



**Sexual orientation, gender identity  
and expression and intersex related  
developments at the 28th session of the  
UN Human Rights Council**

March 2 - 27, 2015

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## OVERVIEW OF THE SESSION

The 28th session of the Human Rights Council followed the historic 27th session in which a resolution on sexual orientation and gender identity was passed for only the second time in its history. The 28<sup>th</sup> session built upon the achievements of the previous session by both states and NGOs referencing the historic resolution. (A/HRC/27/32)

The 28th session was marked by supportive state interventions on LGBTI issues wherein the opportunities provided by the various sessions of the Human Rights Council were used to reiterate and reinforce their commitment. The states which were non supportive, marked their position either by denying that LGBTI people came within the framework of protection offered by international human rights law or by being generally silent with respect to the rights of LGBTI persons.

These varied state positions were seen across the range of activity at the Human Rights Council including in the response to the High Commissioners Report, state responses in the High Level segment, responses to the reports of the Special Rapporteurs, during the Universal Periodic Review, as well as in the Side Events Section.

## HIGH LEVEL SEGMENT

The High Level Segment is a space for very senior representatives of states to make statements concerning human rights issues. Statements both end up highlighting domestic achievements as well as international human rights priorities of the state concerned. Since the representatives are very senior state officials, this segment does provide a barometer of state responsiveness to LGBTI concerns

## HIGH COMMISSIONER ZEID RA'AD AL HUSSEIN OPENING STATEMENTS

The High Commissioner in his address to the High Level Segment outlined the position of LGBTI people within the framework of the UN by observing that,

*All, (states) by ratifying the UN Charter, have made a clear commitment to, I quote, “reaffirm faith in fundamental human rights; in the dignity and worth of the human person; in the equal rights of men and women, and of nations large and small; and to establish conditions under which justice and respect for the obligations arising from treaties, and other sources of international law, can be maintained; and to promote social progress, and better standards of life in larger freedom”*

He then went on to note that,

*And yet, with alarming regularity, human rights are disregarded, and violated, sometimes to a shocking degree. States claim exceptional circumstances. They pick and choose between rights. One Government will thoroughly support women’s human rights and those of the LGBT communities, but will balk at any suggestion that those rights be extended to migrants of irregular status. Another State may observe scrupulously the right to education, but will brutally stamp out opposing political views. A third State comprehensively violates the political, civil, economic, social and cultural rights of its people, while vigorously defending the ideals of human rights before its peers.*

Based upon this observation on how selective the protection of human rights by states in actuality is, the High Commissioner went on to conclude that,

*The overwhelming majority of victims of human rights abuses around the world share two characteristics: Deprivation, and discrimination – whether it is based on race or ethnicity, gender, beliefs, sexual orientation, caste or class. From hunger to massacres, sexual violence and slavery, human rights violations are rooted in these hidden, and sometimes not so hidden, factors.*

*They are not spontaneously generated. Most violations of human rights result from policy choices, which limit freedom and participation, and create obstacles to the fair sharing of resources and opportunities.*

The High Commissioner's statement, coming as it did in the High Level Segment ensured that LGBTI issues remained in serious focus. The High Commissioner in the course of his address sketched out the key challenge in the very articulation of LGBTI rights, which is a denial of the principle of universality by a range of states with some states for example supporting "LGBT rights" but "balking at any suggestion that those rights be extended to migrants of irregular status." The key question raised by the High Commissioner was how does one establish the norm that by asserting LGBTI rights one is doing nothing more than asserting the bedrock principle of human rights i.e. the principle of universality? The High Commissioner also points to the solution which is a recognition that victims of human rights abuse "share two characteristics: Deprivation, and discrimination – whether it is based on race or ethnicity, gender, beliefs, sexual orientation, caste or class."

The response to the statement of the High Commissioner both by states in the High Level segment as well as the numerous other interactions in the 28<sup>th</sup> Session of the Human Rights Council are an illustration of at least four ways in which states look at the rights of LGBTI persons.

- 1) Some states integrate (to a greater or lesser degree) violations against LGBTI persons within a wider understanding of human rights
- 2) Some states even while they champion LGBTI rights, fail to see the connections to other human rights violations
- 3) Some states continue to be silent about the very status of LGBTI people as human beings and through their silence deny the very basis of human rights, which is its universal application.
- 4) Some states assert that LGBTI persons do not come within the framework of established human rights law and hence are not entitled to rights under international law.

## STATEMENTS BY STATES IN THE HIGH LEVEL SEGMENT

The High Level segment was an opportunity for states to highlight their specific concerns with respect to forms of human rights violations. As such, it provided a chance for states to expand upon their concern for the rights of LGBTI persons.

