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Out of the closet and into the SDGs: No LGBTI person will be left behind

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Abbreviations

ACHPR	African Charter on Human and Peoples' Rights
ACHR	American Convention on Human Rights
AComHPR	African Commission on Human and People's Rights
ACtHPR	African Court on Human and Peoples' Rights
APTN	Asia Pacific Transgender Network
ASEAN	Association of Southeast Asian Nations
CJEU	Court of Justice of the European Union
CoE	Council of Europe
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
HLPF	High-Level Political Forum on Sustainable Development
HRC	Human Rights Council
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IE	Independent Expert
ILO	International Labour Organization
LGBT	Lesbian, gay, bisexual and trans
LGBTI	Lesbian, gay, bisexual, trans and intersex
MDGs	Millennium Sustainable Goals
NGOs	Non-Governmental Organizations
OAS	Organization of American States
OHCHR	Office of the UN High Commissioner for Human Rights
OWG	Open Working Group on Sustainable Development Goals
PGA	Parliamentarians for Global Action
RtD	Right to Development
SDGs	Sustainable Development Goals

SOGI	Sexual orientation and gender identity
SOGIE	Sexual orientation, gender identity and gender expression
SOGIESC	Sexual orientation, gender identity/expression and sex characteristics
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UNGA	United Nations General Assembly
WB	World Bank

Index

I. INTRODUCTION.....	8
II. SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION AND SEX CHARACTERISTICS AS PROTECTED CATEGORIES UNDER INTERNATIONAL LAW.....	12
II.A. SEXUAL ORIENTATION AND GENDER IDENTITY IN THE UNIVERSAL SYSTEM	12
II.B. SEXUAL ORIENTATION AND GENDER IDENTITY IN THE REGIONAL HUMAN RIGHTS SYSTEMS	13
II.B.1. <i>Inter-American System</i>	13
II.B.2. <i>The European System</i>	17
II.B.3. <i>The African System</i>	19
II.B.4. <i>The Asian Mechanism</i>	20
II.B.5. <i>The Arab Mechanism</i>	20
II.C SEXUAL ORIENTATION, GENDER IDENTITY AND THE YOGYAKARTA PRINCIPLES	20
III. THE RIGHT TO DEVELOPMENT	24
IV. SUSTAINABLE DEVELOPMENT GOALS	29
IV. A. THE ADOPTION OF THE SDGs.....	29
IV.B. FOLLOW-UP AND REVIEW MECHANISMS OF THE SUSTAINABLE DEVELOPMENT GOALS	32
IV.C. SUSTAINABLE DEVELOPMENT GOALS AND HUMAN RIGHTS.....	34
IV.D. NORMATIVE STATUS OF THE SUSTAINABLE DEVELOPMENT GOALS.....	36
V. SUSTAINABLE DEVELOPMENT GOALS AND LESBIAN, GAY, BISEXUAL, TRANS AND INTERSEX PERSONS.....	39
V.A. NO ONE WILL BE LEFT BEHIND.....	39
V.B. ARE LGBTI PERSONS LEFT BEHIND?	40
V.B.1. <i>Transforming our world</i>	40
V.B.2. <i>LGBTI persons into the SDGs</i>	46
V.B.2.i. Into the SDGs: a view from academia	46
V.B.2.ii. Into the SDGs: a view from civil society	47
V.B.2.iii. Into the SDGs: a view from States.....	51
V.B.2.iv. Into the SDGs: a view from human rights bodies and agencies	57
VI. AFTERTHOUGHTS AND LOOKING FORWARD.....	66
VI.A. LGBTI PERSONS IN THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT AND THE RELEVANCE OF VISIBILITY	66
VI.B. THE INTERNATIONAL HUMAN RIGHTS FRAMEWORK DEBT WITH ECONOMIC SOCIAL AND CULTURAL RIGHTS.....	67
VI.C. THE 2045 AGENDA FOR SUSTAINABLE DEVELOPMENT	67
VII. ANNEX.....	69
ANNEX I. NATIONAL VOLUNTARY REVIEWS PRESENTED TO THE HLPF	69
<i>Annex I.A. National Voluntary Reviews presented to the HLPF in 2016</i>	69
<i>Annex I.B. National Voluntary Reviews presented to the HLPF in 2017</i>	70

<i>Annex I.C. National Voluntary Reviews presented to the HLPF in 2018</i>	71
<i>Submitted up to July 1st, 2018</i>	71
ANNEX II. CONCLUDING OBSERVATIONS OF HUMAN RIGHTS BODIES.....	73
<i>Annex II.A. Concluding observations of the Human Rights Committee after the</i> <i>adoption of the UNGA Res 70/1</i>	73
<i>Annex II.B. Concluding observations of the Committee on Economic, Social and</i> <i>Cultural Rights from the adoption of the UNGA Res 70/1</i>	75
VIII. REFERENCES	77
VIII.A. BIBLIOGRAPHY	77
VIII. B. UNITED NATIONS DOCUMENTS	81
<i>VIII. B.1. United Nations documents</i>	81
<i>VIII.B.2. Voluntary National Reviews to the HLPF</i>	85
VIII.C. INTER-AMERICAN DOCUMENTS	88
VIII.D. EUROPEAN DOCUMENTS.....	89
VIII.E. AFRICAN DOCUMENTS	91
VIII.F. ARAB DOCUMENTS	91
VIII.H. CIVIL SOCIETY DOCUMENTS.....	92

“Hope will never be silent.”

— Harvey Milk

Out of the closet and into the SDGs: No LGBTI person will be left behind

I. Introduction.

The adoption of the 2030 agenda for Sustainable Development, in September 2015, marks the commitment of “governments, parliaments, the United Nations system and other international institutions, local authorities, indigenous peoples, civil society, business and the private sector, the scientific and academic community —and all the people”¹ to change our world.

Since its adoption, the Sustainable Development Goals (SDGs) have had, and continue to have, an overwhelming endorsement from diverse stakeholders that are committed to achieving 17 Goals and 169 targets by 2030. This pledge aims to realize sustainable development in a balanced and integrated manner in its three dimensions — economic, social and environmental— eradicating poverty in all its forms.²

The 2030 agenda is presented as a call for action “of the people, by the people and for the people”³ and pledges that “no one will be left behind.”⁴ This is the premise that is the basis for the approach of the present thesis, that may be conceived as both an opportunity and a risk: the SDGs document fails to do an explicit mention to lesbian, gay, bisexual, trans and intersex (LGBTI)⁵ persons or to sexual orientation, gender identity/expression and sex characteristics (SOGIESC).

The view that this thesis proposes is innovative and interesting because it seeks to provide a holistic view to focus on current issues that must be addressed quickly by

¹ UN General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, UN Doc. A/Res/70/1, para 52 (2015).

² See *supra* note 1, para 2.1.

³ See *supra* note 1, para 52.

⁴ See *supra* note 1, para 4.

⁵ When the author uses the LGBTI acronym when referring to lesbian, gay, bisexual, trans and intersex persons. When referring to lesbian, gay, bisexual, and trans persons, the LGBT acronym is used. Even when this research refers to LGBTI persons it should also be read to refer to other people who face discrimination on the basis of their actual or perceived sexual orientation, gender identity/expression and sex characteristics, including those who may identify with other terms.

generating a link between LGBTI persons and the SDGs. The aforementioned leads to the research questions that are going to be addressed: Does the omission mean that LGBTI persons are left behind of the SDGs discourse? Are the SDGs being left behind from the demands of LGBTI persons? Are LGBTI persons and the SDGs related?

From a political standpoint, the fact that the SDGs establish a timeframe for its implementation, allows the international community to envision where the world should be in 12 years. Through the adoption of the 2030 agenda, states are willing to *transform our world*.⁶ That aim is shared by LGBTI persons, who seek to break the barriers that society has created by establishing a certain norm: that this world is composed only by one sexual orientation (heterosexuality), one gender identity (cisgender), only two options of gender expression (female, male) and where only certain bodies fit society. That is not the world we live in, and the SDGs framework provides an attractive stage to raise these issues.

From a legal angle, it is compelling to see how law responds to the challenge that the search for the link between SDGs and LGBTI persons implies. Moreover, the sole status of LGBTI persons and of the SDGs on its own is not clear due to the fact that there are no documents that would state so in a sharp way,⁷ having to resort to general equality and non-discrimination clauses to establish the application of international human rights law to LGBTI persons. Therefore, the input to demonstrate that position and the link between them, in this thesis, comes from international human rights law in a broad sense, as a system that includes, but is not limited to, the right to development of all human beings.

As an intellectual exercise, the two fields that this work seeks to relate are newly raised in the international scenario and have had a rapid breakthrough in it. There has been, lately, a general interest in the human rights violations that LGBTI persons have historically faced, and the same kind of interest can be alleged for the Sustainable Development Goals. This intellectual angle generates the opportunity to analyze two important avenues.

On the one hand, the prospect that —from a human rights-based approach— the richness of fields that the SDGs touch upon, have the potential to develop the relevance of economic, social and cultural rights of LGBTI persons. This connection opens a debate that

⁶ Emphasis added. *See supra* note 1.

⁷ There is an upcoming trend that has started in the Inter-American human rights system, where SOGI is being included in non-discrimination clauses. *See infra* note 30.

works both ways: ESCR-ing the LGBTI discourse, and LGBTI-ing the social rights discourse. The relevance of this aspect is that, so far, the rights of LGBTI persons have mainly been discussed within the framework of civil and political rights, isolating economic, social and cultural rights from the differentiated approach LGBTI persons need in the respect, protection and enjoyment of these rights.

On the other hand, the astoundingly fast process of both the recognition of LGBTI persons and the adoption and implementation of the SDGs is an avenue that makes this thesis interesting. The call that the SDGs involves not only states, but different stakeholders, and the compromise and willingness they have demonstrated is impressive.

This work aims to establish that there is a link between the SDGs and LGBTI persons exist, beyond the text of the 2030 agenda. Bonds among other related fields will be determined (some of them are clear, others are doubted) to establish such relationship and provide a solid basis for the assertion mentioned above. Thus, those relationships give structure and methodology to this thesis.

Regarding the structure, the relationship between LGBTI persons and international human rights law will be demonstrated in chapter II, to establish the status of SOGIESC and LGBTI persons under international law; chapter III will assess the link between development, the right to development and international human rights law; chapter IV will look at the adoption of the 2030 agenda for sustainable development, from a human rights-based approach, as well as its implementation and normative status.

All the above will lead to chapter V, where a study of the alleged presence of LGBTI persons within 2030 development agenda, and vice versa, will be looked closely, from different perspectives: academia, civil society, states and human rights bodies and agencies. Chapter VI will provide some afterthoughts and a look to what should be expected of the future of the sustainable development agenda.

Concerning methodology, this thesis implied thorough research of documents, reports, statements, human right bodies' comments and observations, jurisprudence, VNR that had the sole objective to collect as much information as possible to prove the link between SDGs and LGBTI persons. This methodology was a challenging task because the

analyzed process is ongoing and being constantly updated at the time of writing.⁸ Thus, the present research considers information gathered up to July 1st, 2018.

This thesis is titled “out of the closet and into the SDGs” paraphrasing the famous march chant “out of the closet and into the streets” that seeks to involve LGBTI persons in the demands for the recognition of their dignity and rights. This thesis is the author’s chant to include LGBTI persons in the SDGs.

⁸ *E.g.* The HLPF’s Conference is celebrated in New York City in July, which caused a constant update on the number of VNR that have been submitted for the 2018 reporting period while this thesis was being draft.

II. Sexual orientation, gender identity, gender expression and sex characteristics as protected categories under international law.

Human rights are usually protected by national courts and constitutions and national legislations that incorporate protection and universal jurisdiction.⁹ That is not an affirmation that can generally be made regarding lesbian, gay, bisexual, trans and intersex (LGBTI) persons. The recognition of sexual orientation and gender identity, gender expression and sex characteristics (SOGIESC) in international law has been a recent development that arises – as will be addressed- from the right to equality and non-discrimination.

II.A. Sexual Orientation and Gender Identity in the Universal System

It's safe to state that LGBT persons did not exist in the eyes of the United Nations (UN) until 1994,¹⁰ when the UN Human Rights Committee held that sexual orientation is covered by the prohibited forms of discrimination against the category *sex* contemplated in the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). That case led to a consensus¹¹ within the Committee's case system of sexual orientation as a prohibited ground for discrimination. Fifteen years later, the Committee on Economic, Social and Cultural Rights established that “the nature of discrimination varies according to context and evolves over time.”¹² It states that in order to capture the unreasoned and unjustified forms of differential treatment, the Committee understands that “[o]ther status’ as recognized in article 2, paragraph 2, includes sexual orientation,”¹³ it added that “gender identity is recognized as among the prohibited grounds of discrimination.”¹⁴

⁹ C. Bailliet, *What is to become of the human rights international order in an age of neo-medievalism?* In C. Bailliet (Ed.), *Non-State Actors, Soft Law and Protective Regimes: From the Margins*, 103 (2012).

¹⁰ UN Human Rights Committee, *Toonen v. Australia*, Communication No. 488/1992, para. 8.7 (1994).

¹¹ IACHR, Merits report case 12.502 *Karen Atala and daughters v. Chile*, para. 93 (2010).

¹² UN Committee on Economic, Social and Cultural Rights, General Comment 20, Non-Discrimination in Economic, Social and Cultural Rights, UN Doc E/C.12/GC/20, para. 27 (2009).

¹³ *See supra* note 12, para. 32.

¹⁴ *Id.*

On December 22, 2008, the United Nations General Assembly (UNGA) received a statement from 66 countries on human rights and sexual orientation and gender identity in which the states reaffirm the “principle of non-discrimination, which requires that human rights apply equally to every human being, regardless of sexual orientation or gender identity.”¹⁵

The UN Human Rights Council (HRC) has adopted three resolutions in this particular field. The first of them, in 2011¹⁶ focused in the documentation of discriminatory laws and practices and acts of violence.¹⁷ The second one, in 2014, concentrated on good practices and ways to overcome violence and discrimination.¹⁸ The third resolution was adopted in 2016¹⁹ and created a special UN mechanism, the first Independent Expert (IE) on protection against violence and discrimination based on sexual orientation and gender identity (SOGI). The resolution established its mandate and called upon States and relevant stakeholders to cooperate with the IE with the objective of fulfilling the mandate.

II.B. Sexual Orientation and Gender Identity in the Regional Human Rights Systems

II.B.1. Inter-American System

The Organization of American States (OAS) General Assembly (GA) has issued ten resolutions regarding sexual orientation and gender identity²⁰. These resolutions began by

¹⁵ United Nations General Assembly, Letter dated 18 December 2008 from the Permanent Representatives of Argentina, Brazil, Croatia, France, Gabon, Japan, the Netherlands and Norway to the United Nations addressed to the President of the General Assembly, UN Doc A/63/635 (2008).

¹⁶ HRC, Human rights, sexual orientation and gender identity, UN Doc A/HRC/Res/17/19 (2011).

¹⁷ *Íd.*

¹⁸ HRC, Human rights, sexual orientation and gender identity, UN Doc A/HRC/27/L.27/Rev.1 (2014).

¹⁹ HRC, Protection against violence and discrimination based on sexual orientation and gender identity UN Doc A/HRC/32/L.2/Rev.1 (2016).

