



Kaleidoscope  
Australia  
Human Rights Foundation

**Submission to the UN Universal Periodic  
Review regarding the protection of the  
rights of LGBTI persons in the Republic  
of Korea**

28th session of the Universal Periodic Review

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## 1. Executive Summary

- 1.1 Kaleidoscope<sup>1</sup> has prepared this report for the United Nations Human Rights Council (**UNHRC**) in respect of the Republic of Korea (**Korea**).
- 1.2 Despite the significant human rights protections under the Constitution of the Republic of Korea (**Constitution**), there are no laws which prohibit discrimination against a person based on their sexual orientation, gender identity or intersex status. While consensual same-sex activity is legal in Korea, LGBTI persons in Korea face legal challenges and discrimination not experienced by non-LGBTI persons.
- 1.3 Korea's deficiencies under its local laws to prevent discrimination means the legislative framework providing for the protection of the human rights of LGBTI persons remains underdeveloped.
- 1.4 Considerable legal reform is required in order for Korea to achieve compliance with the International Covenant on Civil and Political Rights (**ICCPR**) in respect of the rights of LGBTI persons.

## 2. Terminology

- 2.1 **LGBTI**, in this report, is an abbreviation for lesbian women, gay men, bisexual people, transgender people and people with intersex variations.
- 2.2 **bisexual men** are men who are physically, romantically and/or emotionally attracted to both men and women.
- 2.3 **bisexual women** are women who are physically, romantically and/or emotionally attracted to both men and women.
- 2.4 **cisgender** denotes a person whose sense of gender identity corresponds with the physical sex assigned to them at birth.
- 2.5 **gay men** are men who are physically, romantically and/or emotionally attracted to men.
- 2.6 **gender identity** refers to an individual's own internal feelings and experiences of gender, which may or may not correspond to the sex that individual was assigned at birth.
- 2.7 **intersex** people have physical sex characteristics that do not fit typical notions of male or female bodies. Like everyone else, all intersex people have a gender identity, which may be male, female or another identity. Like everyone else, intersex people also have a sexual orientation, which may be straight, gay/lesbian, bisexual, asexual, etc. This reflects that intersex is not, in itself, a gender identity or sexual orientation, but rather a physical variation in sex characteristics.
- 2.8 **lesbian women** are women who experience emotional, romantic and physical attraction to other women.
- 2.9 **sexual orientation** refers to a person's emotional, physical and/or sexual attraction to persons of the opposite sex or gender, the same sex or gender, to both sexes and/or to more than one gender.

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<sup>1</sup> Kaleidoscope Australia Human Rights Foundation (**Kaleidoscope**) is a non-governmental organisation that works with local activists to protect and promote the rights of lesbian, gay, bisexual, transgender and intersex (**LGBTI**) persons in the Asia-Pacific Region.

- 2.10 **transgender people** are people whose gender identity and/or expression is different from the physical sex they were assigned at birth. This is a gender identity, not a sexual orientation.
- 2.11 **transgender women** are people who were assigned male sex at birth but identify and live as women.
- 2.12 **transgender men** are people who were assigned female sex at birth but identify and live as men.

### 3. Positive steps taken by Republic of Korea

- 3.1 In recent years, Korea has steadily amended its domestic laws to abide by certain obligations under international human rights law.

#### *Commitment to reviewing obligations under international law*

- 3.2 Korea is a signatory to most UN conventions on human rights and recently delivered a statement to the UNHRC regarding the human right violations on the basis of sexual orientation and called for the UN to give these issues the appropriate attention. Korea has also supported a landmark UN resolution aimed at combatting violence and discrimination against LGBTI individuals in 2014.<sup>2</sup>

