

UN HUMAN RIGHTS COUNCIL (14th SESSION)

Statement by the Canadian HIV/AIDS Legal Network and the International Commission of Jurists

June 15, 2010

Thank you Mr. President, distinguished delegates,

I am pleased to take the floor on behalf of the Canadian HIV/AIDS Legal Network and the International Commission of Jurists.

The Vienna Declaration and Programme of Action affirms the principles of universality and non-discrimination, and yet many people continue to be denied their rights solely because of their sexual orientation and gender identity. At this session of the Council alone, Special Rapporteurs have identified numerous human rights violations on these grounds, including arrests, killings, death threats, violent attacks, raids on homes and offices, and violations of freedoms of expression and assembly.

The time is overdue for this Council to take up its responsibility to address these human rights violations. We therefore welcome the discussion that took place at this session of the Council on the decriminalisation of same-sex conduct between consenting adults, as recommended by the UN Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health. Despite concerns by some States about the Rapporteur's recommendations, the largely constructive engagement by States from all regions illustrated that this Council can and must engage with sensitive issues from a human rights perspective.

We welcome, for example, **South Africa's** affirmation during the interactive dialogue that the recommendations to decriminalise homosexuality are consistent with its own country's Constitutional prohibition of discrimination, including on grounds of sexual orientation, **Brazil's** recognition that criminalisation is inconsistent with and impedes realisation of the right to health, the **EU's** willingness to acknowledge that many such laws are relics of the colonial era and **Nepal's** expression of appreciation to the Special Rapporteur and confirmation that non-discrimination on grounds of sexual orientation is central to the country's efforts to combat HIV and ensure equality in health care.

These positive contributions from such diverse States and regions echo repeated calls for the repeal of criminal laws against homosexuality by former and current High Commissioners for Human Rights, by former UN Secretary General Kofi Annan and the current Secretary General Ban Ki Moon, by treaty bodies, and by many UN agencies including UNAIDS and UNDP.

Some States questioned the legal basis underpinning these recommendations. On the back table, you will find a briefing paper by the International Commission of Jurists

setting out the international legal framework requiring the decriminalisation of homosexuality, and the ICJ will shortly be distributing a copy of this briefing paper to delegations.

As the paper makes clear, in addition to established rights such as privacy and non-discrimination, at stake is no less than the core principle of universality, the first founding principle of the UDHR, affirmed unflinchingly in the VDPA: that all human beings are born free and equal in dignity and rights, entitled without exception to the full enjoyment of all their rights.

This principle remains the anchor of the Council's work, central to its mandate. We look forward to working with the Council to ensure that mandate is fulfilled.