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UPR 16th Session RECOMMENDATIONS RELATING TO SEXUAL ORIENTATION & GENDER IDENTITY

Summary

Azerbaijan

Discussions: There were no references to sexual orientation or gender identity.

Documents: The compilation of UN information noted concern expressed by the Human Rights Committee about harassment of individuals by police and prison officials on the basis of sexual orientation. The summary of stakeholders' information further expressed concern about family violence and hate crimes against LGBT people, police blackmailing, and registration of NGOs working on LGBT issues.

Bangladesh

Recommendations: Consider repealing article 377 of the Criminal Code.

Response: Rejected.

Burkina Faso

Discussions: There were no references to sexual orientation or gender identity.

Documents: There were no references to SOGI issues in the input documents during this cycle. However, the summary of stakeholders' information in the previous cycle stated that homosexuality is punishable with imprisonment of up to three years and that homophobia and discrimination against persons on the basis of sexual orientation was widespread in Burkina Faso.

Cameroon

Recommendations: Decriminalize consensual sexual relations between adults of the same sex; protect LGBTI from violence; Undertake public actions aimed at eliminating discrimination based on sexual orientation; Take all necessary measures, including legislative and administrative, to prohibit and eliminate all discriminatory treatment based on sexual orientation; Respect article 12 of the Constitution, which protects privacy, and eliminate abuses of this article that lead to arbitrary arrests and prosecutions on charges related to consensual same sex relations; Investigate police violence that took place on persons because of their actual or perceived sexual orientation; Ensure adequate protection of defenders of human rights that help LGBT persons.

Response: Pending to September 2013.

Canada

Discussions: There were no references to sexual orientation or gender identity.

Documents: The National report stated that legislation existed protecting against discrimination based on sexual orientation. The summary of stakeholders' information noted unequal age of consent for same-sex couples compared to opposite sex couples, and discrimination and violence against two-spirited and LGBT persons.

Cape Verde

Discussions: Spain congratulated Cape Verde on its ongoing commitment to the promotion and protection of human rights and commended in particular the adoption of legislation to eliminate discrimination on grounds of gender or sexual orientation. There were no recommendations on SOGI issues.

Documents: There were no references to sexual orientation or gender identity in any of the input reports. However, Cape Verde accepted a recommendation in the previous cycle to consider appropriate policy measures in order to promote tolerance and non-discrimination for lesbian, gay, bisexual and transgender persons.

Colombia

Recommendations: Consider the possibility of enhancing the necessary measures for the protection and integration of the LGBT population.

Response: Accepted.

Recommendations: Further recognize the rights of same-sex couples by legalizing same-sex marriage and adoption.

Response: Noted for further consideration of national authorities.

Cuba

Recommendations: Continue to promote the social inclusion and rights of its LGBT community and that the country's experience in this regard is actively shared with countries in the region and globally; Strengthen publicity and awareness campaigns aimed at increasing knowledge among the population about the rights of LGBT people; Further expand the opportunities for dialogue on sexual orientation and gender identity.

Response: Pending to September 2013.

Djibouti

Discussions & documents: There were no references to sexual orientation or gender identity during the Working Group review or in the input reports.

Previous cycle: During its review in the previous cycle, Djibouti noted that the rights of vulnerable groups, including lesbian, gay, bisexual and transsexual people, were guaranteed by the Constitution.

Germany

Recommendations: Continue its efforts and continue to take initiatives against hate crimes based on sexual orientation or gender identity. Such advances can be achieved by implementing anti-discrimination laws and strengthening financial resources of investigation authorities and the autonomy of the Federal Agency against discrimination; Continue its important efforts to combat hate crime based on sexual orientation.

Response: Pending to September 2013.

Russian Federation

Recommendations: Repeal regional legislation that tolerates discrimination based on sexual orientation, and take concrete measures preventing from using regulations in force with discriminatory purposes against the rights of LGBT persons; Bring existing regional and draft

federal-level legislation related to homosexuality into conformity with its commitment to the principles of non-discrimination and take steps to ensure that the rights of all minorities, including gays and lesbians, are protected and respected; Introduce legislation prohibiting discrimination on grounds of sexual orientation and take measures to ensure that it is fully and effectively implemented; Take specific measures to ensure effective investigation of acts of violence against LGBT persons and hold the perpetrators to account; Adopt the necessary measures to eradicate the tendency and/or diffusion, through the media, and by public officials, of stereotypes that may promote discrimination against persons, based on their sexual orientation; Adopt legislation assuring that LGBT people can freely exercise their rights to freedom of expression and peaceful assembly.

