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**ADDRESSING HUMAN RIGHTS VIOLATIONS BASED ON
SEXUAL ORIENTATION & GENDER IDENTITY AT THE
19th SESSION OF THE HUMAN RIGHTS COUNCIL**

March 2012

There are a number of opportunities to raise awareness of human rights violations based on sexual orientation and gender identity at the upcoming 19th session of the Human Rights Council. These include **the high-level segment, general debate following the update by the High Commissioner, the UPR, interactive dialogues with Special Procedures, and general debate under items 3, 4 or 8.** Of particular relevance is the **panel discussion on violence and discriminatory laws and practices based on sexual orientation and gender identity**, which is due to take place on **March 7th** and an **NGO Roundtable** taking place from **4-6 pm on March 5th**.

This document provides a summary of these opportunities. In addition:

- **Annex I** excerpts the references to sexual orientation and gender identity in the reports of the **Special Procedures** and other reports to the Council;
- **Annex II** highlights **UPR recommendations** relating to sexual orientation and gender identity in the reports of the 16 States under review.

Summary and Overview:

Opportunities to raise awareness of human rights violations based on sexual orientation and gender identity at the 19th session of the Human Rights Council include:

➤ **High level and general segment statements:**

High-level interventions could:

- affirm your government's support for the resolution on human rights, sexual orientation and gender identity, presented by South Africa and adopted by the Council last June, and welcome the panel discussion on human rights, sexual orientation and gender identity, due to take place this session;
- underline the principles of universality and non-discrimination, and emphasise that the Council's effectiveness in advancing its mandate will be measured by the extent to which it addresses the rights of the most marginalised;
- acknowledge the leadership of the Secretary General and High Commissioner on these issues, and reiterate their call for an end to violence against LGBT people, and world-wide decriminalisation of same-sex conduct between consenting adults;

- express support for the *Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity*, and commend the Principles to the attention of States and the Council;
- note that human rights violations on the grounds of sexual orientation and gender identity continue to occur in all regions of the world, and urge the Council to address these issues in an ongoing systematic way;
- endorse/pledge to implement the recommendations made in the High Commissioner's study on violence, and discriminatory laws and practices based on sexual orientation and gender identity.

In addition, the High-level segment serves as an opportunity for **Foreign Ministers** and other high-ranking officials to **meet bilaterally with their counterparts** in other States or regions. This affords a key opportunity for outreach to **build cross-regional support for the panel discussion** on human rights, sexual orientation and gender identity. It would also be appropriate for Foreign Ministers to **thank the High Commissioner** for her important work in this area, and encourage her to raise the study on sexual orientation and gender identity in her meetings with key States.

➤ **Interactive Dialogue with the High Commissioner:**

The High Commissioner has played an active role in calling for an end to violence, discrimination and criminalisation based on sexual orientation and gender identity over the past years. As part of an anti-discrimination campaign, the OHCHR has committed to working with States, national human rights institutions and civil society to achieve progress towards the worldwide decriminalization of homosexuality and further measures to protect people from violence and discrimination on grounds of their sexual orientation or gender identity. Last year, the OHCHR produced a video for the International Day against Homophobia (May 17) and a joint brochure with UNAIDS, WHO and UNDP on "*Tackling discrimination on grounds of sexual orientation and gender identity*". More information can be found at <http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBT.aspx>.

At a panel discussion on March 7th the High Commissioner will present a study documenting violence and discriminatory laws and practices based on sexual orientation and gender identity (as requested by HRC resolution 17/19).

Relevant State interventions might:

- commend the High Commissioner for her principled affirmation that no human being may be denied their rights, solely because of their sexual orientation or gender identity, and note that this position is reinforced by the comments of the Secretary General, the recent Human Rights Council resolution on sexual orientation and gender identity, the findings of treaty bodies, and the clear evidence of human rights violations brought to the Council's attention by its Special Procedures;
- welcome the study of her office on ending violence and discrimination based on sexual orientation and gender identity, and look forward to the opportunity to discuss this report at the panel discussion on March 7th.

➤ **Panel discussion on the issue of discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity**

HRC resolution 17/19 called for the Council to hold a panel at its 19th session, "informed by the facts contained in the study commissioned by the High Commissioner and to have constructive, informed and transparent dialogue on the issue of discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity". The study of the High Commissioner is available in all 6 UN languages and contains important

recommendations to member States and to the HRC on preventing human rights violations based on sexual orientation and gender identity (see annex).

