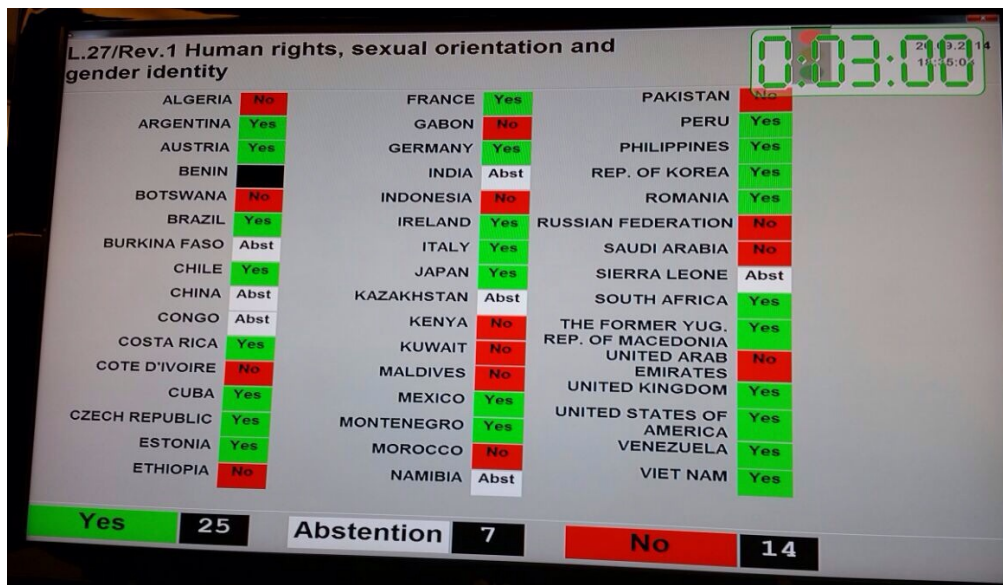


# Sexual orientation, gender identity and expression and intersex related developments at the 27<sup>th</sup> session of the UN Human Rights Council

8 – 26 September 2014



*Vote on the SOGI resolution A/HRC/27/32*

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*For further information on HRC27:*

**John Fisher** | Co-Director | +41-79-508-3968 | john@arc-international.net  
**Sheherezade Kara** | Advocacy manager | +41-78-834-9916 | sheherezade@arc-international.net

<http://arc-international.net/global-advocacy/human-rights-council/hrc27>

<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Pages/27RegularSession.aspx>

## OVERVIEW OF THE SESSION

The 27<sup>th</sup> session of the Human Rights Council (HRC or “the Council”) took place from 8-26 September 2014 at the United Nations in Geneva.

The key development at the session was the adoption of the second United Nations resolution on “Human rights, sexual orientation and gender identity” (A/HRC/27/32). Tabled by Chile, Uruguay, Brazil and Colombia, and cosponsored by 46 additional States, the resolution requests the High Commissioner for Human Rights to update the 2012 study on violence and discrimination on the basis of sexual orientation and gender identity (A/HRC/19/41), with a view to sharing good practices and ways to overcome violence and discrimination. It expresses grave concern at acts of violence and discrimination in all regions of the world committed against individuals because of their sexual orientation and gender identity. The updated report is due to be presented to the HRC at its 29<sup>th</sup> session in June 2015.

The Council voted down 7 hostile amendments to the resolution which sought to strip the title and text of all SOGI references, to be replaced by the general listing of grounds for protection from discrimination in the UDHR, and to introduce a new paragraph in the text invoking cultural relativity and state sovereignty in the protection of human rights. The amendments were tabled by Djibouti, Egypt, Malaysia, Nigeria, South Sudan, Uganda, and the United Arab Emirates.

After the amendments had been rejected, the resolution was adopted by the Council by a vote of 25 in favour, 14 against, and 7 abstentions, with support from all regions and an increased base of support since the HRC’s first resolution on the issues adopted in 2011. This is the first time a SOGI vote at the HRC has been adopted by an absolute majority.

The Council interacted for the first time with the new High Commissioner for Human Rights, Mr. Zeid Ra’ad Al Hussein. In his inaugural statement to the Council, the High Commissioner stressed that there can be no justification ever, for the degrading, the debasing or the exploitation of other human beings on the basis of gender or sexual orientation.

As usual the Council undertook general debates and engaged in interactive dialogues on a number of issues. During the General Debate under Agenda Items 2&3, the South African Human Rights Commission, speaking in a joint statement with 22 A-status accredited national human rights institutions, expressed particular concern at the number of human rights violations against people based on gender identity or sexual orientation

A total of ten panel discussions were held, including on the right to privacy in the digital age, protection of the family, and the annual discussion on the integration of a gender perspective.

Working group reports from the 18<sup>th</sup> session of the Universal Periodic Review (UPR) were adopted by the Council for the following 14 countries: Norway, Albania, Democratic Republic of the Congo, Côte d’Ivoire, Portugal, Bhutan, Dominica, Democratic People’s Republic of Korea, Brunei Darussalam, Costa Rica, Equatorial Guinea, Ethiopia, Qatar, Nicaragua.

The Council adopted a total of 32 resolutions during the session, including on disappearances, the right to safe drinking water and sanitation, preventable maternal mortality and morbidity, eliminating female genital mutilation, and civil society space. A full list of resolutions adopted can be found at the end of this report.

There was strong civil society engagement throughout the session, both in Geneva and in capitals. ARC and ILGA each held side events on SOGI issues, and ARC, ISHR and Article 19 organised a panel discussion on the theme of traditional values and the universality of human rights.

## ITEM 2: GENERAL DEBATE WITH THE HIGH COMMISSIONER FOR HUMAN RIGHTS

*This session was Zeid Ra'ad Al Hussein's first session in his new role as UN High Commissioner for Human Rights. For more information about the new High Commissioner please visit <http://www.ohchr.org/EN/AboutUs/Pages/HighCommissioner.aspx>.*

### HIGH COMMISSIONER ZEID RA'AD AL HUSSEIN: OPENING STATEMENT

Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights, in his statement stressed that "there is no justification ever, for the degrading, the debasing or the exploitation of other human beings – on whatever basis: nationality, race, ethnicity, religion, gender, sexual orientation, disability, age or caste."

*The full text of his opening statement is available at <http://bit.ly/1xT8J6N>.*

### STATE RESPONSES

United Arab Emirates, speaking on behalf of the Arab Group, said that very many challenges had been faced in recent years in shoring up economic, social and cultural rights. The emergence of new concepts on sexual preferences had been noted. This was alien to Arab and other societies and there had to be respect for the principles that governed the lives of people. There could not be an imposition of cultural values under the pretext of the universality of human rights. At the same time, rights which were still far from being a reality included health, drinking water and education.

United States welcomed former High Commissioner Navi Pillay's engagement against violations on the ground of sexual orientation and gender identity.

Iceland said the world needed the strong and independent voice of the High Commissioner to denounce atrocities and abuses and to mobilize the international community. Three priority areas were outlined: gender equality and women's rights must be further promoted by integrating a gender perspective into all human rights efforts. Second, the human rights of lesbian, gay, bisexual and transgender people, who continued to face intolerable discrimination around the world.

Uruguay said it particularly agreed with the High Commissioner's preventative approach, to analyse the patterns of human rights violations and what caused them. Uruguay said the High Commissioner must lead States in clearly condemning reprisals against human rights defenders, including those cooperating with this Council. In line with the principle that no human being may have their human rights or fundamental freedoms denied, Uruguay together with Chile and Columbia would promote an initiative for the Office to periodically analyse the situation of violence and discrimination against LGBTI persons. They would propose elements to work to promote visibility of the existing problems and to overcome existing gaps in law and practice across the world.

Chile stated that the question of violence must be a priority for the Council. For that reason, Chile, Colombia and Uruguay would submit a resolution on sexual orientation and gender identity similar to the one that was approved in 2011 (A/HRC/17/19 on human rights, sexual orientation and gender identity).

Spain deplored the grave challenges faced today by the international community, and condemned abuses and atrocities perpetrated by armed groups and States. Spain was concerned about violations against women and girls, including forced marriage, and violations on the grounds of sexual orientation and gender identity. Spain reiterated its commitment to fully collaborate with the Office of the High Commissioner and encouraged all States to do so.