Response: Pending to September 2013.

[Turkmenistan](#)

Recommendations: Decriminalize sexual relations between consenting adults of the same sex, as recommended by the Human Rights Committee.

Response: Rejected.

[Tuvalu](#)

Recommendations: Repeal all provisions that criminalise consensual same-sex conduct and ensure that anti-discrimination laws cover sexual orientation.

Response: Rejected.

[Uzbekistan](#)

Recommendations: Adopt measures with a view to combating discrimination and intolerance of which the LGBT population suffers; Decriminalise consensual homosexual activity in compliance with its obligations under the International Covenant on Civil and Political Rights.

Response: Rejected.

Azerbaijan

Date of review: 30 April 2013, PM

There were no references to sexual orientation or gender identity during the working group review of Azerbaijan. However, the compilation of UN information noted concern expressed by the Human Rights Committee about harassment of individuals by police and prison officials on the basis of sexual orientation. The summary of stakeholders' information further expressed concern about family violence and hate crimes against LGBT people, police blackmailing, and registration of NGOs working on LGBT issues.

Bangladesh

Date of review: 29 April 2013, AM

I. Summary of the proceedings of the review process

B. Interactive dialogue and responses by the State under review

51. The United States of America commended women's participation in Government and the National Human Rights Commission acknowledgment that all individual, including LGBT, should be protected from discrimination. While appreciating Bangladesh willingness to address workers' safety and rights, it urged to improve workers' conditions. It was concerned by political violence and impunity in the security forces.

II. Conclusions and/or recommendations

131. The recommendations listed below did not enjoy the support of Bangladesh:

131.2. Consider repealing article 377 of the Criminal Code (Chile).

Burkina Faso

Date of review: 22 April 2013 PM

There were no references to sexual orientation or gender identity during the working group review of Burkina Faso, or in the input reports. The summary of stakeholders' information in the previous cycle stated that homosexuality is punishable with imprisonment of up to three years and that homophobia and discrimination against persons on the basis of sexual orientation was widespread in Burkina Faso.

Cameroon

Date of review: 1 May 2013 AM

I. Summary of the proceedings of the review process

B. Interactive dialogue and responses by the State under review

42. The United Kingdom of Great Britain and Northern Ireland urged Cameroon to speak out against threats against human rights defenders and the LGBT community and to provide security; and to decriminalize same sex acts between consenting adults. It expressed concern over violence against women; poor access to information and limitations on the press; and over bans imposed on journalists. It made recommendations.

43. The United States of America looked forward to further efforts to strengthen the rule of law and end impunity regarding human rights violations committed by security forces and public officials. It was concerned about prisons' conditions and overcrowding; freedom of assembly, association and expression; and LGBT people. It made recommendations.

54. Australia welcomed the supplementary legislation on the functioning of the National Commission on Human Rights and Freedoms. It was concerned about prosecution of homosexuality. It called on Cameroon to implement the human rights conventions. It made recommendations.

57. Répondant aux questions concernant l'homosexualité, la délégation du Cameroun a noté que la société camerounaise n'acceptait pas encore l'homosexualité comme un comportement normal et qu'il fallait lui laisser le temps d'évoluer. La délégation a souligné que les homosexuels n'étaient pas pourchassés et que les quelques cas qui avaient été portés à l'attention de la communauté internationale avaient été des cas constatés dans les lieux publics. Il faut donc relativiser ce phénomène qui en terme quantitatif est négligeable. Par ailleurs, le droit international prévoit qu'un Etat puisse restreindre une liberté «afin de satisfaire aux justes exigences de la morale, de l'ordre public et du bien-être général dans une société démocratique».

107. Montenegro welcomed Cameroon's signing of ICC's Rome Statute and OP-CAT and encouraged the completion of the process required to ratify these instruments. It commended it for combatting FGM, and joined CEDAW and CAT in urging it to pass relevant legislations in this regard. It was concerned about prosecution and discrimination based on homosexual behaviour and urged to reinforce efforts to ensure safety of all HRDs. It made recommendations.

110. The Netherlands noted Cameroon's work to promote women's rights and combat violence and discrimination in all forms. It was alarmed about the situation of LGBT rights and the harsh prosecutions in cases of consensual relations between persons of the same sex. It made recommendations.

129. De même pour le débat sur l'homosexualité, la délégation a rappelé que toute société évoluait, qu'il fallait laisser le Cameroun poursuivre son chemin et laisser le travail de maturation des mentalités se faire.