Relevant State interventions might:

- Commend the High Commissioner for the study documenting discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, and welcome the resolution presented by South Africa and adopted by the Council with support from States in all regions of the world;
- Describe some of the successes and challenges in your country/region in ending human rights violations based on sexual orientation and gender identity;
- Give particular attention to gender identity, recognising the severe human rights violations experienced by transgender people and the obstacles which remain to full recognition of their gender identity;
- Endorse/pledge to implement the recommendations in the High Commissioner's report;
- Commend the attention given to these issues by Special Procedures, treaty bodies and others;
- Note the Council's responsibility, pursuant to its mandate under OP2 of General Assembly resolution 60/251 to be "responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner";
- Note that the OHCHR report highlights a "protection gap" and recommends that the Council "keep regularly informed and updated on incidents of violence and discrimination linked to sexual orientation and gender identity";
- Call for the Council to create a mechanism that will more consistently address human rights violations based on sexual orientation and gender identity, fill any gaps in existing protection mandates, enhance constructive and informed dialogue, and ensure a process for ongoing attention to these issues within the Council from a human rights perspective;
- Invite panelists to share their views on what such a mechanism might look like.

➤ **NGO/State SOGI Roundtable on March 5th: *LGBT Issues for the Curious***

States are also encouraged to attend a roundtable discussion taking place on **Monday March 5th, from 4-6 p.m. in Room XXIII**, titled: "*LGBT Issues for the Curious: (Almost) Everything you Wanted to Know about Sexual Orientation and Gender Identity but were too Diplomatic to Ask*". The purpose of the roundtable is to provide LGBT human rights defenders an opportunity to share their experiences, and for State and other delegates to raise questions and enhance awareness of the issues prior to the plenary panel on Wednesday.

➤ **Reports to the Council**

Apart from the study of the High Commissioner, which is dedicated to this topic, various other reports to this session of the Council address human rights violations based on sexual orientation or gender identity. Full details are provided in **Annex I**. In particular:

- **Report on the human rights situation and the activities of the Office of the High Commissioner, including technical cooperation, in Nepal** (A/HRC/19/21/add.4) notes that "the Government accepted all the recommendations, including those to implement a legal and policy framework to end gender-based discrimination, investigate and prosecute cases of gender-based violence, protect victims and ensure their access to justice, as well as a number of recommendations regarding sexual orientation, including the implementation of the 2007 Supreme Court decision".
- **Report of the HC on the protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS)** states that the "reform of punitive laws that impede HIV responses and the strengthening of human rights protections for people living with and vulnerable populations are essential

to sustaining the AIDS response [...] Greater efforts must be made by States to reconsider the application of criminal law against HIV transmission and exposure, sex work, drug use and homosexuality and their impact on access to HIV services”.

- **Report of the SR on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context** states that “in order to ensure that housing is accessible to all groups of women, it is [...] important for housing law, policy and programmes to reflect the needs of women who may be especially disadvantaged and who encounter intersectional discrimination, including [...] lesbians”.

➤ **General statements – item 3 & 8:**

There will be opportunity for statements during general debate, particularly under **item 3** (*promotion and protection of all human rights*) or **item 8** (*Follow-up and implementation of the VDMA*, which affirms the principles of universality and non-discrimination).

Statements by regional or cross-regional groupings might reference the recent Human Rights Council resolution on human rights, sexual orientation and gender identity (HRC/Res/17/19), look forward to working with States from all regions in preparation for the panel, and call for constructive outreach and dialogue with a view to enhancing the Council’s capacity to fulfil its mandate by promoting and protecting human rights for all people without distinction.

➤ **Item 6: UPR report adoptions (see Annex):**

The UPR report adoption process affords an opportunity to **commend those States which have responded favourably** to relevant recommendations, and to **encourage States who have not to address these issues more positively in future**.