The supportive statements by states can possibly be divided into two categories. Firstly, are the statements that articulate a connection between LGBTI rights and the framework of civil and political rights. Secondly, are those statements that articulate the connection between LGBTI rights and the framework of civil and political rights as well as socio-economic rights.

### *LGBT rights and connection to civil and political rights framework*

Martin Lidegaard, Minister for Foreign Affairs, Denmark responded to the concerns raised by the High Commissioner stating:

*I am not only Charlie. I am every individual being denied his or her human rights. I am the torture victim in a Syrian detention. I am the girl abducted and abused by Boko Haram. I am the Christian woman who has lost her family to the killing frenzy of Daesh in Iraq. I am the child in Gaza internally displaced by conflict. I am the Crimean Tatar persecuted by Russian authorities. I am the civilian taking shelter from incoming artillery in Debaltseve in Ukraine. I am the arbitrarily detained political activist in a Bahraini prison. I am the migrant worker in Qatar risking my life in hazardous working conditions. I am the LGBTI person waiting to be hung to death in Iran. I am the South Sudanese boy, abducted and forced to fight in a very brutal civil war. I am the Somali girl, who has fled my home in search for peace only to be abused by men of war. I am the stateless Rohingya being persecuted in Myanmar. I am the slave in the hellish political prison camps in North Korea. I am the civil war victim seeking truth and justice in Sri Lanka. I am the man on the death row in Belarus. I am the Jewish victim of extremist actions. I am the human rights activist who is beaten up for criticising my government. I am the young girl being denied the right to decide over my own body. I am the child who has no access to education. I am the immigrant who is not treated with human dignity. And I look to the Human Rights Council to raise awareness of my case and request that my perpetrators are held accountable.*

Aleksandr Andrija Pejovic, State Secretary for European Integration of Montenegro, said that Montenegro continued to call for the abolition of the death penalty and would continue to address all forms of discrimination, and call for the improvement of the situation of lesbian, gay, bisexual, transgender and intersex persons.

Edgardo Riveros Marin, Vice Minister for Foreign Affairs, Chile noted that Chile would continue to work towards agreement in the international community to promote respect for all human beings without distinction as to sex, gender identity and expression, sexual orientation, ethnic origin, culture or religion.

Martin Eyjolfsson, Ambassador of Iceland observed that, Iceland will continue to speak against violation of human rights wherever they occur. We will continue to speak for women, children and vulnerable groups who suffer disproportionately during conflicts. We will continue to condemn state policies of discrimination and violence against individuals based on their sexual orientation and gender identity.

Bard Glad Pedersen, State Secretary, Norway observed that, while great progress has been made since the UN was founded seventy years ago, we are deeply concerned that in many parts of the world human rights are coming under increasing pressure. Faced with violence and extremism, we must stand for the values that extremists are seeking to destroy diversity, openness and participation. We must uphold the Fundamental Right to freedom of expression and freedom of religion. We must protect minorities and fight against all discrimination whether it is based on gender, race, religion, sexual orientation or any other ground.

Manuel Gonzales Sanz, Minister for Foreign Affairs of Costa Rica, said that, Human rights were universal and belonged to all. Many violations remained unpunished, and the Council had to avoid dispersion of its efforts and act according to its mandate in response to issues of concern. Costa Rica was concerned about violence and discrimination against women, and about terrorism, arbitrary detentions and the failure to respect due process. There were divergences, but different opinions should not prevent action from the international community nor should it deny the universality of human rights. Women, girls, persons with disabilities, and persons belonging to sexual minorities all needed protection. Effective mechanisms had to be implemented to prevent violations, rather than just react after they occurred.

Charles Flanagan, Minister for Foreign Affairs and Trade of Ireland, said that the international community needed to address the current global threats to human rights through a shared commitment, firmly grounded in pluralism, tolerance, equality, justice and, above all, recognition of the universality of human rights. Ireland's own history demonstrated that positive change in the promotion and protection of human rights was possible when there was political will. In 1993 homosexuality was decriminalized in Ireland, whereas in May 2015 a referendum would be held to allow people the choice of amending the Constitution to provide for the availability of same sex marriages.

Roksana Nincic, State Secretary, Minister of Foreign Affairs, Serbia observed that, the protection of minority rights remains at the top of the Government priorities. Serbia also drew attention to the "Pride Parade" which was held in Belgrade. It was merely one of the events conducted in the

scope of the “Pride Week” with a number of cultural events and round tables aimed at raising awareness of rights of LGBT population.

Kamlesh Sharma, Commonwealth Secretary-General said that, a 2011 report, requested by the Council and prepared by the Office of the High Commissioner, documented discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, and how international human rights law can be used to end violence and related human rights violations in this area. In September last year, this Council adopted a new resolution on the subject, once again expressing grave concern and requesting the High Commissioner to produce an update of the report with a view to sharing good practices and ways to overcome violence and discrimination. We look forward to the publication of the report. We will be encouraging Commonwealth member states to reflect and act on its actionable recommendations in order to give effect to our shared commitment to dignity, equality and non-discrimination.