II. Conclusions and/or recommendations

131. The following recommendations will be examined by Cameroon which will provide responses in due time, but no later than the 24th session of the Human Rights Council in September 2013:

131.32. Reform the Penal Code to eliminate homosexuality as a criminal offence (Spain);

131.33. Adopt measures to decriminalise consensual sexual acts among adults of the same sex so as to adapt its legislation to the International Covenant on Civil and Political Rights (Uruguay);

131.34. Establish a moratorium on the implementation of Article 347bis of the Penal Code that "shall be punished by imprisonment of six months to five years and a fine a person who has sexual relations with a person of the same sex" and encourage non-violence towards all, regardless of sexual orientation, as well as the protection of defenders of these rights, including their lawyers (Canada);

131.35. Decriminalize consensual sexual relations between adults of the same sex (France);

131.36. Decriminalize same-sex relationships, protect LGBTI from violence from other members of the society and fight against prejudices against LGBTI persons by awareness raising campaigns (Germany);

131.37. Reiterate its recommendation made during the UPR in 2009 calling for decriminalization of homosexuality in Cameroon (Netherlands);

131.38. Decriminalise consensual sexual acts among adults of the same sex and adopt measures to eliminate social prejudices and stigmatization of homosexuality (Mexico);

131.84. Undertake public actions aimed at eliminating discrimination based on sexual orientation (Spain);

131.85. Adopt appropriate measures to tackle social prejudices, stigmatization, harassment, discrimination and violence against individuals because of their sexual orientation (Uruguay);

131.86. Adopt necessary measures to avoid discrimination, and to protect and integrate the LGBT population (Argentina);

131.87. Take all necessary measures, including legislative and administrative, to prohibit and eliminate all discriminatory treatment based on sexual orientation (Belgium);

131.88. Adopt further legislative, administrative and other measures to eliminate discriminatory treatment on the basis of gender identity (Czech Republic);

131.107. Respect article 12 of the Constitution, which protects privacy, and eliminate abuses of this article that lead to arbitrary arrests and prosecutions on charges related to consensual same sex relations (United States of America);

131.108. Urgently repeal legislation criminalising consensual homosexual activity and release from detention individuals convicted of those offences (Australia);

131.109. Investigate police violence that took place on persons because of their actual or perceived sexual orientation (Belgium);

131.110. Ensure adequate protection of defenders of human rights that help LGBT persons (Belgium);

Canada

Date of review: 26 April 2013 AM

There were no references to sexual orientation or gender identity during the working group review of Canada. However, the National report stated that legislation existed protecting against discrimination based on sexual orientation. The summary of stakeholders' information noted unequal age of consent for same-sex couples compared to opposite sex couples, and discrimination and violence against two-spirited and LGBT persons.

Cape Verde

Date of review: 23 April 2013 AM

I. Summary of the proceedings of the review process

B. Interactive dialogue and responses by the State under review

93. Spain congratulated Cape Verde on its ongoing commitment to the promotion and protection of human rights and commended in particular the adoption of legislation to eliminate discrimination against persons with disabilities and as well as elimination of discrimination on grounds of gender or sexual orientation.

Colombia

Date of review: 23 April 2013 PM

I. Summary of the proceedings of the review process

A. Presentation by the State under review

6. The Government respected and protected the work of human rights defenders, including trade union leaders, as a State policy. The mechanisms of protection of human rights defenders, trade union leaders, victims of the armed conflict, communities of African descent, indigenous peoples, members of the LGBTI collective and women had improved.

B. Interactive dialogue and responses by the State under review

81. Iceland asked how perpetrators were held accountable for crimes against trade unionists, journalists, judges, lawyers and human rights defenders, and how victims were protected. It asked how gender-based violence was addressed and investigated and welcomed recognition of the rights of same-sex couples.

111. In reference to the rights of the LGBTI community, the Government included in the National Development Plan a mandate to design a public policy for this group. In the process, for instance, the National Statistics Department had started to establish a baseline with elements of characterization and diagnosis of the LGBTI people. In the same vein, a table to deal with urgent cases and receive complaints on human rights violations against members of the LGBTI community had been established in 2011. This mechanism has so far received more than 100 cases.

II. Conclusions and/or recommendations

116. The following recommendations enjoy the support of Colombia which considers that they are already implemented or in the process of implementation.

116.43. Consider the possibility of enhancing the necessary measures for the protection and integration of the LGBT population (Argentina).l

117. The following recommendations were noted by Colombia for further consideration of national authorities.

117.4. Further recognize the rights of same-sex couples by legalizing same-sex marriage and adoption (Iceland).

Cuba

Date of review: 1 May 2013 PM

I. Summary of the proceedings of the review process

A. Presentation by the State under review

21. The struggle against discrimination based on sexual orientation is another area where we have recorded a sustained progress.