Many relevant recommendations relating to sexual orientation and gender identity issues were raised during the UPR of those States whose reports are due to be adopted. A full list of UPR recommendations for the States under review is attached as **Annex II**. In particular:

- **Trinidad and Tobago accepted recommendations** to undertake proactive policies to promote the rights of individuals, especially with regard to their sexual orientation and HIV/AIDS status; to adopt measures so that traditional stereotypes referring to the roles of men and women in society and family can be overcome; and to increase measures to ensure that violence and discrimination against members of vulnerable groups, such as women and LGBT persons, are both prevented and prosecuted.
- **Lithuania is expected to respond to recommendations** to review the Law on the Protection of Minors against the Detrimental Effect of Public Information in order to remove all possibilities that this law may be applied in such a way to stigmatise or discriminate against LGBT people or to breach their rights to freedom of assembly or expression; to take the necessary legislative measures and enact policies that recognise the diversity of families and provide same sex couples with the same rights and social security benefits as heterosexual couples; to repeal any discriminatory provision in existing laws on sexual orientation and gender identity; and to take steps to ensure that legislation protects the full rights of sexual minorities.
- **Ireland is expected to respond to recommendations** to amend Article 37 of the 1998 Employment Equality Act in order to prevent discrimination against homosexual and unmarried parents.
- **Uganda accepted recommendations to** investigate and prosecute intimidation and attacks on LGBT-community members and activists; and to take immediate concrete steps to stop discrimination and assaults against LGBT persons. Notwithstanding these commitments, the *Anti-Homosexuality Bill* has been reintroduced and remains under consideration. LGBT human rights defenders from Uganda will be present for the session.

ANNEX I: REFERENCES TO SEXUAL ORIENTATION & GENDER IDENTITY IN REPORTS TO THE HRC

A/HRC/19/21 – Annual Report of the High Commissioner for Human Rights

II. Thematic priorities

A. Strengthening human rights mechanisms and the progressive development of international human rights law

2. Progressive development of international human rights law

21. OHCHR continued to support the standard-setting activities of the United Nations human rights system.

22. OHCHR continued to draw attention to human rights violations, including violence and discrimination, perpetrated against individuals on the basis of their sexual orientation or gender identity. In this regard, the Human Rights Council requested the Office to commission a study on relevant discriminatory laws and practices and acts of violence.

A/HRC/19/21/Add.4 - Report on the human rights situation and the activities of the Office of the High Commissioner, including technical cooperation, in Nepal

B. Gender equality

18. Gender equality was the subject of the largest number of universal periodic review recommendations for Nepal. The Government accepted all the recommendations, including those to implement a legal and policy framework to end gender-based discrimination, investigate and prosecute cases of gender-based violence, protect victims and ensure their access to justice, as well as a number of recommendations regarding sexual orientation, including the implementation of the 2007 Supreme Court decision.

A/HRC/19/32 - Analytical compilation of the submissions received in writing and made at the consultation on the progress report on the draft guiding principles on extreme poverty and human rights

Regarding part V, section 1: “Overarching human rights principles”

36. The International Commission of Jurists (ICJ) proposed, in relation to heading B, to add an explicit reference to sexual orientation and gender identity as prohibited grounds of discrimination as required by international human rights law and recognised in UN jurisprudence. In addition, and in relation to heading C, it highlighted the importance to pay special attention to the expectations and needs of people living in rural areas.

A/HRC/19/37 – Report of the HC on the protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS)

(c) **Decriminalization and legal protections:** The reform of punitive laws that impede HIV responses and the strengthening of human rights protections for people living with and vulnerable populations are essential to sustaining the AIDS response. Political leaders should be supported in confronting issues involving decriminalization. Greater efforts must be made by States to reconsider the application of criminal law against HIV transmission and exposure, sex work, drug use and homosexuality and their impact on access to HIV services. They should also reform laws that restrict sexuality education, impose travel restrictions on people living with HIV or require mandatory HIV testing. Specific attention must be paid in law reform efforts to address gender-based violence, the HIV-related rights of women, children and other key populations;

C. Role of the Office of the United Nations High Commissioner for Human Rights

8. The Office supported preparations in relation to the high-level panel discussion on prevention entitled "What can be done to get to zero new infections?" The objective of the panel was to focus on the priorities for achieving HIV-prevention goals, including eliminating stigma and discrimination, overcoming barriers to prevention for populations with greater vulnerability and populations at higher risk, ensuring a comprehensive approach to prevention and treatment, and educating young people to lead future HIV- prevention efforts. Among the many issues highlighted, the panel emphasized the need for political commitment and leadership at every level to support HIV prevention and confront and end stigmatization, discrimination and marginalization. Discussions also centred on the need to scale up programmes to address gender inequality, violence against women and girls and consider the role of men in the HIV response. Participants highlighted that respect, including mentioning populations by name with dignity and not derision, would bring HIV prevention out of the shadows. The review or adoption of laws, policies and practices was needed to uphold the human rights of vulnerable and key populations, support the implementation of effective interventions such as harm-reduction programmes and stop criminalization of people based on sexual orientation, drug use or HIV transmission.

