



**The Global Forum on MSM & HIV (MSMGF)**

*Working worldwide against HIV for the health and human rights of men who have sex with men.*

H.E Paul Kagame  
President of the Republic of Rwanda  
Phone: +250 818 2105/590 62105/818 2000/59062000  
Fax: +250 572 431

Rt. Hon. Bernard Makuza  
Prime Minister of Rwanda  
Phone: +250 585 444/5, +250 584 648  
Fax: +250 583 714  
Email: [primature@gov.rw](mailto:primature@gov.rw)

December 16, 2009

Your Excellencies,

The Global Forum on MSM & HIV (MSMGF) stands with Rwanda's Horizon Community Association (HOCA), in collaboration with the Coalition of African Lesbians (CAL) and the International Gay and Lesbian Human Rights Commission (IGLHRC), in urging you to oppose efforts to criminalize homosexuality in Rwanda. We call for the immediate withdrawal of Article 217 from the draft revision of the Rwandan Penal Code Act which criminalizes homosexuality.

Article 217 of the penal code would carry a punishment of five to ten years imprisonment and a fine ranging from 200,000 to one million Rwandan Francs (RWF) for "any person who practices, encourages or sensitizes people of the same sex, to sexual relation or any sexual practice." This directive will not only violate the human rights of the lesbian, gay, bisexual and transgender (LGBT) community, its provisions will also seriously undermine HIV prevention, treatment and care efforts.

Men who have sex with men<sup>i</sup> (MSM) have been identified as a most-at-risk group in the global AIDS epidemic. In low and middle-income countries, MSM are on average 19 times more likely to be infected with HIV than the general population.<sup>ii</sup> Rwanda's own National AIDS Control Commission (CNLS) is currently considering the inclusion of MSM in the Rwanda National Strategic Plan on HIV and AIDS.

Criminal penalties against the LGBT community hinder HIV control efforts by creating climate of fear and shame, driving sexual minorities underground where they are difficult to reach with HIV-related services. Countries whose laws do not criminalize homosexuality are better able to curb the transmission of the virus<sup>iii</sup>. The ability to address HIV more effectively was a pivotal factor in the recent decision of the High Court of New Delhi to repeal section 337 of the penal code outlawing sodomy.<sup>iv</sup>

Public health experts have made unequivocally clear that criminalization laws represent one of the main barriers to implementing effective HIV prevention programs for MSM<sup>v</sup>. Moreover, due to the fluidity of social and sexual networks, elevated HIV prevalence among vulnerable populations is not only devastating to these communities themselves, but has been shown to undermine efforts to reduce HIV in the general population as well.

The global AIDS community has already taken a firm stance supporting human rights of vulnerable groups as an essential piece to the AIDS response. The 2001 UN General Assembly Special Session Declaration on HIV and AIDS, adopted by all UN member states, including Rwanda, emphasizes the importance of addressing the needs of most-at-risk communities. The 2006 Political Declaration on HIV/AIDS, which Rwanda also signed, includes a commitment to the elimination of all forms of



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discrimination and to promoting the full enjoyment of human rights for vulnerable groups, including ensuring their access to health care.

Recognizing the strong link between human rights and access to life-saving services, global leaders from public health, religious, and political spheres have recently spoken out against the criminalization of homosexuality. Champions for an HIV-Free Generation, a group of former African Presidents and other influential personalities, has called for the withdrawal of legislation to expand criminal penalties against the LGBT community in neighboring Uganda, noting that such legislation “deviates from international best practice and recommendations.”<sup>vii</sup>

The Vatican has also spoken out against criminalization of same-sex practicing people. The recent statement delivered by the Holy See to the United Nations affirms their opposition to “all forms of violence and unjust discrimination against homosexual persons, including discriminatory penal legislation which undermines the inherent dignity of the human person.”<sup>viii</sup>

Both the United Nations and Members of the African Commission on Human and People’s Rights have condemned laws that imprison lesbian, gay, bisexual and transgender (LGBT) individuals on the basis of their sexuality. Laws criminalizing homosexuality violate principles of privacy and equality, and in so doing, relegate LGBT persons to the status of “second-class” citizens - which may unofficially sanction harassment and violence against them, further exacerbating the risk of HIV transmission.

Recognizing that all human beings are born free and equal in dignity and in rights, and in pursuit of our mutual endeavor for an effective HIV/AIDS response worldwide, we urge you to oppose the effort to criminalize homosexuality in Rwanda.