B. Interactive dialogue and responses by the State under review

109. Cuba said that progress had continued in recognizing and guaranteeing rights relating to sexual orientation and gender identity, guaranteeing in that way full and responsible enjoyment of sexuality.

II. Conclusions and/or recommendations

170. The recommendations formulated during the interactive dialogue and listed below will be examined by Cuba which will provide responses in due time, but no later than the 24th session of the Human Rights Council in September 2013:

170.132. Continue to promote the social inclusion and rights of its LGBT community and that the country's experience in this regard is actively shared with countries in the region and globally (Norway);

170.133. Strengthen publicity and awareness campaigns aimed at increasing knowledge among the population about the rights of LGBT people (South Africa);

170.134. Further expand the opportunities for dialogue on sexual orientation and gender identity (Brazil).

Djibouti

Date of review: 25 April 2013 PM

There were no references to sexual orientation or gender identity during the Working Group review or in the input reports. During its review in the previous cycle, Djibouti noted that the rights of vulnerable groups, including lesbian, gay, bisexual and transsexual people, were guaranteed by the Constitution.

Germany

Date of review: 25 April 2013 AM

I. Summary of the proceedings of the review process

B. Interactive dialogue and responses by the State under review

25. Norway emphasized the plan to implement CRPD, strengthened rights for victims of sexual abuse and ratification of an optional protocol to CRC. The amendment allowing transsexuals to remain married while undergoing a sex change was welcomed. Norway made recommendations.

66. Viet Nam commended achievements in socio-economic development, and highlighted progress in the fields of sexual orientation, freedom of religion, combating discrimination and coordinating work with civil society. Nonetheless, further action could certainly be taken. It made one recommendation.

II. Conclusions and/or recommendations

123. Responses to the following recommendations will be provided by Germany in due time, but no later than the 24th session of the Human Rights Council in September 2013:

123.121. Continue its efforts and continue to take initiatives against hate crimes based on sexual orientation or gender identity. Such advances can be achieved by implementing anti-discrimination laws and strengthening financial resources of

investigation authorities and the autonomy of the Federal Agency against discrimination (Netherlands);

123.122. Continue its important efforts to combat hate crime based on sexual orientation (Norway).

Russian Federation

Date of review: 29 April 2013 PM

I. Summary of the proceedings of the review process

B. Interactive dialogue and responses by the State under review

27. Iceland observed that legislation did not prohibit gender-based discrimination, despite prohibiting discrimination on other grounds. It expressed concern regarding reports of discrimination and violence against LGBT persons.

50. The Netherlands raised the question of the LGBT community and legislation restricting freedoms of expression and assembly, and the issue of harassment of NGOs, journalists and human rights defenders.

79. Sweden raised concern over discrimination against LGBT individuals and the recent draft law. It expressed concern over the July 2012 amendment to the law on non-commercial organizations.

110. Belgium expressed concern about non-governmental organizations and the rights of the LGBT. It asked what steps were envisaged to prevent new legislation from imposing financial or administrative obstacles on non-governmental organizations.

126. Austria expressed concern at laws continuing to unduly restrict activities of civil society and at specific recently adopted laws further curtailing civil liberties regarding assembly, the internet, the so-called "propaganda of homosexuality" and Foreign Agents laws, and the crimes of treason and espionage.

128. Denmark was concerned that the situation of indigenous peoples had not sufficiently improved, regarding land rights, food, education, health and work, and at the proposed federal bill outlawing the so-called propaganda of homosexuality among minors.

II. Conclusions and/or recommendations

140. The following recommendations will be examined by the Russian Federation which will provide responses in due time, but no later than the 24th session of the Human Rights Council in September 2013:

140.86. Repeal regional legislation that tolerates discrimination based on sexual orientation, and take concrete measures preventing from using regulations in force with discriminatory purposes against the rights of LGBT persons (Netherlands);

140.87. Bring existing regional and draft federal-level legislation related to homosexuality into conformity with its commitment to the principles of non-discrimination and take steps to ensure that the rights of all minorities, including gays and lesbians, are protected and respected (Canada);

140.88. Rescind regional laws and regulations which favour and tolerate discrimination based on sexual orientation, and refrain from adopting similar laws at the federal level, as well as take measures to prevent the arbitrary use of existing regulations against LGBT rights, including their rights to freedom of expression and peaceful assembly (Belgium);