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## NGO STATEMENTS TO THE HIGH COMMISSIONER

ARC International, speaking for the first time with ECOSOC status, welcomed the High Commissioner's affirmation of the priorities of the Office, including measures to address discrimination and attacks motivated by stereotypes and hatred of many kinds. It commended the work of the Office in calling for an end to human rights violations against all persons, including those who faced violence, discrimination stigma and abuse because of their sexual orientation, gender identity or expression, or intersex status.

Civicus welcomed the High Commissioner's strong pledge and support for civil society organizations, which must not be impeded in performing their functions. Civicus was deeply concerned about the increasing crackdown on pro-democracy activists around the world, including in Bahrain, and about the rise of extremism and right wing movements which had led to attacks on women's rights and lesbian, gay, bisexual and transsexual activists.

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## INTERACTIVE DIALOGUES WITH SPECIAL PROCEDURES

*During the 27<sup>th</sup> session the HRC held interactive dialogues with a number of mandate holders, including the Independent Experts on older persons and on a democratic and equitable international order; the Special Rapporteurs on contemporary forms of slavery, water and sanitation, hazardous wastes, truth, justice, reparation and non-recurrence, indigenous peoples, and; Working Groups on arbitrary detention, enforced disappearances, and people of African descent. The Council also heard reports from SP mandates on the following country situations: Ukraine, Cambodia, Sudan, Somalia, and Central African Republic.*

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## WORKING GROUP OF EXPERTS ON PEOPLE OF AFRICAN DESCENT

COC Netherlands and Micro Rainbow International, in a joint statement, said that lesbian, gay, bisexual and transgender persons of African descent were victims of racism and racial discrimination in Brazil and other parts of the world, and remained vulnerable to violence, poverty, sexual abuse and murder. Urgent measures had to be taken to address these issues.

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## SPECIAL RAPPORTEUR ON HUMAN RIGHTS IN CAMBODIA

Canadian HIV/AIDS Legal Network, in a joint statement with ILGA, said that Cambodian lesbian, gay, bisexual and transgender persons were severely discriminated against, abused and subjected to socio-economic exclusion in families, communities and workplaces.

Cambodia, in concluding remarks in response to statements made by NGOs on human rights violations based on sexual orientation and gender identity, said that there was no law in Cambodia that led to violations of the rights of lesbian, gay, bisexual and transgender persons, and therefore no legislation to repeal.

In concluding remarks, the Special Rapporteur expressed concern about the situation of lesbian, gay, bisexual and transgender persons. He would continue to monitor their situation, engage with civil society organizations working on the issue, and make recommendations accordingly.

## GENERAL DEBATES – ITEMS 2&3, 4, 8

General debates, particularly under **items 2&3** (*thematic reports of the High Commissioner and Secretary General in the promotion and protection of all human rights*), **item 4** (*Human rights situations that require the Council's attention*) – which might be used to address country situations of particular concern, and **item 8** (*follow-up to and implementation of the VDPA*), provide opportunity for all States and stakeholders to make statements on SOGI-related issues.

### ITEM 2&3: THEMATIC REPORTS OF THE HIGH COMMISSIONER AND SECRETARY GENERAL

Netherlands was concerned that civil society organizations were increasingly being targeted and called on all States to allow them to conduct their activities. The Netherlands welcomed the initiative to introduce a resolution on sexual orientation and gender identity.

Iceland commended the Secretary-General for his insightful report into the death penalty and was encouraged that around 160 countries had renounced capital punishment; the progressive march towards universal abolition continued. Iceland expressed deep concerns about the implications of mass surveillance and censorship on the enjoyment of human rights on the internet. It emphasized that addressing gender-based discrimination was a priority, and the responsibility of States to end discrimination against people on the basis of their sexual orientation or gender identity.

Belgium strongly opposed the death penalty in all cases and in all circumstances and was alarmed that the restriction on its use for the most serious crimes was not respected. A number of countries continued to impose the death penalty for crimes such as drug-related offences, engagement in consensual sexual acts or apostasy. Belgium called upon the small minority of countries that still used the death penalty to do so in accordance with minimum standards including restricting its use to crimes that involved intentional killing.

The South African Human Rights Commission, speaking in a joint statement with 22 A-status accredited national human rights institutions, expressed particular concern at the number of human rights violations against people based on gender identity or sexual orientation. It praised former High Commissioner Navi Pillay for her work on the issue and encouraged her successor to continue on the same path. States should work together to ensure the protection of lesbian, gay, bisexual, transgender and intersex persons.

Action Canada for Population and Development (ACPD) said that systemic forms of discrimination against women, sex workers, sexually active adolescents and persons with non-conforming sexualities and gender identity were rooted in the enforcement of gender and sexual stereotypes and patriarchal norms.

## ITEM 4: HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S ATTENTION

Czech Republic remained concerned about the continuing harassment of human rights defenders, activists, NGOs and sexual, religious and ethnic minorities in the Russian Federation. It regretted that civil society continued to be stigmatised under the “foreign agent” law and faced retaliatory administrative power.

## ITEM 8: FOLLOW-UP TO AND IMPLEMENTATION OF THE VIENNA DECLARATION AND PROGRAMME OF ACTION

*The Vienna Declaration and Programme of Action reaffirms the universality, indivisibility, interdependence and interrelatedness of rights and underscores that it is the duty of all States, regardless of their historical, cultural and religious backgrounds, to promote and protect all human rights and fundamental freedoms.*

## STATE COMMENTS

Italy, speaking on behalf of the European Union, condemned acts of reprisals against human rights defenders, as well as restrictions to their activities. The EU was also concerned about violence and discrimination against lesbian, gay, bisexual and transgender persons, including through the criminalization of homosexuality and the application of the death penalty. History had showed that persecuting minorities led to catastrophic results.

Liechtenstein, in a joint statement with Austria, Slovenia and Switzerland, said that the VDPA still needed implementation today, and said further efforts were needed for the inclusion of human rights in the post-2015 development agenda. Development could only be achieved on the basis of human rights, democracy and the rule of law. One of the most important elements of the VDPA was the strong affirmation of the universality of human rights. Resolution 17/19 on human rights and SOGI sent a strong signal, and the OHCHR Free & Equal campaign was welcomed, but the Council must do more to fulfil its mandate. LGBTI persons all over the world continued to face human rights violations, including violence and discrimination and the Council must continue to work toward the full realisation of the rights of LGBTI persons.

Ireland stressed that the principle of non-discrimination was at the heart of the VDPA. It applied to everyone. Religious or cultural values should never justify laws or policies which allow discrimination and violence to go unaddressed, including when it comes to the human rights of LGBTI persons. Homophobic and transphobic hate crimes occur in every part of the world and are often combined with a lack of adequate legal protection against discrimination on grounds of sexual orientation and gender identity. Ireland stated that while some say that sexual orientation and gender identity are sensitive or divisive issues, violence and discrimination are not. This Council must speak out, not only because of the legal obligations of States under international human rights law, but because lives are at stake. Ireland also emphasized the need to protect civil society space.

The Netherlands said that the draft resolution on human rights, sexual orientation and gender identity quoted from the VDPA which clearly laid down the duty of States regardless of their economic, political and cultural systems, to promote and protect all human rights and fundamental freedoms. Governments must prevent violence and discrimination against all

people no matter their sexual orientation and gender identity; there was no claim of special group rights.

Pakistan, speaking in a right of reply to the statement by the Netherlands, said it was unfortunate that the Netherlands had presented an interpretation purely based on a unilateral understanding, as an important element in the Vienna Declaration was an element signifying national peculiarities. Pakistan was of the firm view that it was a spirit of mutual cooperation and understanding that lay at the heart of the VDPA, and it noted the serious ramifications of introducing new rights, new standards and vulnerable groups, which could undermine the spirit of the VDPA.

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## NGO STATEMENTS

In a joint statement, ILGA called on the Council to adopt the draft resolution to fight discrimination against lesbian, gay, bisexual, transgender and intersex people. The resolution would provide the means for the Council to hold a constructive dialogue on the issue that it so desperately needed to have. Millions of people around the world suffered such discrimination; they came from all countries, all regions, and all social classes – and included many people in the Council itself. To vote against the resolution would send a message that the human rights of those people did not matter.

