



**Follow-up on the Special Rapporteur on the rights to
freedom of peaceful assembly and of association's official
visits to:**

Armenia, Sri Lanka, and Tunisia

*Enjoyment of the rights to freedom of peaceful assembly and of association by LGBTI
organisations and individuals*

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Report submitted by:

International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA World)

With the support of EQUAL GROUND

Background note

The Special Rapporteur on the rights to freedom of peaceful assembly and of association (SR FoAA) conducted official visits to Armenia (from 7 to 16 November 2018), to Sri Lanka (from 18 to 26 July 2019), and Tunisia (from 17 to 28 September 2018) to assess the enjoyment of the rights to freedom of peaceful assembly and of association in these countries.

In follow-up to reports on these visits, SR FoAA has published a [call](#) for specific inputs on the enjoyment of the rights to freedom of peaceful assembly and of association by LGBTI organisations and individuals in Armenia, Sri Lanka, and Tunisia which we intend to provide below to support the SR upcoming report.

➤ Follow-up input on Armenia

(In response to Section IV of the Questionnaire)

Freedom of assembly and association

In November 2018, the Forum of LGBT Christian Groups and the New Generation Humanitarian NGO based in Yerevan were forced to cancel the Forum for LGBT Christians in Eastern Europe due to continuous threats, physical violence and smear campaigns against the Forum and its members. For instance, members of the New Generation Humanitarian NGO and forum participants received death threats, and the car of the Director of the organisation was vandalised¹.

Hate speech and security of human rights defenders (HRDs)

In 2019, a law criminalising public calls for violence and propaganda of violence forwarded by the Ministry of Justice² was adopted by the National Assembly. However, despite its adoption, the law lacks effective enforcement. For example, following the adoption of these amendments, Pink Armenia filed four cases on incitement of violence against LGBTI organisations and individuals to local police. Three of those applications were rejected by the investigation body, and one remained unanswered³.

Throughout 2019-2020, cases of hate speech based on sexual orientation and gender identity (SOGI) by state officials, Parliamentary opposition, public initiatives and media were registered⁴. In addition, following the latest parliamentary elections, LGBTI rights emerged as

¹ CIVICUS, [Joint Submission to the UN Universal Periodic Review 35th Session of the UPR Working Group](#), para. 5.4.

² Draft proposed by the Working Group on Reform of Hate Speech Legislation, formed by the deputies of 'My Step' faction of the National Assembly and representatives of civil society organisations.

³ Pink Armenia, [the Human Rights Situation of LGBT People in Armenia during 2020](#), Annual Report (2020).

⁴ Pink Armenia, [the Human Rights Situation of LGBT People in Armenia during 2020](#), Annual Report (2020); Pink Armenia, [the Human Rights Situation of LGBT People in Armenia During 2019](#), Annual Report (2019)

a wedge issue against the new government. Notably, LGBTI organisations and individuals have been repeatedly targeted by hate speech of deputies of Prosperous Armenia Party, the 2nd largest faction of the Armenian National Assembly⁵.

Trans persons rights

In April 2019, during a parliamentary hearing on human rights⁶, a transgender activist, Lilit Martirosyan, took the floor to highlight the discrimination and violence against trans people in the country. However, the chair of the Committee, claimed that LGBTI rights issues were not part of the agenda and that 'nobody violates' the rights of trans people in Armenia', forcing Martirosyan to leave the hearing⁷

A backlash response followed the event, including hate speech and death threats directed at Martirosyan and her colleagues from radical nationalist and religious groups. Unknown assailants, threatened her parents and told them to move away from their village. Likewise, on 8 April 2019, a group of demonstrators appeared before the National Assembly demanding that the tribune be cleaned with incense, since according to them, the presence of a transgender person had desecrated it⁸.

The activist filed a complaint with the Human Rights Defender for the Republic of Armenia, the office of the Armenian ombudsman, and reported the death threats made against her and her family to the police. Lilit Martirosyan and her relatives are currently under police protection.⁹ However, law enforcement refused to launch an investigation, citing lack of criminal intent¹⁰.