²⁰ OAS General Assembly, Human Rights, Sexual Orientation and Gender Identity, AG/Res. 2435 (XXXVIII-O/08) (2008); AG/Res. 2504 (XXXIX-O/09) (2009); AG/Res. 2600 (XL-O/10) (2010); AG/Res. 2653 (XLI-O/11) (2011); AG/Res. 2721 (XLII-O/12) (2012);

OAS General Assembly, Human Rights, Sexual Orientation, and Gender Identity and Expression AG/Res. 2807 (XLIII-O/13) (2013); AG/Res. 2863 (XLIV-O/14) (2014);

OAS General Assembly, Promotion and Protection of Human Rights xix. Human rights, sexual orientation, and gender identity and expression AG/Res. 2887 (XLVI-O/16) (2016); xii. Human rights, sexual orientation, and

focusing exclusively on the condemnation of acts of violence and related human rights violations committed against individuals on the basis of their sexual orientation and gender identity, and broadened their scope by incorporating other issues such as non-discrimination and appropriate protection to intersex persons, as well as other categories such as gender expression. The resolutions of the General Assembly of the OAS requested the Inter-American Commission on Human Rights (IACHR) to pay attention to the human rights situation of LGBTI persons, and to prepare a regional report on this subject.

The Inter-American Commission, driven by the OASGA resolutions, established in 2012 a thematic rapporteurship on the rights of lesbian, gay, bisexual, trans and intersex persons and issued a thematic report²¹ based on addressing the different forms of violence based on prejudice that LGBTI persons face in the Americas.

Among the Inter-American human rights bodies, the Inter-American Court of Human Rights (IACtHR) has issued three rulings²² and one advisory opinion²³ regarding the rights of LGBT persons. Amidst the contentious cases, the first one was the *Atala* case in which the Court stated that sexual orientation and gender identity²⁴ are categories protected under the American Convention on Human Rights (ACHR),²⁵ “[t]herefore, any regulation, act, or practice considered discriminatory based on a person’s sexual orientation is prohibited.”²⁶

gender identity and expression AG/RES. 2908 (XLVII-O/17) (2017). During the 48th Regular Session of the Organization of American States General Assembly, held in Washington DC on June 4-5, 2018, continued the trend that has been holding the last decade and adopted a resolution that includes a section that addresses the human rights of LGBTI persons. For more information on this resolution *see* (http://tcmujer.org/dct/tmp_adjuntos/noEn/000/000/Declaracion%20Coalicion%20LGBTTTI%20de%20America%20Latina%20y%20el%20Caribe.%20Junio%202018.%20Culminacion%20AG.%20OEA.pdf) last visited (13-06-2018).

²¹ IACHR, Violence against LGBTI persons in the Americas, OEA/Ser.L/V/II. Doc.36/15 Rev.2 (2015).

²² IACtHR, *Atala Riffo and daughters v. Chile* Merits, Reparations and Costs Series C No. 239 (2012); IACtHR, *Ángel Alberto Duque v. Colombia* Preliminary exceptions, Merits, Reparations and Costs Series C No. 310 (2016); and, IACtHR, Case of *Flor Freire v. Ecuador* Preliminary Objection, Merits, Reparations and Costs Series C No. 315 (2016).

²³ IACtHR, Advisory Opinion 24/17 Gender Identity and equality and non-discrimination to same-sex couples requested by Costa Rica. 24 November 2017.

²⁴ Even when the case was not related to gender identity, in the authors’ view this is one of the highlights of the ruling because it applies the protection to gender diverse persons as well.

²⁵ IACtHR, *Atala Riffo and daughters v. Chile* Merits, Reparations and Costs Series C No. 239 (2012), para. 91.

²⁶ *Id.*

This affirmation results from the interpretation of the American Convention in the light of “evolution of fundamental rights in contemporary international law”.²⁷

The Court pointed that:

“[T]he alleged lack of consensus in some countries regarding full respect for the rights of sexual minorities cannot be considered a valid argument to deny or restrict their human rights or to perpetuate and reproduce the historical and structural discrimination that these minorities have suffered.”²⁸

The Court also clarified that it could not abstain on the grounds that it’s a “controversial issue in some sectors and countries, and that it is not necessarily a matter of consensus.”²⁹

Within the Inter-American human rights protection system, there are two treaties³⁰ that explicitly mention sexual orientation and gender identity or expression in their non-discriminatory clauses. Both of them and entered into force in 2017.³¹

In 2017, The Inter-American Court on Human Rights issued an Advisory Opinion on Gender Identity, and Equality and Non-Discrimination of same-sex couples.³²

The State of Costa Rica had asked the Court how the Inter-American Convention recognized the right to change the sex component or gender marker on identity documents

²⁷ See *Supra* note 25 para. 85. In the following paragraphs (86-91) the Court references different international documents to reaffirm its posture. Among them: GAOAS resolutions; ECtHR rulings (*Salguero da Silva Mouta v. Portugal* and *Clift v. United Kingdom*); The Human Rights Council’s *Toonen v. Australia* case; the Committee on Economic, Social, and Cultural Rights’ General Comment no. 20; General observations and recommendations of the Committee on the Rights of the Child, the Committee against Torture and the Committee on the Elimination of Discrimination against Women; the UNGA Statement of 2008 and the HRC resolution of 2011; and, the Human Rights Council resolution on sexual orientation and gender identity.

²⁸ See *Supra* note 25, para. 92.

²⁹ *Íd.*

³⁰ The Inter-American Convention against All Forms of Discrimination and Intolerance A-68) (2013), and Inter-American Convention on Protecting the Human Rights of Older Persons (A-70) (2015).

³¹ The Inter-American Convention against All Forms of Discrimination and Intolerance (A-68) (2013) entered into force on November 11, 2017 and the Inter-American Convention on Protecting the Human Rights of Older Persons (A-70) (2015) entered into force 11 January 11 2017.

³² See *supra* note 23.

according to their gender identity and if the civil proceeding contemplated in their legislation was compatible with the Convention. This was the first instance that the Court had the chance to pronounce on gender identity, even though—as it was referred—gender identity was already considered protected under the ACHR non-discrimination clause since the Atala case. The Court established that States are obliged to recognize, regulate and establish the appropriate procedures to ensure that people interested in rectifying their gender or sex marker, changing their name and adapting their image in official records and/or in the identity documents, can do so in accordance with their self-perceived gender identity.³³ As such, States must ensure that they have access—without interference by the public authorities or by third parties—to a procedure that must fulfil certain human rights’ standards outlined by the ruling.³⁴ Moreover, with regards to that procedure “children are holders of the same rights as adults”.³⁵

Costa Rica had also asked the Court about the protection that the American Convention provides to the “recognition of the patrimonial rights derived from a relationship between persons of the same sex”.³⁶ In this point the Court established that according to the ACHR it is necessary that States must “ensure full access to all the mechanisms that exist in their domestic laws, including the right to marriage, to ensure the protection of the rights of families formed by same-sex couples, without discrimination in relation to those that are formed by heterosexual couples.”³⁷

³³ *See supra* note 23, paras. 85-116.

³⁴ *See supra* note 23, para. 229.3.

³⁵ *See supra* note 23, para. 149.

³⁶ *See supra* note 32, para. 1.

³⁷ *See supra* note 32, para. 229.8.

II.B.2. The European System

The Council of Europe (CoE), first addresses this subject through its Parliamentary Assembly, that issued a recommendation and a resolution on discrimination against homosexuals in 1981.³⁸

The first CoE treaty explicitly referring to non-discrimination on the grounds of sexual orientation was the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007),³⁹ followed by the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) of 2011.⁴⁰ The latter includes both gender identity and sexual orientation as protected categories in its non-discrimination clause.⁴¹ In 2000, the CoE adopted a Directive establishing a general framework for equal treatment in employment occupation that includes sexual orientation as a prohibited ground for discrimination.⁴²

In 2010 the Committee of Ministers of the CoE adopted a Recommendation to Member States on measures to combat discrimination on grounds of sexual orientation or gender identity.⁴³ In 2011 the Council of Europe's Commissioner for Human Rights, Thomas Hammarberg, published a report entitled "Discrimination on grounds of sexual orientation

³⁸ Parliamentary Assembly of the Council of Europe, Resolution 756 Discrimination against homosexuals (1981); Parliamentary Assembly of the Council of Europe, Discrimination against homosexuals, Recommendation 924 (1981).

³⁹ CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, CETS No. 201 (2007). Article 2, non-discrimination principle.

⁴⁰ CoE Convention on Preventing and Combating Violence against Women and Domestic Violence, CETS No. 210 (2011). Article 4, Fundamental rights, equality and non-discrimination.

⁴¹ *See supra* note 40, Article 4.3.

⁴² CoE, Directive establishing a general framework for equal treatment in employment and occupation, Directive 2000/78/EC (2000), Official Journal L 303 2/12/2000.

⁴³ Committee of Ministers of the Council of Europe, Recommendation CM/Rec (2010) 5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity (2010).

and gender identity in Europe”.⁴⁴ In 2015, the Parliamentary Assembly issued a resolution “Discrimination against transgender people in Europe.”⁴⁵

The European Court of Human Rights (ECtHR) gave its first ruling in a case regarding sexual orientation in 1981⁴⁶ holding that the criminal prohibition on private homosexual conduct between consenting adults in Northern Ireland interfered with their right to respect for private life under Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).⁴⁷ This case is criticized because isolates the case of the prohibition on discrimination contemplated in article 14⁴⁸. The Court redeems itself in its 1999,⁴⁹ when the fourth section of the Court stated:

“[T]here was a difference of treatment between the applicant and M.’s mother which was based on the applicant’s sexual orientation, a concept which is undoubtedly covered by Article 14 of the Convention. The Court reiterates in that connection that the list set out in that provision is illustrative and not exhaustive, as is shown by the words ‘any ground such as’.”⁵⁰

Regarding gender identity, it took eleven more years than sexual orientation for the ECtHR to conclude that there was a violation of the ECHR on the grounds of gender identity.⁵¹ The Court’s Grand Chamber ruled a clear position regarding gender recognition

⁴⁴ CoE, *Discrimination on grounds of Sexual Orientation and Gender Identity in Europe*, 2nd edition (2011).

⁴⁵ Parliamentary Assembly of the Council of Europe, *Resolution 2018 Discrimination against transgender people in Europe* (2015).

⁴⁶ ECtHR, *Dudgeon v. United Kingdom* (Application no. 7525/76) Judgment, 22 October 1981.

⁴⁷ *Id.*

⁴⁸ D. McGoldrick, *The Development and Status of Sexual Orientation Discrimination under International Human Rights Law*, 16(4) *Human Rights Law Review* 634 (2016).

⁴⁹ ECtHR, *Salgueiro da Silva Mouta v. Portugal* (Application no. 33290/96) Judgment, 21 December 1999.

⁵⁰ *See supra* note 49, at 28.

⁵¹ ECtHR, *B. v. France* (application no. 13343/87) Judgment, 25 March 1992.

legislation in 2002, establishing that States must protect individuals' right to respect for private life as guaranteed by the article 8 of the ECHR; therefore states should provide for the possibility of legal gender recognition with concrete implementation rules in order to avoid dysfunctional processes.⁵²

The Court of Justice of the European Union (CJEU) ruled its first case regarding gender identity in 1996, ruling that the dismissal of a “transsexual person for a reason related to gender reassignment” is precluded.⁵³ Two years later, the CJEU ruled its first case of discrimination based in sexual orientation.⁵⁴

In the European Union context, discrimination on the grounds of sexual orientation is prohibited under the Charter of Fundamental Rights.⁵⁵

II.B.3. The African System

The Article 2 of the African Charter on Human and Peoples' Rights (ACHPR) prohibits discrimination but makes no reference to sexual orientation in its illustrative list of grounds.

In 2014, the African Commission on Human and People's Rights (ACoMHPR) issued a resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity.⁵⁶ The African Court on Human and Peoples' Rights (ACtHPR) has not issued a decision on a sexual orientation discrimination complaint. It has been suggested that individuals have been discouraged from bringing individual complaints due to fear of establishing negative

⁵² ECtHR, *Christine Goodwin v. United Kingdom* (application no. 28957/95) 11 July 2002 (Grand Chamber).

⁵³ CJEU, *P. vs. S. & Cornwall County Council*, case C-13/94, 30 April 1996.

⁵⁴ CJEU, *Lisa Jacqueline Grant v South-West Trains Ltd*, case C-249/96, 17 February 1998.

⁵⁵ Charter of Fundamental Rights of the European Union Doc C 264/13 (2000). Article 21, on non-discrimination, specifically includes sexual orientation as a prohibited ground.

⁵⁶ ACoMHPR, 275: Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity, ACHPR/Res. 275 (LV) 2014.

precedents and engendering a backlash from governments.⁵⁷

II.B.4. The Asian Mechanism

There is no regional Association of Southeast Asian Nations (ASEAN) human rights treaty. The ASEAN Human Rights Declaration (2012) failed to mention LGBT rights at all.⁵⁸

II.B.5. The Arab Mechanism

The Arab Charter on Human Rights⁵⁹ prohibits discrimination but does not mention sexual orientation. Nor indeed does it include a reference to any “other status”. The Arab Charter has no individual complaints mechanism and there seems to be no political will to adopt any instrument with a specific reference to sexual orientation.⁶⁰

II.C Sexual Orientation, Gender Identity and The Yogyakarta Principles

The emergence of Non-Governmental Organizations (NGOs) has played a crucial role in transforming the human rights system. Through their advocacy work, strengthened with their transnational networking and ability to promote issues,⁶¹ the rights of LGBTI persons have benefited from the existence of well-placed NGOs to ensure a more thorough discussion at the highest levels.⁶² In particular, the International Commission of Jurists and the International Service for Human Rights, on behalf of a coalition of human rights organizations, undertook a project develop a set of international legal principles on the

⁵⁷ *See supra* note 48, at 644.

⁵⁸ *See supra* note 48, at 646.

⁵⁹ Council of the League of Arab States, Arab Charter on Human Rights, May 22, 2004. Entered into force 15 March 2008.

⁶⁰ *See supra* note 48, at 647.

⁶¹ *See supra* note 9, at 102.

⁶² *Íd.*

application of international law to human rights violations based on sexual orientation and gender identity.⁶³

This effort concludes in the adoption of the “Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity” (Yogyakarta Principles).⁶⁴ The principles were developed in 2006 by a group of human rights experts,⁶⁵ including United Nations (UN) Special Rapporteurs, UN Committees members, professors, judges and NGO representatives, and seek to “collate and clarify State obligations under existing international human rights law, in order to promote and protect all human rights for all persons on the basis of equality and without discrimination.”⁶⁶ In that effort, instead of referring to certain groups, the Principles chose to establish the protected categories under international human rights law, to apply to all people regardless their actual or perceived SOGI.⁶⁷

The Rapporteur of the meeting, professor Michael O’Flaherty, has described the Yogyakarta Principles as “the most authoritative statement of what international human rights law obliges States to do and not to do in promoting and protecting the rights of persons of diverse sexual orientations and gender identities and of intersex status.”⁶⁸

On November 2017, on the tenth year anniversary of the document, a supplement of the Yogyakarta Principles was adopted: The “YP plus 10.”⁶⁹ This document emerged from the intersection of the developments in international human rights law with the emerging

⁶³ Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity (<http://yogyakartaprinciples.org/introduction/>), last visited (10-06-2018).

⁶⁴ *Id.*

⁶⁵ M. O’Flaherty, *The Yogyakarta Principles at Ten* in A. Hellum (Ed.), *Human Rights, Sexual Orientation and Gender Identity* 4 (2017).

⁶⁶ Preamble of the Yogyakarta Principles.

⁶⁷ Since 2006, the protected categories in the Universal system have evolved to: Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIESC).

⁶⁸ *See supra* note 65, at 5.

⁶⁹ Yogyakarta Principles Plus 10, Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles (<http://yogyakartaprinciples.org/principles-en/yp10/>), last visited (12-02-2018).

understanding of violations suffered by persons on grounds of sexual orientation and gender identity and the recognition of the distinct and intersectional grounds of gender expression and sex characteristics.⁷⁰

There's a discussion in doctrine regarding whether these Principles constitute *soft law*. Arguments go from "They occupy a unique role as a soft law instrument"⁷¹ to "[i]t's clear that the Principles are not soft law."⁷²

In the author's opinion, one of the greatest merits of the Yogyakarta Principles is that the concepts of *sexual orientation* and *gender identity* were defined and transversally accepted and used in different instances.⁷³ The update of the principles adds two new definitions: *gender expression* and *sex characteristics*,⁷⁴ expanding the scope of application of the Principles to these categories and thereby encouraging consensus on a new acronym: SOGIESC.