John Kerry, Secretary of State, United States of America observed that, he was proud to say that since 2009, the United States has worked hard with you to achieve those gains. He asked the Council to consider the unprecedented resolutions this Council has passed to respond to threats facing civil society, to better protect the human rights of LGBT persons, and to promote freedom of religion and freedom of expression, including through resolution 16/18. He said that his government believes that together, we can continue to make progress and help this body fulfill its mandate to make the world a better, safer place. But for that to happen, we have to get serious about addressing our roadblocks to progress. And the most obvious roadblock is self-imposed. He said that he was talking, of course, about the HRC’s deeply concerning record on Israel. It must be said that the HRC’s obsession with Israel actually risks undermining the credibility of the entire organization. He said that it had the potential to limit the good we can accomplish.

*LGBTI Rights and its connection to civil and political as well as socio-economic rights*

Maite Nkoana-Mashabane, Minister for International Relations and Cooperation of South Africa, said that in light of the defining process of the post-2015 development agenda, the international community should be mindful of the unfinished work of the Millennium Development Goals, such as the eradication of poverty, the creation of decent jobs, and addressing income inequalities. It was therefore imperative for the Human Rights Council to give priority to all human rights, ensuring a balance between civil and political, and economic, social and cultural rights, including the right to development. .... South Africa was committed to building a diverse society and it condemned discrimination on the basis of race, gender, religion, culture and sexual orientation. South Africa reaffirmed its solidarity with the Palestinian people and its support for their right to self-determination.

Ignacio Ybanez, Secretary of State for Foreign Affairs, Spain, observed that as signaled in the Universal Periodic Review of Spain, Spain had seven areas of priority which were the struggle against the death penalty, discrimination based on sexual orientation and gender identity, human right to drinking water and sanitation, rights of human rights defenders, rights of persons with disability and human rights and business.

Eduardo A Zuain, Deputy Foreign Minister, Argentina said that Argentina suffered for years under the consequences of the application of neoliberal policies, with very negative results for the protection of human rights, especially economic, social and cultural rights. Since 2003 Argentina has been working on a strategy to successfully reverse this situation. In this way, the state recovered its essential role, and public policies became key tools that would help Argentina to guarantee the protection of human rights for the entire population. Some of the significant laws in Argentina which established new rights including the law of marriage among persons of the same sex (law 26.618), law of migration (law 25.871), law for protection of mental health (law 26.657), law of gender identity (26.747) and the law for the creation of a national program on comprehensive sex education (law no 26.150)

It should be noted that even while the above states asserted the principle of LGBTI rights in conjunction with rights of other marginalized groupings (to a greater or lesser degree), the concerns expressed by the High Commissioner remain valid. The connection between LGBTI rights and other rights such as socio-economic rights, refugee rights, collective rights of the Palestinian people to self determination and discrimination based on poverty remain a challenging one to make.

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

### **INTERACTIVE DIALOGUE WITH HIGH COMMISSIONER FOR HUMAN RIGHTS ON HIS ANNUAL REPORT**

Brazil, speaking on behalf of Brazil, Chile, Columbia and Uruguay, recalled that the Human Rights Council had adopted Resolution 27/32 on human rights sexual orientation and gender identity, which together with Resolution 17/19 constituted a milestone in combatting violence and discrimination against lesbian, gay, bisexual, transgender and intersex people and protecting their human rights. The text reaffirmed the principle consecrated in the Universal Declaration of Human Rights that all human beings are born free and equal in dignity and human rights. All

persons have the same right, inherent in the human person by virtue of a common humanity without distinction. This same resolution also acknowledged that significant challenges remained and expressed concerns about acts of violence and discrimination in all regions of the world committed against persons on account of their sexual orientation and gender identity.

Ecuador, speaking on behalf of the Community of Latin American and Caribbean States, highlighted the commitment of the Member States of the Community to eradicate poverty and hunger in the region. Poverty could not be eradicated and development could not be sustainable if there was no focus on the rights of vulnerable groups, including indigenous peoples, women, the elderly, migrants, children, and lesbian, gay, bisexual, transgender and intersex persons.

Chile welcomed that the Office of the High Commissioner attached importance to the issue of violence and discrimination against lesbian, gay, bisexual and transgender persons

Argentina believed that the situation of persons who were historically excluded and of those suffering various forms of discrimination must be improved. In particular, violence on the ground of sexual orientation must be addressed. Argentina commended the OHCHR's groundbreaking work regarding violence and discrimination based on sexual orientation and gender identity. Argentina stated that it looked forward to the upcoming report of the OHCHR and would continue to support its work including its Free and Equal Campaign.