The Human Rights Law Centre welcomed the draft resolution on human rights and sexual orientation and gender identity presented to the Council which recalled that all human rights were universal and that States had a duty to protect the rights of all people. Continuing the dialogue was crucial to address this problem of discrimination and violence based on sexual orientation and gender identity.

ARC International recalled the Vienna Declaration and the bedrock principles of universality and non-discrimination which underpinned the work of this Council. The Special Procedures had brought to the attention of the Council numerous counts of violence against lesbian, gay, bisexual, transgender and intersex persons, including murder, rape, torture and harassment, and ARC stressed that these persons too were entitled to protection. ARC urged the Council to consider these issues on their substance and not based on political or economic alliances.

International Service for Human Rights said that over the last decade the human rights system had afforded attention to many issues and rights of groups that were not specifically mentioned in the Universal Declaration of Human Rights, but were nevertheless covered by its protection, including the rights of migrants, older persons, and the issues such as right to water and sovereign debt. The Council had the duty to ensure that it adequately responded to the particular violence and discrimination faced by lesbian, gay, bisexual and transgender persons.

Amnesty International stated that since the Council adopted groundbreaking resolution 17/19 on 'sexual orientation and gender identity' in 2011, there had been positive developments in regional organizations which the Council should encourage. By giving explicit attention to issues of sexual orientation and gender identity, the Council could address and prevent violations against lesbian, gay, bisexual, transgender and intersex persons.

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## PANEL DISCUSSIONS

*The Council is holding increasing numbers of panel discussions during its regular sessions. This session saw a total of 10 panels, including a discussion on the right to privacy in the digital age,*



and the annual discussion on the integration of a gender perspective. The HRC also held the panel discussion on the protection of the family and its members, following polarised negotiations at the 26th session which saw some States advocating the exclusion of language on diverse family forms, and the inclusion of restrictive definitions of family.

## THE RIGHT TO PRIVACY IN THE DIGITAL AGE

The panellists were Marko Milanovic, Associate Professor, Nottingham University and Panel Moderator; Catalina Botero Marino, Special Rapporteur on freedom of expression, Inter-American Commission on Human Rights; Sarah Cleveland, Professor, Columbia Law School; Yves Nissim, Deputy Chief CSR officer at Orange, former Chair of the Telecommunications Industry Dialogue; Carly Nyst, Legal Director, Privacy International.

Flavia Pansieri, Deputy High Commissioner for Human Rights, in an opening statement said that for millions the digital age had opened the door to emancipation and had been perhaps the greatest liberation movement the world had ever known. Still, those digital platforms were vulnerable to surveillance, interception and data collection and deep concerns had been expressed as policies and practices that exploited this vulnerability had been exposed around the globe.

Catalina Botero, Inter-American Commission on Human Rights Special Rapporteur on freedom of expression, said that systematic collection of data could entail a negative effect on human rights, including the right to privacy and the right to freedom of expression. Freedom of association and assembly, freedom of expression, and the right to health and sexuality could also be threatened. Sufficient controls had to be elaborated so that those negative effects on human rights could be prevented.

Association for Progressive Communications said that the right to privacy was a fundamental human right and any limitations had to be exceptional, proportional and lawful. It noted the impact of the Human Rights Council resolution 20/8 2012, which affirmed that the same human rights we have offline also apply online. APC agreed with the High Commissioner that the right to privacy is linked to other rights such as the right to freedom of expression, freedom of association, and to health. It asked the panellists how to ensure women's rights to privacy are protected and promoted and ensure the right to privacy in a digital age includes the gendered dimensions of human rights online.

## THE PROTECTION OF THE FAMILY AND ITS MEMBERS

Moderating the discussion was Yvette Stevens, Permanent Representative of Sierra Leone to the United Nations in Geneva. The panellists were Aslan Khuseinovich Abashidze, Member of the Committee on Economic, Social, and Cultural Rights; Hiranti Wijemanne, Member of the Committee on the Rights of the Child; Zitha Mokomane, Chief Research Specialist, Human and Social Development Research Programme, Human Sciences Research Council of South Africa; Karen Bogenschneider, Rothermel Bascom Professor of Human Ecology, University of Wisconsin; and Rosa Inés Floriano Carrera, Coordinator, Department of Life, Justice and Peace, Caritas, Colombia.

## INTRODUCTION FROM THE OHCHR

Jane Connors, Director, Research and Right to Development Division, Office of the High Commissioner for Human Rights, in an introductory statement said that the family and the rights of its members were addressed in provisions in a range of international human rights

treaties. These provisions encompassed civil, political, economic, social and cultural rights; enshrined women's right to equality within the family; and provided protection for children, persons with disabilities and older persons as members of families. Families assumed diverse forms and functions among and within countries including same-sex parents and their children. This plurality occurs as a result of circumstance, the diversity of individual preference and evolving cultural and societal norms. The principle of equality between women and men within the family was recognized in the Universal Declaration of Human Rights and reflected as a legally binding obligation on States parties in Article 23 of the International Covenant on Civil and Political Rights.

Despite these international legal obligations, women continued to experience, in varying degrees, discrimination within the family. This was largely a result of stereotypical notions of gender roles which envisaged women as caregivers and men as breadwinners. Much as a result of these stereotypes, discriminatory family law denied women, in law and in practice, equal rights on issues related to marriage, divorce, and distribution of marital property, inheritance, custody and adoption. Violence and exploitation within the family were also serious human rights concerns.

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## STATE COMMENTS

The United Kingdom, in a joint statement with Australia, Austria, Canada, Colombia, France, Germany, Spain, Sweden, Switzerland, the United States and Uruguay, reiterated that various forms of the family existed, including single-parent families, child-headed households, extended families, same gender and heterosexual families, as well as recomposed families. Family diversity was important and different forms of families required the tailored protection of the State to ensure the protection of its members.

The United States, in a joint statement with the UK, Uruguay, Colombia and Chile, underlined the gravity of violence within families, such as sexual violence or violence against children. All countries had the obligation to protect and assist families against such violence.

Finland, speaking on behalf of Nordic countries, said that same-sex couples had the right to create a family. Domestic violence was discriminating towards women and girls, and it was crucial to tackle stereotypes against women and girls.

Uruguay, speaking on behalf of a group of countries comprising of Argentina, Canada, Ethiopia, Honduras, Italy, Maldives, Montenegro, Netherlands, Poland, Sierra Leone, Switzerland, UK, Uruguay and Zambia, regretted that in all regions of the world violence occurred in the context of the family, especially towards women, girls and the elderly, including rape, forced marriage, sexual abuse and FGM. Uruguay stated that the protection of the family unit cannot be done at the expense of the human rights of individual family members, and that States have obligations under international human rights law to take all necessary measure to eradicate human rights abuses occurring within the family.

The European Union said that the growing diversity of forms and compositions of families had to be recognised. States had the primarily responsibility to ensure the equal rights of individuals within families.

Slovenia, in a joint statement with Austria and Croatia, said that no one should be forced to create a family and condemned the practice of early or forced marriage. States had the responsibility to ensure equal rights for family members. Different forms of families, including single parents and same-sex partners, had to be respected.

Estonia said that families were diverse and could include single parents or same-sex partners. Estonia was not in favour of holding this panel as the organizers omitted to refer to the variety of families and the rights of family members.

Czech Republic recalled that particular attention had to be given to vulnerable families, such as single parents, same-sex partners, families with elder persons, and families with a history of domestic violence. The Czech Republic recalled also that States had the obligation to protect all families, including the new forms of families.

Russia said that the family was a complex social and cultural phenomenon. The object of the family was not the simple reproduction of the population but the continuation of the human race in the broadest understanding of the term. Russia was developing a State focused on the well being of families.

Egypt was convinced that the family was an instrumental social unit that contributed to social cohesion, development and human rights, as well as to the preservation of identity, culture and traditional values through its profound role in forging solidified intergenerational linkages.

Namibia fully supported the need to strengthen the protection of families through a legal framework. It acknowledged that the family unit came in many shapes and sizes and changed, as social practices and traditions were dynamic and ever changing. It supported the protection of all family units, not just the nuclear family or families married under civil law.