#### *National Human Rights Commission Act*

- 3.3 In 2001, Korea implemented the *National Human Rights Commission Act (NHRC Act)* to establish the National Human Rights Commission (**NHRC**) and ensure "inviolable, fundamental human rights" to all individuals.<sup>3</sup> The NHRC Act promotes the human rights guaranteed in the Constitution and statute, in addition to those guaranteed under international treaties to which Korea is party.<sup>4</sup>
- 3.4 Article 31 of the NHRC Act states that "no individual is to be discriminated against on the basis of his or her sexual orientation",<sup>5</sup> and gives the NHRC the authority to review cases of discrimination based on sexual orientation.<sup>6</sup> However, there are no specific laws punishing such discrimination nor providing remedy to victims of discrimination or violence against LGBTI persons. The NHRC Act does not specify any protection against discrimination based on gender identity or intersex status.
- 3.5 In October 2012, following the recommendation of the UN Human Rights Council Universal Periodic Review, the Korean Ministry of Justice submitted comprehensive antidiscrimination legislation, but the legislation was withdrawn due to aggressive lobbying primarily from religious groups opposed to efforts to provide protection to LGBTI persons.<sup>7</sup>

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<sup>2</sup> Human Rights Council, *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity*, 19th sess, UN Doc A/HRC/19/41 (17 December 2011).

<sup>3</sup> *National Human Rights Commission Act 2001* (Republic of Korea) art 1.

<sup>4</sup> *Ibid* art 2.

<sup>5</sup> *Ibid*.

<sup>6</sup> *Ibid* art 1.

<sup>7</sup> United States Department of State, *Republic of Korea 2013 Human Rights Report* (2013) <<https://www.state.gov/documents/organization/220416.pdf>>.

The Ministry of Justice has reported that the Constitution's equality principles apply to LGBTI persons.

- 3.6 However, it remains unclear what legal powers the NHRC has to protect LGBTI rights under the NHRC Act and the NHRC continues to lack support from the LGBTI community as it has not requested the repeal of Article 92 of the Military Penal Code.<sup>8</sup>

#### *Penal Code of Korea*

- 3.7 Recent changes to the Penal Code of Korea have removed gender-specific language in the provisions against rape of other sexual crimes, thereby increasing the legal protections potentially available to LGBTI persons who have been victims of sexual offences.<sup>9</sup>

#### *Transgender Rights*

Transgender rights in Korea have developed predominantly through case law and not through legislative changes. In 2006, the Korean Supreme Court ruled that transgender individuals have the right to change their gender on legal documents if they have undergone gender reassignment surgery.<sup>10</sup> In 2013, the Seoul Western District Court ruled that it is not necessary to have gender reassignment surgery to change one's gender on legal documents.<sup>11</sup>

#### *Persons with HIV/AIDS*

- 3.8 There are an estimated 13,000 people in Korea living with HIV. That number has been increasing over the past few years, having doubled since 2001.<sup>12</sup> LGBTI persons make up a large proportion of persons living with HIV.<sup>13</sup>
- 3.9 In June 2010, travel restrictions on HIV/AIDS positive individuals were lifted.<sup>14</sup> However, persons with HIV/AIDS continue to suffer from societal discrimination and social stigma.<sup>15</sup>

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<sup>8</sup> Susan's Place, Transgender Resources, *LGBT rights in South Korea* (2010) <[https://www.susans.org/wiki/LGBT\\_rights\\_in\\_South\\_Korea](https://www.susans.org/wiki/LGBT_rights_in_South_Korea)>.

<sup>9</sup> Immigration and Refugee Board of Canada, *Korea, Republic of: Treatment of homosexuals including legislation, availability of State protection and support services* (2009) <<http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=4b7cee8137&skip=0&query=LGBT&oi=KOR>>.

<sup>10</sup> Wikipedia, *Legal Aspects of Transgenderism*, <[https://en.wikipedia.org/wiki/Legal\\_aspects\\_of\\_transgenderism](https://en.wikipedia.org/wiki/Legal_aspects_of_transgenderism)>.

<sup>11</sup> Ji-Won Un and Hyun-Jung Park 'Landmark legal ruling for South Korean transgenders', *The Hankyoreh* (Republic of Korea) 16 May 2013.

<sup>12</sup> Byong-Hee Cho 'HIV/AIDS Policy in South Korea International Studies in Education 9 (2008) <[http://www.aidsdatahub.org/sites/default/files/documents/HIVAIDS\\_Policy\\_in\\_South\\_Korea.pdf](http://www.aidsdatahub.org/sites/default/files/documents/HIVAIDS_Policy_in_South_Korea.pdf)>.

