

Resolution on Extrajudicial, Summary or Arbitrary Executions: Some points to consider

"When individuals are attacked [or] abused ... because of their sexual orientation, we must speak out. ... It is not called the 'Partial' Declaration of Human Rights. It is not the 'Sometimes' Declaration of Human Rights. It is the Universal Declaration, guaranteeing all human beings their basic human rights, without exception."

- **UN Secretary General Ban Ki-moon, December 10, 2010**
(<http://www.un.org/News/Press/docs//2010/sgsm13311.doc.htm>)

"You, at the United Nations, have a particular role to play. You have a responsibility. Lesbians, gays, bisexuals, transgender people are equal members of the human family whose rights you have sworn to uphold. Those who face hatred [and] violence look to you for protection ... Do not fail them."

- **Nobel Peace Prize winner, Archbishop Emeritus Desmond Tutu**
(www.youtube.com/user/ARCSOGItube?feature=mhum)

Why is it important that the resolution address killings of lesbian, gay, bisexual and transgender people?

The resolution on extrajudicial, summary or arbitrary executions is a crucial initiative to bring international attention to some of the most serious human rights violations: those resulting in loss of life.

To be effective, the resolution must address actual situations of extrajudicial killings targeted against particular groups, and areas of concern highlighted by the Special Rapporteur.

The Special Rapporteur has constantly underlined that people are subject to extrajudicial executions because of their actual or presumed sexual orientation or gender identity.

What examples are there of people being subject to killings as a result of their sexual orientation?

Some examples of extrajudicial executions based on sexual orientation highlighted by the Special Rapporteur include:

- Imposition of the death penalty for consensual same-sex conduct;
- Individuals tortured to death by State agents because they are assumed to be lesbian, gay, bisexual or transgender;
- Death in custody of individuals as a result of abuse, beatings and subsequent denial of medical treatment because of their perceived sexual orientation or gender identity;
- Unlawful killings of assumed homosexuals by paramilitary groups as part of "social cleansing" campaigns;
- Persons murdered with impunity by police officers because of their perceived sexual orientation or gender identity;
- Failure to adequately investigate hate crimes and killings of persons assumed to be lesbian, gay, bisexual or transgender.

Does this resolution imply that people targeted because they are lesbian, gay, bisexual or transgender deserve more protection than other groups?

The resolution does not call for a higher degree of protection for these persons, but for an equal standard of protection. For this paragraph to have real meaning, it has to be sufficiently explicit so as to indicate situations where particular vigilance is required. This is why the General Assembly has for a number of years drawn the attention to killings that are racially motivated, killings targeting various minority groups, killings of migrants, killings motivated by the person's sexual orientation, and other cases where a person's right to life has been violated. Because many do not see those who are gay, lesbian, bisexual or transgender as human beings whose right to life deserves equal protection, there is a need for protection to be explicit.

Is there a definition of sexual orientation or gender identity?

Since 2000 – for ten years – the resolution has consistently urged States to protect the right to life and investigate killings based on grounds including sexual orientation. There have been no problems of definition.

More recently, definitions of these terms set out in the *Yogyakarta Principles on the application of international human rights law in relation to sexual orientation or gender identity* have been endorsed by UN treaty bodies, UN agencies, and regional courts. The terms have also been included in national constitutions of States in diverse regions.

Isn't this issue culturally sensitive?

While questions of sexual orientation and gender identity are sensitive in many societies, the resolution does not ask States to take a moral stance on the issues: rather, it merely urges States to protect the *right to life* of all persons, including those who face killings because of their sexual orientation or gender identity.

As the Special Rapporteur noted, in presenting his report E/CN.4/2006/53 to the Human Rights Council:

“One issue which in the past has given rise to particular controversy in relation to this mandate concerns the situation of individuals who are gay, lesbian, bisexual or transsexual. Yet, based on the information I have received it is difficult to imagine an issue which should be less controversial in terms of this mandate.

In essence, the members of this group have come to my attention in two contexts. The first concerns those who have been killed for the very fact of their sexual identity, often by agents of the State, and their murders go unpunished. Indeed no prosecution is ever brought. After all, they were ‘only gay’. In contrast, the second context involves prosecution with a vengeance, directed not against the murderers but against those who engage in consensual practices in private. These practices should be a matter of deep concern rather than a source of controversy.”

We therefore urge States to ensure protection in the resolution on extrajudicial, summary and arbitrary executions of the right to life of all persons who face killings, including because they are assumed to be lesbian, gay, bisexual or transgender.