Ireland was strongly of the view that, in conformity with international human rights law, it was the members of the family to which human rights protections applied, rather than viewing the family unit itself as a rights-holder. This was a clear legal principle, but it also had important legal consequences, particularly where a family member or members may be abused by others.

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## NGO STATEMENTS

ARC International, in a joint statement with Amnesty International, Article 19, COC Nederland, Federation for Women and Family Planning, ILGA, IGLHRC, ISHR, Akahatá, ICJ, Point of View, and Partners for Law in Development, said that families came in a diversity of forms. A right-based approach towards the protection of families was crucial to ensure the effective protection of those that were more vulnerable. Marital rape, domestic violence and child abuse remained unfortunately rife in all regions of the world, patriarchal laws, policies, practices and traditions continue to deny women equality within the family, and LGBTI persons are sometimes disowned, or subject to abuse, forced to undergo involuntary psychological or medical treatment, and are at greater risk of homelessness or suicide.

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## CLOSING REMARKS OF THE PANELISTS

Yvette Stevens, Permanent Representative of Sierra Leone to the United Nations in Geneva and Panel Moderator, asked the panelists to comment on the question asked by many: the diversity of families and how to avoid discrimination against families that did not conform to the majority of family forms.

Aslan Khuseinovich Abashidze, Member of the Committee on Economic, Social, and Cultural Rights, said that the current international treaties and the practices of treaty bodies were based on the fact that families were defined by States and also on broad provisions on protection and assistance provided to families by States. The definition of the family was up to each State and

if it broadened that definition, then its responsibilities also broadened; States were obliged to inform the Committee in their periodic report on what definition of the family was in that particular State.

Rosa Ines Floriano Carrera, Coordinator, Department of Life, Justice and Peace, Caritas, Colombia, said that the recognition of the diversity of families had to be recognized, and underlined the importance for civil society organizations to identify loopholes and gaps in domestic legislation, in order to move public policies forward and offer greater guarantees to family members.

Zitha Mokomane, Chief Research Specialist, Human and Social Development Research Programme, Human Sciences Research Council of South Africa, said that the diversity of families had to be recognized in order to ensure the protection of human rights for all without discrimination, as well as the prevention of maternal mortality. Single parents were vulnerable.

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## INTEGRATION OF A GENDER PERSPECTIVE

*The Human Rights Council held its annual discussion on the integration of a gender perspective in the work of the Council, with a focus on its work and that of its mechanisms, and the evaluation of progress made and challenges experienced.*

*The panellists were: Moez Doraid, Director of the Coordination Division of UN Women, Gloria Maira Vargas, Vice-Minister, National Chilean Service for Women, Ahmed Shaheed, Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, and Bineta Diop, Founder and President of Femmes Afrique Solidarité and African Union Special Envoy for Women, Peace and Security. The panel was moderated by Christine Chinkin, Professor of international human rights law, London School of Economics, and former member of the United Nations Fact Finding Mission on the Gaza Conflict.*

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## STATEMENTS

Jane Connors, Director of the Research and Right to Development Division of the Office of the High Commissioner for Human Rights, in opening remarks, said that the Universal Periodic Review mechanism, the Special Procedures of the Human Rights Council as well as commissions of inquiry and fact-finding missions provided various opportunities to analyse gender-based discrimination and make recommendations in that regard. The effective enjoyment of human rights by all required the adoption and implementation of comprehensive policies and legislations. Gaps only became visible when they applied a gender analysis. The Human Rights Council had repeatedly demonstrated its commitment to include a gender perspective in its activities and mechanisms. Several commissions of inquiry and fact-finding missions had for example highlighted how discrimination against women intersected with other human rights violations, and country and thematic mandate holders increasingly met with civil society representatives on the ground to address particular issues regarding women and sexual minorities.

The Council's record on integrating gender into its country-specific work was however uneven. Sex-disaggregated data was lacking. References to women and girls were overwhelmingly focused on sexual and gender-based violence. Gender was not confined only in gender-based violence or women's issues, but also referred to socially constructed identities, attributes and roles for all human beings. A proper gender analysis allowed to uncover the specific impact of

human rights violations on women, men and others and to develop laws and policies to ensure that all individuals equally enjoyed all human rights. All country specific resolutions should include consistent and specific attention to gender issues and women's rights. She encouraged all mandate holders to devote specific attention to the situation of women and to meet with women and lesbian, gay, bisexual and transgender activists. Finally, the Council should encourage the consistent use of gender-sensitive language and refrain from referring to women as a vulnerable group.

Costa Rica, speaking on behalf of the Community of Latin American and Caribbean States, said that it was crucial to integrate a gender perspective in the work of the Council, including in the mandate of the mechanisms created by the Council. It was important that the Council advocated for the inclusion of women in all aspects of social life, and against discrimination, including against women belonging to the lesbian, gay, bisexual, transgender and intersex community. A greater collaboration between country and thematic procedures would also be positive.

ACPD believed that the Council's work should expand and deepen on issues such as safe and legal abortion, contraception, sex workers' rights and gender diversity. It was critical that country-specific procedures and commissions of inquiry utilized an intersectional and feminist lens.

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## ITEM 6: UNIVERSAL PERIODIC REVIEW REPORT ADOPTIONS

*The Council adopted the working group reports from the 18<sup>th</sup> session of the Universal Periodic Review (UPR). The UPR report adoption process affords an opportunity to commend those States that responded favourably to relevant recommendations and to encourage States that have yet to address these issues to do so in the future.*

*The Human Rights Council adopted the UPR reports for 14 countries: Norway, Albania, Democratic Republic of the Congo, Côte d'Ivoire, Portugal, Bhutan, Dominica, Democratic People's Republic of Korea, Brunei Darussalam, Costa Rica, Equatorial Guinea, Ethiopia, Qatar, Nicaragua*

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## RESPONSES TO RECOMMENDATIONS AND STATEMENTS MADE DURING ADOPTION OF REPORTS

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### NORWAY

**Accepted recommendations:** *Continue to take steps to ensure the rights of LGBT persons are protected, including through implementation of the four new anti-discrimination acts; provide, in accordance with its obligations under International Human Rights Law, the widest possible protection and support for the family, as the natural and fundamental unit of society; Continue efforts aimed at countering gender stereotypes and discriminative attitudes, as well as at further promotion of gender equality*

**Partially accepted:** *Take effective actions to curb over-sexualisation of women in media.*

Norway indicated that the Government aims to curb the over-sexualisation of both sexes in the media. We do however believe in freedom of speech, also for the media, and will therefore not prohibit all statements with sexualised content.

ILGA-Europe and LLH regretted that there were no signals from the Government of Norway that it would continue with the National Action Plan on improving the situation of lesbian, gay, bisexual and transgender persons despite challenges they faced in the society.

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## ALBANIA

***Accepted recommendations:*** Study the possibility of strengthening the measures to fight discrimination, in order to eradicate the trend and/or the dissemination of stereotypes that lead to discrimination on the grounds of sexual orientation; Continue to provide, in accordance with its obligations under International Human Rights Law, the widest possible protection and support for the family, as the natural and fundamental unit of society; Intensify efforts in the fight against all forms of discrimination, in particular against LGBTI persons and minorities, by fully implementing the Law on Protection against Discriminations.

Albania stated that there were measures for non-discrimination on grounds of sexual orientation and gender identity for the period 2012-2014.

ILGA-Europe said Albania had improved legislation on gender and sexual identity and lesbian, gay, bisexual and transsexual rights; however, that should only be the beginning of further measures to enhance implementation and the Government should set new measures for full access to employment and housing inter alia.

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## DEMOCRATIC REPUBLIC OF CONGO

***Accepted recommendations:*** Revise the Family Law to ensure gender equality; Adopt provisions prohibiting polygamy, early marriage and female genital mutilation; Withdraw the discriminatory provisions contained in their Family Code and adopt the draft Law on Gender Equality.

ILGA said that the lesbian, gay and bisexual population suffered persecution as a minority and the population in general was not well informed. It was hoped that the implementation of recommendations would help ensure improvement.