Agreeing that soft law is a multi-faceted concept⁷⁵ and that in the reported issue the status of soft law of the instruments is questioned given that is a document that is impulse by civil society organizations,⁷⁶ in the author's opinion, the participation of NGOs and experts has been crucial for the recognition of SOGI under International Law. This is a complex subject and the supply of information and expertize needed to understand it had to come from persons that have been experiencing discrimination in the flesh and/or have been working in this issues for a long time. In the words of professor O'Flaherty:

⁷⁰ *Id.*

⁷¹ ARC international, *Sexual Orientation, Gender Identity and Expression, and Sex Characteristics at the Universal Periodic Review* (2016)

⁷² M. Pulgari, *Teoría y práctica de los principios de Yogyakarta en el derecho internacional de los Derechos Humanos*, 3 *Revista Análisis Internacional* 289 (2011) [translation made by the autor].

⁷³ *E.g.*: As a result of the condemnation of the Inter-American Court to Chile in the Atala case, Chile created an anti-discriminatory legislation that incorporates the definitions of sexual orientation and gender identity as phrased in the Yogyakarta Principles. Law No. 20.609, establishes measures against discrimination (2012).

⁷⁴ *See supra* note 69, preamble.

⁷⁵ A. Boyle, *Soft Law in International Law-making* in M. Evans (Ed.), *International Law* 133, 4th ed. (2014).

⁷⁶ *See, e.g.*, T. Dreyfus, *The Half-Invention of gender Identity in International Human Rights Law*, 37 *Australian Feminist Law Journal* (2012)

“The [Yogyakarta] Principles have no binding force. They are neither a treaty nor the finding of a judicial or quasi-judicial body. Nevertheless, they carry the authority of their expert authors and have been considered by many states and experts to constitute a careful articulation of the state of the existing law.”⁷⁷

This chapter has provided evidence that, in the light of International Human Rights Law, LGBTI persons are subject of human rights, and that SOGIESC could not be considered as ground to restrict, prevent or impair the recognition, enjoyment or exercise of human rights. “[F]rom a legal perspective the issue is straightforward. The obligation that States have to protect LGBT persons [...] are already well established and are binding on all United Nations Members States.”⁷⁸

⁷⁷ M. O’Flaherty, *Sexual Orientation and Gender Identity* in D. Moeckli, S. Shah & S. Sivakumaran *International Human Rights Law* 306 (2018).

⁷⁸ OHCHR, *Born Free & Equal Sexual Orientation and Gender Identity in International Human Rights Law* HR/PUB/12/06, at 61 (2012).

III. The Right to Development

The 1948 Universal Declaration of Human Rights (UDHR)⁷⁹ does not literally contemplate the Right to Development (RtD), but it can be inferred from the right to an adequate standard of living, right to education, right to cultural, artistic and scientific life, and right to a free and fair world in articles 25 to 28,⁸⁰ which are relevant since the UDHR has assumed the normative force of law, as it is universally accepted as part of customary international law, “even though at the time of its passage in 1948 most of the developing world was still under colonial rule.”⁸¹

The International Human Rights Covenants contemplate in their first article that all peoples should be able to “freely pursue their economic, social and cultural development” on the grounds of their right to self-determination.⁸²

In particular, article 1.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes “the right of everyone to a reasonable standard of living”.

Originally articulated by Senegalese jurist Keba M’Baye⁸³ as stemming directly from the 1945 UN Charter and the 1948 UDHR, the Right to Development is often considered as a specifically African contribution to the international human rights legal framework.

The right to development as a concept was first mooted in 1972,⁸⁴ and it first found its way in official document in a resolution of the UN Commission on Human Rights in 1977.⁸⁵ It was then enshrined in article 22 of the 1981 African Charter on Human and

⁷⁹ UNGA Resolution 217 A (III), 10 December 1948.

⁸⁰ N. Schrijver, *The evolution of sustainable development in international law inception, meaning and status* 77 (2008).

⁸¹ R. Sarkar, *International Development Law* 200 (2009).

⁸² Article 1 ICCPR; article 1 ICESCR.

⁸³ See K. M’baye, *Le Droit du Développement comme un Droit de l’Homme*, 5 *Revue des Droites de l’homme* 503 (1972).

⁸⁴ P. Alston, *Revitalising United Nations work on Human Rights and Development*, 18 *Melbourne University Law Review*, 218 (1991).

⁸⁵ UN Commission on Human Rights Res. 4 (XXXIII) (1977).

Peoples' Rights, which suggests that:

“(1) All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind. (2) States shall have the duty, individually or collectively, to ensure the exercise of the right to development”.⁸⁶

After a decade of lengthy debates, the United Nations General Assembly adopted the 1986 Declaration on the Right to Development.⁸⁷ The Preamble of the 1986 Declaration on the Right to Development states that:

“development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of *all individuals* on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.”⁸⁸

The adoption of this resolution was marked by North/South political controversy since its discussion; it remains an often cited reference in UN documents,⁸⁹ and the object of continuing work by human rights scholars and experts.⁹⁰

⁸⁶ African Charter on Human and Peoples' Rights, OAU Doc. CAB/LEG/67/3 (1981), art. 22.

⁸⁷ UNGA, Declaration on the Right to Development, UN Doc. A/Res/41/128 (1986).

⁸⁸ Emphasis added. *Id.*

⁸⁹ The Right to Development was reaffirmed as a “universal and inalienable right and an integral part of fundamental human rights” in the Vienna Declaration and Programme of Action, adopted at the World Conference on Human Rights in 1993 (Vienna Declaration and Programme of Action, UN Doc. A/CONF. 157/23, July 12, 1993, Part I, par. 10).

⁹⁰ The Right to Development has evolved institutionally, notably through the appointment in 1998 by the UN Commission on Human Rights of Indian economist Arjun Sengupta as the Independent Expert on the Right to Development, the establishment (UN Commission on Human Rights resolution 1998/72) of the open-ended Working Group on the Right to Development (renewed in 2007), and the creation in 2004 of a high-level task force on the implementation of the right to development. *See*: General overview OHCHR, (<http://www.ohchr.org/EN/Issues/Development/Pages/Introduction.aspx>) last visited (01-07-2018); and, Report of the Working Group on the Right to Development on its seventeenth session, UN Doc A/HRC/33/45 (2016).

A particular challenge has been the different treatment of the right to development and development itself, given that human rights and development specialist have separated them intellectually.⁹¹

The link between LGBTI persons and development has mainly advanced in one field: economic development. Whatever theory is used to link LGBTI inclusion and economic development,⁹² there is a “positive relationship between LGBT inclusion, whether measured as LGBT rights or attitudes toward homosexuality, and economic development, either by definition or through political, cultural and economic links.”⁹³

The United Nations Development Programme (UNDP), has also addressed the connection between inclusion of LGBTI persons and development, affirming that:

“Homophobia and other forms of stigma, violence and discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) people contribute significantly to their exclusion from society, limit their access to health and social services and hinder social and economic development.”⁹⁴

The World Bank (WB) started the interdisciplinary view of development and LGBTI persons in 2014, when they affirmed that “[h]uman rights and equality for LGBT people are also economic development issues.”⁹⁵ Later, in 2016, the World Bank Group President, Jim Yong Kim, announced the appointment of Clifton Cortez as the Bank’s Advisor on Sexual Orientation and Gender Identity issues. In the announcement, the President stated that:

“Discrimination against any group is not only morally wrong, it stands in the way of sustained, balanced, and inclusive economic growth (...) We must end the discriminatory practices that prevent LGBTI persons from

⁹¹ M. Robinson, *What Rights Can Add to Good Development Practice*, in P. Alston & M. Robinson (Eds.), *Human Rights and Development: Towards Mutual Reinforcement* 27 (2005)

⁹² Human capital & economic potential; Post-materialist demand for human rights; Strategic modernization; and, Achievement of capabilities. See: M. Badgett et al., *The Relationship between LGBT Inclusion and Economic Development: An Analysis of Emerging Economies* (2014).

⁹³ M. Badgett et al., *The Relationship between LGBT Inclusion and Economic Development: An Analysis of Emerging Economies* 19 (2014).

⁹⁴ UNDP, *Connecting the Dots Strategy Note 2016-2021 HIV, Health and Development* 17 (2016).

⁹⁵ M. Badgett, *The Economic Cost of Stigma and Exclusion of LGBT People: A case study in India* 6 (2014).

accessing jobs, education, health care, financial markets, housing, and other areas necessary for economic growth and stability.”⁹⁶

The abovementioned view of the WB, despite it does not refer to the right to development, has elements of its definition, that may be conceptualized as “nothing more and nothing less than the sum of existing human rights such as the right to life, to reasonable standard of living, to education and to participation in the cultural and political life of the community.”⁹⁷

A number of related key contemporary themes, issues or debates linked to the right to development are currently relevant.⁹⁸ This thesis will address the controversies that arise when the recognition of the right to development of LGBTI persons is claimed.

The UN Declaration on the Right to Development establishes that:

“*every human person* and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized”.⁹⁹

As it was addressed in Chapter II, in 1986 the drafters of the declaration on the RtD could not have foreseen the need to make express mention of LGBTI persons among its right-holders, but in the expression “every human person” and “all the individuals” is clear that there is a spirit of equality and non-discrimination in the enjoyment of the RtD, that would therefore apply to everyone, including LGBTI persons.

⁹⁶ WB, Press Release World Bank Announces New Advisor on Sexual Orientation and Gender Identity Issues, 27 October 2016. *See also*: M. Badgett & P. Crehan, *Working Paper: Investing in a Research Revolution for LGBTI Inclusion*. World Bank Group. (2016); WB, *Economic Inclusion of LGBTI groups in Thailand* (2017); D. Kohler & N. Menzies, *Surveys, Big Data, and Experiments: How can We Best Learn about LGBTI Development Outcomes?* Policy Research Working Paper 8154, World Bank Group (2017)

⁹⁷ *See supra* note 80, at 80.

⁹⁸ *E.g.*: the emerging field of human rights and investment, and the broader focus on business and human rights; questions related to human rights and the financing of development; the effects of international financial obligations of states on both development and the fight against poverty; the relationship between human rights and climate change; indicators and the right to development.

⁹⁹ Emphasis added. *See supra* note 87.

Since the adoption of the 1986 General Assembly Resolution, the right to development has served “as a guiding value for several international declarations and frameworks, including (...) the 2030 Agenda and Sustainable Development Goals,”¹⁰⁰ which leads to the next Chapter.

¹⁰⁰ UN Special Rapporteur on the Right to Development, *An introduction to the mandate 5* (2017).

IV. Sustainable Development Goals

IV. A. The adoption of the SDGs

Goals, in general, are essential parts of any action agenda.¹⁰¹ “They are the declamatory brochure that leads from the analysis of development needs to actual targets.”¹⁰² Goals are a two-faceted part of this agenda, on the one hand, they give popular meaning to development objectives, a focus to development efforts, and are essential to determining the pace and nature of progress.¹⁰³ On the other hand, they might be used as a substitute for analysis and be set, for political or other reasons, at impossibly ambitious levels.¹⁰⁴

Following the effort of the Millennium Development Agenda and the Millennium Sustainable Goals (MDGs),¹⁰⁵ the United Nations Conference on Sustainable Development Goals (Rio +20) took place in 2012. During the Summit, Latin American countries focused their efforts on leading negotiations towards a set of sustainable development goals that include poverty eradication rather than a set of poverty eradication goals that include sustainability.¹⁰⁶ In particular, the Heads of State and Government and high-level representatives that took part of the Summit stated that they “recognize that the development of goals could also be useful for pursuing focused and coherent action on sustainable development.”¹⁰⁷

That recognition was enshrined in a document titled “The future we want”, in which the States provided the foundations for the 2030 agenda and the way that the goals should

¹⁰¹ S. Browne, *Sustainable Development Goals and UN Goal-Setting* 68 (2017).

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *See supra* note 101, at 69.

¹⁰⁵ UN Millennium Declaration, adopted by the United Nations General Assembly, UN Doc. A/Res/55/2 (2000).

¹⁰⁶ D. Hulme & R. Wilkinson, *The UN and the post-2015 Development Agenda*, in S. Browne and T. Weiss (Eds.), *Post-2015 UN Development Making change happen* 187 (2014).

¹⁰⁷ UN Conference on Sustainable Development, *The future we want*. Adopted by the United Nations General Assembly UN Doc. A/Res/66/288 (2012), para. 246.

address and incorporate in a balanced way the three dimensions of sustainable development (economic, social and environmental) and their interlinkages.

“They [the goals] should be coherent with and integrated into the United Nations development agenda beyond 2015, thus contributing to the achievement of sustainable development and serving as a driver for implementation and mainstreaming of sustainable development in the United Nations system as a whole. The development of these goals should not divert focus or effort from the achievement of the Millennium Development Goals.”¹⁰⁸

This was the call from States to what came to be the Sustainable Development Goals. The United Nations Conference on Sustainable Development Goals (Rio +20) was followed by the appointment of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda (HLP) by the UN Secretary General. The work of that panel resulted in a report that recommended that the post-2015 development agenda should also feature a limited number of high priority goals and targets, with a clear time horizon and supported by measurable indicators, that should be set for 2030. Even in this scenario, while the SDGs were not even written yet, the HLP addressed the legal nature of them stating that “unlike treaties, goals similar to the MDGs are not binding in international law. They stand or fall as tools of communication, inspiration, policy formulation and resource mobilization.”¹⁰⁹

On the basis of the outcome document of Rio +20, in 2013 the General Assembly established an Open Working Group on Sustainable Development Goals (OWG),¹¹⁰ with the task to “establish an inclusive and transparent intergovernmental process on sustainable development goals that is open to all stakeholders, with a view to developing global sustainable development goals to be agreed by the General Assembly.”¹¹¹

¹⁰⁸ UNGA, The future we want, UN Doc. A/Res/66/288 (2012), para. 246.

¹⁰⁹ UN Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, A new Global Partnership: Eradicate Poverty and Transform Economies through Sustainable Development 13 (2012).

¹¹⁰ UNGA, Open Working Group of the General Assembly on Sustainable Development Goals, UN Doc. A/67/L.48/Rev.1 (2013).

¹¹¹ See *supra* note 108, para. 248.

The draft document¹¹² that was the result of the work of the aforementioned Open Working Group was the basis for the adoption of the General Assembly Resolution “Transforming Our World: The 2030 Agenda for Sustainable Development”,¹¹³ product of the 2015 United Nations Sustainable Development Summit in New York. This process marks a relevant difference between the adoption of the MDGs and the SDGs. While the MDGs were ultimately formulated by the UN Secretariat,¹¹⁴ the SDGs required “over two years of intergovernmental stocktaking and negotiation sessions, and perhaps the largest public and multi-stakeholder consultations in UN history.”¹¹⁵

On September 25, 2015, the process culminated with the adoption by the UN General Assembly of “a plan of action for people, planet and prosperity”:¹¹⁶ the Sustainable Development Goals. This plan consists in 17 goals and 169 targets that “seek to realize the human rights of all and to achieve gender equality and the empowerment of all women and girls. They are integrated and indivisible and balance the three dimensions of sustainable development: the economic, social and environmental.”¹¹⁷ In spite of this reference, the most serious omission is human rights language in the 17 goals,¹¹⁸ issue that will be further reflected upon in section IV.C.

The SDGs mark the most ambitious effort yet to place goal setting at the center of global governance and policy, however, is not yet matched by the governments’ knowledge about its prospects or limits as a governance strategy.¹¹⁹

¹¹² See *supra* note 110.

¹¹³ UNGA, Transforming our world: the 2030 Agenda for Sustainable Development, UN Doc. A/Res/70/1 (2015).