9. In his address to the high-level panel on prevention, the Assistant Secretary-General for Human Rights highlighted the critical links between human rights and protective versus punitive legal and social environments. He proposed five human rights priority actions that are needed to sustain the global AIDS response: (a) reaching those most vulnerable to discrimination and ensuring that they have access to HIV services; (b) involving people living with HIV in all aspects of the response, no matter what group they belong to; (c) reviewing punitive laws on HIV transmission and exposure, sex work, homosexuality, travel restrictions and mandatory testing and strengthening laws and policies on sexuality education and women's rights; (d) eliminating gender-based discrimination and violence and scaling up programmes to address this issue; and (e) removing regulatory, trade and other barriers that block the human rights imperative of universal access to HIV prevention, treatment, care and support. His remarks echoed those of the Secretary-General, who stated at the opening plenary meeting of the High-Level Meeting that "from its birth, the campaign against AIDS was much more than a battle against disease. It was a cry for human rights. It was a call for greater equality. It was a fight to end discrimination based on sexual orientation. And it was a demand for equal treatment of all people".

III. A human rights analysis of the 2011 Political Declaration on HIV and AIDS

10. The adoption of the 2011 Political Declaration on HIV and AIDS symbolizes a renewed global commitment to stop, reverse and eliminate AIDS. By reaffirming previous declarations and setting new targets, Member States agreed to address the issue of leadership to end the HIV epidemic; expand HIV-prevention coverage, diversify approaches and intensify efforts to end new infections; increase access to treatment, care and support; advance human rights to reduce stigma, discrimination and violence; address resource constraints and the efficient utilization of resources for AIDS; strengthen health systems and integrate HIV into broader health and development; accelerate research and development to prevent, treat and cure HIV; and establish coordination, monitoring and accountability mechanisms to maximize the response. Some of the important highlights of the declaration include a commitment to:

(i) Ensure that national prevention strategies target populations at higher risk – the declaration mentions specifically men who have sex with men, people who inject drugs and sex workers as populations at higher risk;

17. Member States are also challenged to ensure that their national responses to HIV are inclusive of all people, especially people that are most marginalized and populations most affected by the epidemic, including those unnamed in the Political Declaration such as transgender persons, persons in detention, refugees, internally displaced persons and people living in poverty. This will require developing monitoring mechanisms to assess who has been left out of the response and taking measures to address systemic/structural discrimination and ensuring access to HIV-related health services without prejudice. Member States must also tackle the disproportionate impact of the epidemic on women and girls and include comprehensive targets on HIV prevention, treatment, and care that address women's subordination, violence and discrimination.

A/HRC/19/41 - Report of the HC - Study documenting discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity

(See entire report)

E F S R C A

VII. Conclusions and recommendations

81. The present report summarizes only some of the information gathered by United Nations treaty bodies and special procedures, regional and non-governmental organizations on violence and discrimination based on actual or perceived sexual orientation or gender identity. A more comprehensive analysis of the human rights challenges facing LGBT and intersex persons would require a more extensive study and, in future, regular reporting.

82. Nevertheless, on the basis of the information presented herein, a pattern of human rights violations emerges that demands a response. Governments and inter-governmental bodies have often overlooked violence and discrimination based on sexual orientation and gender identity. The mandate of the Human Rights Council requires it to address this gap: the Council should promote “universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner.”¹⁴³ With the adoption in June 2011 of resolution 17/19, the Council formally expressed its “grave concern” regarding violence and discrimination based on sexual orientation and gender identity. Further action is now needed, especially at the national level, if individuals are to be better protected from such human rights violations in future.

83. The recommendations to Member States set out below, which are not exhaustive, draw on measures recommended by United Nations human rights mechanisms.