ACPD in a joint statement commended the Government's acceptance of recommendations on sexual violence, and hoped that it would allocate the necessary resources to the relevant administrations, and make efforts to address impunity. Criminal laws penalizing abortion had to be eliminated. There was a lack of attention to the situation of lesbian, gays, bisexual and transgender persons during the review.

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## COTE D'IVOIRE

***Rejected recommendations:*** Better protect LGBTI persons and persons with AIDS against any act of discrimination and violence and review its legislation in this context. Take further steps to prevent discrimination on the grounds of gender identity and sexual orientation and to raise awareness on its consequences; Conduct such specific awareness raising campaigns which can help to sensitize the general Ivorian public regarding the rights of LGBTI persons.

Response of the delegation:

“As for recommendation 128.6, Côte d’Ivoire would have preferred it to be split into two, separating LGBTI persons from AIDS patients. In any event, it would point out that AIDS patients enjoy special protection in terms of both social protection and health care.

In fact, Côte d’Ivoire has HIV/AIDS units in its main hospitals. Even more to the point, it subsidizes the antiretroviral therapy so that HIV patients have to spend a mere 1,000 CFA francs per month (less than 2 Euros a day). In July 2014, Parliament passed a bill governing prevention, protection and punishment in the fight against HIV/AIDS, which provides for the rights of persons living with or affected by HIV.

At the same time, without being a homophobic country, Côte d’Ivoire does not accord more rights to LGBTI persons than to other citizens. The Ivoirian Criminal Code does not punish sexual relations between consenting adults.

However, under positive law as it currently stands in Côte d’Ivoire and when it comes to people’s attitudes, this recommendation would fail if it were to be kept as is.”

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## PORTUGAL

**Accepted recommendations:** *Provide, in accordance with its obligations under International Human Rights Law, the widest possible protection and support for the family, as the natural and fundamental unit of society; Take all necessary measures to guarantee the protection of the family, and lay down an efficient system for families in order to guarantee the enhancement of social cohesion and prevent family disintegration and social fracturing; Support and protect the family as a fundamental and natural unit of society.*

**Noted recommendations:** *Foster and safeguard the family, based upon the stable relationship between a man and a woman, as the natural and fundamental unit of society; Take measures in order to allow the co-adoption of children by same-sex couples.*

ILGA Europe and ILGA Portugal recommended that Portugal explicitly include gender identity as a prohibited ground for discrimination in all its anti-discrimination legislation and policies.

ACPD urged Portugal to remove legal and administrative obstacles and eliminate discrimination against lesbian, gay, bisexual and transgender persons in family life and eliminate discrimination against people living with HIV/AIDS.

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## BHUTAN

**Recommendations:** *Decriminalize sexual acts between consenting same-sex adults; Continue to provide, in accordance with its obligations under International Human Rights Law, the widest possible protection and support for the family, as the natural and fundamental unit of society.*

**Response of the government:** Section 213 and 214 of the Penal Code concerning what is termed therein as “unnatural acts” have never been evoked since its enactment for same sex acts between two consenting adults. These provisions can be reviewed when there is a felt need for it by the general population.

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## DOMINICA

**Rejected recommendations:** *Step up the implementation of measures to reduce gender and sexual orientation discrimination, including awareness activities; Decriminalise consensual adult same-sex activity by amending article 14 and repealing article 16 of the Sexual Offences Act;*

*Establish anti-discrimination laws and regulations ensuring that LGBT persons and other vulnerable groups enjoy equal treatment.*

ILGA was disappointed with the response given by Dominica on recommendations made on the issue of gender identity and sexual orientation. Lesbian, gay, bisexual and transgender persons continued to suffer from abuses and the Association encouraged the Government to repeal the necessary laws.

Amnesty International regretted that Dominica was unable to provide a report, but acknowledged the difficulty it faced. It regretted that Dominica rejected all recommendations on discrimination against lesbian, gay, bisexual and transgender persons and criminalization of same-sex relations. Amnesty International called on Dominica to declare a formal moratorium on executions with a view to abolish the death penalty.

ACPD was deeply concerned by the criminalization of same-sex relations in Dominica. Discrimination against lesbian, gay, bisexual and transgender persons was not only a violation of international human rights law, but also undermined all of Dominica's efforts to combat HIV/ AIDS.

Vince Henderson, Permanent Representative of the Commonwealth of Dominica to the United Nations in New York, thanked all Member States for their remarks, in particular those familiar with the situation in Dominica and those who actively supported it. From the 116 recommendations received, 69 of them, accounting for 78 per cent, were accepted, however Dominica and its people could not, at this stage, accept the remaining 37 recommendations. There were unfounded accusations and allegations, not in tune with the situation in Dominica, expressed by some organizations on areas such as same-sex relationships. Dominica was not involved in the prosecution of homosexual persons, contrary to allegations made by some organizations. Dominica was a peaceful State with the right to have its own laws, and demonising that would be ineffective.

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## DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

***Accepted recommendation:*** *Continue building social structure of her country focusing on the promotion and protection of the family as the vital unit of the society.*

There were no SOGI related statements made at DPRK's report adoption.

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## BRUNEI

***Rejected recommendations:*** *Decriminalize sexual activity between consenting adults, and repeal all provisions of the newly enacted Penal Code discriminating against women and sexual minorities and introducing cruel or inhuman forms of punishment; Proceed to the abolition of current legislation criminalizing sexual relations between persons of the same sex.*

***Accepted recommendation:*** *Continue to pursue its social policies upholding the institution of family in line with traditional family values.*

Commonwealth Human Rights Initiative was concerned that the implementation of recommendations would not be possible with a comprehensive review of Brunei Darussalam's legislation. Current legislation on freedom of expression was not in line with international standards, and there were disproportionate restrictions on the activities of journalists and on freedom of association. The situation of sexual minorities was also not compatible with international human rights law.



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## COSTA RICA

**Accepted recommendations:** *Continue the measures to combat discrimination against LGBTI persons; Design awareness raising policies and programs regarding prevention of discrimination of LGBT and to provide equal rights for LGBT.*

**Accepted in part:** *Fight discrimination against LGBT persons both in law and practice, which impacts on the possibilities of education, justice and access to health services, with emphasis on the difficulties faced by trans people.*

**Takes note:** *Continue to uphold the traditional values of family life.*

Costa Rica stated it had abandoned restrictive migration policies and adopted new legislation establishing coordination systems for the protection of migrants, such as improving access to services for migrants and protecting vulnerable migrants, including women, children, migrants from sexual minorities or migrants with a disability, from being trafficked. Costa Rica said it was committed to gender equality and women's rights, particularly access to employment and education for women and girls. Violence against women and girls remained a challenge, and Costa Rica had adopted an Action Plan for 2010 to 2015 to address the issue. Costa Rica was undergoing institutional changes and was deeply committed to ensure the full equality of lesbian, gay, bisexual and transgender persons, in collaboration with civil society representatives, including in areas of social inclusion and access to health.

COC Netherlands urged Costa Rica to implement its anti-discrimination policies on the grounds of sexual orientation and gender identity, which negatively affected the areas of health, education, work and family.

ACPD said Costa Rica had made major progress in recognizing trans-identity, but said the right of trans-identity persons to documentation, employment, health and education needed to be implemented in practice.

In closing remarks, Elayne Whyte Gomez, Permanent Representative of Costa Rica to the United Nations Office at Geneva, noted that policies were in place to guarantee the assets and property of lesbian, gay, bisexual, transgender and trans-identity persons and plans were being made to address the issue of legal abortion.

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## EQUATORIAL GUINEA

**Noted recommendation:** *Initiate an awareness raising campaign on the importance of equal rights for LGBT persons, in order to foster a climate of true social acceptance in the spirit of the Constitution of Equatorial Guinea.*

Equatorial Guinea submitted that it takes note of the recommendation to initiate an awareness-raising campaign of the importance of equal rights for lesbian, gay, bisexual and transgender persons in order to foster a climate of true social acceptance, in the spirit of the Constitution of Equatorial Guinea.

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## ETHIOPIA

**Accepted recommendations:** *Continue strengthening the role and contribution of the family in the society; For the continued development of the country, take into account and support the*

family, based on the stable relationship between a man and a woman, as the natural and fundamental unit of society, both in taxation and general legislation.