¹¹⁴ N. Kanie et al., *Introduction: Global Governance through Goal Setting* in N. Kanie & F. Biermann (Eds.), *Governing through Goals Sustainable Development Goals as Governance Innovation 3* (2017).

¹¹⁵ *Id.*

¹¹⁶ See *supra* note 113, preamble.

¹¹⁷ *Id.*

¹¹⁸ See *supra* note 101, at 93.

¹¹⁹ See *supra* note 114, at 1.

In a broad way, there are three types of international goal setting:¹²⁰ those who are solely aspirational;¹²¹ those that start as aspirational but later acquire consensus and support through informal institutions that become attached to them for their enforcement and institutionalization;¹²² and, those which institutions and agencies are immediately attached.¹²³ The SDGs express some characteristics of each variety, but tend towards the first two, although the 2030 Agenda for Sustainable Development “may be tactically utilized to create such an opportunity according to the third type of goal setting”¹²⁴.

IV.B. Follow-up and review mechanisms of the Sustainable Development Goals

In 2013, the UN General Assembly, based on the outcome document of Rio +20,¹²⁵ created the High-Level Political Forum on Sustainable Development (HLPF)¹²⁶ This organ is “under the auspices of the General Assembly and the Economic and Social Council will have the central role in overseeing follow-up and review at the global level.”¹²⁷

“[It] shall provide political leadership, guidance and recommendations for sustainable development, follow up and review progress in the implementation of sustainable development commitments, enhance the integration of the three dimensions of sustainable development in a holistic and cross-sectoral manner at all levels and have a focused, dynamic and action-oriented agenda, ensuring the appropriate consideration of new and emerging sustainable development challenge.”¹²⁸

¹²⁰ *See supra* note 114, at 6.

¹²¹ *Id.*

¹²² *Id.*

¹²³ *See supra* note 114, at 7.

¹²⁴ *Id.*

¹²⁵ *See supra* note 108, para. 84.

¹²⁶ UNGA, Format and organizational aspects of the high-level political forum on sustainable development, UN Doc. A/Res/67/290 (2013).

¹²⁷ *See supra* note 113, para. 47.

¹²⁸ *See supra* note 126, para. 2.

The UN General Assembly resolution on the 2030 Agenda, establishes that:

“[a] robust, voluntary, effective, participatory, transparent and integrated follow-up and review framework will make a vital contribution to implementation and will help countries to maximize and track progress in implementing this Agenda in order to ensure that no one is left behind.”¹²⁹

There are 9 principles that inspire the follow-up process,¹³⁰ that is expected to be multi-level, national, regional and global. The nature of this process is “left vague but eschews objectivity.”¹³¹

Abbott and Bernstein argue that for the HLPF to carry out its mandate it “must by default rely on the governance strategy of ‘orchestration’: working indirectly through other actors and organizations, and using soft modes of influence to guide and support their actions.”¹³² Given that the governance function of the HLPF is voluntary, it is a “complex institutional space”¹³³ and “its limited resources and the breadth of the sustainable development agenda make it particularly dependent on other actors and organizations.”¹³⁴ He adds, “[i]n short, states designed the HLPF with (just) enough authority and resources to orchestrate, but not enough for stronger modes of governance.”¹³⁵

¹²⁹ See *supra* note 113, para. 72.

¹³⁰ The follow up and review processes will be: voluntary and country-led; universal; have a longer-term orientation; open, inclusive, participatory and transparent; people-centered, gender-sensitive and respectful for human rights; build on existing platforms; rigorous and based on evidence, informed by country-led evaluations and data which is high quality, accessible timely, reliable and disaggregated; will require enhanced capacity building support for developing countries; and, will benefit from the active support of the United Nations System. See *supra* note 113, para. 74.

¹³¹ See *supra* note 101, para. 94.

¹³² K. Abbott & S. Bernstein, *The High-Level Political Forum on Sustainable Development: Orchestration by default and Design*, 6 (3) Global Policy, at 223 (2015).

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

In this forum, States present Voluntary National Reviews (VNRs), which are reports that each government elaborates to narrate the implementation of the SDGs and share with the HLPF actions and challenges faced in that process. To July 1st, 2018, 92 countries have submitted VNRs to the HLPF and 16 more are expected to present theirs in July 2018.¹³⁶

IV.C. Sustainable Development Goals and Human Rights

It is important to consider that the 1993 Vienna Declaration contains a chapter on increased coordination on human rights within the UN system,¹³⁷ but in practice “goal setting [in general, not specific to the SDGs] has kept rights and development apart.”¹³⁸

In a broad sense, going further than just the goals, development should not be allowed to appear to be in opposition to human rights. The drive for development is deeply intertwined with the idea of rights.¹³⁹ Development is often justified as necessary to make it possible to respect and ensure individual rights.¹⁴⁰ In fact, the common assumption that one must choose between societal development and individual rights has not been proven or even examined.¹⁴¹ Professor Henkin goes further in this point by stressing that “[t]houghtful leaders committed to development are of the view that development and human rights are symbiotic, not adversary. Development must be political and social as well as economic.”¹⁴²

The statement of the former UN Commissioner for Human Rights, Mary Robinson, was strong in this sense:

¹³⁶ See Annex 1. The HLPF Conference is celebrated every July in the UN headquarters in New York, United States of America. In 2018, is programmed for July 9th-18th. Up to July 1st, 2018, the HLPF has received 96 voluntary reports from 92 countries. The countries that have reported in more than one year are Togo (2016, 2017, 2018), Benin (2017, 2018), and Uruguay (2017, 2018).

¹³⁷ Chapter II. Vienna Declaration and Programme of Action, UN Doc. A/CONF.157/23 (1993), Part I.

¹³⁸ See *supra* note 101, para. 77.

¹³⁹ L. Henkin, *The age of rights* 191 (1990).

¹⁴⁰ *Íd.*

¹⁴¹ See *supra* note 139, at 192.

¹⁴² See *supra* note 139, at 193.

"Development without human rights is meaningless. Poverty eradication without empowerment is unsustainable. Social integration without minority rights is unimaginable. Gender equality without women's rights is illusory. Full employment without workers' rights may be no more than a promise of sweatshops, exploitation and slavery. The logic of human rights in development is inescapable."¹⁴³

Although the wording of the goals was not phrased in human right terms, according to a study performed by the Danish Institute for Human Rights, 92% of the 169 targets are linked to International Human Rights Instruments, and therefore the SDGs directly or indirectly reflect human rights standards.¹⁴⁴

The Office of the High Commissioner for Human Rights (OHCHR) has stated that the 2030 Agenda is unequivocally anchored in human rights, and that "the SDG targets are closely aligned with human rights standards."¹⁴⁵

The former UN Independent Expert on the Right to Development, Mr. Arjun Sengupta, makes a relevant point, in his academic capacity:

"Any process of development, or for that matter any activity, can be rights-based if its carried out in a manner consistent with human rights standards. When that process of development can be and is claimed as a right, it can be object of the right to development. There may be several different ways a country may develop, only some of these ways may be rights-based; that is, conforming to the standards of human rights and consistent with the definition of development given in the Declaration."¹⁴⁶

¹⁴³ M. Robinson, *A voice for Human Rights* 128 (2006)

¹⁴⁴ Danish Institute for Human Rights, *Human Rights in Follow-Up and Review of the 2030 Agenda for Sustainable Development* 7 (2016).

¹⁴⁵ OHCHR, 2015, *Human Rights in the 2030 Agenda for Sustainable Development* (<http://www.ohchr.org/Documents/Issues/MDGs/Post2015/HRAndPost2015.pdf>) last visited (25-05-2018).

¹⁴⁶ A. Sengupta, *The Human Right to Development* in B. Andreassen & S. Marks (Eds) *Development as a Human Right* 16, 2nd ed. (2010).

He adds:

“The process itself has to be carried out in a rights-based manner, with all the outcomes realized with equity and accountability and through the policies and actions taken by the state and other agents following the human rights standards, in a participatory and non-discriminatory manner.”¹⁴⁷

The aims of the 2030 to “realize the human rights of all”,¹⁴⁸ and the pledge that “no one will be left behind”,¹⁴⁹ generates the opportunity for established human rights norms and mechanisms to offer guidance for its implementation, “as it is underpinned by legally-binding human rights treaties.”¹⁵⁰

Moreover, the 2030 agenda

“is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law. It is grounded in the Universal Declaration of Human Rights, international human rights treaties, the Millennium Declaration and the 2005 World Summit Outcome. It is informed by other instruments such as the Declaration on the Right to Development.”¹⁵¹

IV.D. Normative Status of the Sustainable Development Goals

The SDGs are enshrined in UN General Assembly resolution 70/1.¹⁵² Under International Law,¹⁵³ these resolutions are not a formal source of law. We face what is

¹⁴⁷ See *supra* note 146, at 23.

¹⁴⁸ See *supra* note 113, preamble.

¹⁴⁹ *Íd.*

¹⁵⁰ Danish Institute for Human Rights, *Human Rights and the 2030 Agenda for Sustainable Development 7* (2018).

¹⁵¹ See *supra* note 113, para. 10.

¹⁵² See *supra* note 113, preamble.

¹⁵³ Article 38 of the Statute of the International Court of Justice

denominated soft law.¹⁵⁴ “The binding character of soft law principles may be debated, but they often address issues of almost universal agreement, such as sustainable development or human rights, and can provide powerful justifications for action.”¹⁵⁵

This issue is relevant because soft law is manifestly a multi-faceted concept.¹⁵⁶ The SDGs fit in what some authors define as Informal International Law Making:

“Cross-border cooperation between public authorities, with or without the participation of private actors and/or international organizations, in a forum other than a traditional international organization (*process informality*), and/or as between actors other than traditional diplomatic actors (such as regulators or agencies) (*actor informality*), and/or which does not result in a formal treaty or legally enforceable commitment (*output formality*).”¹⁵⁷

Beyond the soft law character of the UNGA resolutions, some scholars have attempted to fit them as formal source of international law.¹⁵⁸ On the one hand, the General Assembly resolutions may be the basis for customary international law.¹⁵⁹ The SDGs and the level of implementation of the goals and targets may provide evidence for the existence of customary international law, by demonstrating both the *opinio juris* necessary for new law and/or the practice of States.

On the other hand, there are authors who writing about development, state that General Assembly resolutions are a particular kind of soft law and might be characterized as principles that “would (and should) then percolate down into domestic fora, instead of being elevated from the domestic level to that of international law by way of analogy.”¹⁶⁰ Others

¹⁵⁴ H. Charlesworth, *Law Making and Sources* in J. Crawford & M. Koskeniemi (Eds.), *The Cambridge Companion to International Law* 198 (2015).

¹⁵⁵ *Id.*

¹⁵⁶ Particularly as customary law or as general principles of law. *See supra* notes 75, at 133 and 154, at 199.

¹⁵⁷ J. Pauwelyn, *Informal International Law making: Framing the Concept and Research Questions* in J. Pauwelyn, R. Wessel & J. Wouters (Eds.) *Informal International Law Making* 22 (2012).

¹⁵⁸ *See supra* note 153.

¹⁵⁹ *See supra* note 75, at 130.

¹⁶⁰ B. Simma & P. Alston, *The Sources of Human Rights Law: Custom, Jus Cogens and General Principles*, 12 *Australian Year Book of International Law* 102 (1992).

even write about a “meta-principle, acting upon other rules and principles – a legal concept exercising a kind of interstitial normativity, pushing and pulling the boundaries of true primary norms when they threaten to overlap or conflict with each other.”¹⁶¹

Therefore, it is reasonable to conclude that the Sustainable Development Goals have normative value, if they are conceived as base for customary international law or as principles. Even more, notwithstanding the fact that both the Right to Development and the SDGs are enshrined in UN General Assembly resolutions, States are modifying their national legislation to implement the commitments adopted within the framework of the 2030 agenda. “[T]he path towards sustainable development”¹⁶² is already been drawn and States are following it.

¹⁶¹ A. Lowe, *Sustainable Development and Unsustainable Arguments* in A. Boyle & D. Freestone (Eds.) *International Law and Sustainable Development: Past Achievement and Future Prospects* 24 (1999).

¹⁶² See *supra* note 113, para. 18.

V. Sustainable Development Goals and Lesbian, Gay, Bisexual, Trans and Intersex Persons.

V.A. No one will be left behind.

The preamble of the General Assembly resolution that adopts the SDGs, establishes a commitment of the States: “no one will be left behind.”¹⁶³ This pledge in which the States collectively embark while “recognizing that the dignity of the human person is fundamental, we [the States] wish to see the Goals and targets met for all nations and peoples and for all segments of society. And we will endeavor to reach the furthest behind first.”¹⁶⁴

This assurance is made five times¹⁶⁵ throughout the thirty five page document, starting in the preamble as a principle of the 2030 Agenda, ending with the objective of the follow-up and review mechanism. This promise shows that the agenda is “intrinsically linked to the human rights principles of equality and non-discrimination.”¹⁶⁶

In the UNGA session where the adoption of the Goals was discussed, this pledge was mentioned in six interventions. The agenda was described by the UN Secretary General as “a promise by leaders to all people everywhere”¹⁶⁷ that, above all, “pledges to leave no one behind.”¹⁶⁸ The Co-Chair of the meeting, Uganda’s President Mr. Museveni, suggested four tests to apply in order to realize the goals, realizing that there was a “huge gap between the world we live in and the world we want.”¹⁶⁹ The third test proposed was the non-discrimination test:

“Let us be clear. Leaving no one behind means challenging power structures and enforcing the rule of law. Inequality is largely the direct

¹⁶³ See *supra* note 113, preamble.

¹⁶⁴ See *supra* note 113, para. 4.

¹⁶⁵ See *supra* note 113, Preamble, paras. 4, 26, 48, 72.

¹⁶⁶ C. Golay, *No one will be left behind. The role of United Nations Human Rights Mechanisms in monitoring the Sustainable Development Goals that seek to realize Economic, Social and Cultural Rights*, Academy Briefing Num. 11, 34 (2018).

¹⁶⁷ UN General Assembly 4th Plenary Meeting, 70th session, Official Records UN. Doc. A/70/PV.4, 4 (2015).

¹⁶⁸ *Id.*

¹⁶⁹ See *supra* note 167, at 5.

result of discrimination and exclusion based on gender, race, descent, religion or other status. Inequality is the consequence of the failure to protect the rights of the marginalized, indigenous peoples, minorities, migrants, persons with disabilities, children and the elderly.”¹⁷⁰

The leave no one behind ethos “requires good and effective governance in implementing each goal.”¹⁷¹ This call in the language of the SDGs reflects a hard-won global consensus on the commitment to eradicating exclusion and marginalization.¹⁷² This compromise provides a new opportunity, with its implication that the targets and goals cannot be met if it is not met for any specific marginalized group.¹⁷³

V.B. Are LGBTI persons left behind?

“Sustainable development is meant to be sustainable for everyone, but at the present LGBT people are not experiencing the full benefits of sustainability and are denied their human rights.”¹⁷⁴

V.B.1. Transforming our world

The UN General Assembly resolution that establishes the 2030 Agenda for Sustainable Development¹⁷⁵ has a very ambitious and straight-forward title. It presents the

¹⁷⁰ See *supra* note 167, at 4-5.

The rest of the interventions were made by President Grabar-Kitarović (Croatia); Mr. Christie (Bahamas); Mr. Nicholson (Jamaica); and, Mr. Dookeran (Trinidad and Tobago). See *supra* note 167, at 6, 15, 20 and 21.

¹⁷¹ F. Biermann et al., *Global Goal Setting for Improving National Governance and Policy* in N. Kanie & F. Biermann (Eds.), *Governing through Goals Sustainable Development Goals as Governance Innovation*, 92 (2017).

¹⁷² C. Vaast & E. Mills, *Gender, Sexuality and Development Avenues for action in a post-2015 development era* in C. Mason (Ed.), *Routledge Handbook of Queer Development Studies* 57 (2018).