Slovenia expressed concern over shameful acts of violence committed on a daily basis. Slovenia recently granted equal legal rights to same sex couples, and welcomed the early warning on human rights violations. It expressed hope that human rights would get more attention in the peace and security pillar, and advocated for a human rights approach in the post-2015 development agenda. It also noted that the Office of the High Commissioner for Human Rights needed an appropriate budget.

Albania shared concern about extensive discrimination based on sexual orientation and gender identity and was deeply concerned by the number of acts of intolerance, violence and hatred perpetrated in the name of religious belief.

European Union, praised the strength shown by the office of the High Commissioner in advocating for efforts aiming at the abolition of death penalty. The EU also welcome the work of the office of the OHCHR in continuing to combat discrimination including on the basis of disability and sexual orientation and gender identity. The EU highlighted the success of the Free and Equal Campaign.

## INTERACTIVE DIALOGUES WITH SPECIAL PROCEDURES

*Interactive dialogues (IDs) give States the opportunity to interact with and respond to Special Rapporteurs (SR) on their reports. They also provide the opportunity for NGOs to comment on the relevant topics. Of the Special Rapporteurs who presented their reports at the 28th session of the HRC, there were two IDs in which SOGII-related issues were mentioned. These are listed below. The IDs that did not contain references to SOGII-related issues include: the ID on minority issues and the clustered ID on right to food and adequate housing.*

## OPENING REMARKS BY THE SPECIAL RAPPORTEURS

There was no mention of sexual orientation or gender identity issues in the opening remarks by Juan Méndez, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

Michel Forst, Special Rapporteur on the situation of human rights defenders said that he had decided to dedicate an important part of his time and efforts to the analysis of tendencies and issues that could help him develop new methods to reinforce protection mechanisms for human rights defenders. He further stated the need for his mandate to remain focused on the protection of human rights defenders who are most vulnerable or at risk, including those working to promote LGBTI rights.

## STATE RESPONSES

Brazil welcomed the Special Rapporteur's initiative for the identification of threats faced by human rights defenders. Brazil requested the Special Rapporteur to elaborate on positive steps that States had to take to ensure that human rights defenders did not face threats or other violations of their rights. Brazil underlined also the specific vulnerability of defenders working on economic, social and cultural rights and on the rights of lesbian, gay, bisexual and transgender persons.

## NGO COMMENTS

Action Canada for Population and Development, in a statement in collaboration with the Sexual Rights Initiative, welcomed the report of the SR on the situation of Human Rights Defenders. They noted how the report highlighted the particular risks faced by Human Rights Defenders,

including defenders of LGBTI rights. They urged the SR to pay special attention to the deteriorating global situation of women's rights defenders who are attacked and persecuted as, amongst other things, people working on sexuality and gender.

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## FREEDOM OF RELIGION OR BELIEF

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### OPENING REMARKS BY THE SPECIAL RAPPORTEUR

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Heiner Bielefeldt, the Special Rapporteur on freedom of religion or belief said he had focused on the issue of violence committed in the name of religion, which could take different shapes. He noted how some religious leaders had contributed to creating a homophobic climate in which lesbian, gay, bisexual, transgender and intersex persons bore an increased risk of being physically attacked.

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### STATE RESPONSES

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Saudi Arabia said it supported the Special Rapporteur's observation that violence could not be attributed to any particular religion. As for the urgent condemnation of the violence committed in the name of Islam, the King of Saudi Arabia had earlier done so, and the Special Rapporteur should be guided by the King's speech. Saudi Arabia refused his mention of securing the rights of the lesbian, gay, bisexual and transgender community because that issue had nothing to do with the freedom of religion.

Germany said that vulnerable groups were disproportionately affected by violence in the name of religion: persons holding dissident views within their own religious communities, converts, or members of minority communities. Other factors rendered persons susceptible to such attacks, such as gender or sexual orientation.

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### NGO COMMENTS

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International Lesbian and Gay Association said that violence carried out in the name of religion against lesbian, gay, bisexual, transgender and intersex persons took place in all regions. States had a responsibility to take action to prevent this from occurring, while religious and education curricula should be disseminated which would counter extremist narratives that incited violence in the name of religion.

## GENERAL DEBATES - ITEMS 2 & 3, 4, 8, 9

*General debates provide opportunities for all States and stakeholders to make statements on SOGI-related issues. This section covers debates under item 3 (thematic reports of the High Commissioner and Secretary General and 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, item 8 (follow-up to and implementation of the VDPA), and item 9 (racism, racial discrimination, xenophobia and related forms of intolerance).*

### ITEM 3: THEMATIC REPORTS OF THE HIGH COMMISSIONER AND SECRETARY GENERAL AND PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS

Netherlands called on Governments to condemn acts of violence against lesbian, gay, bisexual and transgender persons, against human rights defenders, and against religious minorities.

