 2019, 4th review⁷

C. Principales motivos de preocupación y recomendaciones

[...]

No discriminación

14. El Comité continúa preocupado por la ausencia de un marco jurídico exhaustivo contra la discriminación, así como por la persistencia de la discriminación contra las mujeres, personas afroparaguayas, indígenas, personas con discapacidad, trabajadoras y trabajadores sexuales, personas lesbianas, gais, bisexuales, transgénero e intersexuales (LGBTI) y las personas infectadas por el VIH, especialmente en las áreas de educación, salud y empleo. Preocupan además los informes relativos a restricciones en el derecho de asociación de las personas LGBTI; a la financiación de organizaciones homófonas con fondos públicos; a crímenes de odio y violencia contra personas LGBTI, y en particular, las personas transgénero, así como el elevado índice de impunidad de estos crímenes (arts. 2, 3, 6, 7, 17, 21, 26 y 27).

15. El Estado parte debe:

a) Adoptar una legislación exhaustiva que prohíba la discriminación en todos los ámbitos, incluyendo la discriminación múltiple, directa e indirecta, tanto en el sector público como en el privado, por todos los motivos enumerados en el Pacto;

b) Garantizar la plena protección contra la discriminación, tanto en la ley como en la práctica, contra mujeres, personas afroparaguayas, pueblos indígenas, personas con discapacidad, trabajadoras y trabajadores sexuales, personas lesbianas, gais, bisexuales, transgénero e intersexuales (LGBTI) y personas infectadas por el VIH, incluyendo a través del aumento de los programas de formación para agentes del orden y de seguridad y de más campañas de sensibilización que promuevan la tolerancia y el respeto de la diversidad;

c) Adoptar e implementar políticas efectivas para la protección de las personas LGBTI y trabajadoras y trabajadores sexuales y asegurar que los casos de discriminación y violencia cometidos por particulares o agentes del Estado contra estas personas sean sistemáticamente investigados, que los responsables sean sancionados con penas adecuadas, y que las víctimas obtengan una reparación integral.

⁷ CCPR/C/PRY/CO/4.

[...]

Personas privadas de libertad y condiciones de detención

26. El Comité está preocupado por la situación de crisis penitenciaria en el Estado parte. [...] El Comité también está preocupado por la situación de vulnerabilidad en que se encuentran las mujeres y las personas LGBTI privadas de libertad, en particular las personas transgénero (arts. 6, 7, 9, 10, 14 y 26)

27. El Estado parte debe:

[...]

d) Asegurar que los derechos de las personas privadas de libertad en situación de especial vulnerabilidad, incluyendo las mujeres y las personas LGBTI, en particular las personas transgénero, sean respetados de acuerdo con los estándares internacionales sin discriminación alguna, incluyendo a través de una capacitación regular y continua del personal de todos los lugares de privación de libertad.⁸

Tajikistan – Concluding Observations – 126th Session, 25 July 2019, 3rd review⁹

C. Principal matters of concern and recommendations

[...]

Anti-discrimination framework

⁸ Unofficial translation into English (the official one will be available on a later point):

C. Principal matters of concern and recommendations

[...]

Non-discrimination

14. The Committee remains concerned at the absence of a comprehensive legal framework against discrimination, as well as at the persistence of discrimination against women, Afro-Paraguayans, indigenous people, persons with disabilities, sex workers, lesbian, gay, bisexual, transgender and intersex (LGBTI) persons and persons infected with HIV, especially in the areas of education, health and employment. Reports of restrictions on the right of association of LGBTI persons; funding of homophobic organizations with public funds; hate crimes and violence against LGBTI persons, in particular transgender persons, and the high rate of impunity for these crimes are also of concern (arts. 2, 3, 6, 7, 17, 21, 26 and 27).

15. The State party should:

(a) Adopt comprehensive legislation prohibiting discrimination in all areas, including multiple, direct and indirect discrimination, in both the public and private sectors, on all the grounds enumerated in the Covenant;

(b) Guarantee full protection against discrimination, both in law and in practice, against women, Afro-Paraguayans, indigenous peoples, persons with disabilities, sex workers, lesbian, gay, bisexual, transgender and intersex (LGBTI) and HIV-infected persons, including through increased training programmes for law enforcement and security officers and more awareness-raising campaigns promoting tolerance and respect for diversity;

(c) Adopt and implement effective policies for the protection of LGBTI people and sex workers and ensure that cases of discrimination and violence committed by individuals or State agents against these people are systematically investigated, that those responsible are punished with appropriate penalties, and that victims obtain full redress.