84. The High Commissioner recommends that Member States:

(a) Investigate promptly all reported killings and other serious incidents of violence perpetrated against individuals because of their actual or perceived sexual orientation or gender identity, whether carried out in public or in private by State or non-State actors, and hold perpetrators accountable, and establish systems for the recording and reporting of such incidents;

(b) Take measures to prevent torture and other forms of cruel, inhuman or degrading treatment on grounds of sexual orientation and gender identity, to investigate thoroughly all reported incidents of torture and ill-treatment, and to prosecute and hold accountable those responsible;

(c) Ensure that no one fleeing persecution on grounds of sexual orientation or gender identity is returned to a territory where his or her life or freedom would be threatened, and that asylum laws and policies recognize that persecution on account of one’s sexual orientation or gender identity may be a valid basis for an asylum claim;

(d) Repeal laws used to criminalize individuals on grounds of homosexuality for engaging in consensual same-sex sexual conduct, and harmonize the age of consent for heterosexual and homosexual conduct; ensure that other criminal laws are not used to harass or detain people based on their sexuality or gender identity and expression, and abolish the death penalty for offences involving consensual sexual relations;

(e) Enact comprehensive anti-discrimination legislation that includes discrimination on grounds of sexual orientation and gender identity among prohibited grounds and recognizes intersecting forms of discrimination; ensure that combating discrimination on grounds of sexual orientation and gender identity is included in the mandates of national human rights institutions;

(f) Ensure that individuals can exercise their rights to freedom of expression, association and peaceful assembly in safety without discrimination on grounds of sexual orientation and gender identity;

(g) Implement appropriate sensitization and training programmes for police, prison officers, border guards, immigration officers and other law enforcement personnel, and support public information campaigns to counter homophobia and transphobia among the general public and targeted anti-homophobia campaigns in schools;

(h) Facilitate legal recognition of the preferred gender of transgender persons and establish arrangements to permit relevant identity documents to be reissued reflecting preferred gender and name, without infringements of other human rights.

85. The High Commissioner recommends that the Human Rights Council:

(a) Keep regularly informed and updated on incidents of violence and discrimination linked to sexual orientation and gender identity;

(b) Encourage existing special procedures to continue to investigate and report on human rights violations affecting individuals on the basis of sexual orientation or gender identity within the context of their specific mandates.

A/HRC/19/53 – Report of the SR on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context

Accessibility

50. In order to ensure that housing is accessible to all groups of women, it is similarly important for housing law, policy and programmes to reflect the needs of women who may be especially disadvantaged and who encounter intersectional discrimination, including widows, elderly women, lesbians, homeless women, migrant women, women with disabilities, women who may be single mothers or single heads of households, women living with or otherwise affected by chronic illnesses such as HIV/AIDS and mental health disorders, women belonging to racial/ethnic/linguistic minorities, domestic workers, sex workers, illiterate women and women who have been displaced.

V. Conclusions and recommendations

62. In order to continue to advance the recognition, protection and enjoyment of women's right to adequate housing, as well as women's rights to non-discrimination and equality, States should adopt reinforcing strategies. These strategies should be targeted both at the articulation of domestic law, policy and programming which uphold women's right to adequate housing, as well as at effective implementation. In order to better protect and realize women's right to adequate housing, the Special Rapporteur offers the following recommendations.

63. The Special Rapporteur reiterates that States should design, adopt and implement gender-sensitive and human rights-based law, policy and programming which:

(d) Prioritizes the needs of particularly vulnerable and/or marginalized women, including widows, elderly women, lesbians, homeless women, migrant women, women with disabilities, women who may be single mothers or single heads of household, women living with or otherwise affected by HIV/AIDS, women belonging to minorities, domestic workers, sex workers, illiterate women and women who have been displaced;

A/HRC/19/55/Add.1 - Report of the SR on the situation of human rights defenders, Addendum – mission to India

III. Situation of human rights defenders

3. Sexual minorities

122. Defenders engaged in promoting and defending the rights of lesbian, gay, bisexual and transgender (LGBT) persons face discrimination, stigmatization and threats reportedly from many parts of society, especially in rural areas. On some occasions, the police attacked LGBT activists for raising issues pertaining to the situation of the LGBT community. In 2008, five LGBT defenders

were falsely charged with extortion and unlawful assembly. In 2009, one LGBT activist was arrested in Orissa and detained for one day because of his advocacy work. He was insulted by police officers in the course of his arrest and detention.