¹⁷³ E. Stuart & J. Woodroffe, *Leaving no-one behind: can the Sustainable Development Goals succeed where the Millennium Development Goals lacked?*, 24 *Gender & Development* 74 (2016).

¹⁷⁴ M. Roghult, *A straight road to development Introducing a queer perspective to development* 4 (2009).

¹⁷⁵ See *supra* note 113.

agenda and the goals as a way to transform our world, although it seeks to do so without contemplating part of the population. As indicated above, in the resolution there is no mention to LGBTI persons or SOGIESC issues. They were, as it has historically been, left behind of the text. The reasons for this exclusion will be addressed down below, “[w]here discrimination is at play, being left behind does not happen arbitrarily.”¹⁷⁶

Previous to the adoption of the document, the OWG had very active debates with groups that had not previously been active in UN sustainable development discussions, in the spirit of the “leave no one behind” slogan,¹⁷⁷ which “included local communities, older persons, persons with disabilities, migrants, LGBT groups”¹⁷⁸ among others. The arguments that revolved around the inclusion of LGBTI persons in an explicit way in the SDGs changed over time.¹⁷⁹ Some of the African countries were progressive on some issues and on others, particularly on items related to sexual and reproductive health and rights and LGBT rights, more conservative.¹⁸⁰ Certain countries or groups, such as Saudi Arabia, some members of the African Group, and others such as Malta, had a narrow approach to the SDGs, believing that some issues, such as gender, and to LGBT rights, should not be included on the agenda.¹⁸¹

There are three identified reasons for the opposition of some States to the inclusion of LGBTI persons in the SDGs: domestic cultural norms, religious concerns and impact in development assistance.¹⁸²

Ambassador Macharia Kamau, from Kenia, going deeper in the first reason, narrates that:

¹⁷⁶ I. Winkler & M. Satterthwaite, *Leaving no one behind? Persistent inequalities in the SDGs*, 21 *International Journal of Human Rights* 1078 (2017).

¹⁷⁷ M. Kamau, P. Chasek & D. O’Connor, *Transforming Multilateral Diplomacy: The Inside Story of the Sustainable Development Goals* 124 (2018).

¹⁷⁸ *Id.*

¹⁷⁹ *See supra* note 177, at 107.

¹⁸⁰ *See supra* note 177, at 113.

¹⁸¹ *Id.* *See also*, *See supra* note 172, at 161.

¹⁸² *See supra* note 177, at 113-114.

“Homosexuality is taboo in most African countries and illegal in thirty seven. These countries were concerned that if LGBT rights were included in the SDGs, it could cause a problem at home. Similarly, they were concerned that a call for universal LGBT rights could become a form of conditionality for development assistance.”¹⁸³

The religious concern was reflected in the omission of LGBTI persons in the agenda because “[m]uslim countries saw LGBT rights as against Islam, and some countries and the Holy See saw it against Catholicism as well.”¹⁸⁴

The last apprehension, development assistance, came from the consideration of LGBTI persons as a vulnerable community. The States said that “this could result in the diversion of money from traditional development assistance for basic services in impoverished communities.”¹⁸⁵

During the process of the discussion of the post-2015 development agenda, there was “unwillingness to ‘hear’ the many joint statements among civil society organizations and some member states.”¹⁸⁶ One of the statements that lobbied for the inclusion of LGBTI persons in the 2030 agenda is worthy of mention,¹⁸⁷ the one made by the SOGIE Caucus on the 47th Session of the Commission on Population and Development.¹⁸⁸ This particular statement is relevant due to the overwhelming endorsement it had by 97 LGBTI and development organizations from 39 countries in which they denounce that “we draw strength from the knowledge that we are anything but invisible,”¹⁸⁹ adding that

¹⁸³ See *supra* note 177, at 114.

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ See *supra* note 172, at 61.

¹⁸⁷ *Id.*

¹⁸⁸ Statement for General Discussion: on behalf of the Sexual Orientation, Gender Identity and Expression (SOGIE) Caucus at the 47th Session of the Commission on Population and Development, “*Our lives are not negotiable*” *Activists call on governments to end human rights violations experienced by those with diverse sexual orientations, gender identities and expressions*, New York April 2014. (<http://www.sexualrightsinitiative.com/tag/icpd/>) last visited (10-06-2018).

¹⁸⁹ *Id.*

“The recognition and fulfillment of the human rights and development of all people, regardless of sexual orientation, gender identity or gender expression, is a crucial step towards fulfillment of (...) development. It is time for governments to acknowledge what we all know to be true: our lives are not negotiable.”¹⁹⁰

Furthermore, within the framework of the post-2015 intergovernmental negotiations on the outcome document,¹⁹¹ the SOGI Group¹⁹² issued a political declaration in which stressed that

“For this agenda to be truly inclusive ‘leaving no one behind’ and grounded in equality and the universality of human dignity there is an absolute need to address the systematic and political marginalization of persons due to real or perceived sexual orientation, gender identity, gender expression, and bodily diversity, at both the policy and grassroots levels.”¹⁹³

Despite the participation of LGBTI civil society organizations and advocates in the process of the adoption of the 2030 agenda, the deployed efforts did not have the expected result. Throughout the adopted SDGs document protected categories of people are mentioned four times. None of those mention LGBTI persons explicitly.

The first reference is found under the section “the new agenda”, where the principle of non-discrimination that informs the Goals is stressed by emphasizing that

“the responsibilities of all States, in conformity with the Charter of the United Nations, to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind as to race,

¹⁹⁰ *Íd.*

¹⁹¹ (<https://sustainabledevelopment.un.org/post2015/negotiationsoutcome1>) last visited (01-07-2018)

¹⁹² Consisting of: International Gay and Lesbian Human Rights Commission, Muslims for Progressive Values, Advocates for Youth, RFSL - The Swedish Federation for Lesbian, Gay, Bisexual, Transgender and Queer Rights, CHOICE for Youth and Sexuality and Global Interfaith Network for SSOIGIE.

¹⁹³ Sexual Orientation and Gender Identity Group, *Statement on Political Declaration and Follow-up and Review Mechanisms of SDG Zero Draft Outcome Document - Long Version*, 24 June 2015. ([https://sustainabledevelopment.un.org/content/documents/16177Sexual%20Orientation%20and%20Gender%20Identity%20Group%20Statement%20on%20Zero%20Draft%20Long%20Version%20\(Draft%201\).pdf](https://sustainabledevelopment.un.org/content/documents/16177Sexual%20Orientation%20and%20Gender%20Identity%20Group%20Statement%20on%20Zero%20Draft%20Long%20Version%20(Draft%201).pdf)) last visited (01-07-2018).

colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status.”¹⁹⁴

Among the phrasing of the targets that are drawn to fulfil the Goals, we find the mention twice, in Goals 10 and 17. To reduce inequality within and among countries, target 10.2 empowers to promote, by 2030, “the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status.”¹⁹⁵ As for Goal 17, that seeks to strengthen the means of implementation and revitalization of the Global Partnership for Sustainable Development through data, monitoring and accountability, target 17.8 aims to

“enhance capacity-building support to developing countries (...) to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts.”¹⁹⁶

Lastly, within the principles of the follow-up and review processes, the resolution states that the data and evaluations that the countries will lead will be “disaggregated by income, sex, age, race, ethnicity, migration status, disability and geographic location and other characteristics relevant in national contexts.”¹⁹⁷

Thus, there are two formulations in which we may *fit* LGBTI persons: *other status* or *other characteristics relevant in national contexts*. The inclusion of the formula *other status* is considered as a partial victory by those advocating for LGBTI rights, who assert that from that phrase it could be inferred that SOGIE-related issues are included.¹⁹⁸

The inclusion of LGBTI persons in the subtext of the 2030 agenda can also be derived

¹⁹⁴ See *supra* note 113, para. 19.

¹⁹⁵ See *supra* note 113, Goal 10.2.

¹⁹⁶ See *supra* note 113, Goal 17.18.

¹⁹⁷ See *supra* note 113, para. 74.g.

¹⁹⁸ See *supra* note 172, at 62.

of expressions such as “[p]eople who are vulnerable must be empowered”¹⁹⁹

The Office of the High Commissioner for Human Rights, alluding to this issue indicated that:

“The new agenda includes perhaps the most expansive list of groups to be given special focus of any international document of its kind. There is a strong focus on women and girls and gender issues, and the inclusion of children, youth, persons with disabilities, people living with HIV/AIDS, older persons, indigenous peoples, refugees and internally displaced persons and migrants (e.g. para 23). There is an important new commitment of Member States to welcome the positive contribution of migrants and ensure that migration takes place with “full respect for human rights and the human treatment of migrants regardless of migration status, of refugees and of displaced persons” (para 35). However there are also major gaps such as the lack of explicit reference to minorities and LGBTI.”²⁰⁰

The missed opportunity to explicitly name LGBTI people is a manifestation of how equality and non-discrimination is still bounded by a hetero and cis normative conception of right-holders. As Vaast and Mills point out:

“This failure to ‘name’ those people and groups that experience ‘hard core’ exclusion, like LGBTQI people, is an explicit denial of their equal right to participate in the social, economic and political dimensions of development across all levels of society. This failure to acknowledge LGBTQI people as those people in direct need of inclusion and protection thus invisibilizes their experiences of discrimination and exclusion.”²⁰¹

¹⁹⁹ See *supra* note 113, para. 23.

²⁰⁰ OHCHR, *Transforming Our World: Human Rights in the 2030 Agenda for Sustainable Development. Position paper* (<https://www.ohchr.org/Documents/Issues/MDGs/Post2015/TransformingOurWorld.pdf>) last visited (13-06-2018).

²⁰¹ See *supra* note 172, at 61.

V.B.2. LGBTI persons into the SDGs.

As described in the previous section, the adoption of the 2030 agenda did not mention LGBTI persons or SOGIESC issues. In this section an overview from academia, civil society, states and human rights bodies and agencies will be provided in order to see how, in practice and in theory, the “leave no one behind” pledge has worked its way to not leave LGBTI persons behind once the SDGs have already been adopted.

V.B.2.i. Into the SDGs: a view from academia

Among academia the most holistic view so far is given by Vaast and Mills in their analysis of the relationship between sexuality, gender identity, development and social exclusion.²⁰² They seek an entry point to amend the silence of the SDGs regarding LGBTI persons. Accordingly, they argue that “all goals pertaining to justice, discrimination and protection fall under Goal 10”²⁰³ and therefore the frameworks through which discrimination on the basis of SOGIE is entrenched or addressed, would apply to the goal that seeks to reduce inequalities within and among countries through development programs.²⁰⁴

Badgett and Crehan associate LGBTI persons and SDGs regarding the necessity of specific data and knowledge as a way to develop policies and programs that are “needed to understand the link between LGBTI exclusion and sustainable development and to create evidence-based laws, policies, programming, and budgeting.”²⁰⁵

Fukada-Parr refers to the link between SDGs and LGBTI persons only to address the difficult adoption and weak language of Goal 16, that was due to the resistance of African

²⁰² See *supra* note 172, at 57.

²⁰³ See *supra* note 172, at 63.

²⁰⁴ *Íd.*

²⁰⁵ M. Badgett & P. Crehan, *Developing Actionable Research Priorities for LGBTI Inclusion*, 7 *Journal of Research in Gender Studies*, 219 (2017).

and Arab countries over LGBT rights.²⁰⁶ Fukada-Parr's contribution is not substantive but raises the point.

The abovementioned scholars have trace the path for a field that has the potential to be prolific. The efforts are still shy and recent, but the SDGs were adopted only three years ago and have 12 years to go, in which hopefully many scholars study the intersection of LGBTI persons and the SDGs.

V.B.2.ii. Into the SDGs: a view from civil society

Civil society has been more prolific than academia in the treatment of SDGs within the LGBTI demands.

The Asia Pacific Transgender Network (APTN), along with UNDP, developed a legal and policy review on the legal gender recognition of trans persons, that was identified as a crucial step for achieving the SDGs.²⁰⁷ "If the Sustainable Development Goals are to be reached, then it is essential to address the absence of comprehensive and inclusive human rights protections for transgender people"²⁰⁸ whom must be included as a priority in order to achieve sustainable development.²⁰⁹

Haus of Khamaleon has raised issues regarding the link of the SDGs and LGBTI youth. A special accent is made in relation to the achievement of gender equality (goal 5), in which the inclusion of LGBTI persons can also be a key priority.²¹⁰ In relation to access to education for LGBTI persons, "education systems must be rights-based and meet the needs of LGBTI persons."²¹¹ Lastly, in reference to SDG 3 on Good Health and Wellbeing, they affirm that it should address and recognize inequities in health access and health outcomes

²⁰⁶ S. Fukada-Parr, *From the Millennium Development Goals to the Sustainable Development Goals: shifts in purpose, concept, and politics of global goal setting for development*, 24 *Gender & Development* 48 (2016).

²⁰⁷ APTN & UNDP, *Legal Gender Recognition: A Multi-Country Legal and Policy Review in Asia* 8 (2017).

²⁰⁸ *See supra* note 207, at 70.

²⁰⁹ *Id.*

²¹⁰ M. Wali, *When some are left behind, all are left behind: A Youth Trans Feminist Activist Perspective from the pacific*, 21 (2) *Arrow for Change* 32 (2017).

²¹¹ *Id.*

experienced by LGBTI communities.²¹²

Stonewall International issued a guide document to demonstrate “some ways LGBT equality can be achieved”²¹³ to assure that LGBT persons are accounted for in the responses that governments and organizations have towards the SDGs.²¹⁴ Realizing that the SDGs “could have gone further by explicitly calling for LGBT equality, we recognize their exciting potential to advance equality for all.”²¹⁵ Stonewall asseverates that the “leave no one behind” principle is particularly relevant for LGBT people and that poverty as a whole will never truly be eradicated until there is direct attention to the reality of LGBTI persons.²¹⁶

A similar approach is given by Human Rights Campaign. In the scenario of silence of the SDGs regarding LGBTI persons, there is good news given that “there is still sufficiently broad language related to inclusion and sexual and reproductive health and rights that it can encompass LGBT issues.”²¹⁷ And that “[w]hat matters now is how this text gets interpreted and applied going forward.”²¹⁸ This NGO highlights goals 10 and 16 for their broad language that can make a major difference for LGBT specific targets that seek to “empower and promote the social, economic and political inclusion of all”²¹⁹ and “ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action.”²²⁰

Outright Action International has established that “[t]he protection and promotion of

²¹² *Íd.*

²¹³ K. Dorey & Stonewall International, *The Sustainable Development Goals and LGBT Inclusion* 1 (2016).

²¹⁴ *Íd.*

²¹⁵ *Íd.*

²¹⁶ *Íd.*

²¹⁷ Human Rights Campaign, Op-ed What Does the UN’s Agenda 2030 Mean for LGBT People?, September 30, 2015 (<https://www.hrc.org/blog/op-ed-what-does-the-uns-agenda-2030-mean-for-lgbt-people>) last visited (12-06-2018).

²¹⁸ *Íd.*

²¹⁹ *Íd.*

²²⁰ *Íd.*

human rights of LGBTI people is crucial in development initiatives.”²²¹ Furthermore, they affirm that the 2030 agenda is based in international human rights treaties and the UDHR and targets 10.2, 10.3 and 10.4²²² “are directly relevant to the rights of LGBTI people”. Indeed, to realize the full spectrum of health and rights for LGBTI people, progress across all development priorities is required.²²³ The point is stressed by establishing that SDGs

“require member states to demonstrate how they are reducing inequality by empowering and promoting social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion, economic or other status, which includes sexual orientation, gender identity or expression and sex characteristics.”²²⁴

The only development-focused NGO that has made the link between the SDGs and LGBTI persons is Bond. They have stated that the implementation of the goals that seek to reduce inequalities (goal 10), gender equality (goal 5) and peace, justice and strong institutions (goal 16), are essential to assure that no one will be left behind, “[g]overnments and donors must seek to overcome political and contested issues which prevent progress on ensuring no one is left behind, such as (...) discriminatory attitudes, policies and laws towards (...)LGBT people.”²²⁵

The Asia Pacific Forum of National Human Rights Institutions and the UNDP published a manual for human rights institutions in which they clearly establish that “[t]he SDGs apply for the benefit of lesbian, gay, bisexual, transgender and intersex people as much

²²¹ Outright Action International & The Global Forum on MSM & HIV, *Agenda 2030 for LGBTI Health and Well-Being* 8 (2017).