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

*Item 4 of the HRC agenda typically focuses attention on the country situations of concern. This session saw many interactive dialogues on human rights situations in Iran, Myanmar, Syria, Korea and Eritrea.*

### INTERACTIVE DIALOGUE WITH THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN THE ISLAMIC REPUBLIC OF IRAN

International Gay and Lesbian Human Rights Commission said Iran remained one of the few countries on earth where consensual same-sex relations between two men were punishable by death. Iran's new criminal code not only penalized sex between two men or two women but made it illegal for individuals to be "homosexual". The Commission asked the Council to renew the Special Rapporteur's mandate.

#### INTERACTIVE DIALOGUE WITH THE COMMISSION OF INQUIRY ON SYRIA

Paulo Sergio Pinheiro, Chair of the International Commission of Inquiry on Syria noted the alarming number of cases of sexual violence being committed inside Syria. He noted that men, boys, women and girls were subjected to rape and sexual assault in Government detention facilities.

#### 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

Netherlands said that when it came to assessing the scope of anti-discrimination provisions, it would be pertinent to look into history. The drafting history of the Universal Declaration is permeated with the idea to prevent a recurrence of the atrocities of the Second World War. The VDPA builds on this spirit and reaffirms: "Human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of Government". This meant that Governments had to prevent violence and discrimination against all people, no matter their sexual orientation or gender identity. The VDPA firmly entrenched the principle of universality, which Netherlands would do its part to uphold.

#### NGO COMMENTS

Action Canada for Population and Development, in a statement in collaboration with the Sexual Rights Initiative, said that the Vienna Declaration and Programme of Action was critical for the advancement of women's human rights. Still, States and non-State actors continued to deploy various means to attack women human rights defenders and women's organizations, including those working on the rights of lesbian, gay, bisexual, transgender and intersex persons, sexual and reproductive health and against sexual harassment. They noted, for instance, how an Ecuadorian LGBTI rights activist and first transwoman to stand for public office in the country was currently living in a safe-house following death threats because of her work promoting the rights of the transgender community. They further highlighted the case of a journalist verbally attacking a human rights defender during a radio broadcast in Cameroon, calling on the public to mobilize against her and her organization for supporting equal rights for homosexuals and accusing them of being agents of foreign states.

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ITEM 9: RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED FORMS OF INTOLERANCE, FOLLOW-UP AND IMPLEMENTATION OF THE DURBAN DECLARATION AND PROGRAMME OF ACTION

Poland discussed its continuous support for addressing incitement to hatred and discrimination on the Internet and social media networks, on the grounds of racial or ethnic origin, religion or belief, age, gender, disability, sexual orientation or gender identity. It encouraged all States to enact far-reaching policies and legislative instruments to eliminate racism and related intolerance forms, including hate speech in the media and on the Internet

Council of Europe, noted how a campaign had been launched against hate speech on the Internet towards vulnerable minority groups, such as Roma, Muslims, Jews and lesbian, gay, bisexual, transgender and intersex people.

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HIGH LEVEL PANEL ON ENHANCEMENT OF INTERNATIONAL COOPERATION IN THE FIELD OF HUMAN RIGHTS

Juan Carlos Monedero Fernández-Gala, Professor of political science at the Universidad Complutense de Madrid, spoke about selectivity in the application of human rights, which was often observed only if they fit with the logic of power. Human rights could not be a monologue,

a monologue of the powerful over the weak, men over women, heterosexual over homosexual, majority over minority; human rights must become a dialogue.

## HIGH LEVEL PANEL ON HUMAN RIGHTS MAINSTREAMING

Action Canada for Population and Development in collaboration with Sexual Rights Initiative spoke about how policy making and implementation of international cooperation must adopt an intersectional approach. It must seek to address multiple and intersecting forms of injustice and inequality including related to sex, gender, age, race, ethnicity, sexuality, religion and disability.. this includes making a concerted effort to ensure the participation of women, trans\*persons of all ages, ability, ethnicity, economic status etc in policy making and evaluation.