➤ **Follow-up input on Tunisia**

(In response to Section V of the Questionnaire)

LGBTI activists and HRDs of LGBTI people are particularly targeted and regularly subjected to harassment, death threats and attacks because of their work.

In his preliminary observations on the visit to Tunisia conducted in 2021, the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity (IE on SOGI), Victor Madrigal-Borloz expressed his concerns about an intensification of repression against LGBTI human rights organisations, including Damj¹¹, and an increase in cases of rights violations against members of the LGBTI community following their participation in demonstrations denouncing repression and police brutality. Their exposure in the media, social networks and on the street has resulted in increased surveillance

⁵ *ibid.*

⁶ 'National human rights agenda: UN Universal Periodic Review' discussion, led by the Standing Committee on Human Rights and Public Affairs, which took place at the National Assembly of Armenia

⁷ Available at: https://youtu.be/KaWfXaE3_WQ

⁸ Front Line Defenders, [Armenia: Death Threats Against LGBT Defender Lilit Martirosyan](#)

⁹ *ibid.*

¹⁰ Human Rights Watch, [World Report 2020, Armenia](#)

¹¹ For more information see <https://www.facebook.com/damj.tunisie>

and police harassment¹². Several members of the Damj association¹³ have been subjected to arbitrary arrest and detention, harassment, intimidation, online defamation and incitement to violence, including death threats and rape, and physical and verbal attacks while exercising their rights to peaceful assembly and freedom of expression in support of the LGBTI community and the feminist movement. In August 2020, police guarding the French Embassy in Tunisia physically and verbally assaulted transgender activists and incited bystanders to attack them¹⁴.

The IE on SOGI also expressed his concern regarding violation of the right to privacy and confidentiality of personal data from the police unions. In 2021, police unions also deployed hate speech and attacked LGBTI people on social media by exposing their identities, addresses and pictures. These facts exposed LGBTI people to a flood of hate on social media while the lack of judicial sanctions against such serious violations of the right to privacy and the impunity among the police unions are widespread.

Hate speech

The IE on SOGI noted that the liberation of speech following the revolution and the rise of conservative and populist movements has led to an increase in hate speech and incitement to violence against women, LGBTI people and people with beliefs that do not conform to the majority belief¹⁵. This discourse feeds on the very deteriorated economic and social situation as well as the health crisis caused by the COVID-19 pandemic¹⁶. Politicians, parliamentarians, clerics, and the media tend to project a stereotypical, stigmatising, and negative image of LGBTI people that fuels hatred and intolerance within society, as illustrated by homophobic messages and death threats exchanged in discussion groups in connection with the above-mentioned speeches and representations.

Hate speech against LGBTI people and incitement to homophobic-transphobic violence also appear frequently in the Tunisian media. After receiving several complaints, Tunisia's Independent High Authority for Audio-visual Communication (HAICA) – in what can be considered the first official reaction of a public institution to violence against the LGBTI community – issued a warning against a television channel for homophobic statements in October 2015. Since then, the High Authority has intervened a dozen times in complaints relating to discrimination based on SOGI in the audio-visual sector. However, this number seems derisory compared to what civil society organizations call a "wave of hate" that finds a particularly fertile ground on social media that is not subject to any regulation¹⁷.

According to information received during the visit, the 2020 lockdown period was particularly difficult when it comes to hatred against LGBTI people. False reports that the coronavirus pandemic is a punishment from God because of homosexuality has indeed been fuelled by

¹² [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021.

¹³ Human Rights Watch, [Tunisia: Attack on Director of LGBT Group](#), 28 October 2021

¹⁴ Ibid.

¹⁵ [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021

¹⁶ PNUD, État des lieux des inégalités de genre et celles basées sur les orientations sexuelles en droit tunisien, 2021.

¹⁷ *ibid.*

audiovisual, social media and mosques. This rumour has sparked a huge wave of hate speech against LGBTI people, adding to the anxiety of the pandemic and the anxiety of living confined to an often-hostile family environment¹⁸.