123. In West Bengal, an LGBT activist stated that she has faced public harassment, emotional violence and beatings.

A/HRC/19/60/Add.1- Report of the SR on freedom of religion or belief, Addendum - Mission to Paraguay

V. Mandate-related issues

A. General observations on the human rights situation

21. Although the Special Rapporteur generally noticed a strong human rights commitment in the State and society, virtually all interlocutors from Government and civil society agreed that many challenges remain to be addressed. A major problem broadly affecting the situation of human rights in Paraguay seems to be the weakness of implementation mechanisms. Given the enormous social inequalities in such areas as distribution of wealth, access to public or private education, political influence, ethnic and linguistic minority status and gender-related differences, the weak presence and poor capacity of State institutions render certain sectors of the population structurally vulnerable to possible human rights abuses, including in the field of freedom of religion or belief. This problem seems to be even more pronounced outside the capital, especially in remote areas. A number of interlocutors stated that, in certain remote regions, the State is virtually absent, with the result that human rights guarantees and policies in those areas are rarely effective. This can have serious consequences for, for instance, members of indigenous peoples, but also for other individuals in situations of particular vulnerability, including members of ethnic, religious or sexual minorities, women, children and people living in poverty.

22. While finding broad consensus on many human rights topics and challenges, the Special Rapporteur also became aware of certain politically contentious issues relating to his mandate. Open tensions that came up repeatedly during discussions concerned problems where education met anti-discrimination policies, especially in the field of gender- and sexual orientation-related discrimination. The Pedagogical Regulating Framework (Marco Rector Pedagógico), a Government initiative recently prepared with the involvement of civil society and the support of the United Nations system in Paraguay aiming to provide population sectors at risk, for example young people and pregnant women, with information and education on sexual and reproductive health, had elicited strong opposition from advocates of traditional family values. The opposition against the initiative apparently received much support from religious groups across different denominations and some Congress members. A similar political controversy, which was also reflected in many discussions held during the country visit, concerned the role of anti-discrimination principles in the school curriculum. In this context, the Special Rapporteur learned that anti-discrimination legislation had been repeatedly shelved as a result of opposition in Congress and in certain religious and conservative groups.

D. Freedom of religion or belief and the school system

42. In discussions about school education, the Special Rapporteur was repeatedly witness to highly emotional exchanges over the Pedagogical Regulating Framework (see paragraph 22 above) initiated by the Government with the purpose of providing, as part of the mandatory school curriculum, information on sexual and reproductive health. Whereas interlocutors from specific Government sectors, civil society organizations, women's organizations and representatives of sexual minorities strongly supported the initiative, some vocal members of Christian churches and other religious groups mostly expressed reservations or even harsh opposition. Advocates of the Framework put the initiative into the context of the ongoing fight against gender-based discrimination. Opponents in turn saw it in sharp contradiction to their own religious or moral convictions, and felt that their concerns had not been taken seriously. This bitter controversy led not only to a blockage within Parliament and to divisions in society at large, but also had a negative impact on school life. According to allegations received from civil society, certain religious organizations directly targeted young-age school children in the context of public

campaigns by urging them to sign petitions against the Framework. The Special Rapporteur also received credible information about acts of intimidation and harassment by the part of religious groups opposing the Framework, which, in some instances, have been close to physical violence and led to the cancellation of public information meetings about the initiative.

43. The Special Rapporteur does not see himself in a position to make a comprehensive analysis of the complex conflict around the Pedagogical Regulating Framework, nor to give concrete advice on how to act. However, he received the clear impression that communication between the opposing camps had partly broken down, leading to bitterness, mistrust and lack of mutual understanding. In this context, he regards any act of intimidation and harassment as unacceptable, and would like to recall that the Human Rights Council has, on many occasions, advocated for a holistic understanding of human rights, all of which should be seen as mutually reinforcing one another. This also includes the relationship between freedom of religion or belief and rights to be free from discrimination on grounds like gender or sexual orientation. According to the formulation of the Vienna Declaration and Programme of Action, agreed upon at the World Conference on Human Rights, held in Vienna in 1993, "all human rights are universal, indivisible and interdependent and interrelated". In addition, with regard to the rights to life, health and education, the Special Rapporteur refers to the relevant recommendations made by the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Special Rapporteur on the right to education.