Sincerely,

The Global Forum on MSM & HIV

*The Global Forum on MSM and HIV (MSMGF) is an expanding network of AIDS organizations, MSM networks, and advocates devoted to ensuring robust coverage of and equitable access to effective HIV prevention, care, treatment, and support services tailored to the needs of gay men and other MSM. Guided by a Steering Committee of 20 members from 17 countries situated mainly in the Global South and supported by a secretariat currently hosted by AIDS Project Los Angeles, we work to promote MSM health and human rights worldwide through advocacy, information exchange, knowledge production, networking, and capacity building .*

Cc:

Tharcisse Karugarama  
Minister of Justice  
Phone: +250 586398/586561/585844  
Fax: +250 586509  
Email: [mjust@minjust.gov.rw](mailto:mjust@minjust.gov.rw)

Dr. Jean Damascene Ntawukuliryayo  
Minister of Health  
Phone: +250 77458/77910  
Fax: +250 76853/77458  
Email: [gsante@rwandatel.com](mailto:gsante@rwandatel.com)



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Joseph Habineza  
Minister of Sports and Culture  
Phone: +250 5835315  
Fax: 583518  
Email: [minispoc@gov.rw](mailto:minispoc@gov.rw)

Minister of Gender and Family Promotion  
Phone: +250 577626/577203/576455  
Fax: +250 577543  
Email: [migeprofe@gov.rw](mailto:migeprofe@gov.rw)

Solina Nyirahabimana  
Minister in the Office of the President  
Email: [gfrank@presidency.gov.rw](mailto:gfrank@presidency.gov.rw)

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<sup>i</sup> Not all men who have sex with other men self-identify as gay or bisexual. The public health community uses the term "men who have sex with men", or "MSM", as a way to capture sexual behavior, as opposed to identity or sexual orientation. MSM include gay and non-gay identified men, bisexual men, "situational" sex between men (i.e. sex that occurs in all-male settings such as prisons, schools, and militaries), and male sex workers, among others.

<sup>ii</sup> Baral, S. et al. (2007). "Elevated Risk for HIV infection among men who have sex with men in low- and middle-income countries 2000-2006: a systematic review." *PLoS Med.*; 4(12): e339. doi:10.1371/journal.pmed.0040339.

<sup>iii</sup> Jeff O Malley, Director, United Nations Development Program. Quoted in: Kaiser Daily HIV AIDS Report. 2009. U.N. calls on India to Decriminalize Homosexuality. [http://www.kaisernetwork.org/Daily\\_Reports/rep\\_index.cfm?DR\\_ID=55446](http://www.kaisernetwork.org/Daily_Reports/rep_index.cfm?DR_ID=55446)

<sup>iv</sup> Sidibé, Michel. Executive Director of UNAIDS. 2009. "Universal access for men who have sex with men: winds of change; signs of hope". Presentation to Congressional Forum on HIV, Human Rights, and Men who have Sex with Men (MSM). September 16, 2009. Washington, D.C.

<sup>v</sup> Smith A, Tapsoba P, Peshu N, Sanders E, Jaffe H. (2009). "Men who have sex with men and HIV/AIDS in sub-Saharan Africa". *Lancet.* 374:416-22.

<sup>vi</sup> UNAIDS. (2009). "UNAIDS Action Framework: Universal Access for Men Who have Sex with Men and Transgender People". [http://data.unaids.org/pub/Report/2009/jc1720\\_action\\_framework\\_msm\\_en.pdf](http://data.unaids.org/pub/Report/2009/jc1720_action_framework_msm_en.pdf) Accessed September 2, 2009.

<sup>vii</sup> Mogae, Festus G. 2009. "Mr President, halt harmful provisions in anti-homosexuality and Aids Bills" Daily Monitor. Op-Ed, November 19, 2009. Uganda. Online: [http://www.monitor.co.ug/artman/publish/opinions/Mr\\_President\\_halt\\_harmful\\_provisions\\_in\\_anti-homosexuality\\_and\\_Aids\\_Bills\\_94686.shtml](http://www.monitor.co.ug/artman/publish/opinions/Mr_President_halt_harmful_provisions_in_anti-homosexuality_and_Aids_Bills_94686.shtml)

<sup>viii</sup> San Diego Gay and Lesbian News. 2009. "UN, Vatican come out against Uganda's proposed Anti-Homosexuality bill". December 14, 2009. USA. Online: <http://sdgln.com/news/2009/12/14/un-vatican-come-out-against-uganda-s-proposed-anti-homosexuality-bill>