

Joint NHRI statement on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity

Human Rights Council

19th Session

Item 3

7th March 2012

Dear Ms. President,

This is a joint statement on behalf of the following A status NHRIs: Equality and Human Rights Commission of Great Britain, Scottish Human Rights Commission, German Institute for Human Rights, Australian Human Rights Commission, New Zealand Human Rights Commission, National Human Rights Commission of Mongolia, Procuraduría para la Defensa de los Derechos Humanos de Nicaragua, Canadian Human Rights Commission, Greek National Commission for Human Rights, Defensoría del Pueblo de Ecuador, National Human Rights Commission of Thailand, and National Consultative Commission on Human Rights of France.

We, as National Human Rights Institutions accredited under the Paris Principles (General Assembly Resolution 48/134, 1993), have the explicit obligation to protect and promote human rights of all individuals without prejudice or discrimination.

We welcome the commitment of the Human Rights Council, the Office of the High Commissioner for Human Rights, Special Procedures, Treaty Bodies, non-governmental organisations and human rights defenders worldwide to addressing the issue of violence and discrimination based on sexual orientation and gender identity, including through the panel session on discrimination and violence based on sexual orientation and gender identity during the 19th Human Rights Council Session.

We acknowledge the sensitive nature of this issue and support the South African call for an inclusive and cross-regional dialogue on tackling the challenges faced in addressing this on the ground.

We welcome report A/HRC/19/41 of the United Nations High Commissioner for Human Rights, detailing its commitment to protecting the human rights of all individuals and reaffirming the principles of universality, equality and non-discrimination. We support the position that, although sexual orientation and gender identity are not explicitly mentioned as grounds for protection in international human rights law, non-discrimination is a core human rights principle, and call for continued efforts by all to ensure that human rights violations on the basis of sexual orientation or gender identity are addressed at a systemic level.

Further, we affirm the legal analysis of the report which makes clear that the prohibition of discrimination on the grounds of sexual orientation or gender identity is integrated and reflected in the existing international legal framework that States have committed to respecting.

We support the mainstreaming of protections for individuals discriminated against because of their sexual orientation or gender identity through the existing international and regional human rights systems, and support the final recommendation in the report to:

“encourage existing special procedures to continue to investigate and report on human rights violations affecting individuals on the basis of sexual orientation or gender identity within the context of their specific mandates.”

Following the Panel Session on 7 March 2012, we would welcome the submission of a report to the Human Rights Council further expanding understanding of the situation of discrimination and violence on the grounds of sexual orientation or gender identity worldwide.

We draw Member States’ attention to the Secretary-General’s call for the repeal of laws that criminalise homosexuality and permit discrimination on the basis of sexual orientation and gender identity.

As NHRIs working in a diversity of societies and cultures, we express our unanimity in condemning human rights violations whenever and wherever they occur and on whatever basis that they occur.

We welcome the acknowledgement in the report of the important role of that NHRIs can play in addressing violence and discrimination on the basis of sexual orientation and gender identity, and welcome the initiatives undertaken by NHRIs worldwide in this area.

Reflecting our responsibility as NHRIs to protect all individuals from human rights violations, including those of diverse sexualities or gender identities, where possible and appropriate, we will work towards increasing our understanding and capacity in this area to enable us to speak out against discrimination and violations, and welcome the sharing – including through international and regional networks - of experiences and best practice in addressing legal, social, cultural and religious barriers for realising the rights of LGBTI¹ individuals.

Where appropriate and possible, we commit ourselves to work with relevant authorities and the community to monitor and inform on incidents of discrimination and violence linked to sexual orientation and gender identity, and to commit to continuing to engage with the Human Rights Council and Member States to ensure that these human rights violations are adequately addressed.

¹ The terms lesbian, gay and bisexual, and transgender and intersex are abbreviated to LGBTI. These terms are used to refer to same-sex behaviour, identities or relationships and non-binary gender identities.