<sup>13</sup> Ibid.

<sup>14</sup> Gay Law Net, *Laws: Republic of Korea (South)* <<http://www.gaylawnet.com/laws/kr.htm#hiv>>.

<sup>15</sup> United States Department of State, *Republic of Korea 2013 Human Rights Report* (2013) <<https://www.state.gov/documents/organization/220416.pdf>>.

#### 4. Obligations under international law to protect LGBTI persons from discrimination

- 4.1 South Korea has ratified a number of important human rights conventions, including the International Covenant on Civil and Political Rights (**ICCPR**),<sup>16</sup> the International Covenant on Economic, Social and Cultural Rights (**ICESCR**),<sup>17</sup> the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (**CAT**),<sup>18</sup> the Convention on the Elimination of All Forms of Discrimination Against Women (**CEDAW**)<sup>19</sup> and the Convention on the Rights of the Child (**CRC**).<sup>20</sup> These conventions form the foundation for the universal protection of human rights and as such render Korea answerable to the global community for how they ensure these rights for individuals.
- 4.2 These treaties do not explicitly prohibit discrimination against a person based on sexual orientation, gender identity or intersex status. However, the anti-discrimination provisions within these treaties have been interpreted by the relevant treaty bodies as requiring States Parties to prevent discrimination against persons on the grounds of sexual orientation, gender identity or intersex status.
- 4.3 Articles 2 and 26 of the ICCPR state that parties to the convention undertake to 'ensure to all individuals [...] the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex [...]'<sup>21</sup> and that 'all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.'<sup>22</sup> In the case of *Toonen v Australia* before the UN Human Rights Committee, these articles were held to operate such that sexual orientation is a protected status against discrimination.<sup>23</sup>
- 4.4 Similarly, as a party to the ICESCR Korea undertakes to guarantee that 'the rights in the Covenant will be exercised without discrimination of any kind as to race, colour, sex [...] or other status.'<sup>24</sup> The Committee on Economic, Social and Cultural Rights has confirmed that gender identity is included in the list of prohibited grounds of discrimination under the Covenant.<sup>25</sup>

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<sup>16</sup> *International Convention on Civil and Political Rights*, opened for signature 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976).

<sup>17</sup> *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976).

<sup>18</sup> *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987).

<sup>19</sup> *Convention on the Elimination of All Forms of Discrimination against Women*, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981).

<sup>20</sup> *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

<sup>21</sup> Above n 16, art 2[1].

<sup>22</sup> *Ibid* art 26.

<sup>23</sup> Human Rights Committee, *Views: Communication No 488/1992, Nicolas Toonen v Australia*, 55th sess, UN Doc CCPR/C/50/D/488/1992 (31 March 1994).

<sup>24</sup> Above n 17, art 2[2].

<sup>25</sup> Committee on Economic, Social and Cultural Rights, *General Comment No 20 – Non-Discrimination in Economic, Social and Cultural Rights* UN Doc E/C.12/GC/20 (2009) [32].

- 4.5 Article 2 of CEDAW requires State Parties to condemn discrimination against women in all forms. In a general recommendation in 2010 the Committee for the Convention issued a general recommendation stating that the discrimination of women based on sex and gender is inextricably linked with sexual orientation and gender identity.<sup>26</sup>
- 4.6 The CRC requires State Parties to take all appropriate measures to ensure that children are protected against all forms of discrimination, including on the ground of sex.<sup>27</sup> Significantly, these obligations extend to a child's parent or legal guardian, and accordingly a State Party cannot discriminate against a child on the basis of their parent's or legal guardian's sex.<sup>28</sup>
- 4.7 Hence Korea's obligations under its existing international law include to prevent and prohibit discrimination of any person based on sexual orientation and gender identity. Under Article 6 of the Constitution international treaties have the same force as domestic law in Korea.<sup>29</sup> However, the implementation of particular obligations is reserved until domestic implementing laws and regulations are enacted and there is no law proscribing when the National Assembly must do so following accession to a treaty.<sup>30</sup>