[...]

Persons deprived of liberty and conditions of detention

26. The Committee is concerned about the prison crisis in the State party. [...] The Committee is also concerned about the vulnerable situation of women and LGBTI persons deprived of their liberty, in particular transgender persons (arts. 6, 7, 9, 10, 14 and 26).

27. The State party should:

[...]

(c) Ensure adequate supervision of penitentiary institutions and those where minors are in state custody;

(d) Ensure that the rights of persons deprived of liberty in situations of special vulnerability, including women and LGBTI persons, in particular transgender persons, are respected in accordance with international standards without any discrimination, including through regular and continuous training of personnel in all places of deprivation of liberty.

⁹ [CCPR/C/TJK/CO/3](#).

13. While noting that article 17 of the Constitution and other legislative acts guarantee equality before the law and the rights of every person without discrimination on several grounds, the Committee is concerned that the existing legal framework does not afford comprehensive protection against discrimination on all the grounds prohibited under the Covenant, and regrets the lack of information inter alia on the prohibition of discrimination in the private sphere and on effective remedies for all forms of discrimination. The Committee notes that a working group was set up in 2018 to prepare a bill on the prohibition of discrimination and regrets that no further details have been provided regarding the bill and the timeline for its adoption (arts. 2 and 26).

14. The State party should take all the measures necessary, including by adopting a comprehensive anti-discrimination law, to ensure that its legal framework provides adequate and effective substantive and procedural protection against all forms of direct, indirect and multiple discrimination, including in the private sphere, on all the prohibited grounds under the Covenant, including colour, opinion, birth, sexual orientation, gender identity and other status, as well as access to effective and appropriate remedies for victims of discrimination.

Discrimination and violence on grounds of sexual orientation and gender identity

15. The Committee is concerned about reports of deep-rooted discrimination against LGBT individuals, including homophobic and transphobic rhetoric by public officials, violence and harassment, including arbitrary arrest, detention, and extortion by law enforcement officials. The Committee is concerned about reports, although denied by the State party, that individuals suspected of being lesbian, gay, bisexual or transgender were identified following special operations called “Morality” and “Purge” and placed on a registry, which exacerbates their social stigmatization. The Committee is also concerned at the statement made by the Commissioner for Human Rights (Ombudsman) in January 2019 that international recommendations regarding the protection of LGBT rights would not be followed because they would be contrary to the “moral and ethical norms of relationships among people in the country” (arts. 2, 7, 9, 17 and 26).

16. The State party should: (a) provide effective protection against all forms of discrimination and violence on the basis of sexual orientation and gender identity, both in law and in practice, and ensure that no such discrimination or violence is tolerated and that such conduct is properly addressed and remedied; (b) combat homophobic and transphobic discourse, including by providing appropriate training on combating discriminatory attitudes towards LGBT individuals to law enforcement and other officials, and by conduct similar awareness-raising activities aimed at the general public; and (c) investigate law enforcement practices to ensure that LGBT individuals are not registered, and end any such practices which unduly interfere with their rights, including to privacy and to liberty and security.

States with no SOGIESC recommendations:

- Netherlands

3. COMPILATION OF LISTS OF ISSUES

Chile – List of Issues prior to reporting – 126th Session, 7 August 2019, 5th periodic report¹⁰

Non-discrimination, equal rights for men and women (arts. 2, 3, 17 and 26)

[...]

7. In the light of the Committee's preceding concluding observations (para. 14), please provide updated information on the nature and impact of the measures taken, including awareness-raising campaigns, to prevent and combat violence and discrimination based on sexual orientation or gender identity, including in the education system, and to prosecute and punish those responsible. Please also provide information on: (a) the steps taken to repeal article 373 of the Criminal Code, which provides for criminal penalties for anyone who "offends against decency or morality", as recommended by the Committee in its preceding concluding observations (para. 14), and on whether the article has been invoked during the reporting period for the purpose of arresting, prosecuting and/or convicting individuals on the basis of their sexual orientation or gender identity; (b) the current status of the same-sex marriage bill (Bulletin No. 11422-07); and (c) the current status of the bill to repeal article 365 of the Criminal Code (Bulletin No. 6685-07).