**Rejected recommendations:** Amend the Penal Code to decriminalize homosexuality; Extend measures to combat discrimination to the entire vulnerable population, which is victim of stereotypes and discrimination, particularly discrimination based on sexual orientation, and thus amend the criminalization established in the Criminal Code relating to that sector of the population.

There were no SOGI related statements made at Ethiopia's report adoption.

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## QATAR

**Working group references:** There were no recommendations on SOGI issues, however Costa Rica expressed concern that a draft law would prohibit homosexuals and travestis from living or working in Qatar. Qatar stated that with regard to sexual freedoms and same-sex marriage, Shari'a was the main source of Qatari legislation pursuant to article 1 of the Constitution. The corresponding principles were reflected in articles 279 to 289 of the Criminal Code.

There were no SOGI related statements made at Qatar's report adoption.

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## NICARAGUA

**Accepted recommendations:** Continue the increased respect for LGBT rights and assure the approval of an inclusive Family Code respectful of the right to gender identity and sexual orientation; Continue with the measures aimed at combating stereotypes and discrimination suffered by LGBTI persons.

**Response of the government:**

Nicaragua accepted recommendation 116.14 concerning the rights of lesbian, gay, bisexual, transgender and intersex people, since this is recognition of the work being done by the Government of Reconciliation and National Unity.

The delegation stated that recognition of sexual orientation rights began in 2008 with the repeal of article 204 of the Criminal Code, which criminalized homosexuality. The Government subsequently created the Office of the Human Rights Advocate for Sexually Diverse People with a mandate to promote and protect the progressive realization of their rights through awareness campaigns and technical and vocational education scholarship programmes.

Nicaragua also ran training workshops for members of the police academy on sexual rights and sexual diversity with a view to ensuring respect for the rights of sexually diverse people and ethical principles. A total of 2,974 members of the police academy received such training in 2013.

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## GENERAL DEBATE ON THE UPR

ILGA said that intersex people faced violence and discrimination everywhere. Medically unnecessary interventions were being carried out without informed consent to align intersex people's bodies with gender standards. The Special Rapporteur on torture had expressed concerns about this practice. Intersex athletes were also victims of rights violations.

## RESOLUTIONS

*The Council considered 36 texts: 32 resolutions and 4 President's statements. Of these, 28 were adopted by consensus, and 8 by a recorded vote.*

### HUMAN RIGHTS, SEXUAL ORIENTATION AND GENDER IDENTITY (A/HRC/RES/27/32)

The Human Rights Council adopted its second resolution on human rights, sexual orientation and gender identity. Tabled by Chile, Uruguay, Brazil and Colombia, and cosponsored by 46 additional States, the resolution requests the High Commissioner for Human Rights to update the 2012 study on violence and discrimination on the basis of sexual orientation and gender identity (A/HRC/19/41), with a view to sharing good practices and ways to overcome violence and discrimination. It expresses grave concern at acts of violence and discrimination in all regions of the world committed against individuals because of their sexual orientation and gender identity.

The Council voted down 7 hostile amendments to the resolution which sought to strip the title and text of all SOGI references, to be replaced by the general listing of grounds for protection from discrimination in the UDHR, and to introduce a new paragraph in the text invoking cultural relativity and state sovereignty in the protection of human rights. The amendments were tabled by Djibouti, Egypt, Malaysia, Nigeria, South Sudan, Uganda, and the United Arab Emirates.

After the amendments had been rejected, the Council adopted the resolution by a vote of 25 in favour, 14 against, and 7 abstentions, with support from all regions and an increased base of support since the HRC's first resolution on the issues adopted in 2011. This is the first time a SOGI vote at the HRC has been adopted by an absolute majority.

#### **State positions on the resolution**

**Votes in favour:** Argentina, Austria, Brazil, Chile, Costa Rica, Cuba, Czech Republic, Estonia, France, Germany, Ireland, Italy, Japan, Mexico, Montenegro, Peru, Philippines, Republic of Korea, Romania, South Africa, The former Yugoslav Republic of Macedonia, United Kingdom, United States of America, Venezuela, Viet Nam

**Votes against:** Algeria, Botswana, Cote d'Ivoire, Ethiopia, Gabon, Indonesia, Kenya, Kuwait, Maldives, Morocco, Pakistan, Saudi Arabia, United Arab Emirates, Russian Federation

**Abstentions:** Burkina Faso, China, Congo, Kazakhstan, India, Namibia, Sierra Leone

**Absent from the vote:** Benin

**Co-sponsors:** Albania, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Canada, Chile, Colombia, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, New Zealand, Nicaragua, Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom, United States of America, Uruguay.

#### **ACTION ON AMENDMENTS AND ON THE DRAFT RESOLUTION**

### **Introduction of the draft resolution**

Brazil underlined the importance of combating violence and discrimination on the account of persons' sexual orientation. Brazil reminded the Council that the United Nations human rights mechanisms had recorded grave violations against millions of people on the basis of sexual orientation, and emphasized the obligation of States to combat that form of violation of human rights.

Chile said the financial implications were modest, slightly over \$ 58,000. The resolution did not seek to create new human rights, but the human rights of some persons were often violated and needed protection. The lead States had held broad-ranging consultations on the draft.

Columbia emphasized the broad range of consultations held in the drafting of the resolution, adding that sponsoring States had looked at various sensitivities and concerns. To that end sponsoring States had accepted the deletion of a part of the draft, which referred to the biennial periodicity of the reporting mechanism.

Uruguay said that the proposed amendments would entail a total elimination of the purpose of the draft resolution. Voting for those amendments would amount to voting against the struggle against violence on the basis of sexual orientation. The amendments introduced doubtful concepts that distorted the Charter of the United Nations, and Uruguay called on States to reject them.

### **Introduction of the amendments**

Egypt, introducing amendments L.45, L.46, L.47, L.48, L.49, L.50 and L.51, said that they were the last attempt to converge around a consensus on this resolution and remove the threat of ruining the role of the Council as a platform for human rights. The countries supporting those amendments did not condone violence against any person, and the fight against violence should not be motivated by discriminatory purposes. Supporters of the amendments had voiced on a number of previous occasions their opposition to introducing notions and definitions that did not have any basis in international law, especially as they carried with them cultural or social sensitivities. The draft resolution should be aligned with the agreed language of international law. Egypt requested separate consideration of each of the presented amendments.

### **Comments on the amendments**

Brazil rejected the proposed amendments and said that amendments L.45, L.46, L.48 and L.48, which called for the deletion of reference to sexual orientation and gender identity, radically changed the purpose of the resolution. Changing the title of draft resolution L.27/Rev.1 to another more general matter which would continue to be dealt with served only to ignore the situation and eroded the ability of the Council and the Office of the High Commissioner for Human Rights to respond to violence against individuals on the basis of their sexual orientation and gender identity and ignored the progress achieved in this regard so far. Brazil asked for a vote on the proposed amendments.

Chile rejected the amendment L.49 which introduced a new preambular paragraph on the basis that the language contained there introduced dangerous concepts contrary to the United Nations Charter. L.51 totally changed the nature of the operative paragraph it sought to amend. The amendments completely removed sexual orientation and gender identity as a basis for violence and Chile called on the Member States to reject them.

Italy, speaking in a general comment on the behalf of the European Union, reaffirmed their support for the fight against all forms of human rights violations. Draft resolution L.27/rev.1 was important with a simple and transparent outcome. As such, it represented a genuine attempt for an open dialogue on this issue. It did not seek to create any new rights. Victims of such discrimination were reluctant to come forward so it was necessary to bring their voices on board.

Saudi Arabia, speaking in a general comment on behalf of the Gulf Cooperation Council, said that they reaffirmed their commitment to the protection of fundamental human rights without discrimination against identity and gender, as enshrined in Shari'a law. However, it was necessary to respect cultural specificities in certain countries, and the Gulf Cooperation Council countries opposed the effort of certain countries to promote their own model of culture. Countries of the Gulf Cooperation Council supported all the amendments proposed by Egypt (L.45 to L.51), and would vote in favour of those.

Argentina, speaking in a general comment, said that the resolution aimed to protect the universal freedoms of all individuals. The Council needed to take into account the rights of particularly vulnerable groups. Argentina warned that deleting any references to sexual orientation would completely change the purpose of draft resolution L.27.