## 5. Discrimination against LGBTI persons

### *Military Law*

- 5.1 Military service is mandatory for all male citizens in Korea. When enlistees are drafted they must complete a "psychology test" administered by the Military Manpower Administration. This test includes several questions regarding the enlistee's sexual orientation and preferences.<sup>31</sup> Individuals identifying as LGBTI in active duty are categorised as having a "personality disorder" or "behavioural disability" and can either be institutionalised or dishonourably discharged.<sup>32</sup> Dishonourable discharge carries with it significant social stigma as many companies in Korea request individuals' military service profile when receiving job applications.<sup>33</sup>
- 5.2 Article 92-6 of the *Military Criminal Act*, categorises same-sex sexual relations as "sexual harassment", punishable by a maximum of one year in prison.<sup>34</sup> The Act does not make

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<sup>26</sup> Committee on the Elimination of Discrimination against Women, *General Recommendation No. 28 on the core obligations of State parties under article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women*, UN Doc CEDAW/C/GC/28 (16 December 2010) [18].

<sup>27</sup> Above n 20, art 2.

<sup>28</sup> Ibid.

<sup>29</sup> *Constitution of the Republic of Korea*, art 6.

<sup>30</sup> Jootaek Lee, 'Sources of State Practice in International Law: Republic of Korea' in Ralph Gaebler and Alison Shea (eds), *Sources of State Practice in International Law* (Brill, 2014) 360, 363.

<sup>31</sup> Above n 8.

<sup>32</sup> See, for example, 'Gay man's objection to service sheds light on sexual abuse in military', *The Korea Herald* (online), 16 December 2011 <<http://view.koreaherald.com/kh/view.php?ud=20111216000668&cpv=0>> and 'South Korea: Appeal – Lim Tae Hoon' (Report ASA 25/002/2004, Amnesty International, 1 March 2004).

<sup>33</sup> Above n 8.

<sup>34</sup> *Military Criminal Act* (Republic of Korea), art 92.

a distinction between consensual and non-consensual crimes and identifies consensual same-sex intercourse as "reciprocal rape".<sup>35</sup>

- 5.3 In 2010, the Korean Military Court ruled that Article 92 regarding same-sex relations was unconstitutional as sexual orientation is a personal issue.<sup>36</sup> However, in 2011, the Korean Constitutional Courts ruled that laws punishing same-sex acts in the barracks were constitutional.<sup>37</sup> The court declined to interpret Article 92-6 as being about discrimination based on sex.<sup>38</sup>

#### *Recommendations*

The State of Korea should remove any questions regarding sexual orientation or gender identity in the requisite military psychology test.

The State of Korea should implement legislation to protect the rights of LGBTI individuals in the military against discrimination and being unfairly discharged.

The State of Korea should decriminalise consensual same-sex activity in the military and repeal Article 92-6 of the *Military Criminal Act*.

#### *Adoption Law*

- 5.4 LGBTI persons face discrimination in the context of adoption as they are effectively prohibited from adopting children under the age of 15.
- 5.5 Chapter 4 of the Korean Civil Act sets out the law on adoption. Article 866 states that any person who has achieved the age of majority may adopt and, while Article 874 of the act states that a married person who adopts a child shall do so jointly with their spouse, there is no explicit requirement that a person be married to adopt.<sup>39</sup> However, Article 908-2 of the Civil Act sets out further restrictions for adoption of children under the age of 15, which requires the adoptive parents of children under 15 to be married for three years or more. This effectively imposes a prohibition on adoption by same-sex couples of children under the age of 15 in Korea.

#### *Recommendations*

The State of Korea should explicitly legalise adoption by same-sex couples in the Korean Civil Act by either removing the 'three years of marriage' requirement in Article 908-2 or legalising same-sex marriage under Chapter 3 of the Act.

#### *Marriage Law*

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<sup>35</sup> Ibid.

<sup>36</sup> Bae Ji-Sook, 'Will Homosexuality be Accepted in the Barracks?' *The Korea Times* (online), 6 June 2010 <[http://koreatimes.co.kr/www/news/nation/2010/06/113\\_67179.html](http://koreatimes.co.kr/www/news/nation/2010/06/113_67179.html)>.