8. Regarding Act No. 21120, which recognizes and protects the right to gender identity, please: (a) specify what resources are available to enable persons between the ages of 14 and 18 years to make use of the procedure for changing their registered name and registered sex in the event that their legal guardians refuse to submit a request to that effect; and (b) comment on the compatibility of article 19 – which provides for a procedure for ending a marriage, irrespective of whether or not the spouses wish to maintain their marriage bond, when the person applying to change his or her registered name and registered sex is married – with the provisions of the Covenant, in particular articles 17 and 26.

[...]

Children with variations of sex characteristics (intersex) (arts. 7, 17, 24 and 26)

13. Please report on the measures adopted to prohibit the performance of irreversible surgery or other unnecessary medical procedures on intersex newborns and children in both public and private health centres until they have reached an age at which they are able to give their free, prior and informed consent. Please comment on reports that, in some cases, the Civil Registry has refused to register newborn babies whose sex was classified as "undefined" by medical staff.

Cyprus – List of Issues prior to reporting – 126th Session, 9 August 2019, 5th periodic report¹¹

Non-discrimination, gender equality and prohibition of advocacy of national, racial or religious hatred (arts. 2, 3, 20, 24 and 26)

[...]

5. With reference to the previous concluding observations (para. 7), please provide updated information about measures taken and progress made with regard to: (a) preventing and eradicating all forms of discrimination, including against Turkish Cypriots, Roma, migrants and lesbian, gay, bisexual, transgender and intersex persons; (b) tackling racist stereotypes

¹⁰ CCPR/C/CHL/QPR/7

¹¹ CCPR/C/CYP/QPR/5

and hate speech in the public sphere; (c) facilitating and encouraging the reporting of cases of discrimination, including by raising awareness about anti-discrimination laws among the general population; and (d) investigating reports of hate crimes, bring perpetrators to justice and provide reparations to victims. In addition, please provide statistical data for the reporting period on the number of cases of discrimination received, investigations carried out and their outcome, and reparations provided to victims. Please also clarify whether national legislation explicitly addresses and prohibits multiple discrimination and provide information about activities carried out by the Anti-Discrimination Body and the Equality Authority during the reporting period and their impact.

India – List of Issues prior to reporting – 126th Session, 7 August 2019, 4th periodic report¹²

Non-discrimination (arts. 2 and 26)

6. Please report on the anti-discrimination legal framework and clarify whether: (a) it prohibits discrimination, including direct, indirect and intersecting forms of discrimination, on all the grounds set forth in the Covenant, including colour, language, political or other opinion, national or social origin (including caste), property, sexual orientation, gender identity and other status; (b) it provides for effective judicial and administrative remedies.

[...]

8. Please report on measure taken to: (a) combat societal discrimination and violence, including police abuses, against LGBT persons; (b) fully implement the 2014 Supreme Court judgment in *National Legal Services Authority v Union of India and others* that recognized the rights of transgender persons. Please clarify whether revisions are considered for the Transgender Persons (Protection of Rights) Bill that was passed by the Lok Sabha (Lower House of Parliament) on 17 December 2018 with a view to bringing it into compliance with the Covenant, including as regards the mandatory sex reassignment surgery for transgender people and the light sentence imposed for serious offences against transgender people.

Portugal – List of Issues – 126th Session, 7 August 2019, 5th periodic report¹³

Non-discrimination (arts. 2, 7, 24, 25 and 26)

[...]

6. Taking into account the prohibition under the Constitution to collect disaggregated data, please clarify how the State party intends to address the discrimination faced by certain groups, in particular afro-descendants and Roma. Please also provide information on a bill presented before the Parliament in April 2018 on LGBTI people's rights. Please provide information on its content and on a timeline for its adoption.

Republic of Korea – List of Issues prior to reporting – 126th Session, 2 August 2019, 5th periodic report¹⁴

Non-discrimination (arts. 2 and 26).

5. With reference to the previous concluding observations (para. 13), please report on the steps taken to combat discrimination, especially against ethnic minorities and North Koreans, and to adopt comprehensive anti-discrimination legislation explicitly addressing all spheres of life and defining and prohibiting discrimination on any ground, including race, sexual

¹² [CCPR/C/IND/QPR/4](#)

¹³ [CCPR/C/PRT/Q/5](#)

¹⁴ [CCPR/C/KOR/QPR/5](#)

orientation and gender identity. In this respect, please inform on the sanctions imposed for direct and indirect discrimination committed by both public and private entities, and the remedies provided for the victims.