In the assessment of the IE on SOGI, the absence of legal sanctions, coupled with the fact that many officials and politicians, including members of the Tunisian parliament, contribute to hostile rhetoric against the LGBTI community. This fact has led to the large-scale normalisation of homophobic hate speech across the country. Tunisian law leaves limited options for victims of hate crimes, including crimes against the LGBTI community. While attacks can be punished as "assault" or "homicide", Tunisia's penal code does not contain any provisions specifically defining or criminalising hate crimes against LGBTI people¹⁹.

Barriers for LGBTI rights defenders

Although Tunisian Decree No. 2011-88 related to the organisation of associations²⁰ has allowed the emergence of a good number of LGBTI organisations, several obstacles to their work still exist.

At the level of legal registration, there are indicators that the procedure has become uncertain for LGBTI associations and many may not obtain registration if they openly indicate that they are working on SOGIESC²¹ issues. Unable to register, associations cannot work in accordance with the legislation, making their activity illegal.

Since 2016, the Tunisian government attempted to shutdown Shams²², the country's 1st legally registered LGBTI organisation, using judicial harassment, smear campaigns, and invoking Islamic sharia law at the 2019 appeal's court until the court of cassation granted it legal protection in 2020²³. Despite this victory, arbitrary searches of office premises, the confiscation of duly registered work equipment of organisations, criminal prosecution, smear, hate speech and outing campaigns and arrests at protests remain among prevalent obstacles to the work of LGBTI human rights defenders in Tunisia²⁴.

➤ **Follow-up input on Sri Lanka**

(In response to Section IV of the Questionnaire)

The Sri Lankan civil war created a climate of insecurity which was attributable in part to decades of militarization and the resulting breakdown of democratic norms and the rule of law. During the war, groups and organisations working on LGBTI rights were afraid to work openly and visibly in Colombo, and could not even envisage working in areas under military

¹⁸ *ibid.*

¹⁹ *ibid.*

²⁰ [Decree-Law No. 2011-88 on the organisation of associations, 24 September 2011](#)

²¹ Sexual Orientation, Gender Identity and Expression and Sex characteristics

²² For more information see <https://www.frontlinedefenders.org/en/profile/shams>

²³ Al-Monitor, [LGBTQ association achieves major legal milestone in Tunisia](#), 5 March 2020.

²⁴ [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021.

control²⁵. Organisations that continued to work on SOGIESC came under scrutiny and surveillance. The surveillance of NGOs and human rights organisations and activities involved the requirement of submitting work plans to the government. This created pressure and forced LGBTI groups to work within constraints and to seek creative means to continue working covertly. This proved detrimental to the sexual health practices and rights of society in general.

Discriminatory legislation

Discriminatory legislation is still on place against LGBTI persons in Sri Lanka. Even though laws do not criminalise LGBTI identities, incidents of police harassment and police abuse are common. In 2014, the Sri Lankan government declared to the UN Human Rights Committee that discrimination based on SOGIESC was prohibited under Article 12 of the constitution and therefore, discrimination on these grounds was unconstitutional.²⁶ Similar statements followed in 2017 and 2019. Nevertheless, sections 365 and 365A of the Sri Lankan Penal Code criminalise “carnal intercourse against the order of nature” and “gross indecency between persons”. The vague nature of these provisions is frequently used to criminalise same-sex relations between consenting adults, including within the private sphere.

For instance, the organization EQUAL GROUND have received many complaints from lesbians who are unlawfully arrested by police authorities because of their sexual orientation. In some instances, they are wrongfully charged for the offence of abduction of kidnap under S.353 of the Penal Code.

