**Oral Submission to**

**House of Commons Standing Committee on Citizenship and Immigration**

**Study on**

**Immigration and Refugee Board's Appointment, Training and Complaint Processes**

**Tuesday, March 27, 2018**

I am an immigrant to Canada and I lead the Canadian HIV/AIDS Legal Network’s LGBTQI initiatives. I am privileged when compared to many other LGBT immigrants and refugees to this country. Coincidentally, tomorrow I will sit my Canadian citizenship test here in Ottawa. As a gay Jamaican, the path to this momentous day was possible because of my Canadian marriage to my husband, Tom. While our marriage led to multiple death threats upon my return to Jamaica, forcing me to flee to Canada, I did not have to endure the challenges of an Immigration and Refugee Board hearing, which for so many already traumatized individuals is dehumanizing and unjust.

Approximately 400 million LGBT persons live under the threat of criminal imprisonment, violence or even death. The IRB faces thousands of refugee claimants each year trying to escape persecution in their home country simply because of their sexual orientation, gender identity or gender expression. While strides have been made to improve the cultural sensitivity of IRB members, more could be done to enhance their cultural competence.

LGBT claimants report that the IRB still requires excessive evidence of self-identification. For example, in one case the IRB spontaneously asked to examine a claimant’s cell phone for proof of communication on a gay relationship mobile application. In another case, social media pictures with opposite-sex individuals were seen as disproving a gay claimant’s sexuality. These experiences are both humiliating and wrong-headed. In countries that still criminalize non-heteronormative sexualities and gender expression, it is often too risky to self-identify, and having an opposite-sex partner is often a “mask” or perceived “cure” for homosexuality. IRB members have also requested police records as proof of homophobic attacks. However, LGBT people in many countries distrust the police. When they do report homophobic attacks, they can be implicated in illegal same-sex activity.

There is also the unfounded belief that Canada’s LGBT refugee process is the easiest way to get asylum and is therefore being abused. There is an untrue notion that, “If you say you are gay, you get to stay.” However, to date the IRB has only found three percent of LGBT refugee claims to lack credibility, so this is hardly an epidemic of abuse.

To ensure that IRB officers improve their cultural competency and fairly assess LGBT refugee claimants, we recommend:

* multi-day LGBT sensitivity training for IRB members engaging individuals from refugee source countries with lived experience;
* meaningful dialogue between the IRB and agencies and lawyers serving LGBT refugees, to establish clearer guidelines and expectations; and
* an opportunity for claimants/counsel to provide post-hearing feedback that can improve IRB members’ questioning and not adversely affect claims.

Canada cannot and must not compound the worldwide discrimination against LGBTQI people, while simultaneously touting our human rights track record. The time is now for meaningful IRB reflection and reform.

**Maurice Tomlinson, March 27, 2018**