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Item 8

Sexual Orientation & Gender Identity Panel: Joint Oral Statement by the International Commission of Jurists, Human Rights Watch and Amnesty International

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Madame President, Madame High Commissioner, Distinguished Panelists

On behalf of the International Commission of Jurists, Human Rights Watch and Amnesty International, we welcome the study by the Office of the High Commissioner and the contributions of the panelists. We express our appreciation to South Africa for its leadership in bringing attention to the problems of violence and discrimination based on sexual orientation and gender identity that persist around the world.

We have heard claims that "controversial notions like sexual orientation and gender identity . . . have no legal foundation in any international human rights instrument." Such claims are a serious mischaracterization of international human rights law.

Human rights are universal. The Universal Declaration of Human Rights says in its very first article: "All human beings are born free and equal in dignity and rights." This means that everyone, including those who are lesbian, gay, bisexual or transgender, is entitled to the full range of all human rights. The rights to life, to be free from arbitrary detention, to security of person and protection from torture - these rights belong to all of us simply because we are born human. To suggest that lesbian, gay, bisexual and transgender individuals are not entitled to the same rights is to deny our common humanity.

The right to be free from discrimination is the cornerstone of the international human rights framework. The drafters of the Universal Declaration deliberately and consciously wrote an open-ended list of prohibited grounds of discrimination. They used the term "other status" because they recognized that "the nature of discrimination varies according to context and evolves over time." Treaty bodies have held that international human rights law prohibits discrimination on the basis of age, marital status, health and disability, to name a few, even though these grounds are not expressly mentioned in the relevant treaties.

International human rights law forbids discrimination on the basis of sexual orientation or gender identity. We know this from the consistent work of the treaty bodies and the special procedures of this Council. Plainly put, the prohibition of discrimination on the grounds of sexual orientation and gender identity is firmly established in international human rights law.

Reference has been made to the Vienna Declaration and Programme of Action to support the idea that human rights must defer to the historical, cultural and religious backgrounds of various nations. In fact, the Vienna Declaration states 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."

I thank you.

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