Moreover, LGBTI persons are often arrested under section 07 of the Vagrants Ordinance No. 4 (1841) which is applied for acts perceived as “public indecency”. Similarly, section 399 of the Penal Code is employed by the Sri Lankan Police to harass, and violate the rights of trans persons because of their gender identity and expression not matching the sex on their national identification documents. They are arrested and wrongfully charged for ‘cheating by personation’ which is the definition adopted by the law enforcement authorities. On this aspect, in 2021, the Colombo fort magistrate advised the Sri Lankan Police to treat trans persons with dignity and stop criminalizing them on these grounds.²⁷

The government has repeatedly stated that even though these laws are in place, there are hardly any prosecutions and/or convictions under these offences. Yet, there are many cases that prove the contrary, and police data seems to be contradictory. For instance, chapter 7.1 of the Police Performance Report 2018 shows that 15 men were charged and prosecuted for “homosexuality” from 2017 - 2018 pursuant to Vice Squad raids.²⁸

²⁵ [Submission on LGBTIQ Persons and Translational Justice Mechanisms](#) to the Zonal Task Force and the Consultation Task Force for Reconciliation Mechanisms, 25 August 2016.

²⁶ 17 September 2014. Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant: List of Issues in Relation to the Fifth Periodic Report of Sri Lanka. Addendum: Replies of Sri Lanka to the list of issues ([CCPR/C/LKA/Q/5/Add.1](#)).

²⁷ For more information see <https://www.newswire.lk/2021/03/15/fort-magistrate-tells-police-not-to-describe-transgender-persons-as-law-breakers/>

²⁸ Sri Lanka Police (2018) [Performance report](#)

Access to Justice

There have not been de facto steps taken to address police impunity, improve access to justice and promote the human rights of LGBTI persons. Indeed, actions are sometimes taken by authorities for the opposite purpose. For instance, State sponsored homophobia and encouragement to the Police to treat gay persons as criminals was reported on the 3rd August 2021. The newspaper Daily Mirror published on their social media platforms, a video of a purported counsellor conducting a training lecture/programme at the Police Auditorium Kandy, aimed to police officers of Sri Lanka Police Kandy and Matale districts.²⁹

EQUAL GROUND along with other allies filed a petition in the Court of Appeal against the Inspector General of Police and the purported counsellor and trainer, for allegedly violating the rights of the LGBTI community in Sri Lanka. The Petitioners seek a writ of prohibition preventing Sri Lanka Police from conducting trainings, lectures and seminars, that marginalise and violate the fundamental rights of LGBTI people in Sri Lanka.³⁰

Human Rights Defenders

Human Rights Defenders and other local and international officials have also been targeted by the media and publicly humiliated for their work and commitment in areas of sexual health and human rights³¹. These media references allege that 'these individuals promote vices and aggressively promoted their ideology which has slowly started hitting the foundations of Sri Lankan society, especially the family unit'.³²

A 2017's report for the UN Committee on Economic, Social and Cultural Rights (CESCR) regarding violations against LGBTI people compiled by EQUAL GROUND and the Center for International Human Rights (CIHR) stated³³:

'Equal Ground, as an organization working for the LGBTI community, has faced discrimination when seeking approval for events from public authorities and the police. For instance, Police permission to hold a public vigil in commemoration of the victims of homophobia, biphobia and transphobia for the International Day Against Homophobia, Biphobia and Transphobia (IDAHOT) in 2016, was withheld with no explanation for such actions. Attempts to sensitize the Police on a national level have been refused, on the grounds of LGBTI issues being a 'non-issue' to the Sri Lanka Police.

'It is interesting to note that any attempts made by EQUAL GROUND to engage with government authorities are either ignored, or are responded to by the authorities only via indirect, informal avenues of communication, even in instances where other civil society organizations are acknowledged or contacted directly. This highlights a "non-recognition

²⁹ For more information see <https://www.facebook.com/watch/?v=10157637277851525>

³⁰ For more information see <https://groundviews.org/2021/12/13/historic-court-win-for-lgbtqi-community/>

³¹ The Editorial, Daily Mirror, 29 July 2010.

³² *ibid.*

³³ EQUAL GROUND, Center for International Human Rights (CIHR), [Violations by Sri Lanka of the Economic, Social and Cultural Rights of Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning \(LGBTIQ\) People](#) submitted for consideration at the 61st Session of the Committee on Economic, Social and Cultural Rights (2017), p.8.

issue" whereby the LGBTI community is not recognized as a minority with legitimate problems in Sri Lanka, resulting in the community being excluded from policy consultations.'