Sexual orientation and gender identity (arts. 2, 7, 17 and 26)

6. Please report on any measures taken to combat discrimination and violence against lesbian, gay, bisexual, transgender and intersex persons (LGBTI), including in the military. In connection with the previous concluding observations (para. 15) and the Report on follow-up to the concluding observations (CCPR/C/124/2, p. 10 to 12), and while taking note of the information provided by the State in the first addendum on the State party's follow-up to the concluding observations (CCPR/C/KOR/CO/4/Add.1, paras. 3 to 9), please indicate the measures taken to:

(a) Address discrimination, hate speech, violence against lesbian, gay, bisexual, transgender and intersex persons, including in connection with public events, or propagation of "conversion therapies";

(b) Strengthen the legal framework to protect lesbian, gay, bisexual, transgender and intersex persons;

(c) Repeal article 92-6 of the Military Criminal Act. In this respect, please inform on the number of convictions under this article;

(d) Facilitate access to the legal recognition of gender reassignment;

(e) Develop sex education programmes that provide comprehensive, accurate and age-appropriate information regarding sexuality and diverse forms of sexual orientation and gender identity at all stages of the education system.

[...]

Peaceful assembly (arts. 6, 7, 9 and 21)

25. In connection to the previous concluding observations (para. 53) and the Report on follow-up to the concluding observations (CCPR/C/124/2, p. 13 to 14), and while taking note of the information provided by the State in the first addendum on the State party's follow-up to the concluding observations (CCPR/C/KOR/CO/4/Add.1, paras. 13 to 18), please report on: (a) The training provided to police officers on crowd control; (b) The steps taken to amend the Assembly and Demonstration Act to ensure strict compliance with article 21 of the Covenant. In this regard, please comment on reports of restrictions on the right to peaceful assembly of LGBTI persons; (c) The measures taken to review the State party's regulations on the use of force to ensure that they are in compliance with the Covenant; (d) The investigation into the death of the 69-year-old farmer Baek Nam-gi, prosecution of those responsible and reparation provided to his family. Please, also provide information on the measures taken to ensure that organisers of or participants in demonstrations, in particular journalists and human rights defenders, are not criminalised for exercising their right to freedom of assembly.

Uzbekistan – List of Issues – 126th Session, 7 August 2019, 5th periodic report¹⁵

Non-discrimination (arts. 2 and 26)

4. With reference to the previous concluding observations (para. 6), please report on measures taken to ensure that the legal framework: (a) provides full and effective protection against direct, indirect and multiple discrimination in all spheres, including in the private sphere, and on all the grounds prohibited under the Covenant, including colour, political or other opinion, national origin, property, birth, sexual orientation, gender identity and other status; (b) provides for effective remedies in judicial and administrative proceedings for

¹⁵ CCPR/C/UZB/Q/5

victims of discrimination. In this respect, please clarify if there are any plans to adopt comprehensive anti-discrimination legislation to address the above requirements.

5. With reference to the information in para. 69 of the State party's report (CCPR/C/UZB/5), please report on measures taken: (a) to raise awareness about the principles of universality of human rights and of non-discrimination among the population at large; and (b) to implement the Committee's long-standing recommendation to decriminalize consensual sexual activities between adult males (see CCPR/C/UZB/CO/3, para. 22 and CCPR/C/UZB/CO/4, para. 7). Please respond to reports of social stigmatization, harassment, violence and discrimination against LGBT individuals by both state officials and private individuals, including extortion and arbitrary arrest and detention by law enforcement officials. Please clarify the procedure for legal recognition of gender reassignment, and comment on reports that it requires a minimum of one-month hospitalization in a psychiatric clinic.

4. COMPILATION OF FOLLOW-UP ASSESSMENT

Namibia – Evaluation of the information on follow-up to the Concluding Observations – 126th Session, 7 August 2019, 2nd periodic report¹⁶

Concluding observations (116th Session): [CCPR/C/NAM/CO/2](#), 23 March 2016

Follow-up paragraphs: 10, 22 and 24¹⁷

Follow-up reply: [CCPR/C/NAM/CO/2/Add.1](#), 10 July 2018

Committee's evaluation: Additional information required on paragraphs 10[C][C],¹⁸ 22[B][C] and 24[C][B].