<sup>37</sup> Park Si-soo, 'Punishing homosexual soldiers constitutional' *The Korea Times* (online), 31 March 2011 <[http://www.koreatimes.co.kr/www/news/nation/2011/03/113\\_84251.html](http://www.koreatimes.co.kr/www/news/nation/2011/03/113_84251.html)>.

<sup>38</sup> International Commission of Jurists, *Sexual orientation, gender identity, and justice: a comparative law casebook*, 2011, 134.

<sup>39</sup> *Civil Act* (Republic of Korea), Ministry of Justice, Act No 471, 22 February 1958, art 874 [Korean Ministry of Government Legislation trans, <<http://www.moleg.go.kr/english/korLawEng?pstSeq=52674>>].

- 5.6 Korea does not recognise same-sex marriage. Chapter 3 of the Korean Civil Act sets out South Korean Marriage law. Whilst the Act does not specifically state that marriage is between a man and a woman, all rights and duties in the act describe marriage as between a husband and wife.<sup>40</sup> Article 819 specifically names one of the parties as "the female" suggesting that there will always be a female party and not more than one female party.<sup>41</sup>
- 5.7 Furthermore, under Korean law married couples are afforded certain rights that are not available to unmarried couples. This effectively discriminates against LGBTI individuals.
- 5.8 On 25 May 2015, the Seoul Western District Court Chief Justice announced that the court had ruled to dismiss an appeal in a high-profile case where the appellants claimed Seoul's Seodaemun District Office had acted unjustly in refusing to accept their marriage registration because they are a same-sex couple.
- 5.9 Article 23 of the ICCPR contains an express right to marry.<sup>42</sup> The EU parliament has recently declared that same-sex marriage is a human right.<sup>43</sup> We submit that the right to marry should be interpreted in a non-discriminatory manner and should not be restricted exclusively to opposite-sex couples.<sup>44</sup>
- 5.10 Despite the 2002 decision in *Joslin v New Zealand*<sup>45</sup> in which the denial of two same-sex couples in New Zealand of the right to marry was not held to be a violation of the ICCPR, there is growing support in the international community that international human rights law can and should be interpreted to include a right for same-sex couples to marry.<sup>46</sup> If viewed from this perspective, Korea would be in breach of its obligations under international law by prohibiting marriage between same-sex couples.

### *Recommendations*

The State of Korea should explicitly legalise same-sex marriage in the Korean Civil Act by removing references to gender in the Act to ensure that same-sex couples are able to enjoy the same legal protections and benefits as those granted to married heterosexual couples.

### *Censorship Issues*

- 5.11 The Korean Government censored websites with LGBTI focussed content from 2001-2003 through its Information and Communications Ethics Committee, an official organ of the Ministry of Information and Communication. LGBTI related websites have been frequent and easy censorship targets, being blocked, filtered, or banned in some cases by the

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<sup>40</sup> Ibid arts 800-833.

<sup>41</sup> Ibid art 819.

<sup>42</sup> Above n 16, art 23.

<sup>43</sup> European Parliament, 'Report on the Annual Report on Human Rights and Democracy in the World 2013 and the European Union's policy on the matter' (Report No A8-0023/2015, Committee on Foreign Affairs, 20 February 2015) [162].

<sup>44</sup> See for example, Paula Gerber, Kristine Tay and Adiva Sifris, 'Marriage: A Human Right for All?', (2014) 36 *Sydney Law Review* 643.

<sup>45</sup> Human Rights Committee, *Views: Communication No 902/1999*, 75th sess, UN Doc CCPR/C/75/D/902/1999 (17 July 2002).

<sup>46</sup> Paula Gerber, Kristine Tay and Adiva Sifris, 'Marriage: A Human Right for All?', (2014) 36 *Sydney Law Review* 643.



Government. The Korean Government has stated that this practice has since been reversed,<sup>47</sup> however recently issues have arisen with LGBTI networking and LGBTI based content apps being banned from the Samsung and Google online app stores.<sup>48</sup>

- 5.12 Censorship of LGBTI websites and smartphone apps is a violation of the fundamental human right of individuals to be protected against all forms of discrimination and a violation of the freedom of expression guaranteed under Article 19 of the ICCPR, to which Korea is a signatory.