140.89. Repeal regional laws and regulations which promote discrimination on grounds of sexual orientation, and abstain from passing similar legislation at the federal level (Denmark);

140.90. Repeal existing regional laws banning homosexual propaganda (Slovenia);

140.91. Introduce legislation prohibiting discrimination on grounds of sexual orientation and take measures to ensure that it is fully and effectively implemented (Sweden);

140.92. Reconsider the approval of the new provisions that can affect the rights of LGBT, delinking homosexuality from pederasty, and in any case, avoid that the provisions be applied in a discriminatory form (Spain);

140.93. Take effective steps to prevent arbitrary use of existing regulations to discriminate against LGBT people, including their rights to freedom of expression and peaceful assembly (Denmark);

140.94. Prevent discrimination on grounds of sexual orientation and protect the rights of LGBTI people, including their right to freedom of expression and peaceful assembly (Norway);

140.95. Step up measures of protection against violence and discrimination on the grounds of sexual orientation, particularly by enacting laws that prohibit such discrimination, and take measures to ensure the effective exercise of the rights to peaceful association and assembly of the LGBT community (Uruguay);

140.96. Take specific measures to ensure effective investigation of acts of violence against LGBT persons and hold the perpetrators to account (Iceland);

140.97. Adopt the necessary measures to eradicate the tendency and/or diffusion, through the media, and by public officials, of stereotypes that may promote discrimination against persons, based on their sexual orientation (Argentina);

140.154. Adopt legislation assuring that LGBT people can freely exercise their rights to freedom of expression and peaceful assembly (Germany);

140.155. Rescind legislation that curbs the civil rights of Russia's LGBTI community (Australia).

Turkmenistan

Date of review: 22 April 2013 AM

II. Conclusions and/or recommendations

114. The recommendations below did not enjoy the support of Turkmenistan:

114.1 Decriminalize sexual relations between consenting adults of the same sex, as recommended by the Human Rights Committee (Slovenia).

Tuvalu

Date of review: 24 April 2013 PM

1. Summary of the proceedings of the review process

A. Presentation by the State under review

17. The Head of the Delegation expressed that people with different sexual orientation did not suffer social discrimination but the question of legal protection in the laws was controversial and will need to be carefully considered. Tuvalu was open to discussion.

B. Interactive dialogue and responses by the State under review

45. The United States of America commended Tuvalu's 2010 elections. It noted and encouraged the participation in the sub-regional audit support program. It welcomed the increased school attendance by girls and the increased women participation in several areas. It expressed condolences at the loss of the Finance Minister and noted the need for a by-election. It raised concern over the application of and limitations in the Religious Organizations Restriction Act as well as over the illegality of sexual relations between males. It strongly supported decriminalizing consensual sexual relations between adults. It made recommendations.

83. The recommendations below did not enjoy the support of Tuvalu.

18. Repeal all provisions that criminalise consensual same-sex conduct and ensure that anti-discrimination laws cover sexual orientation (United Kingdom of Great Britain and Northern Ireland);

19. Support repeal of the provision of the Penal Code criminalizing consensual sex between adult males (United States of America).

Uzbekistan

Date of review: 24 April 2013 AM

I. Summary of the proceedings of the review process

B. Interactive dialogue and responses by the State under review

83. Montenegro applauded ratification of OP-ICCPR 2 and efforts to protect children against torture and degrading treatment. It asked about concrete steps to amend the Criminal Code to decriminalize consensual sexual activity between adult males. Montenegro made recommendations.

90. On questions regarding the decriminalization of LGBT, Uzbekistan confirmed that the Criminal Code forbids consensual sexual relations between men, but this does not apply to women. There are no plans in the near future to repeal this law which reflects traditions that have developed over more than 1000 years. Uzbekistan in this respect shares the position of the Muslim countries expressed during the discussions of this issue within the HRC.

II. Conclusions and/or recommendations

138. The recommendations below did not enjoy the support of Uzbekistan.

49. Adopt measures with a view to combating discrimination and intolerance of which the LGBT population suffers. (Argentina);

50. Eliminate from the Criminal Code the criminalization of same-sex sexual relationships and at the same time redouble efforts to end discrimination against the LGBT group (Spain);

51. Decriminalise consensual homosexual activity in compliance with its obligations under the International Covenant on Civil and Political Rights (Netherlands);

52. Revise penal legislation which criminalizes sexual orientation with a view to ensuring conformity with Article 26 of the International Covenant on Civil and Political Rights (Uruguay).