

AFFIRMING UNIVERSAL HUMAN RIGHTS: UN GENERAL ASSEMBLY JOINT STATEMENT ON SEXUAL ORIENTATION & GENDER IDENTITY

- In this 60th Anniversary Year of the Universal Declaration of Human Rights, it is particularly important to affirm the principle of universality: that **all human beings** are entitled to equal dignity and respect.
- Numerous UN Special Procedures have, however, identified **violations of the human rights of lesbian, gay, bisexual and transgender persons in all regions of the world**, including unlawful killings, torture, rape, violence, disappearances, and discrimination in accessing health care and other economic, social and cultural rights.
- Recognizing the seriousness of these violations and in order to affirm the principles of universality and non-discrimination, States from all regional groups are joining together to deliver a **short oral statement** at the General Assembly in mid-December.
- The statement has already attracted **over 60 signatories from all 5 UN regions, and will be delivered by the Ambassador of Gabon.**
- The joint statement is **not a formal decision or resolution**, and will not be subject to a vote. It is **non-binding** and creates **no new rights**, but simply affirms the application of existing human rights standards to those who are lesbian, gay, bisexual and transgender.
- The **statement does not deal with same-sex marriage**, but simply the right of all people to be protected from human rights violations: in fact, the UN Human Rights Committee ruled in *Joslin v. New Zealand* that the “mere refusal to provide for marriage between homosexual couples ... does not disclose a violation of any provision of the International Covenant”. (http://www.bayefsky.com/pdf/newzealand_t5_iccrp_902_1999.pdf)
- This statement builds on **similar past initiatives**, including a joint statement delivered to the former Commission on Human Rights in 2004 on behalf of 32 States, and a joint statement delivered to the Human Rights Council in 2006 on behalf of 54 States. Earlier this year, a declaration on sexual orientation, gender identity and human rights was also adopted unanimously by all 34 States in the Organization of American States.
- **Treaty bodies** have consistently recognized, in communications, concluding observations and general comments, that international human rights law prohibits discrimination on grounds including sexual orientation.
- The former **UN High Commissioner for Human Rights** affirmed:

“The 60th Anniversary of the Universal Declaration of Human Rights ... provides an ideal opportunity to recall the core human rights principles of equality, universality and non-discrimination. **Human rights principles, by definition, apply to all of us, simply by virtue of being born human.** Just as it would be unthinkable to exclude some from their protection on the basis of race, religion, or social status, so too must we reject any attempt to do so on the basis of sexual orientation or gender identity. ... Excluding lesbian, gay, bisexual, transgender and intersex persons from equal protection violates international human rights law, as well as the **common standards of humanity that define us all.**”
- The UN Special Rapporteur on Health has also emphasized the importance of addressing human rights violations based on sexual orientation as part of **HIV education and prevention** efforts.
- In view of the extensive violations identified by the Special Procedures, and the importance of affirming the principles of universality and non-discrimination, **we encourage States to join the increasing number of countries expressing support for these important human rights issues.**

STATEMENT:

We have the honour to make this statement on human rights, sexual orientation and gender identity on behalf of [...]

1. We reaffirm the principle of universality of human rights, as enshrined in the Universal Declaration of Human Rights whose 60th anniversary is celebrated this year, Article 1 of which proclaims that "all human beings are born free and equal in dignity and rights";
2. We reaffirm that everyone is entitled to the enjoyment of human rights without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, as set out in Article 2 of the Universal Declaration of Human Rights and Article 2 of the International Covenants on Civil and Political, Economic, Social and Cultural Rights, as well as in article 26 of the International Covenant on Civil and Political Rights;
3. We reaffirm the principle of non-discrimination which requires that human rights apply equally to every human being regardless of sexual orientation or gender identity;
4. We are deeply concerned by violations of human rights and fundamental freedoms based on sexual orientation or gender identity;
5. We are also disturbed that violence, harassment, discrimination, exclusion, stigmatisation and prejudice are directed against persons in all countries in the world because of sexual orientation or gender identity, and that these practices undermine the integrity and dignity of those subjected to these abuses;
6. We condemn the human rights violations based on sexual orientation or gender identity wherever they occur, in particular the use of the death penalty on this ground, extrajudicial, summary or arbitrary executions, the practice of torture and other cruel, inhuman and degrading treatment or punishment, arbitrary arrest or detention and deprivation of economic, social and cultural rights, including the right to health;
7. We recall the statement in 2006 before the Human Rights Council by fifty four countries requesting the President of the Council to provide an opportunity, at an appropriate future session of the Council, for discussing these violations;
8. We commend the attention paid to these issues by special procedures of the Human Rights Council and treaty bodies and encourage them to continue to integrate consideration of human rights violations based on sexual orientation or gender identity within their relevant mandates;
9. We welcome the adoption of Resolution AG/RES. 2435 (XXXVIII-O/08) on "Human Rights, Sexual Orientation, and Gender Identity" by the General Assembly of the Organization of American States during its 38th session in 3 June 2008;
10. We call upon all States and relevant international human rights mechanisms to commit to promote and protect human rights of all persons, regardless of sexual orientation and gender identity;
11. We urge States to take all the necessary measures, in particular legislative or administrative, to ensure that sexual orientation or gender identity may under no circumstances be the basis for criminal penalties, in particular executions, arrests or detention.
12. We urge States to ensure that human rights violations based on sexual orientation or gender identity are investigated and perpetrators held accountable and brought to justice;
13. We urge States to ensure adequate protection of human rights defenders, and remove obstacles which prevent them from carrying out their work on issues of human rights and sexual orientation and gender identity.