²²² Target 10.2: By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status; 10.3:Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard; 10.4:Adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality.

²²³ *See supra* note 221.

²²⁴ Outright Action International, *International Best Practice Guide to Equality on Sexual Orientation and Gender Identity* 2 (2018).

²²⁵ Bond, *Leaving no one behind: Putting marginalized people at the forefront of the Sustainable Development Goals* 4 (2016).

as for anyone else.”²²⁶ Goals 10 and 16 are highlighted as especially—but not exclusively—relevant,²²⁷ and the SDGs are presented as tool that offer opportunities for education and advocacy in relation to the human rights of LGBTI people as well as “a framework for accountability for State performance of human rights obligations towards lesbian, gay, bisexual, transgender and intersex people.”²²⁸

A call on the part that parliaments play is explicitly contemplated in the 2030 agenda.²²⁹ The Parliamentarians for Global Action (PGA) have developed the role that parliaments have in supporting implementation of the SDGs stating that “advancing the rights and inclusion of LGBTI people is the responsibility of all parliamentarians, regardless of the person’s sexual orientation or gender identity.”²³⁰ They acknowledge that “[t]hrough their representation, legislative and oversight functions, parliamentarians play a crucial role in shaping legal and policy frameworks and public opinion in their constituencies and countries.”²³¹

In the displayed efforts of civil society, is easy to appreciate that there is imbalance in the assessment of the relationship between LGBTI persons and the SDGs. LGBTI-focused NGOs have been substantially more prolific in stressing the relationship between LGBTI persons and SDGs, than development-focused NGOs have done so. The reports of

²²⁶ Asia Pacific Forum of National Human Rights Institutions & UNDP, *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity and Sex Characteristics: A Manual for National Human Rights Institutions* 121 (2016).

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ *See supra* note 113. Para. 45: “We acknowledge also the essential role of national parliaments through their enactment of legislation and adoption of budgets and their role in ensuring accountability for the effective implementation of our commitments. Governments and public institutions will also work closely on implementation with regional and local authorities, subregional institutions, international institutions, academia, philanthropic organizations, volunteer groups and others”; Para. 79: “We also encourage Member States to conduct regular and inclusive reviews of progress at the national and subnational levels which are country-led and countrydriven. Such reviews should draw on contributions from indigenous peoples, civil society, the private sector and other stakeholders, in line with national circumstances, policies and priorities. National parliaments as well as other institutions can also support these processes.”

²³⁰ PGA & UNDP, *Advancing the Human Rights and Inclusion of LGBTI People: A Handbook for Parliamentarians* 17 (2017).

²³¹ *Id.*

parliamentarians and autonomous national human rights institutions provide input to realize that the link between LGBTI persons and SDGs is being stressed not only in international fora, but also within the states in fields where the executive has no interference.

V.B.2.iii. Into the SDGs: a view from States

After the adoption of the 2030 agenda, States are compelled to participate in the implementation and “conduct regular and inclusive reviews of progress at the national and sub-national levels, which are country-led and country-driven.”²³² The follow-up process of the SDGs, its principles and characteristics are reviewed in section IV.B. This section is going to focus on the study of the National Voluntary Reviews that States have submitted to the HLPF to analyze if the silence of the 2030 agenda regarding LGBTI persons has had an impact in its implementation.²³³

The follow-up and review process started in 2016, period in which the HLPF received 22 reports. Out of the total of reviews, one of them mentions LGBTI persons (Mexico), and one of them refers to sexual diversity (Venezuela). Three mention sexual orientation (Estonia, Germany and Philippines) and three mention gender identity (Venezuela, Philippines and Germany).

In general, five States referred to LGBTI or SOGI: Mexico, Venezuela, Estonia, Germany, and Philippines.

The issues that were raised on the 2016 review process that link SDGs and LGBTI persons include: the adoption of equal opportunities in employment without discrimination on the basis of sexual orientation;²³⁴ policies to ensure access to health and reproductive health services in efforts to promote a rights-based approach to better link sexual and

²³² See *supra* note 113, para. 79.

²³³ See Annex 1. All the reports are available at (<https://sustainabledevelopment.un.org/vnrs/>) last visited (01-07-2018).

²³⁴ Review of the implementation of the 2030 agenda in Estonia 37 (2016).

reproductive health services in the field of SOGI;²³⁵ the challenges that the “leave no one behind” premise implies to bring the 2030 agenda closer to excluded population, which includes LGBTI persons;²³⁶ the need to disaggregate data by SOGI;²³⁷ the inclusion of SOGI related diversity in the gender equality plans;²³⁸ and, the inclusion of SOGI issues in primary and secondary school textbooks.²³⁹

In 2017, the HLPF received 43 reports. Nine reports refer to LGBTI persons (Belgium, Chile, Costa Rica, Denmark, Guatemala, Nepal, Netherlands, Portugal, Sweden), ten refer to sexual orientation (Brazil, Chile, Costa Rica, Czech Republic, Denmark, Italy, Panama, Portugal, Slovenia, Sweden), five reports refer to gender identity (Chile, Costa Rica, Portugal, Slovenia, Sweden), and two reports refer to gender expression (Slovenia and Sweden).

In general, 14 States refer to LGBTI or SOGIE: Belgium, Brazil, Chile, Costa Rica, Czech Republic, Denmark, Guatemala, Italy, Nepal, Netherlands, Panama, Portugal, Slovenia, and Sweden.

During the review that was conducted in 2017 there were governments that included sexual orientation and gender identity as a priority of the SDGs implementation process.²⁴⁰ In addition, States have adopted the compromise to guarantee measures that would support the fight against any kind of discrimination based on the grounds of SOGI,²⁴¹ as non-discrimination is a fundamental principle and a structural element of the democratic rule of

²³⁵ Report of the German Federal Government to the High-Level Political Forum on Sustainable Development 25 (2016).

²³⁶ National Voluntary Report of Mexico within the framework of the High-Level Political Forum on Sustainable Development 22 (2016).

²³⁷ Voluntary National Review at the 2016 High-Level Political Forum On the Sustainable Development Goals (SDGs) Philippines 18 (2016). *See also*: Voluntary National Report: Venezuela 54 (2016).

²³⁸ Voluntary National Report: Venezuela 27 (2016).

²³⁹ *See supra* note 238, at 24.

²⁴⁰ National Report on the Implementation of the 2030 Agenda for Sustainable Development: Portugal 31 (2017).

²⁴¹ Voluntary National Review: Italian Sustainable Development Strategy 57 (2017).

law.²⁴² Forging these SOGI-inclusive societies, is presented as a way to fight poverty and thereby reduce inequality.²⁴³ Furthermore, the fulfillment of sexual rights for LGBT people have contributed to the development of society.²⁴⁴

States also highlighted certain challenges that have arisen in the implementation of the SDGs to LGBTI persons. Among such, the need of a human rights approach to provide adequate and differentiated healthcare and access to health to LGBTI persons.²⁴⁵ In addition, the existence of structural inequalities in access to decent work due to historic exclusion of LGBTI persons²⁴⁶ and the need to collect disaggregated data by SOGI.²⁴⁷

The participation of LGBTI civil society is encouraged as allows the identification of particular needs and actions.²⁴⁸ The efforts towards the “leave no one behind” promise imply the inclusion and participation of LGBTI persons.²⁴⁹ Some States even held consultation processes to LGBTI persons for the elaboration of the Report²⁵⁰

The States narrate certain actions that have been adopted in order to fulfil the SDGs in relation to LGBTI persons. Among those: the adoption of gender strategy and action plans that includes in its priorities the protection of the rights and fight against violence to LGBTI

²⁴² See *supra* note 240, at 11. See also: Sweden and the 2030 Agenda 32 (2017).

²⁴³ Report for the Voluntary National Review Ministry of Finance Denmark’s implementation of the 2030 Agenda for Sustainable Development 29 (2017).

²⁴⁴ See *supra* note 243, at 30. See also: 2030 Agenda for Sustainable Development National Voluntary Review: Guatemala 136 (2017).

²⁴⁵ Costa Rica: Constructing a Common Vision of Sustainable Development 48 (2017). See also: National Voluntary Report: Panamá 52 (2017); Sweden and the 2030 Agenda 22 (2017); *supra* note 240, at 34.

²⁴⁶ Costa Rica: Constructing a Common Vision of Sustainable Development 52 (2017). See also: Sweden and the 2030 Agenda 25 (2017).

²⁴⁷ Costa Rica: Constructing a Common Vision of Sustainable Development 52 (2017).

²⁴⁸ Nepal, National Review of Sustainable Development Goals 11 (2017). See also: Sweden and the 2030 Agenda 62 (2017).

²⁴⁹ National Report on the Implementation of the 2030 Agenda for Sustainable Development: Czech Republic 30 (2017). See also: Sweden and the 2030 Agenda 18, 84 (2017).

²⁵⁰ See *supra* note 247, at 10.

persons;²⁵¹ policies that contemplate Special Social Protection to LGBTI persons due to the situations of personal or social risk of threat or violation of rights they face;²⁵² anti-discrimination laws that include sexual orientation and gender identity as prohibited grounds for discrimination, and the reported obstacles of its implementation;²⁵³ special medical units that have a human-rights based approach that allows a dignified treatment to LGBTI persons;²⁵⁴ policies that aim at the empowerment and participation of LGBT people,²⁵⁵ including structures that respond to their particular needs;²⁵⁶ assistance packages to school boards and teachers in order to create an education system that is more gender-aware and LGBTI-friendly;²⁵⁷ the creation of surveys that allow the implementation of performance indicators associated with the 2030 agenda in topics that relate to SOGI.²⁵⁸

In 2018, 47 States have announced their participation in the HLPF review process. To July 1st 2018, 31 reports have been submitted. Out of those, seven reports mention LGBTI persons (Albania, Australia, Cabo Verde, Ecuador, Ireland, Malta and Uruguay); eight reports mention sexual orientation (Albania, Andorra, Australia, Ecuador, Greece, Ireland, Malta and Uruguay); six reports mention gender identity (Australia, Ecuador, Greece, Ireland, Malta and Uruguay); one of them mentions gender expression (Ireland); and, one mentions sex characteristics (Malta).

In general, nine States refer to LGBTI or SOGIESC: Albania, Andorra, Australia,

²⁵¹ Pathways to Sustainable Development First Belgian National Voluntary Review on the Implementation of the 2030 Agenda 23 (2017). *See also*: Voluntary National Review on the Implementation of the 2030 Agenda: Slovenia 29 (2017); *supra* note 240, at 32, 52.

²⁵² Voluntary National Report on the Sustainable Development Goals: Brasil 52 (2017).

²⁵³ National Voluntary Report: Chile 37 (2017). *See also*: Sweden and the 2030 Agenda, 30 (2017); *supra* note 240, at 79; *supra* note 247, at, 33, 53, 56, 65, 86.

²⁵⁴ *See supra* note 247, at 46.

²⁵⁵ Kingdom of the Netherlands, Report on the implementation of the Sustainable Development Goals 27 (2017).

²⁵⁶ *See supra* note 240, at 33.

²⁵⁷ Pathways to Sustainable Development First Belgian National Voluntary Review on the Implementation of the 2030 Agenda 22 (2017).

²⁵⁸ National Voluntary Report: Chile 67 (2017).

Cabo Verde, Ecuador, Greece, Ireland, Malta, and Uruguay.

The affairs that were documented in the 2018 review encompass the commitment to promote equal human rights for LGBTI persons²⁵⁹ within a human rights-based approach to sustainable development in the implementation of all SDGs.²⁶⁰

In their reporting, one State particularly expressed its commitment to ensure that LGBTI persons are included in the implementation of the SDGs, through increasing its advocacy and funding to support equal human rights for LGBTI persons globally.²⁶¹

The actions that were adopted to relate LGBTI persons to the SDGs, include the attribution of competences to the Ombudsperson to address SOGI-based discrimination, in particular related to children;²⁶² the recognition of the particular impact of mental health issues and suicide in the LGBTI community and the generation of particular actions to address these issues (like a peer-supported telephone and web-based counselling and referral service);²⁶³ initiatives designed to inform parents and teachers on topics such as homophobia and transphobia both in society and in school²⁶⁴ and policies that aims to have a safe school environment for the trans, gender fluid and intersex members of the school community;²⁶⁵ the adoption of laws that recognize the self-identified gender identity;²⁶⁶ the adoption of

²⁵⁹ Report on the Implementation of the Sustainable Development Goals: Australia, 10 (2018). *See also*: Ireland: Voluntary National Review 2018 Report on the Implementation of the 2030 Agenda to the UN High-level Political Forum on Sustainable Development 69 (2018); Ecuador, National Voluntary Report 51 (2018)

²⁶⁰ Report on the Implementation of the Sustainable Development Goals: Australia 10 (2018).

²⁶¹ *See supra* note 260, at 73.

²⁶² National Voluntary Report: Andorra 9 (2018).

²⁶³ *See supra* note 260, at 35.

²⁶⁴ Voluntary National Review on the Implementation of the 2030 Agenda for Sustainable Development: Greece 55 (2018).

²⁶⁵ Malta Voluntary National Review on the Implementation of the 2030 Agenda 31 (2018).

²⁶⁶ *See supra* note 264, at 49. *See also*: Ireland: Voluntary National Review 2018 Report on the Implementation of the 2030 Agenda to the UN High-level Political Forum on Sustainable Development 67 (2018).

marriage equality laws;²⁶⁷ the generation of LGBTI inclusion strategies or action plans;²⁶⁸ the promotion of political participation of LGBT persons;²⁶⁹ the outlaw of “conversion therapy”;²⁷⁰ the creation of shelters for LGBTI persons;²⁷¹ the introduction of free health services relating to gender identity and sexual characteristics, to facilitate access to treatment for trans persons, that includes the introduction of legislative instruments to this effect;²⁷² the adoption of regulations that aim for equal treatment in employment, combating discriminatory treatment on the grounds of SO;²⁷³ and, the adoption of legislation that prevents SOGI-based discrimination.²⁷⁴

Amidst the challenges that are brought to the HLPF this year, are the difficulties LGBTI persons face in participation in the work force and in accessing services;²⁷⁵ the fact that needs of LGBTI persons are less well understood, with less evolved policy responses as a result,²⁷⁶ as well as the necessity to adopt world leading approaches in relation to the LGBTI persons.²⁷⁷

In light of the reported actions, commitments and challenges that States have adopted to implement the 2030 agenda, it is possible to conclude that the rights of LGBTI persons

²⁶⁷ Ireland: Voluntary National Review 2018 Report on the Implementation of the 2030 Agenda to the UN High-level Political Forum on Sustainable Development 67 (2018). *See also supra* note 265, at 67.

²⁶⁸ Ireland: Voluntary National Review 2018 Report on the Implementation of the 2030 Agenda to the UN High-level Political Forum on Sustainable Development 67 (2018). *See also:* Voluntary National Review on Sustainable Review, Albania 24 (2018); Ecuador, National Voluntary Report 51 (2018); Voluntary National Review on Sustainable Review: Albania 19 (2018)

²⁶⁹ Voluntary National Report on the Implementation on the 2030 Agenda for Sustainable Development: Cabo Verde 9 (2018).

²⁷⁰ Malta Voluntary National Review on the Implementation of the 2030 Agenda 67 (2018).

²⁷¹ Voluntary National Review on Sustainable Review: Albania 19 (2018)

²⁷² *See supra* note 265, at 67.