A/HRC/19/60/Add.1- Report of the SR on freedom of religion or belief, Addendum - Mission to Moldova

V. Issues of concern to the mandate

C. Manifestations of intolerance

46. A general climate of scepticism was noticeable also with regard to State institutions, with the result that acts of positive civic engagement apparently remain rare. Moreover, a broad and stable consensus that the public sphere –in terms of both physical public places and a culture of public discourse – should be open for everybody in a non-discriminatory manner may still be lacking. This has detrimental consequences for minorities, which continue to face difficulties when trying to meet or present their views in the public sphere. For instance, recently, a group of Seventh-Day Adventists, and members of Lesbian Gay Bisexual and Transgender groups, were denied the use of central public spaces in Chisinau, reportedly as a result of opposition voiced by some sectors from within the Orthodox Church or affiliated groups.

A/HRC/19/61 Report of the SR on torture and other cruel, inhuman or degrading treatment or punishment

62. Where human rights violations have had a distinct ethnic, racial, or religious dimension, it is important to include people who fully understand the plight of affected communities. Under all circumstances careful attention should be paid to the inclusion of women in the composition of the commission. Of additional value is the inclusion of individuals with a gender perspective to better understand the specific ways in which vulnerable persons, including, women, children, lesbian, gay, bisexual and transgender persons, persons with disabilities and persons belonging to a minority or indigenous group suffer from gross violations, including torture and other forms of ill-treatment and how they affect their communities. Geographic and cross-cultural balance in a commission is also of the greatest importance, as long as the standards of expertise and professionalism are not diminished for the sake of political balance.

A/HRC/19/64 - Report of the SRSR on violence against children

**Council of Europe Policy Guidelines on Integrated National Strategies for the Protection of Children from Violence adopted by the Committee of Ministers, November 2009
- Recommendation CM/Rec (2009)10**

2. Aims, scope, definitions and principles

2.3 Principles

General principles

Non-discrimination

All children regardless of their sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, state of health, disability or other status, should be protected from all forms of violence and be provided with such care and assistance as to ensure to the maximum extent possible their survival and development.

ANNEX II: UPR RECOMMENDATIONS RELATING TO SEXUAL ORIENTATION & GENDER IDENTITY

Tajikistan

Comments: Canada expressed concern at incident of illegal detention and blackmailing of LGBT persons. There were no recommendations on SOGI issues.

Response: Tajikistan noted that they are working on transgender issues.

Tanzania

Recommendations: include sexual orientation and gender identity as grounds for protection in all anti-discrimination legislation and policy; repeal provisions that criminalise consensual relations between adults of the same gender.

Response: Rejected.

Antigua and Barbuda

Recommendations: Adopt policy and legislative measures to establish a specific framework for the protection against discrimination based on sexual preference; repeal provisions criminalising consensual relations between adults of the same sex.

Response: Rejected.

Swaziland

Recommendations: Adopt the necessary political and legislative measures to establish a specific framework to protect against discrimination on the grounds of sexual orientation; repeal all laws which criminalise consensual same sex relations; implement public awareness-raising campaigns on this matter; take all necessary measures to ensure enjoyment of the right to the highest attainable standard of health, without discrimination on the basis of sexual orientation or gender identity.

Response: Rejected.

Trinidad and Tobago

Recommendations: Undertake proactive policies to promote the rights of individuals, especially with regard to their sexual orientation and HIV/AIDS status; Adopt measures so that traditional stereotypes referring to the roles of men and women in society and family can be overcome; Increase measures to ensure that violence and discrimination against members of vulnerable groups, such as women and lesbians, gay, bisexual and transgender persons, are both prevented and prosecuted.

Response: Accepted.

Recommendations: Repeal provisions which may be used to criminalise consensual relations between adults of the same sex; adopt legislative and political measures to establish a specific framework of protection for sexual preference; put in place public awareness raising campaigns on this matter.

Response: Under consideration until March 2012.

Thailand

Documents: The national report noted that Thailand prohibits discrimination based on sexual orientation and, under the Constitution, gender identity. However it was noted that rights relating

to gender identity need to be dealt with further. The summary of stakeholders' information gave further details on this subject.

Discussions: There were no references to sexual orientation or gender identity during the Working Group session on Thailand.