Algeria, speaking in a general comment, reiterated its commitment to the promotion and protection of all universally recognized human rights and disagreed with efforts of some countries to introduce the concept of sexual orientation in the United Nations General Assembly. Imposing those notions represented interference with the internal affairs of States and any attempt to introduce a new category of persons weakened the protection of recognized categories.

Brazil, speaking in a general comment, said that discrimination and violence based on sexual orientation and gender identity were a challenge faced by all countries and regions in the world. The Council had the responsibility to continue to address this issue and must keep advancing in protecting from violence on the basis of sexual orientation and gender identity. The draft resolution was a result of open and transparent negotiations.

Montenegro, speaking in a general comment, said that the draft resolution upheld the principles contained in the mandate conferred upon the Council by the General Assembly, particularly the principle of combating violence and discrimination. In order for this to happen, the world must first understand who experienced discrimination and violence and why. The draft resolution did not create any new right nor did it require States to take any national action, but it would provide information to enable the Human Rights Council to fight discrimination and violence wherever they were found.

Chile, speaking in a general comment, said the Council should continue to investigate the cases of violence based on sexual orientation in an open atmosphere. All States had an obligation to fight such violence. The removal of the reference to sexual orientation would impede the purpose of draft resolution L.27. Chile repeated that sponsoring States were not introducing any new language on human rights.

#### **Action on Amendment L.45 (to delete SOGI from the title of the resolution)**

Germany, speaking in an explanation of the vote before the vote on amendment L.45, said this amendment would delete the words sexual orientation and gender orientation from the title. This would undermine the whole purpose and focus of the proposed resolution and transform it into something else, not in line with the culture and practices of the Human Rights Council.

There was no good rationale to change the title other than to deny the rights of the class of people it referred to. Germany would vote against this amendment.

*The Council rejected the amendment by a vote of 16 in favour, 21 against, 7 abstentions.*

**Action on Amendment L.46 (to delete reference to HRC resolution 17/19 on SOGI)**

Montenegro, speaking in an explanation of the vote before the vote, said it did not support amendment L.46 as it significantly changed the substance of the proposed text. The language of the tabled draft resolution reflected the exchange of views during the transparent and inclusive consultations held. Montenegro strongly opposed the amendment and would vote no.

Romania, speaking in an explanation of the vote before the vote, said that it opposed the amendment since it aimed to alter the original meaning of the resolution. Yesterday, the Council had adopted a resolution on indigenous people, which was a concept not legally recognized. Romania called upon Member States to vote against the amendment.

*The Council rejected the amendment by a vote of 16 in favour, 21 against, 7 abstentions.*

**Action on Amendment L.47 (to delete the SOGI reference from a preambular paragraph on violence and discrimination)**

Czech Republic, speaking in an explanation of the vote before the vote, said it opposed the amendment because it changed the spirit of the draft resolution. The Human Rights Council had a particular responsibility to address violence and discrimination; not addressing this issue would send a wrong message.

*The Council rejected the amendment by a vote of 17 in favour, 21 against, 6 abstentions.*

**Action on Amendment L.48 (to delete SOGI reference from a preambular paragraph on positive developments)**

France, speaking in an explanation of the vote before the vote, said the amendment changed the original meaning of the resolution which aimed to address violence and discrimination because of sexual orientation and gender identity. It was time for the Human Rights Council to be seized of this issue and France called on all to vote against this amendment and so enable the Council to continue to address violence against lesbian, gay, bisexual and transgender persons on which all agreed.

*The Council rejected the amendment by a vote of 17 in favour, 21 against, 6 abstentions.*

**Action on Amendment L.49 (to insert a new preambular paragraph on State sovereignty and cultural relativity)**

Costa Rica, speaking in an explanation of the vote before the vote on amendment L.49, said it would vote against the proposed amendment, drafted with a view to erode the international human rights framework and more particularly to erode the fundamental principle of the universality of human rights. The amendment imposed a cultural relativity in the application of human rights, which in Costa Rica's view was not permissible. It was totally incompatible with the fundamental principles of the Universal Declaration of Human Rights. All were asked to vote against the proposed amendment.

Ireland, in an explanation of the vote before the vote on amendment L.49, said it did not

support the amendment. Ireland felt the amendment introduced an uncertainty, blurring not just the context, but also the principle that all human rights were universal, interdependent, and inter-related. It was the duty of States to protect and promote all human rights and fundamental freedoms.

*The Council rejected the amendment by a vote of 16 in favour, 21 against, 7 abstentions.*

**Action on Amendment L.50 (to delete reference to OHCHR report A/HRC/19/41 and the HRC panel discussion on human rights and SOGI)**

Estonia, speaking in an explanation of the vote before the vote, said that the draft resolution addressed discrimination and violence against individuals specifically because of their sexual orientation and gender identity. It did not seek to create new rights but to reinforce the existing rights and protect from discrimination and violence. The High Commissioner's report on the sexual orientation and gender identity issues was a significant one and deserved to be mentioned in the resolution, also because the resolution requested an update on this report. Estonia called on all Members of the Council to vote against this amendment.

*The Council rejected the amendment by a vote of 16 in favour, 22 against, 6 abstentions.*

**Action on Amendment L.51 (to change the focus of the High Commissioner's report from SOGI to other forms of discrimination)**

Austria, speaking in an explanation of the vote before the vote, said it would vote against the amendment because it was against the intention of the resolution to call attention to the discrimination and violence against people because of their sexual orientation and gender identity. The amendment also replaced the focus of the High Commissioner's report which would deny the Council the required information.

*The Council rejected the amendment by a vote of 16 in favour, 22 against, 6 abstentions.*

**Action on the draft resolution L.27/Rev.1**

Pakistan, speaking on behalf of the Organization of Islamic Cooperation in an explanation of the vote before the vote, asserted that the Organization of Islamic Cooperation was firmly against all acts of violence or discrimination committed against any individual and was seriously committed to the promotion and protection of human rights. However, it did not recognize and support certain notions promoted through this forum, as they were not universal. When it was said that they should not be discriminating against anyone, then that should cover everyone. The wider connotations of sexual orientation could be detrimental. The OIC stated that Muslims strongly believed that their religious and cultural values should be respected. There was concern at attempts to shift the focus of the Council from glaring instances of human rights violations which merited urgent attention. The draft resolution would further divide the work of the Council, promoting an atmosphere of hostility and confrontation. However, the OIC did appreciate the consultations held by the co-sponsors in an open and transparent manner. The OIC called for a vote on the resolution.

The Philippines, speaking in an explanation of the vote before the vote, said it was bound by its strong commitments to promote and protect all individuals. It stood against discrimination against specific individuals and sectors, including discrimination and violence against individuals based on their sexual orientation and gender identity. The Philippines understood that the proposed resolution aimed only to discuss the discrimination and violence against these individuals and that it would not create new rights for specific individuals with specific sexual or gender orientation. The Philippines would support the resolution.

Indonesia, speaking in an explanation of the vote before the vote, believed that the Council should take a productive approach to the consideration of issues, and should respect and be sensitive to different traditions and beliefs. Indonesia was concerned that the draft resolution and the discussion were on concepts that were unclear and divisive and that was why Indonesia would vote against the draft resolution.

***The resolution was then adopted by a vote of 25 in favour, 14 against, and 7 abstentions!***

### **Explanations of votes after the vote and general comments**

Botswana, speaking in an explanation of the vote after the vote on the text, said that the constitution guaranteed full protection of human rights and fundamental freedoms and ensured that they were fully realized in practice. Some challenges remained, such as sexual orientation and gender identity, which were not recognized as rights nationally. However, Botswana was experiencing social change and it was a public policy and law that violence against any person on any ground including sexual orientation and gender identity was not allowed.

The United States, speaking in an explanation of the vote after the vote, said that as a strong promoter of the rights of all persons, it was a strong supporter of the resolution on lesbian, gay, bisexual and transgender persons. The Council's decision today was a historic step in protecting rights for all. Cultural or regional differences simply could not justify discrimination or violence anywhere, in any way, against anyone.

