The Earth Charter, Non-Discrimination and Sexual Orientation

Principle 12 states: “Uphold the right of all, without discrimination, to a natural and social environment supportive of human dignity, bodily health, and spiritual well-being, with special attention to the rights of indigenous peoples and minorities.”

Principle 12.a states: “Eliminate discrimination in all its forms, such as that based on race, color, sex, sexual orientation, religion, language, and national, ethnic or social origin.”

The Earth Charter in Principle 12.a calls for an end to all forms of discrimination, including discrimination based on sexual orientation, in accordance with international human rights law. It is only in this context that the Earth Charter addresses the issue of homosexuality.

Discrimination involves distinctions, exclusions, and restrictions that deny people their human rights and fundamental freedoms as set forth in international law. Some people suffer discrimination because of their sexual orientation. Article 26 in the international Covenant on Political and Civil Rights is widely recognized among international lawyers to provide a general prohibition against discrimination on the basis of sexual orientation.

Principles 12 and 12.a are an extension and clarification of the concerns and values set forth in a number of preceding principles in the Earth Charter. For example, Principles 1 and 2 call for respect and care for the community of life as a whole. Principle 2 emphasizes the values of understanding, compassion, and love.

Principle 3 calls for building just and peaceful societies, and Principle 3.a is the imperative to “ensure that communities at all levels, guarantee human rights and fundamental freedoms and provide everyone an opportunity to realize his or her full potential.” In this spirit, Principle 9.c calls on all communities to “protect the vulnerable.” Principles 12 and 12.a should be read with these other principles in mind.

Fundamental human rights and freedoms under certain circumstances have to be weighed and balanced against each other. In this regard, international jurisprudence (case law) leaves open the possibility that if religious institutions and other organizations are able to demonstrate that it is “legitimate to do so,” they may restrict the opportunities open to gays and lesbians in their institutions. The ethics of such restrictions are a matter of ongoing debate.

The Earth Charter recognizes that “Life often involves tensions between important values. This can mean difficult choices.” The tension between individual freedom and social justice or the practice of non-violence and the prevention of harm or environmental protection and economic development are examples. The Earth Charter does not endeavor to address the many complex problems that may arise when individuals, institutions, and governments endeavor to implement its general principles. From the perspective of the Earth Charter there must be very compelling ethical reasons for permitting any form of discrimination in any institution.