UPR: Gambia
Canadian HIV/AIDS Legal Network
United Nations Human Rights Council, Geneva. 11th June 2010.

Presented by Rowland Jide Macaulay

Mr. President, distinguished members of the delegation,

An issue of serious concern raised during the UPR of Gambia relates to the criminalization of consensual same-sex conduct under article 144 of the 1965 Criminal Code, punishable by up to 14 years' imprisonment.

We are deeply concerned that Gambia did not accept the recommendations of Chile, the United States, the UK, Argentina and others to repeal these provisions, which are a violation of established international human rights law and a major threat to public health.

Arbitrary arrests have been reported pursuant to this provision, and stakeholders expressed concern at public statements by the Gambian President threatening homosexuals with expulsion from the country or beheading.

The UN Human Rights Committee has confirmed that criminalization of consensual same-sex conduct violates the rights to privacy and non-discrimination, contrary to articles 17(1) and 26 of the International Covenant on Civil and Political Rights, and runs counter to the implementation of effective education programmes in respect of HIV/AIDS prevention by driving marginalised communities underground, a position also supported by UNAIDS.

- We urge the Government of Gambia to reconsider and accept the recommendations to repeal provisions which criminalise sexual activity between consenting adults, and ensure that no-one is arrested or detained pursuant to these provisions.

- We further recommend that violence directed against any person, including because of their sexual orientation or gender identity, be vigorously prosecuted, and that incitement to violence on these grounds be condemned.

- Finally, we recommend that training be provided to police, judicial and other authorities to promote respect for all persons, including on the grounds of sexual orientation or gender identity.

Thank you very much Mr President.