South Africa, speaking in an explanation of the vote after the vote, said it believed that no person should fear for their safety or be deprived of their dignity because of their sexual orientation or gender identity. South Africa had lent its support for similar resolutions in other multilateral fora. Guided by the principle of supremacy of its Constitution and the rule of law, the Government was enjoined to promote and respect the rights of all persons without discrimination of all kinds. It would benefit from a best practice report, as called for in the resolution.

Montenegro, speaking in an explanation of the vote after the vote, said it was pleased and proud that the resolution on sexual orientation and gender identity had been adopted. The Council had demonstrated its commitment to combat racism and discrimination of all kinds.

China, speaking in an explanation of the vote after the vote on the resolution, said China opposed discrimination and violence on all grounds and supported the Council's efforts in promoting constructive dialogue and cooperation. In the promotion and protection of human rights, it was necessary to respect religion, history, culture and background of each State and the Council should try to avoid serious division among its members. That was why China had abstained from the vote on this resolution.

The former Yugoslav Republic of Macedonia, speaking in an explanation of the vote after the vote, said that it was its national policy to combat discrimination and violence against any person and that was why it had voted in favour of the resolution.

Chile, speaking in an explanation of the vote after the vote, also on behalf of Colombia, invited Member States to deeply reflect on what had happened in this Council today and said that the Council should be congratulated for deciding to address discrimination and violence regardless of diverging positions of its members. The initiative was necessary and timely; today the Council took a small but significant step towards a more inclusive society and created a bridge towards a more equal society.



France, speaking in an explanation of the vote after the vote, said that it welcomed the adoption of the resolution on human rights, sexual orientation and gender identity. Through the adoption of this resolution, the Council had demonstrated its ability to overcome differences and confirmed its commitment to combating all forms of violence and discrimination by lesbian, gay, bisexual and transgender persons, which would be of great hope to these persons.

## **SOGI RESOLUTION AS ADOPTED**

### **27/32 Human rights, sexual orientation and gender identity**

*The Human Rights Council,*

*Recalling* the universality, interdependence, indivisibility and interrelatedness of human rights as enshrined in the Universal Declaration of Human Rights and consequently elaborated in other human rights instruments, such as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and other relevant core human rights instruments,

*Recalling also* that the Universal Declaration of Human Rights affirms that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

*Recalling further* that the Vienna Declaration and Program of Action affirms that all human rights are universal, indivisible and interdependent and interrelated, that the international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis, and that while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms,

*Recalling* General Assembly resolution 60/251 of 15 March 2006, in which the Assembly stated that the Human Rights Council should 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,

*Recalling also* all relevant Human Rights Council and General Assembly resolutions on combating all forms of discrimination and violence exercised due to discrimination of any kind, particularly Council resolution 17/19 of 17 June 2011,

*Expressing grave concern* at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity,

*Welcoming* positive developments at the international, regional and national levels in the fight against violence and discrimination based on sexual orientation and gender identity,

*Welcoming also* the efforts of the Office of the United Nations High Commissioner for Human Rights in the fight against violence and discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

1. *Takes note with appreciation* of the report of the United Nations High Commissioner for Human Rights entitled “Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity” (A/HRC/19/41) and of the panel discussion held at the nineteenth session of the Human Rights Council;

2. *Requests* the High Commissioner to update the report (A/HRC/19/41) with a view to sharing good practices and ways to overcome violence and discrimination, in application of existing international human rights law and standards, and to present it to the Human Rights Council at its twenty-ninth session;

3. *Decides* to remain seized of this issue.

**LIST OF ALL RESOLUTIONS ADOPTED AT HRC27**

<b>Final document number</b>	<b>Agenda Item</b>	<b>Resolution title</b>	<b>Lead States</b>	<b>Vote (yes-no-abstention)</b>
27/1	3	Enforced or involuntary disappearances	France, Morocco, Argentina, Japan	Consensus
27/2	3	The right to development	Iran (NAM)	Vote (42-1-4)
27/3	3	Special Rapporteur on truth, justice, reparations and guarantees of non-recurrence	Argentina, Morocco, Switzerland, Austria, Côte D'Ivoire, France, Peru, Maldives, Uruguay, Colombia	Consensus
27/4	3	Local government and human rights	Chile, Egypt, Romania, Republic of Korea	Consensus
27/5	3	The safety of journalists	Austria, Qatar, Tunisia, Morocco, Greece, Brazil, France	Consensus
27/6	3	Panel discussion on realising the equal enjoyment of the right to education by every girl	UAE	Consensus
27/7	3	The human right to safe drinking water and sanitation	Germany, Spain	Consensus
27/8	3	Promoting human rights through sport and the Olympic ideal	Russia, Greece, Brazil, Morocco, Cyprus, Republic of Korea, Lebanon, Congo, Japan	Consensus
27/9	3	Mandate of the Independent Expert on the promotion of a democratic and equitable international order	Cuba	Vote (29-14-4)
27/10	3	The use of mercenaries as a means of violating human rights and impeding the exercise of the right to self-determination	Cuba	Vote (32-14-1)
27/11	3	Preventable maternal mortality and morbidity and human rights	New Zealand, Colombia, Burkina Faso	Consensus
27/12	3	World Programme for Human Rights Education: adoption of the plan of action for the third phase	Costa Rica, Morocco, Slovenia, Philippines, Switzerland, Italy, Senegal	Consensus
27/13	3	Human rights and indigenous peoples	Guatemala, Mexico	Consensus
27/14	3	Preventable mortality and morbidity of children under five years of age as a human rights concern	Ireland, Austria, Botswana, Uruguay, Mongolia	Consensus
27/15	3	The right of the child to engage in play and recreational activities	Romania, Brazil, Norway	Consensus
27/16	4	The continuing grave deterioration in the human rights and humanitarian situation in the Syrian Arab Republic	UK, France, Italy, USA, Jordan, Turkey, Saudi Arabia, Kuwait, Germany, Qatar, Morocco	Vote (32-5-10)
27/17	5	Promotion of the right to peace	Cuba (CELAC)	Vote (33-9-5)

27/18	8	National institutions for the promotion and protection of human rights	Australia	Consensus
27/19	10	Technical assistance and capacity-building for Yemen in the field of human rights	Netherlands, Yemen	Consensus
27/20	10	Enhancement of technical cooperation and capacity-building in the field of human rights	Thailand, Turkey, Norway, Singapore, Indonesia, Honduras, Brazil, Morocco, Mauritius, Qatar	Consensus
27/21	3	Human rights and unilateral coercive measures	Iran (NAM)	Vote (31-14-2)
27/22	3	Intensifying efforts and sharing good practices to effectively eliminate female genital mutilations	Ethiopia (African Group)	Consensus
27/23	3	Mandate of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes	Ethiopia (African Group)	Consensus
27/24	3	Equal participation in political and public affairs	Czech Republic, Botswana, Indonesia, Netherlands, Peru	Consensus
27/25	9	Mandate of the Working Group of Experts on People of African Descent	Ethiopia (African Group)	Consensus
27/26	10	National policies and human rights	Romania, Italy, Algeria, Ecuador, Peru, Thailand	Consensus
27/27	10	Technical assistance and capacity-building in the field of human rights in the Democratic Republic of the Congo	Ethiopia (Africa Group)	Consensus
27/28	10	Technical assistance and capacity-building to the Central African Republic in the field of human rights	Ethiopia (African Group)	Consensus
27/29	10	Technical assistance and capacity-building to further improve human rights in the Sudan	Ethiopia (African Group)	Consensus
27/30	3	Effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights: the activities of vulture funds	Argentina, Algeria, Bolivia, Brazil, Cuba, Pakistan, Russia, Uruguay, Venezuela	Vote (33-5-9)
27/31	3	Civil society space	Ireland, Tunisia, Japan, Chile, Sierra Leone	Consensus
27/32	8	Human rights, sexual orientation and gender identity	Brazil, Colombia, Chile, Uruguay	Vote (25-14-7)

**For further information on HRC27:**

**John Fisher** | Co-Director | +41-79-508-3968 | john@arc-international.net  
**Sheherezade Kara** | Advocacy manager | +41-78-834-9916 | sheherezade@arc-international.net

<http://arc-international.net/global-advocacy/human-rights-council/hrc27>

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