

# UPR INTERVENTION FOR PAPUA NEW GUINEA

## Canadian HIV/AIDS Legal Network

- delivered by John Fisher

Friday 30 September 2011

Thank you Madam President. We appreciate your efforts, and those of your office, to ensure the receipt of responses to all recommendations. We trust that a copy of our remarks will be made available to the State under review, and we appreciate the continued attention to the possibility of videoconferencing arrangements, which may facilitate the participation of smaller delegations in future.

We welcome Papua New Guinea's commitment to equality and non-discrimination.

In furtherance of this commitment, we also welcome the fact that Papua New Guinea's Cabinet has endorsed a review of existing laws governing sexual offences, to be undertaken by the Constitutional and Law Reform Commission (CLRC), and that the policy submission seeks to review such laws with a view to decriminalizing consensual same-sex conduct.

We are therefore disappointed that Papua New Guinea did not yet feel ready to accept Recommendations 52 and 53, to repeal laws that criminalise sexual activity between consenting adults, and 54 to ensure protection from discrimination on grounds of sexual orientation and gender identity.

The **UN Human Rights Committee** has confirmed that such laws violate the rights to both privacy and non-discrimination, and "run counter to the implementation of effective education programmes in respect of HIV/AIDS prevention" by driving marginalised communities underground a position also affirmed by UNAIDS.

As the **UN High Commissioner for Human Rights**, Ms. Navanethem Pillay, recently emphasised:

"The principle of universality admits no exception. Human rights truly are the birthright of all human beings. (...) Sadly, ... there remain too many countries which continue to criminalize sexual relations between consenting adults of the same sex in defiance of established human rights law. Ironically many of these laws, like Apartheid laws that criminalized sexual relations between consenting adults of different races, are relics of the colonial era and are increasingly becoming recognized as anachronistic and as inconsistent both with international law and with traditional values of dignity, inclusion and respect for all."

We acknowledge that these issues are sensitive for some; however, as **UN Secretary General Ban Ki-moon** recently stated to this Council: "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 do welcome the fact that Papua New Guinea has indicated that ongoing national consultations are taking place on this issue, and we trust that these consultations will lead to a positive outcome in the near future. We note that a number of other island States in the Pacific region have, through the UPR, accepted recommendations to decriminalise homosexuality, and we urge Papua New Guinea to be guided by these best practices in order to bring its legislation into conformity with its international human rights commitments.

Thank you.