Paragraph 10: Non-discrimination

The State party should conduct extensive education and awareness-raising campaigns involving and targeting traditional leaders and the general public, both children and adults, to eliminate all forms of discrimination. It should:

- (a) Repeal all laws that discriminate on the basis of race and finalize and adopt legislation on intestate succession so as to apply the same rules to all persons without discrimination;
- (b) Adopt legislation explicitly prohibiting discrimination based on sexual orientation, including in the Labour Act (Act No. 11 of 2007), and adopt hate crime legislation punishing homophobic and transphobic violence and vigorously enforce it;
- (c) Abolish the common law crime of sodomy and include same-sex relationships in the Combating of Domestic Violence Act (Act No. 4 of 2003) so as to protect same-sex partners;

[...].

Summary of State party's reply

(a) Namibian laws do not discriminate against any person. For the past 10 years, the Law Reform and Development Commission has been conducting research on marriage and inheritance laws. In accordance with its recommendations, bills on intestate succession were drafted and submitted to the Minister of Justice. These bills will repeal old laws on intestate succession from the apartheid era.

(b) The Constitution guarantees equality and freedom from discrimination and prohibits discrimination on several grounds. In addition, protection from discrimination is provided in legislation on racial discrimination and on employment and labour, adopted in 1991, 1998 and 2007. Lesbian, gay, bisexual and transgender persons are not discriminated against or rejected by the Government because of their sexual preferences.

¹⁶ [CCPR/C/126/2/Add.4](#)

¹⁷ Only para. 10 on SOGI.

¹⁸ **[C] = Reply/action not satisfactory:** A response has been received, but action taken or information provided by the State party is not relevant or does not implement the recommendation. In the case of follow-up to concluding observations, information provided by the State party that reiterates information previously made available to the Committee prior to the concluding observations is considered not relevant for these purposes. The Special Rapporteur for follow-up renews the request for information on steps taken to implement the recommendation. See more on the assessment system [here](#).

The Government adopted its first National Human Rights Action Plan for 2015–2019. It enhances affirmation of the rights of lesbian, gay, bisexual and transgender persons and includes educational initiatives, awareness-raising and stresses the implementation of legal and regulatory reforms that will give effect to non-discriminatory provisions in various international and regional instruments.

(c) No information provided.

(d) The National Human Rights Action Plan enhances affirmation of the rights of persons with disabilities.

Committee's evaluation

[C] (a), (b) and (d): The Committee regrets that the State party denies the existence of discriminatory laws and that no information was provided on efforts to repeal discriminatory racial laws in areas other than intestate succession. It would appreciate information on efforts in other areas. In addition, the Committee requires further information on the specifics of the bills on intestate succession submitted to the Minister of Justice, including their names and current status.

The Committee regrets that the State party denies the existence of discrimination against lesbian, gay, bisexual and transgender persons. It notes the information provided on the Constitution and the National Human Rights Action Plan, but regrets that no information was provided on specific legislation adopted to prohibit discrimination based on sexual orientation, including in the Labour Act, and that no information was furnished on the adoption of hate crime legislation to address homophobic and transphobic violence. The Committee notes that the two acts mentioned in the reply were adopted before the concluding observations were adopted and do not focus on discrimination based on sexual orientation. The Committee reiterates its recommendation.

[...]

[C] (c): The Committee regrets that no information was provided on abolishing the crime of sodomy or including same-sex relationships in the Combating of Domestic Violence Act. The Committee reiterates its recommendation.

[...]

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be addressed in the State party's next periodic report.

Next periodic report: 31 March 2020.

5. CIVIL SOCIETY SUBMISSIONS

Chile

- Submission by [civil society coalition](#) for LOIPR (*a section on discrimination against LGBT*)
- Submission by [civil society coalition](#) for LOIPR (*a stand-alone report on the situation of trans persons*)
- Submission by [INDH](#) for LOIPR (*a section on discrimination against LGBTI*)

Cyprus

- No SOGIESC-inclusive CSO submissions.

Equatorial Guinea

- Submission by [EG Justice](#) for the 126th Session (*mentioning different problems faced by LGBT persons, including alleged forced pregnancy among LBTI women*).