²⁷³ *See supra* note 265, at 34.

²⁷⁴ *See supra* note 260, at 71.

²⁷⁵ *See supra* note 260, at 6.

²⁷⁶ Ireland: Voluntary National Review 2018 Report on the Implementation of the 2030 Agenda to the UN High-level Political Forum on Sustainable Development 47 (2018).

²⁷⁷ *See supra* note 276, at 103.

have been, over time, progressively included in the Voluntary National Reports to the HLPF in two ways.

The first way is related to the protected categories that States are reporting, that have broadened in scope. In 2016, States only refer to SOGI; in 2017, gender expression is added; and, in 2018, sex characteristics is raised as well. This performance implies an evolution of the States' awareness in acknowledging the differences that these categories entail, and in the need to take differentiated measures in that regard. This affirmation is evident with the revision of the reported issues, which starts in 2016 mainly with the reaffirmation of the non-discrimination principle on the basis of SOGI, and which evolves to actions that entail the protection, respect and fulfilment of economic, social and cultural rights of LGBTI persons.

Secondly, the amount of countries that have reported issues related to LGBTI persons or SOGIESC has increased. In 2016, 25% of the countries included these issues. In 2017, 32,5% of the reports included actions or challenges in that respect, and, in 2018, out of the received reports —with still 16 pending— 32,1% States have pointed out LGBTI persons or SOGIESC issues. The voluntary nature of the VNR is a two-edged sword. On the one hand, it allows the reporting countries to participate freely in the process more than one time, therefore showing their progress yearly. On the other hand, less than half of the UN member states have participated on it,²⁷⁸ within the three years of the adoption of the SDGs.

Combined, these two trends set a hopeful path for what is to be expected of the implementation and follow-up process of the SDGs in relation to LGBTI persons.

V.B.2.iv. Into the SDGs: a view from human rights bodies and agencies

Officially, the implementation of the SDGs started on January 1st, 2016. Since then, the United Nations has been monitoring the available data of this process and highlighting the most significant gaps and challenges²⁷⁹ on a yearly basis. Nor LGBTI persons neither

²⁷⁸ The State of Palestine has announced its participation in the 2018 reporting period, thus adding 194 countries as the total.

²⁷⁹ UN, The Sustainable Development Goals Report 2 (2016).

SOGIESC is mentioned in any of the reports.²⁸⁰

Despite the above mentioned oversight, briefly after the adoption of the SDGs, United Nations agencies participated in a high-level event organized by the UN LGBT Core Group, titled “Leaving No One Behind: Equality & Inclusion in the Post-2015 Development Agenda”. The UN Secretary-General gave the opening remarks in which he stated that

“Leaders from around the world have just adopted a new vision for sustainable development. There are 17 Sustainable Development Goals all based on a single, guiding principle: to leave no one behind. We will only realize this vision if we reach all people regardless of their sexual orientation or gender identity.”²⁸¹

The outcome of this meeting was a joint press release of the 12 agencies²⁸² that participated in the groundbreaking event, in which they express that States bear the duty to protect everyone from discrimination and violence, and that the failure to protect LGBTI persons against abuses impacts “negatively on (...) progress towards achievement of the future Sustainable Development Goals.”²⁸³

On 3 November 2015, in Banjul, a joint dialogue between the ACHPR, the IACHR, and UN human rights mechanisms was built on recent developments of these human rights systems in relation to sexual orientation and gender identity. This dialogue allowed for interaction on substantive issues, as well as on critical and emerging avenues for future actions and collaboration. One of the points that the participants discussed was related to the pertinence of the mainstreaming approach, within which they highlight that

²⁸⁰ UN, The Sustainable Development Goals Report (2016); UN, The Sustainable Development Goals Report (2017); UN, The Sustainable Development Goals Report (2018).

²⁸¹ UN Secretary-General statement, SG/SM/17153-HR/5269, 29 September 2015.

²⁸² International Labour Organization; Office of the High Commissioner for Human Rights; United Nations Development Programme; United Nations Educational, Scientific and Cultural Organization; United Nations Fund for Population Activities; United Nations High Commissioner for Refugees; United Nations International Children’s Emergency Fund; United Nations Office on Drugs and Crime; UN Women; World Food Programme; World Health Organization; and, Joint United Nations Programme on HIV/AIDS.

²⁸³ Joint UN statement on Ending Violence and Discrimination Against Lesbian, Gay, Bisexual, Transgender and Intersex People, September 2015.

“The recent adoption of the Sustainable Development Goals (SDGs) that incorporate strong principles of human rights and of ‘leaving no-one behind’ provides an important opportunity to address human rights concerns within the development agenda, and was seen as an opportunity to engage with member states and other stakeholders on human rights issues including the rights of LGBTI persons.”²⁸⁴

Additionally, the European Commission has generated a particular action to support the SDGs, in which, under the implementation of the goal to reduce inequality (goal 10) has put in place a framework to ensure equal opportunities and to tackle discrimination on the grounds of sexual orientation.²⁸⁵

The United Nations Multi-Country Sustainable Development Framework, in 2016, defined four priority areas in relation to the SDGs²⁸⁶ to seek a cohesive, safe and just Caribbean to end poverty (goal 1), ensure inclusive and equitable quality education (goal 4), achieve gender equality (goal 5) and promote peaceful and inclusive societies (goal 16). The document expresses that “[s]pecial emphasis will be placed on prevention of violence against (...) LGBT persons.”²⁸⁷

In like manner, the UNDP set forth that “[i]f LGBTI people continue to face exclusion, the SDGs will remain out of our reach.”²⁸⁸ This agency generated the “LGBTI Inclusion in the 2030 Agenda initiative,” that aims to advance the inclusion of LGBTI people and reduce inequality and marginalization on the basis of SOGI.²⁸⁹ “In Asia,

²⁸⁴ Ending Violence and other human rights violations based on sexual orientation and gender identity: A joint dialogue of the African Commission on Human and People’s Rights, Inter-American Commission on Human Rights and United Nations, para. 38 (2016).

²⁸⁵ European Commission, *Commission Staff Working Document, Key European action supporting the 2030 Agenda and the Sustainable Development Goals*, Doc. No. SWD 390 final, 37 (2016).

²⁸⁶ Priority areas: An Inclusive, Equitable and Prosperous Caribbean; a Safe, Cohesive and Just Caribbean; a Healthy Caribbean; and, a Sustainable and Resilient Caribbean.

²⁸⁷ UN Multi-Country Sustainable Development Framework, *United Nations Multi-Country Sustainable Development Framework in the Caribbean 20* (2016).

²⁸⁸ UNDP, *Our Perspective: When People are counted, no one is left behind*, 10 December 2015 (<http://www.undp.org/content/undp/en/home/blog/2015/12/10/When-people-are-counted-no-one-is-left-behind.html>) last visited (14-06-2018).

²⁸⁹ *See supra* note 94, at 18.

Africa and Eastern Europe, this initiative examines LGBTI-lived experiences from the sustainable development perspective,”²⁹⁰ and is undertaken in close collaboration with governments and civil society that support policy and operational research and strategy development at national and regional levels.²⁹¹

Furthermore, the International Labour Organization (ILO) and the UNDP launched a report that addresses the discrimination LGBTI persons face in employment in some Asian countries. This report uses the SDGs as an avenue to address the challenges that employment discrimination entails, with emphasis in gender equality (goal 5), decent work (goal 8), and reducing inequalities (goal 10).²⁹²

In addition, the UN Development group has also expressed the relevance of a particular focus on marginalized groups and individuals when it comes to inclusion and highlights that “lesbian, Gay, Bisexual and Transgender (LGBT) community are some of the groups and individuals who are not necessarily included in policy- and decision-making processes.”²⁹³

The OHCHR, through its “Free & Equal” campaign issued the “living free and equal” report in which the Office highlights the good practices that States are adopting to tackle violence and discrimination on the basis of SOGI. Among its recommendations, calls for a partnership between States and LGBTI organizations, to emphasize the monitoring of the impact and effectiveness of measures being taken to combat violence and discrimination, that is particularly “relevant in the context of ensuring that LGBT and intersex persons benefit and are included in efforts to achieve the Sustainable Development Goals.”²⁹⁴ Within the framework of the same campaign, the OHCHR generated global standards to conduct

²⁹⁰ *Íd.*

²⁹¹ *Íd.*

²⁹² UNDP & ILO, *LGBTI People and Employment: Discrimination Based on Sexual Orientation, Gender Identity and Expression, and Sex Characteristics in China, the Philippines and Thailand* 5 (2018).

²⁹³ UN Development Group, *Mainstreaming the 2030 Agenda for Sustainable Development. Interim Reference Guide to UN Country Teams* 22 (2015).

²⁹⁴ OHCHR, *Living Free and Equal: What States are Doing to Tackle Violence and Discrimination Against Lesbian, Gay, Bisexual, Transgender and Intersex People*, UN Doc HR/PUB/16/3, at 120 (2016).

business in a LGBTI-inclusive manner. Regarding the SDGs, the OHCHR asseverates that to fulfil them, a collective effort is needed “not just of governments, but of civil society and businesses as well,”²⁹⁵ in order to tackle social and economic discrimination and marginalization.²⁹⁶

Likewise, UN Women has stated that the 2030 agenda calls for strategies that would leave one behind, including measures that would not contribute to further social fragmentation, stigmatization and/or other forms of harm or abuse of vulnerable groups.²⁹⁷

Adding that

“From a gender perspective, translating the 2030 Agenda into action will require ensuring that all women and girls enjoy equal rights and opportunities regardless of where they live and their (...) sexual orientation and gender identity.”²⁹⁸

Moreover, the World Bank Group has underlined the relevance of the need for investment in research in relation to LGBTI persons, as “the SDGs heighten the focus on measurable outcomes, data on LGBTI people must catch up.”²⁹⁹ In particular, the WB calls for attention “to LGBTI people in the SDGs and create an evidence base for policies and programs that would more rapidly advance the goals of LGBTI inclusion and human rights globally.”³⁰⁰

As referred to in section II.A, the UN system has created a Special Procedure, the SOGI IE. In keeping with its mandate, the IE issued a report on 2017 in which addresses the link between SDGs and LGBTI persons. In particular, referring to goal 16 on inclusive

²⁹⁵ OHCHR, *Tackling Discrimination against Lesbian, Gay, Bi, Trans, & Intersex People; Standards of Conduct for Business* 3 (2017).

²⁹⁶ *Id.*

²⁹⁷ UN Women, *Turning Promises into Action: Gender Equality in the 2030 Agenda for Sustainable Development* 163 (2018).

²⁹⁸ *See supra* note 297, at 133.

²⁹⁹ M. Badgett & C. Crehan, Working Paper: *Investing in a Research Revolution for LGBTI Inclusion*. World Bank Group. 3 (2016).

³⁰⁰ *See supra* note 299, at 7.

societies and access to justice, the IE states that “[a]n all-inclusive approach invites effective coverage of all persons whatever their sexual orientation or gender identity.”³⁰¹ Furthermore, in this same Goal establishes that the “target is to eliminate violence against children totally in the next 15 years (...) implies a relationship with sexual orientation and gender identity, in order to leave no children behind.”³⁰² The report highlights the role of the business sector in integrating “sexual orientation and gender identity into the workplace and in the commercial/financial/investment/developmental field” and that the SDGs provide opportunities for “cooperation and support — particularly under Goal 17, which opens up space for more multilateral, regional and bilateral cooperation.”³⁰³ In its recommendations, the IE underlines that

“The Sustainable Development Goals offer an opportunity to tackle violence and discrimination, also in regard to sexual orientation and gender identity, and this opportunity should be taken full advantage of in order to ensure that no one is left behind, without exception or distinction. This avenue can allow Governments and other actors to generate data and information in a disaggregated manner so as to facilitate future planning and allocation of resources.”³⁰⁴

In an effort to see the interaction between the human rights bodies, the 2030 agenda for sustainable development and the rights of LGBTI persons, a review of the General Comments and Concluding Observations of the Human Rights Committee and the Committee on Social, Economic and Cultural Rights is provided. These bodies are chosen due to their undeniable relevance for the role they fulfil in the examination of the implementation of the international obligations that rise from the ICCPR and the ICESCR, that together with the UDHR form the International Bill of Human Rights, the foundation of

³⁰¹ Human Rights Council, Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, UN Doc. A/HRC/35/36, para. 25 (2017).

³⁰² *See supra* note 301, para. 44.

³⁰³ *See supra* note 301, para. 50.

³⁰⁴ *See supra* note 301, para. 20. Reinforced in: UNGA Protection against violence and discrimination based on sexual orientation and gender identity. Note by the Secretary-General, UN Doc. A/72/172, 12 (2017).

the modern international system of human rights.³⁰⁵

Firstly, in relation to the General Comments, the Human Rights Committee has not issued an interpretation of the Covenant's provisions since the adoption of the 2030 agenda. For its part, the Committee on Economic, Social and Cultural Rights has issued three General Comments since October 2015.³⁰⁶ Of those, only one mentions the SDGs, but unrelated to the rights of LGBTI persons.³⁰⁷

Secondly, regarding the Concluding Observations,³⁰⁸ since the adoption of the SDGs on October 21st, 2015, the Human Rights Committee has issued 53 Concluding Observations to States, in 50 of them has mentioned LGBTI persons and only in one the SDGs (Italy). The link between SDGs and LGBTI persons was not made by the Human Rights Committee.

On the other hand, the Committee on Social, Economic and Cultural Rights has issued 39 Concluding Observations since the adoption of the SDGs. Out of the total, LGBTI persons are mentioned in 23 of them and the SDGs in 25. In 15 countries, the Committee deals with both these issues although separately.

One year after the adoption of the SDGs, on October 21st, 2016, this Committee, that follows the implementation of the ICESCR, added one recommendation that has been consistent in all the concluding observations issued by this human rights body since:

“The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level, with international assistance and cooperation when needed. Achievement of the Sustainable Development

³⁰⁵ C. Roberts, *The Contentious History of the International Bill of Human Rights* 50 (2014).

³⁰⁶ Committee on Economic, Social and Cultural Rights, *General comment No. 22 on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc. E/C.12/GC/22 (2016); Committee on Economic, Social and Cultural Rights, *General comment No. 23 on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc E/C.12/GC/23 (2016); and, Committee on Economic, Social and Cultural Rights, *General comment No. 24 on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities*, UN Doc. E/C.12/GC/24 (2017).

³⁰⁷ Committee on Economic, Social and Cultural Rights, *General comment No. 22 on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc. E/C.12/GC/22, para. 1 (2016)

³⁰⁸ See Annex 2.

Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind.”

Despite the fact that the observations that were made by the Committee do not link the SDGs with LGBTI persons, it gives prominence to a human rights-based approach to the implementation of the 2030 agenda.

Lastly, on occasion of the international day against homo, lesbo, bi and trans phobia, the link between SDGs and LGBTI persons was strongly urged through a statement by human rights experts³⁰⁹ that

“urge States and other stakeholders to adopt all necessary measures to ensure that the obligation of all States to address violence and discrimination based on sexual orientation and gender identity *remains* firmly included in the 2030 agenda, and to include lesbian, gay, bisexual and trans (LGBT) persons, communities and populations in the design, implementation and evaluation of all related policies.”³¹⁰

The human rights bodies, mechanisms and experts that sign that statement are clear in their assertion, the SDGs require immediate attention from the international community to assure that actions are being taken to tear down the barriers that have led to the systematic

³⁰⁹ Sub-Committee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT); Inter-American Commission on Human Rights; African Commission on Human and Peoples’ Rights; Council of Europe; UN independent experts: Mr. Philip Alston, Special Rapporteur on extreme poverty and human rights; Ms. Koumbou Boly Barry, Special Rapporteur on the right to education; Ms. Hilal Elver, Special Rapporteur on the right to food; Ms. Leilani Farha, Special Rapporteur on adequate housing; Mr. Victor Madrigal-Borloz, Independent Expert on sexual orientation and gender identity; Mr. Nils Melzer, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Mr. Dainius Pūras, Special Rapporteur on the right to health; Ms. Dubravka Šimonović, Special Rapporteur on violence against women, its causes and consequences; and, the Working Group on the issue of discrimination against women in law and in practice.