### *Recommendations*

The State of Korea should end all censorship of LGBTI websites and smartphone apps.

### *Transgender rights*

- 5.13 The requirements to be eligible for gender affirmation surgery in Korea are complex, discriminatory and restrictive. Under the Established Rules of the Supreme Court, Korean courts may only grant a legal change of gender if the applicant:<sup>49</sup>
- (a) is an unmarried Korean citizen over 19 years of age with no minor children;
  - (b) has suffered from continued gender dysphoria and had the sense of belonging to the opposite gender due to being transgender;
  - (c) after having undergone psychiatric treatment or hormone therapy, still wished to receive surgical treatment and alter his/her physical appearance, including external genitalia through gender affirmation surgery;
  - (d) has become sterile as a result of gender affirmation surgery with zero, or extremely remote, possibility that they will return to their former gender;
  - (e) does not show indications that he or she filed the application for the purpose of committing a crime or evading the law;
  - (f) has parental consent (regardless of the applicant's age); and
  - (g) must prove issues related to draft resolved by either serving or being exempted (if undergoing male-to-female surgery).
- 5.14 Transgender members of society face stigmatisation and obstacles to their full and equal participation in society, such as gender segregated public spaces. Recent reports detail sexual and hate-based violence towards self-identified transgendered persons.<sup>50</sup>
- 5.15 The requirement that a person be unmarried without children clearly infringes upon an individual's right to family and privacy (Articles 23 and 17 of the ICCPR) and the

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<sup>47</sup> *Internet Censorship in South Korea* (8 January 2010) Information Policy <<http://www.i-policy.org/2010/01/internet-censorship-in-south-korea.html>>.

<sup>48</sup> Joe Williams, *South Korea: Samsung & Google censor LGBT apps* (11 July 2015) Pink News <<http://www.pinknews.co.uk/2015/07/11/south-korea-samsung-google-censor-lgbt-apps/>>.

<sup>49</sup> Research Directorate, Immigration and Refugee Board of Canada, Ottawa, *South Korea: treatment of transgender people by society and authorities* (24 March 2016) European Country of Origin Information Network <[http://www.ecoi.net/local\\_link/323950/463552\\_de.html](http://www.ecoi.net/local_link/323950/463552_de.html)>.

<sup>50</sup> *Ibid.*

requirement for surgery breaches the right to security and liberty (Article 9 of the ICCPR), making it a precondition that an individual undergo surgery in order to obtain legal recognition. Requiring an individual to meet the above requirements therefore amounts to discrimination on the basis of gender identity under Article 2(1) of the ICCPR, restricting a person's ability to enjoy their rights to family, privacy, liberty and security. In addition the inability for a transgender person to obtain legal recognition before the law on an equal basis as others amounts to a violation of Article 26 of the ICCPR.

### *Recommendations*

The State of Korea should not impose a requirement that gender affirmation surgery be performed to legally change gender and should remove the stringent requirements regarding marriage and parental status as requirements to undergo gender affirmation surgery.

## **6. Measures to protect the human rights of LGBTI persons**

6.1 The UNHRC should make recommendations that Korea:

- (a) amend the NHRC Act to include an express prohibition of all forms of discrimination, both direct and indirect, on the grounds of sexual orientation, gender identity and intersex status;
- (b) remove the requirement that a couple be married 3 years before adopting a child under the age of 15 as it indirectly discriminates against same-sex couples, in breach of the CRC and the CEDAW;
- (c) explicitly legalises same-sex marriage and adoption by same-sex couples;
- (d) prohibit any censorship of LGBTI websites or smartphone apps;
- (e) repeal Article 92-6 of the *Military Criminal Act* to decriminalise sexual activity between consenting adults of the same sex;
- (f) amend the *Military Criminal Act* to include provisions that expressly protect the rights of LGBTI individuals in the military against discrimination and being unfairly discharged;
- (g) remove the requirement that gender affirmation surgery must be performed to legally change gender; and
- (h) remove the requirements regarding marriage status and whether a person has children as a requirement to undergo gender affirmation surgery.