India

- Submission by [civil society coalition](#) for LOIPR (*a paragraph on transgender populations and cultural/gender identities*)
- Submission by [Housing and Lands Right Network](#) for LOIPR (*mentioning SO in passing*)
- Submission by [CHRI](#) for LOIPR (*mentioning decriminalisation case as an example of positive developments*)
- Submission by [Human Rights Watch](#) for LOIPR (*some references to jurisprudence on decriminalisation and trans persons' rights, as well as a bill on trans persons*)
- Submission by [civil society coalition](#) for LOIPR (*briefly mentioning collection of data on trans populations*)
- Submission by [civil society coalition](#) for LOIPR (*briefly mentioning targeting "sexual minorities"*)

Mauritania

- Submission by [Freedom Now](#) for LOI (*mentioning criminalisation of and capital punishment for consensual same-sex sexual acts*).
- Submission by [civil society coalition](#) for the 126th Session (*explaining that consensual same-sex sexual acts are criminalised and recommending decriminalisation*).
- Submission by [Geneva International Centre for Justice](#) for the 126th Session (*mentioning criminalisation of and capital punishment for consensual same-sex sexual acts*).
- Submission by [Human Rights Watch](#) for the 126th Session (*mentioning criminalisation of and capital punishment for consensual same-sex sexual acts and recommending decriminalisation*).
- Submission by [L'observatoire mauritanien des droits de l'homme et de la démocratie and Association pour la défense des droits de la femme mauritanienne](#) for the 126th Session (*mentioning criminalisation of consensual same-sex sexual acts*).
- Submission by [MENA Rights Group](#) for the 126th Session (*mentioning criminalisation of consensual same-sex sexual acts*).

Netherlands

- Submission by [Dutch Section of the International Commission of Jurists](#) for LOIPR (*mentioning positive steps on LGR*).
- Submission by [Geneva International Centre for Justice](#) for the 126th Session (*mentioning SO in passing*).
- Submission by [Privacy First](#) for the 126th Session (*mentioning 'sexual preferences' as sensitive data in passing*).

Nigeria

- Submission by [The Advocates for Human Rights and The World Coalition Against the Death Penalty](#) for LOI (*mentioning criminalisation of consensual same-sex sexual relations*).
- Submission by [civil society coalition](#) for the 126th Session (*stand-alone report on LGBT persons, including some paragraphs on LBT women – 'corrective rape', forced marriages etc.*).

- Submission by [Amnesty International](#) for the 126th Session (a section on LGBT, mainly criminalisation and arrests).

Paraguay

- Submission by [civil society coalition](#) for LOIPR (stand-alone report on SOGI-based discrimination, including LGBT in detention, public services, anti-discrimination legislation and plans, murders of trans people and impunity, arrests of LGBTI persons, and LGBTI children and adolescents).
- Submission by [civil society coalition](#) for the 126th Session (stand-alone report on women and LGBTI persons).
- Submission by [civil society coalition](#) for the 126th Session (several paragraphs on LGBTI, lesbian women and trans persons, including in prison).

Portugal

- No CSO submissions.

Republic of Korea

- Submission by [Center for Military HR Korea](#) for LOIPR (a paragraph on violations against “sexual minorities”, especially in the military).
- Submission by [civil society coalition](#) for LOIPR (paragraphs on comprehensive anti-discrimination legislation, LGR, criminalisation of same-sex sexual acts in military, and same-sex couples).
- Submission by [ODRI](#) for LOIPR (mentioning LGBT in passing).
- Submission by [National Human Rights Commission of Korea](#) for LOIPR (some paragraphs on SOGI-based discrimination).

Tajikistan

- Submission by [Human Rights Watch](#) for LOI (a paragraph on LGBT, including discrimination and abuse and the police register).
- Submission by [civil society coalition](#) for LOI (briefly mentioning the lack of comprehensive anti-discrimination legislation, including with SO).
- Submission by [civil society coalition](#) for the 126th Session (briefly mentioning the lack of comprehensive anti-discrimination legislation, police abuse and discrimination).
- Submission by [ECOM](#) for the 126th Session (stand-alone report on human rights violations based on SOGI, including the lack of anti-discrimination legislation, obstructing the rights of MSM and trans persons in health, and prosecution).
- Submission by [FIDH and OMCT](#) for the 126th Session (mentioning harassment against LGBTI organisations).
- Submission by [Human Rights Centre](#) for the 126th Session (mentioning harassment against LGBTI organisations).
- Submission by [Human Rights Watch](#) for the 126th Session (a paragraph on LGBT, including discrimination and abuse and the police register).
- Submission by [civil society coalition](#) for the 126th Session (a section on “LGBT people: police abuse, arbitrary detention and extortion”).

Uzbekistan

- Submission by [ECOM](#) for LOI (stand-alone report on human rights violations based on SOGI, including sections on trans people and lesbian women).
- Submission by [Human Rights Watch](#) for LOI (mentioning criminalisation and violence against LGBTI).