³¹⁰ Emphasis added. IACHR, Press release 110/2018, Leave no LGBT person behind, 16 May 2018.

exclusion LGBTI persons have suffered, and leave no one behind of the development agenda.³¹¹

The link between human rights, SDGs and LGBT persons is clearly established when they say that:

“Without urgent measures to address violence and discrimination based on sexual orientation and gender identity, the international community will fail to comply with their international human rights law obligations and deliver on the promise not to leave anyone behind in the implementation of the SDGs.”³¹²

Despite the interesting range of the statement, that also stresses the relevance and particularities of the implementation of certain SDGs to LGBT persons, it leaves intersex persons behind.

Overall, human rights bodies and agencies have evolved over the years from cautious statements, to strong call on states to implement the SDGs including LGBTI persons among the goals and targets that the 2030 agenda proposes. The interpretative and/or standard-setting function that the entities that were documented in this section have, allow to reach the conclusion that the link this thesis seeks to prove is being raised from a human rights-based approach aiming to transform our world to one that would not leave LGBTI persons behind.

³¹¹ *Íd.*

³¹² *Íd.*

VI. Afterthoughts and looking forward

VI.A. LGBTI persons in the 2030 agenda for sustainable development and the relevance of visibility

Invisibility has been one of the main problems that LGBTI persons have faced to obtain the recognition and respect of their human rights. When there is no express mention of them in the SDGs, States are perpetuating the discrimination that has been historically suffered by this population.

The historical exclusion LGBTI persons have experienced and has been identified by several human rights bodies and agencies, along with the multiple and interlocking dimensions of inequality, have detrimental effects on LGBTI persons. The effects are different depending on the identification to one, more than one or neither of those letters.

LGBT persons living in “conditions of invisibility (...) are not conducive to change.”³¹³ The SDGs framework provides an opportunity to raise awareness among States and other actors in the international community to address the differentiated approach LGBTI persons need for the respect of their dignity.

Even though the SDGs include progressive language on social inclusion and pledge to “leave no one behind”, the 2030 agenda fails to engage in any meaningful way with the lived reality of LGBTQI people.³¹⁴ That is why it is important to stress that the SDGs “framework alone is unlikely to be enough to challenge their behavior. A significant change in the global normative environment, combined with pressure from civil society, will be necessary.”³¹⁵

Moreover, the different actors that are participating in the 2030 agenda have the important task to raise the link between LGBTI persons and the SDGs, make it visible, in the acknowledgement that the fact that there is no explicit mention of LGBTI persons or

³¹³ P. Ayoub, *When States Come Out: Europe's Sexual Minorities and the Politics of Visibility* 31 (2016).

³¹⁴ C. Vaast & E. Mills, *Gender, Sexuality and Development Avenues for action in a post-2015 development era* in C. Mason (ed.), *Routledge Handbook of Queer Development Studies* 61 (2018).

³¹⁵ E. Stuart & J. Woodroffe, *Leaving no-one behind: can the Sustainable Development Goals succeed where the Millennium Development Goals lacked?*, 24 *Gender & Development* 78 (2016)

SOGIESC issues on the agenda does not mean that they are not included. On the contrary, it is possible to answer the research questions that were raised in the introduction of this thesis: the only way to actually comply with the pledge that was adopted to “transform our world” and “leave no one behind” is to take a holistic human rights-based view. Therefore, by interpreting the equality and non-discrimination principle in the sense that the international human rights bodies, states, civil society and academia have been doing so lately, LGBTI persons are not left behind of the LGBTI agenda and must be considered in the implementation of the 2030 agenda, the 17 goals and 169 targets. Furthermore, LGBTI civil society organizations have argued the relationship between their rights and the SDGs and have demanded their inclusion in the 2030 agenda.

VI.B. The international human rights framework debt with economic social and cultural rights

In the current world, States have failed to recognize and address the discrimination experienced by LGBTI persons in their everyday lives, if the SDGs are not interpreted in the sense that the previous section has concluded, the 2030 agenda for sustainable development will perpetuate a failure in achieving fully the SDGs.³¹⁶

LGBTI people are among the most marginalized groups worldwide.³¹⁷ The SDGs are an opportunity to address economic, social and cultural rights of LGBTI persons within a human rights-based approach of sustainable development. It is an opportunity to fight the stigma, discrimination and violence based on SOGIESC issues in different domains of life, including education, access to services, and employment.³¹⁸

VI.C. The 2045 agenda for sustainable development

In looking forward, the pursue to “transform our world” will be hopefully addressed

³¹⁶ See *supra* note 172, at 65.

³¹⁷ See *supra* note 292, 12.

³¹⁸ *Id.*

by mainstreaming the human rights-based approach to the sustainable agenda. The SDGs are a very ambitious set of goals and targets, that poses interesting opportunities as well as several challenges.

The voluntary nature of the SDGs' implementation and reporting, considering that so far less than half of the UN member states have participated in the process, poses a realistic possibility of not reaching the goals and targets or obtaining uneven realities among the different realities of regions and nations. This could lead to the adoption of another set of goals (as it was when the MDGs were not reached, by adopting the SDGs) once the time frame for the SDGs comes to an end.

The 2045 sustainable agenda must have a clear standing on the rights of LGBTI persons. If given a new possibility, the UN should not miss the chance to give a clear message to the world.

This is a diverse world in which there is hope that everyone has the same dignity and rights, and hope *should* never be silent.

VII. Annex.

Annex I. National Voluntary Reviews presented to the HLPF

Section V.B.2.iii, “into the SDGs: a view from States” analyzes the follow-up process of the SDGs, with a focus on the National Voluntary Reviews that States have submitted to the HLPF to analyze if the silence of the 2030 agenda regarding LGBTI persons has had an impact in its implementation. This annex shows the States that reported to the HLPF using the VNR and the mention to LGBTI persons, sexual orientation, gender identity, and —when incorporated— gender expression and sex characteristics.

Annex I.A. National Voluntary Reviews presented to the HLPF in 2016

Country	LGBTI	Sexual Orientation	Gender Identity
Colombia	No	No	No
Egypt	No	No	No
Estonia	No	Yes	No
Finland	No	No	No
France	No	No	No
Georgia	No	No	No
Germany	No	Yes	Yes
Madagascar	No	No	No
Mexico	Yes	No	No
Montenegro	No	No	No
Morocco	No	No	No
Norway	No	No	No
Phillipines	No	Yes	Yes
Republic of Korea	No	No	No
Sierra Leone	No	No	No
Switzerland	No	No	No
Togo	No	No	No
Turkey	No	No	No
Uganda	No	No	No
Venezuela**	No	No	Yes

*China and Samoa presented a review only in an oral statement, no report.

** included sexual diversity to refer to LGBTI persons

Annex I.B. National Voluntary Reviews presented to the HLPF in 2017

Country	LGBTI	Sexual Orientation	Gender Identity	Gender Expression
Afghanistan	No	No	No	No
Argentina	No	No	No	No
Azerbaijan	No	No	No	No
Bangladesh	No	No	No	No
Belarus	No	No	No	No
Belgium	Yes	No	No	No
Belize	No	No	No	No
Benin	No	No	No	No
Botswana	No	No	No	No
Brazil	No	Yes	No	No
Chile	Yes	Yes	Yes	No
Costa Rica	Yes	Yes	Yes	No
Cyprus	No	No	No	No
Czech Republic	No	Yes	No	No
Denmark	Yes	Yes	No	No
El Salvador	No	No	No	No
Ethiopia	No	No	No	No
Guatemala	Yes	No	No	No
Honduras	No	No	No	No
India	No	No	No	No
Indonesia	No	No	No	No
Italy	No	Yes	No	No
Japan	No	No	No	No
Jordan	No	No	No	No
Kenya	No	No	No	No
Luxembourg	No	No	No	No
Malaysia	No	No	No	No
Maldives*	No	No	No	No
Monaco	No	No	No	No
Nepal	Yes	No	No	No
Netherlands	Yes	No	No	No
Nigeria	No	No	No	No
Panama	No	Yes	No	No
Peru	No	No	No	No

Portugal	Yes	Yes	Yes	No
Qatar	No	No	No	No
Slovenia	No	Yes	Yes	Yes
Sweden	Yes	Yes	Yes	Yes
Tajikistan	No	No	No	No
Thailand	No	No	No	No
Togo	No	No	No	No
Uruguay	No	No	No	No
Zimbabwe	No	No	No	No

Annex I.C. National Voluntary Reviews presented to the HLPF in 2018

Submitted up to July 1st, 2018.

Country	LGBTI	Sexual Orientation	Gender Identity	Gender Expression	Sex Characteristics
Albania	Yes	Yes	No	No	No
Andorra	No	Yes	No	No	No
Armenia	No	No	No	No	No
Australia	Yes	Yes	Yes	No	No
Bahrain	No	No	No	No	No
Benin	No	No	No	No	No
Bhutan	No	No	No	No	No
Cabo Verde	Yes	No	No	No	No
Ecuador	Yes	Yes	Yes	No	No
Greece	No	Yes	Yes	No	No
Guinea	No	No	No	No	No
Ireland	Yes	Yes	Yes	Yes	No
Jamaica	No	No	No	No	No
Lao People's Dem. Rep.	No	No	No	No	No
Latvia	No	No	No	No	No
Lithuania	No	No	No	No	No
Mali	No	No	No	No	No
Malta	Yes	Yes	Yes	No	Yes
Paraguay	No	No	No	No	No
Poland	No	No	No	No	No
Romania	No	No	No	No	No
Saudi Arabia	No	No	No	No	No

Senegal	No	No	No	No	No
Singapore	No	No	No	No	No
Slovakia	No	No	No	No	No
Sri Lanka	No	No	No	No	No
State of Palestine	No	No	No	No	No
Sudan	No	No	No	No	No
Togo	No	No	No	No	No
United Arab Emirates	No	No	No	No	No
Uruguay	Yes	Yes	Yes	No	No

Up to July 1st, 2018, the following countries have reported their participation in the HLPF but the submission of the report is pending: Bahamas, Canada, Colombia, Dominican Republic, Egypt, Hungary, Kiribati, Lebanon, Mexico, Namibia, Niger, Qatar, Republic of Congo, Spain, Switzerland, Viet Nam.

Annex II. Concluding observations of human rights bodies.

Section V.B.2.iv. “into the SDGs: a view from human rights bodies and agencies” analyzes the interaction between the human rights bodies, the 2030 agenda for sustainable development and the rights of LGBTI persons through a review of the Concluding Observations of the Human Rights Committee and the Committee on Social, Economic and Cultural Rights. The concluding observations are reviewed starting from the date of the adoption of the SDGs: October 21st, 2015.

This Annex provides the information regarding the mention to LGBTI persons, SDGs and whether or not the human rights bodies made a link between them.

Annex II.A. Concluding observations of the Human Rights Committee after the adoption of the UNGA Res 70/1

Date	Country	LGBTI	SDGs	link LGBTI-SDGs
22-11-15	Benin	No	No	No
02-12-15	Suriname	Yes	No	No
02-12-15	San MariNo	Yes	No	No
02-12-15	Iraq	Yes	No	No
03-12-15	Greece	Yes	No	No
03-12-15	Austria	Yes	No	No
03-12-15	Rep. Korea	Yes	No	No
18-04-16	Sweden	Yes	No	No
21-04-16	Costa Rica	Yes	No	No
21-04-16	Slovenia	Yes	No	No
21-04-16	Namibia	Yes	No	No
26-04-16	South Africa	Yes	No	No
27-04-16	New Zealand	No	Yes	No
01-05-16	Rwanda	No	No	No
09-08-16	Kazakhstan	Yes	No	No
09-08-16	Ghana	Yes	No	No
10-08-16	Argentina	Yes	No	No
11-08-16	Kuwait	Yes	No	No
11-08-16	Ecuador	Yes	No	No
15-08-16	Denmark	Yes	No	No
17-10-16	Burkina Faso	Yes	No	No

16-11-16	Azerbaijan	Yes	No	No
17-11-16	Colombia	Yes	No	No
18-11-16	Moldova	Yes	No	No
22-11-16	Jamaica	Yes	No	No
22-11-16	Slovakia	Yes	No	No
23-11-16	Poland	Yes	No	No
01-12-16	Morocco	Yes	No	No
10-04-17	Serbia	Yes	No	No
13-04-17	Bosnia and Herzegovina	Yes	No	No
20-04-17	Turkmenista	Yes	No	No
25-04-17	Thailand	Yes	No	No
27-04-17	Bangladesh	Yes	No	No
01-05-17	Italy	Yes	No	No
21-08-17	Liechtenstein	Yes	No	No
22-08-17	Mongolia	Yes	No	No
22-08-17	Madagascar	Yes	No	No
22-08-17	Honduras	Yes	No	No
23-08-17	Swaziland	Yes	No	No
23-08-17	Pakistan	Yes	No	No
22-08-17	Switzerland	Yes	No	No
27-11-17	Dominican Republic	Yes	No	No
30-11-17	Dem. Rep. Congo	Yes	No	No
30-11-17	Cameroon	Yes	No	No
01-12-17	Australia	Yes	No	No
04-12-17	Jordan	Yes	No	No
11-12-17	Mauritius	Yes	No	No
11-12-17	Romania	Yes	No	No
25-04-18	Norway	Yes	No	No
07-05-18	Guatemala	Yes	No	No
09-05-18	LebaNon	Yes	No	No
09-05-18	Hungary	Yes	No	No
09-05-18	El Salvador	Yes	No	No

Annex II.B. Concluding observations of the Committee on Economic, Social and Cultural Rights from the adoption of the UNGA Res 70/1

Date	Country	LGBTI	SDGs	link LGBTI-SDGs
22-10-15	Morocco	Yes	No	No
27-10-15	Sudan	Yes	No	No
27-10-15	Greece	No	No	No
27-10-15	Iraq	Yes	No	No
18-10-15	Guyana	Yes	No	No
28-10-15	Italy	Yes	Yes	No
23-03-16	Namibia	Yes	No	No
23-03-16	Canada	No	No	No
06-04-16	Kenya	Yes	No	No
11-07-16	Honduras	Yes	No	No
13-07-16	France	No	No	No
12-07-16	Burkina Faso	No	No	No
14-07-16	Sweden	No	No	No
14-07-16	United Kingdom	No	No	No
15-07-16	Angola	No	Yes	No
15-07-16	FYR Macedonia	Yes	No	No
21-10-16	Dominican Republic	Yes	Yes	No
21-10-16	Costa Rica	Yes	Yes	No
24-10-16	Lebanon	Yes	Yes	No
26-10-16	Poland	No	Yes	No
26-10-16	Philippines	Yes	Yes	No
28-10-16	Cyprus	No	Yes	No
14-11-16	Tunisia	Yes	Yes	No
03-07-17	Liechtenstein	No	Yes	No
06-07-17	Netherlands	Yes	Yes	No
11-07-17	Australia	Yes	Yes	No
20-07-17	Pakistan	Yes	Yes	No
20-07-17	Uruguay	No	Yes	No
04-08-17	Sri Lanka	Yes	Yes	No
16-10-17	Russian Federation	Yes	Yes	No
19-10-17	Moldova	Yes	Yes	No
19-10-17	Rep. Korea	Yes	Yes	No
19-10-17	Colombia	No	Yes	No
17-04-18	México	Yes	Yes	No

18-04-18	Bangladesh	Yes	Yes	No
25-04-18	Spain	No	Yes	No
01-05-18	New Zealand	No	Yes	No
04-05-18	Central African Republic	No	Yes	No
04-06-18	Niger	No	Yes	No

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Declaration Statement

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