

Concept note

Resolution on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity

Core Group: Argentina, Brazil, Chile, Colombia, Mexico and Uruguay

The Human Rights Council has to date formally addressed the issue of violence and discrimination based on sexual orientation and gender identity through two resolutions: Resolution 17/19 (2011) and Resolution 27/32 (2014). Both requested the OHCHR to prepare reports on violence and discrimination against individuals based on their sexual orientation and gender identity.

The latest report, entitled "Discrimination and Violence against Individuals Based on their Sexual Orientation and Gender Identity" (A/HRC/29/23), drew attention to the "overall picture (...) of continuing serious and widespread human rights violations perpetrated, too often with impunity, against individuals based on their sexual orientation and gender identity" and how "hundreds of people have been killed and thousands more injured in brutal, violent attacks [...] Other documented violations include torture, arbitrary detention, denial of rights to assembly and expression, and discrimination in health care, education, employment and housing." The High Commissioner has highlighted that these and related abuses "warrant a concerted response from Governments [...] as well as from United Nations bodies – the Human Rights Council included." The report explicitly highlighted the "inadequacy of current arrangements" to protect from such violations and the need for a "dedicated human rights mechanism at the international level that has a systematic and comprehensive approach" to the issue (paragraph 76).

Such serious violence and discrimination take place in all regions of the world, and all countries have challenges in this regard, and it is not just UN mechanisms but also regional and national mechanisms from all regions that have documented such abuses.

As has been the case for other individuals who are targeted by violence and discrimination on the basis of a personal trait (colour, religion, sex, age, persons with albinism, persons with disabilities, etc.), we are convinced that the scale, seriousness and widespread nature of violence and discrimination against individuals based on their actual or perceived sexual orientation or gender identity requires a specific response from the Human Rights Council in the form of a dedicated mechanism. It is important for the Human Rights Council to address this issue as it has done in other cases based on evidence collected by UN, regional and national human rights mechanisms, in a spirit of constructive dialogue, and avoiding double standards.

In this context the "core group" of the Resolution (Argentina, Brazil, Chile, Colombia, Mexico and Uruguay) as a follow up to the previous initiatives, intends to propose a resolution to create the mandate of an Independent Expert to address the protection against violence and discrimination based on sexual orientation and gender identity.

Appointing an Independent Expert could be a critical step to reduce the protection gap and to deepen the understanding on how to reduce violence and discrimination based on sexual orientation and gender identity in all regions of the world.

As the “core group” has consistently done, the resolution will focus on the protection against violence and discrimination based on sexual orientation and gender identity. It is an initiative from Latin-American countries, which builds on experience and developments at the national and regional levels.

All human beings are born free and equal in dignity and rights and everyone is entitled to all human rights and freedoms without distinction of any kind. Those guiding principles are enshrined in the Universal Declaration of Human Rights (1948) and are recognized as the foundation of human rights protection in international law. International human rights instruments reaffirm the right of every person to protection from violence and discrimination, including the most grave forms of violence and discrimination related to access to basic rights like the right to health, education and employment.

The initiatives undertaken by the delegations of the core group aim to further promote a dialogue which will contribute towards ending violence and discrimination based on sexual orientation or gender identity. This dialogue will be about reaching out and understanding each other in the spirit of the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action. We recall that the Vienna Declaration and Programme of Action indicates that “while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms”.

There is no country or region that has called for or has tolerance to violence or discrimination. There is no country or region that is opposed to dialogue. In fact, one hundred States from all regions have made voluntary commitments to address violence and discrimination based on sexual orientation and gender identity in the context of the Universal Periodic Review. More than two thirds of all States that received such recommendations accepted at least one (and often several) such recommendations, indicating that a majority of States welcome constructive dialogue and have made an express commitment to address these human rights concerns.

We call on all countries and other stakeholders to join us in this endeavour to establish, within the framework of the Human Rights Council, a mechanism to properly address violence and discrimination based on sexual orientation and gender identity.