## ITEM 6: UNIVERSAL PERIODIC REVIEW REPORT ADOPTIONS

*The Council adopted the working group reports from the twentieth 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.*

## ITALY

***Accepted Recommendations:*** *Allocate the necessary resources to the fight against discrimination on the basis of gender and sexual orientation, so as to accelerate progress on this matter; Accelerate and strengthen legislative and educational actions to combat discrimination in all its forms, particularly discrimination on the basis of sex and sexual orientation; Include sexual orientation as grounds for protection against hate speech; Take concrete steps to adopt the legislation necessary to follow up to Prime Minister Renzi's announcement to work on the recognition of same-sex relationships in Italy, as part of Italy's efforts to further strengthen measures to combat discrimination and violence based on sexual orientation and gender identity; Ensure the equal rights of lesbian, gay, bisexual and transgender (LGBT) people by legally recognizing same-sex marriage and civil partnerships.*

Maurizio Enrico Serra, Permanent Representative of Italy to the United Nations Office at Geneva, said the Universal Periodic Review had contributed to the implementation and protection of human rights on the ground in Italy. He noted how Italy's national report for the UPR Session of last October had focused on several priority issues including supporting the enjoyment of LGBT rights. He went on to detail steps that Italy would take following the current UPR Cycle, recalling some relevant thematic issues.

He recalled the great importance attached to the implementation of the principle of non-discrimination, giving special attention to the need to strengthen non-discrimination, thoroughly implementing the principle of equal treatment between persons, irrespective of religion or belief, disability, age or sexual orientation.

He further noted how, to give practical relevance to the LGBT National Strategy adopted in 2013, a conference was held at the Ministry of Foreign Affairs on the occasion of the International Day Against Homophobia on “LGBTI persons in contemporary reality”, to take stock of the rights of LGBTI persons in the international framework and of their legal protection, followed by the high level conference “Tackling sexual orientation and gender identity discrimination: next steps in European Union and Member States policy making” jointly organized by the Italian Presidency, the Fundamental Rights Agency and the EU Council in Brussels.

COC Nederland said it opposed Italy’s view that the recommendations on the rights of lesbian, gay, bisexual and transgender persons were already being implemented, as it believed much remained to be done in that area. In particular Italy should ensure marriage equality and provide more resources to combat discrimination.

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## EL SALVADOR

***Accepted Recommendations:*** *Adopt measures guaranteeing the protection of women, who are victims of discrimination and violence on the grounds of their sexual orientation or gender condition; Take all necessary steps to ensure the effective implementation of legislation seeking to combat violence against women and girls, and take specific measures to protect those who are victims of violence based on their sexual orientation and gender identity; Draft, in consultation with civil society, and adopt a law on gender identity for transgender persons in which their right to identity is recognized among other civil and political rights; Bring its legislation into conformity with its commitment to equality and non-discrimination, by prohibiting discrimination based on sexual orientation; Take concrete measures to strengthen its policies of promotion and protection of LGBT people, through public policies which combat hate crimes against those individuals; Continue the effective implementation of preventive programmes to*

*guarantee the full enjoyment of rights and the protection of LGBTI people against acts of violence and discrimination affecting them; Guarantee the right of all people to live and develop in accordance with their self-perceived gender identity.*

International Lesbian and Gay Association noted the declaration of good intent by the Government to eradicate discrimination and violence based on sexual orientation and gender identity. Violence against lesbian, gay, bisexual and transgender persons was on the rise, and investigation and prosecution of acts of violence must be ensured.

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## BOLIVIA

***Accepted Recommendations:*** *Introduce gender equality issues, as well as non-discrimination and non-violence due to gender identity and sexual orientation in education programmes, in school regulations and in the training of teachers; Expediently and fully investigate and prosecute acts of violence and discrimination targeting women, indigenous, and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons and guarantee an effective remedy to victims and their families.*

***Noted:*** *Repeal or modify legal norms that deny or limit the rights of people based on their sexual orientation or gender identity*

International Lesbian and Gay Association welcomed Bolivia's efforts on non-discrimination but regretted that the recommendation on derogation of legislation that limited the rights of persons with a different gender identity had not been adopted. It urged the Government to overcome the gap and to institute same-sex marriage.

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## SAN MARINO

***Accepted Recommendations:*** *Protect the rights of all individuals, regardless of sexual orientation, on an equal basis; Ensure respect for minorities, especially sexual minorities.*

***Noted:*** *Ensure equal rights of lesbian, gay, bisexual and transgender people by legally recognizing same-sex marriage and civil partnerships*

FEDERICA BIGI, Director of Political and Diplomatic Affairs of the Department of Foreign Affairs, Ministry of Foreign Affairs of San Marino, acknowledged the importance of promoting and protecting the rights and freedoms of human beings at all times and in all circumstances. After the examination before the Council, all the recommendations made to San Marino were evaluated and 46 out of 74 recommendations were immediately adopted. Those recommendations, on which San Marino reserved its position until today had been submitted to Government colleagues and evaluated by the competent authorities.

