



United Nations Human Right Council 13th Session
UPR Democratic Republic of Congo

**Canadian HIV/AIDS Legal Network &
International Lesbian and Gay Association**

Delivered by Revd Rowland Jide Macaulay

Mr President,

I have the honour to present a statement on behalf of the Canadian HIV/AIDS Legal Network and Pan Africa ILGA.

We wish to address the recommendations contained in paragraph 97(10) in the Working Group report on the Democratic Republic of Congo, which urges the government to "decriminalize consensual same-sex activity between adults".

The criminal prohibitions on sexual activity against "morals" and "family life" under articles 168-170 and 172 of the Penal Code can be used to criminalise sexual activity between consenting adults.

While we appreciate the sensitivity of the issues, we remind the government that its primary obligation is to respect international law. According to the United Nations Human Rights Committee's 1994 ruling in the case *Toonen v. Australia*, laws criminalizing homosexual conduct violate the right to privacy and non-discrimination protected by the ICCPR.

These laws threaten the existence of sexual minorities and also impede measures to address HIV and AIDS by driving marginalised communities underground, a position also affirmed by UNAIDS and the High Commissioner for Human Rights.

In the Democratic Republic of Congo not all men who have sex with men necessarily identify as homosexuals. The criminal legislation continues to have a negative impact on important HIV prevention work for the community, and this we believe is a threat to public health.

We therefore urge the government to implement the recommendations of member states and take action:

- To ensure that the penal code is not applied to criminalize homosexual activity between consenting adults, and bring this into line with the provisions of the ICCPR, particularly articles 2 and 26.
- To adopt measures and effective educational programmes for the prevention of HIV/AIDS; and
- To provide law enforcement and judicial officials with specific training regarding the protection of human rights of sexual minorities.

Finally, we are prepared to work with the government of the Democratic Republic of Congo to develop and implement initiatives to achieve these recommendations.

Thank you very much Mr President.