Ireland

Recommendations: Deepen the Reform of the law on same sex marriage and change the concept of traditional family as enshrined in the Constitution; Amend Article 37 of the 1998 Employment Equality Act in order to prevent such discrimination against homosexual and unmarried parents.

Response: Under consideration until March 2012.

Togo

Recommendations: Amend legislation to ensure that sexual orientation and gender identity are included as prohibited grounds for discrimination; consider decriminalizing sexual relations between consenting adults of the same sex; launch public awareness-raising campaigns on this issue.

Response: Rejected.

Syria

Documents: Stakeholders called on Syria to repeal all provisions which may be applied to criminalise sexual activity between consenting adults.

Discussions: There were no references to sexual orientation or gender identity during the Working Group session on Syria.

Venezuela

Recommendations: Continue to consolidate the rights of women and people belonging to vulnerable groups, including indigenous peoples and persons of diverse sexual orientation and gender identity, both within its legal framework and in practice.

Response: Accepted.

Iceland

Presentation of national report: Iceland noted that in 2010 Parliament unanimously adopted legislation providing for a gender-neutral definition of marriage, ensuring the same legal status for heterosexual and same-sex married couples. It stated that steps are also being taken to improve the legal status of transgender people.

Discussions: Brazil, Spain and Israel noted efforts taken by Iceland on issues relating to sexual orientation and gender identity. However, no recommendations on these issues were made.

Zimbabwe

Recommendations: decriminalise as soon as possible sexual relations between consenting adults of the same sex.

Response: Rejected.

Lithuania

Recommendations: Refrain from legislative initiatives which may criminalise homosexual relations between consenting adults; develop public awareness campaigns to combat manifestations of discrimination against LGBT people; Ensure the full respect for freedom of expression and freedom of assembly for all, including LGBT people; Take all necessary measures

to prevent and prosecute all forms of violence and harassment related to sexual orientation and gender identity.

Response: Accepted.

Recommendations: Review the Law on the Protection of Minors against the Detrimental Effect of Public Information in order to remove all possibilities that this law may be applied in such a way to stigmatise or discriminate against LGBT people or to breach their rights to freedom of assembly or expression; Take the necessary legislative measures and enact policies that recognise the diversity of families and provide same sex couples with the same rights and social security benefits as heterosexual couples; Repeal any discriminatory provision in existing laws on sexual orientation and gender identity; Take steps to ensure that legislation protects the full rights of sexual minorities.

Response: Under consideration until March 2012.

[Uganda](#)

Recommendations: Investigate and prosecute intimidation and attacks on LGBT-community members and activists; Take immediate concrete steps to stop discrimination and assaults against LGBT persons.

Response: Accepted.

Recommendations: Reject the Anti-Homosexuality Bill and decriminalise homosexual relationships between consenting adults; Immediately and unconditionally release all persons currently detained for the reason of homosexuality alone; ensure that no person is subject to arbitrary arrest or detention because of their sexual orientation or gender identity; an end to the defamatory and harassing campaigns against the LGBT community; Reconfirm its commitment to protecting the rights of all persons regardless of their sexual orientation or gender identity in anti-discrimination and equal opportunity legislation and bodies; Ensure equal rights for all individuals, regardless of sexual orientation.

Response: Rejected.

[Timor Leste](#)

Summary: There were no references to sexual orientation or gender identity during the review of Timor Leste.

[Moldova](#)

Recommendations: Intensify its efforts to address discrimination against Lesbians, Gays, Bisexuals and Transsexuals (LGBT), and investigate and prosecute crimes against LGBT-community members; Take action to build broad support for LGBT-rights in the new comprehensive anti-discrimination law; Allow members of the LGBT communities the right to freedom of expression and assembly; Ensure that public events planned by the LGBT, religious and other rights groups are permitted and adequately policed; Continue efforts to adopt and implement the legislative framework to prevent, punish and eliminate all forms of discrimination, with special attention to gender equality and discrimination based on sexual orientation and disability.

Response: Accepted.

Recommendations: Commit internationally to the rights of the LGBT community by signing the Joint Statement on LGBT human rights from the March 2011 session of the Human Rights Council.

Response: Under consideration until March 2012.

[Haiti](#)

Summary: There were no references to sexual orientation or gender identity during the Working Group review of Haiti, or in the input documents.

(More information can be found at <http://arc-international.net/global-advocacy/universal-periodic-review>)