San Marino said it had not adopted the recommendations to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and to adhere to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity because of limited human resources in the public administration. San Marino noted that it had to be careful not to undertake treaty commitments that it was impossible to endeavour to fulfil within the four next years. Likewise, San Marino stated that its legislation did not assimilate couples of the same sex with heterosexual couples, which was why another three recommendations could not be accepted. It had since accepted a further nine recommendations, making a total of 55 out of 74 recommendations accepted.

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## IRAN

***Partially Accepted Recommendations:*** *Ensure, in accordance with articles 5 and 7 of ICCPR, freedom from torture, while in detention, for all, regardless also of sexual orientation (Denmark); 138.282 Ensure that religious, ethnic and sexual minorities are able to exercise their rights and freedoms, as guaranteed by the Iranian Constitution*

***Rejected Recommendations:*** *Amend national legislation that discriminates on the basis of gender, religion, political thought or sexual orientation; Consider strengthening existing arrangements in order to promote equality of religious communities not belonging to Islam, and of lesbian, gay, bisexual and transgender (LGBT) persons through the repeal or amendment of laws that allow for prosecution or punishment; End discrimination on the basis of sexual orientation; Engage in order to address any form of discrimination against LGBTI people and in particular to prevent any practice which can harm their dignity, such as unnecessary sex reassignment surgery, especially when carried out without duly informed consent; Repeal the provisions in its Penal Code which criminalize consensual same-sex activities between adults;*

*Repeal laws criminalizing consensual sexual conduct between same-sex adults; Revise legislative provisions that legalize abuse, persecution, sexual violence and arrest of LGBTI persons; Abolish all legislation resulting in discrimination, prosecution and punishment of people based on their sexual orientation or gender identity; Repeal all legislative provisions which lead to discriminations based on sexual orientation and declared or perceived gender identity of persons; Pay attention to cases of violence and discrimination based upon sexual orientation, in particular against LGBT persons, both in law and in practice.*

International Lesbian and Gay Association expressed concern that Iran had rejected the recommendations relating to the rights of lesbian, gay, bisexual and transgender persons. Iran remained one of the few countries on earth to consider consensual same sex relationships punishable by death.

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#### SLOVENIA

***Accepted Recommendations:** Adopt policies to ensure equality of rights for all persons, without discrimination of gender, religion, race or sexual orientation, in line with international standards; Adopt the Same-Sex Partnership Act in order to further improve the rights of LGBTI persons; Harmonize the rights of homosexual couples with those of heterosexual couples; Heed the call by the Committee on the Rights of the Child to regularize the status of children of same-sex couples and ensure their protection against discrimination*

VOJISLAV SUC, Permanent Representative of Slovenia to the United Nations Office at Geneva, said Slovenia attached great importance to the Universal Periodic Review process. Regarding the lesbian, gay, bisexual and transgender community, the National Assembly had adopted amendments to the Law on Marriage and Family Relations which granted equal status to same-sex and heterosexual unions

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#### EGYPT

COC Netherlands said Egypt had no explicit law criminalizing homosexuality, but “debauchery,” prostitution and blasphemy laws were used against the lesbian, gay, bisexual and intersex community. Egypt had announced that it would eradicate homosexuality through a surveillance system violating the right to privacy.

***Pending Recommendations:***

*Implement transparent and inclusive mechanisms of public consultations with civil society organizations on all issues mentioned above (i.e. gender equality, minority rights, redressing wartime crimes, inclusive quality education for minorities and discrimination against LGBT persons); Draft and adopt a countrywide anti-discrimination strategy, in close cooperation with all relevant stakeholders, including with regard to sexual orientation and gender identity, and the Roma community; Implement measures that ensure equality of rights and nondiscrimination, especially on the grounds of gender, sexual orientation or gender identity; Take measures to effectively combat discrimination based on sexual orientation or gender identity; Build upon developments in Sarajevo Canton police regarding training, coordination and awareness-raising in tackling discrimination of LGBT persons and implement these practices throughout the judiciary and the police; Develop a communications strategy to raise the awareness of society of the difficulties faced by groups of LGBT persons and foster an environment of tolerance; Publicly and unequivocally condemn any attack, verbal or physical, against LGBT groups and bring those responsible to justice; Ensure access to joint and inclusive quality education, with special attention towards the Roma minority, persons with disabilities and LGBT issues;*

Human Rights House Foundation said discrimination against ethnic and other minorities, including Roma, the lesbian, gay, bisexual and transgender community, persons with disabilities, and other vulnerable groups was prevalent. A country-wide anti-discrimination strategy was needed, focusing especially on education.

Action Canada for Population and Development was disappointed that Bosnia and Herzegovina did not indicate which of the recommendations on sexual orientation and gender identity would be acted on. Bosnia and Herzegovina should harmonize the laws on anti-discrimination, close the loopholes, and develop a national action plan.

