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X Canadian HIV/AIDS Legal Network  
United Nations Human Rights Council, Geneva. 21<sup>st</sup> September 2010.

Presented by Rowland ~~Hide~~ Macaulay

Mr. President, distinguished members of the delegation,

I am pleased to make this statement on behalf of the Canadian HIV/AIDS Legal Network and Pan-Africa ILGA.

We wish to address recommendations 98, paragraphs 2, 4 and 5, issues of serious concern raised in the Working Group report on Lesotho. These recommendations call for the amendment of the penal code provisions which criminalize consensual sexual activity between persons of the same sex, to ensure that no one is punished under these laws.

Criminalization of consensual same sex activity constitutes a violation of established international human rights law and undermines public health initiatives.

Just last Friday, in a high-level panel held in conjunction with the current session of the Human Rights Council, Nobel Peace Prize Winner Archbishop Desmond Tutu called for an end to criminal laws against homosexuality. He noted that South Africa included sexual orientation in its new post-apartheid Constitution, stating that "we knew, from our bitter experience that an injury to one is an injury to all."

These calls were echoed last week by the UN High Commissioner for Human Rights, and the UN Secretary General Ban Ki-moon, who underlined:

*"Laws criminalizing people on grounds of sexual orientation and gender identity violate the principle of non-discrimination. They also fuel violence, help to legitimize homophobia and contribute to a climate of hate. No doubt deeply rooted cultural sensitivities can be aroused when we talk about sexual orientation. Social attitudes run deep and take time to change. But cultural considerations should not stand in the way of basic human rights."*

We were therefore disappointed that Lesotho did not accept these recommendations. The UN Human Rights Committee has noted that laws criminalizing homosexuality "run counter to the implementation of effective education programmes in respect of HIV/AIDS prevention" by driving marginalized communities underground, a finding supported by UNAIDS and other key actors in the fight against the HIV/AIDS pandemic.

We therefore urge the government of Lesotho to reconsider Recommendations 98.2, 4 and 5, and take action to bring its legislation into conformity with international standards, by repealing legislation which criminalizes same-sex conduct between consenting adults.

Thank you Mr. President.