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United Nations Human Right Council 13th Session

Geneva, 15th to 19th March 2010.

UPR Bhutan

Canadian HIV/AIDS Legal Network

Delivered by Revd Rowland Jide Macaulay.

Mr President, distinguished members of the delegation,

I have the honour to present a statement on behalf of the Canadian HIV/AIDS Legal Network and International Lesbian, Gay, Bisexual, Trans and Intersex Association.

We wish to address recommendation 60 in paragraph 101 of the Working Group report on Bhutan, namely to repeal all provisions in the *Penal Code* which criminalize sexual activities between consenting adults of the same sex.

We appreciated the delegation's affirmation in its response that articles 213 and 214 of the Penal Code have never been applied in relation to consensual sexual activities between adults of the same sex. At the same time, the United Nations Human Rights Committee ruled in the 1994 case of *Toonen v. Australia* that laws criminalizing homosexual conduct violate the rights to privacy and non-discrimination protected by the ICCPR. The Human Rights Committee has also confirmed that these laws

are inconsistent with international law even when they are not actively enforced, since they stigmatize marginalised populations and undermine human dignity.

As further noted by the Human Rights Committee, laws criminalising homosexuality “run counter to the implementation of effective education programmes in respect of HIV/AIDS prevention” by driving marginalised communities underground, a finding supported by UNAIDS and other key actors in the fight against the HIV/AIDS pandemic.

The delegation of Bhutan in its response also recognised that many such laws are of colonial origin, a point underlined by the High Commissioner for Human Rights Navi Pillay, who has stated: “There remain all too many countries which continue to criminalize sexual relations between consenting adults of the same sex in defiance of established human rights law. Ironically, many of these laws are relics of the colonial era, and are increasingly becoming recognised as anachronistic, and as inconsistent both with international law and with traditional values of dignity, inclusion, and respect for all.”

Finally, we note the government’s affirmation that these laws may be re-examined in future, when the public feels the need to do so. We emphasize that human rights must never be a popularity contest, but we do welcome the government’s willingness to review these laws in future, and we urge the government to take all necessary steps to bring these provisions into conformity with international law as soon as possible.

Thank you Mr President.