

Human Rights Council – 29th session – June 2015

Item 6: Consideration of the UPR Outcome of Kenya

Statement by Action Canada for Population and Development - DELIVERED BY FERNANDO D'ELIO

Action Canada makes this statement in collaboration with the Sexual Rights Initiative.

Mr President,

Despite Kenya being party to major international human rights instruments including the ICCPR and having a national constitution that incorporates international law in Kenya as a dualistic state, Kenya continues to maintain 'sodomy' laws and its anti-discrimination laws have not been adequately defined to include the contexts of sexual orientation and expression.

And while we applaud Kenya for accepting a recommendation to "*adopt a comprehensive anti-discrimination law affording protection to all individuals, irrespective of their sexual orientation or gender identity*", we are deeply concerned that while accepting this recommendation, Kenya has contradicted itself by rejecting a number of recommendations in regard to the decriminalization of sexual relations between consenting adults of the same sex, by rejecting a recommendation to adopt measures against violence and hate speech against persons and associations of LGBTI, and rejecting a recommendation to repeal legal provisions which can impose penalties against LGBT persons.

Such contradictory responses beg the question, of how effective this comprehensive anti-discrimination law will be in protecting LGBTI individuals from discrimination. Clearly, the universality of human rights in Kenya only applies to certain individuals that the state approves of. And while this contradiction should be opposed, it should be noted that Kenya's recently reviewed Constitution states that it recognizes the "*aspirations of all Kenyans for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law.*"

Yet, with the refusal to accept recommendations on non-discrimination, the government is clearly going against its own constitution. We urge the government of Kenya to reconsider its responses.

Thank you