## SIDE EVENTS

*Side events give an indispensable opportunity for States and NGOs to convene dialogues around issues which need a deeper understanding. The expectation of organizing side events is that the debate initiated in the side events would be reflected in the official agenda of the Council.*

The two panels which were connected to the articulation of sexual orientation, gender identity and intersex issues in the 28 session are summarized below:

The Sexual Rights Initiative organized a panel on “Sexual Rights: Mapping the intersections”. The SRI panel addressed some of the issues under discussion at the 28th session, including disability, racial discrimination, and the rights of the child, and how they relate to sexual rights. The panel adopted the intersectional approach, which understands race, gender and sexuality as mutual constructs or articulations of one another rather than separate systems of oppression. During the course of the event, panelists identified violations to any human right (i.e. the right to education, health, work, housing, the rights of the child, of women, of people with disabilities) as having an impact on sexual rights. The fact that many instruments and mechanisms, national and international, nevertheless fail to use an intersectional approach when addressing any particular issue or right was also highlighted. It was also noted that even civil society organizations working on single issues tended to forget that issues in reality are never single issue but are invariably intersectional in nature.

The International Gay and Lesbian Human Rights Council (IGLHRC) organized a panel on “The Situation of Human Rights Protections for the LGBT Community in Iran”. The session brought out the problems faced by LGBT persons in Iran. It was highlighted that the Reports of the Special Rapporteurs on Iran had unambiguously noted the fact that Iranian LGBT persons faced a wide range of violations including violence, forced marriage, pressure to undergo sexual reassignment surgery and social bullying based upon gender and sexuality. The state undermined the rights of LGBT persons including the right of LGBT persons to associate with those of their choice. The Iranian law while allowing for a change of gender from male to female and female to male, subjected such a change to a strict licensing requirement. Further the state subjected individuals to undue pressure to undergo such procedure. The session also outlined the difficult legal situation with punishment violating the norm of equality of all before the law. Hence the law punished the one who performed the act of sodomy differently from the one who was sodomized, the Muslim differently from the non Muslim and the married person differently from the unmarried.

## ADOPTION OF RESOLUTIONS, EXTENSION OF MANDATES

*There were no LGBTI specific resolutions/mandates. However significantly the Resolution on better investment in rights of the child did have sexuality specific references. The resolutions adopted only gave an indication as to which issues were likely to be subjects of greater consensus.*

There were no specific references to LGBTI issues in the 18 resolutions which were adopted by the Human Rights Council in its 28th session. The Council extended the mandate of the Independent International Commission of Inquiry on Syria, and the mandates of the Special Rapporteurs on the situation of human rights in Iran, the Democratic People's Republic of Korea, and Myanmar.

The Human Rights Council also adopted resolutions on extending the mandate of the Independent Expert on Mali, on combatting intolerance, negative stereotyping and stigmatization of persons based on religion or belief, on the prevention of genocide, and on the impact of the world drug problem on the enjoyment of human rights. The Human Rights Council also elected four mandate holders. Other adopted texts pertained to technical assistance and capacity-building in Libya, Iraq, Guinea, and Haiti.

The Council also adopted texts on freedom of religion or belief, investments in the rights of the child, human rights in the occupied Syrian Golan, the right of the Palestinian people to self-determination, Israeli settlements in the Occupied Palestinian Territory and in the occupied Syrian Golan, and on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem. The resolutions on freedom of religion and investments on rights of the child were adopted unanimously.

The resolution on better investment in the rights of the child called upon *States to make progress towards the implementation of universal health coverage and to ensure access to all people, including children, without discrimination, to a nationally determined set of promotive, preventive, curative and rehabilitative health services, including sexual and reproductive health-care services, and to identify the underlying determinants of children's health and risk factors of both non-communicable and communicable diseases.*

The resolution also called upon *States to make primary education available, free and compulsory for all children, ensuring that all children have access to an inclusive quality education from an early age, and making secondary education generally available and accessible for all, in particular by the progressive introduction of free education, as well as ensuring equal access to early childhood education and care, and access on the basis of equal opportunity and non-discrimination to post-secondary and tertiary*

*education, and to include comprehensive evidence-based education on human sexuality in a manner consistent with their evolving capacities.*

The resolutions extending the mandate in Iran, Syria, Korea and Myanmar faced some degree of opposition before being adopted. With respect to the texts pertaining to the occupied Palestinian territories as well as the occupied Syrian Golan, the only no vote came from the USA.

Even while the resolutions had no specific LGBTI component, they were indicative of the issues on which there were greater degree of consensus among state parties particularly with respect to investment in rights of the child and freedom of religion. The resolutions regarding the responsibilities of Israel as an occupying power was also indicative of a degree of consensus among state parties barring the USA.