

Joint written statement submitted by:

Action Canada for Population and Development, Canadian HIV/AIDS Legal Network, Center for Women's Global Leadership, Global Rights, International Service for Human Rights, International Women's Health Coalition, and Women for Women's Human Rights (New Ways), non-governmental organizations in special consultative status

Title:

**The Promise of the Human Rights Council:
Marginalised Groups, Sexual Orientation and Gender Identity¹**

Text:

We, the undersigned NGOs from all regions of the world, join with other members of the international community in welcoming the Human Rights Council, and engaging in its inaugural session in a spirit of optimism and constructive dialogue.

The increased weight and status attached by members of the international community to human rights within the UN system, the increased time that will be dedicated to addressing these issues throughout the year, the affirmation of the valuable role of UN Special Procedures and NGOs, the willingness of States to voluntarily submit their human rights records for international consideration through the Universal Period Review – all these signal a new beginning, new hope, and new promise.

To what extent will this promise be realized? That is up to States themselves. As UN High Commissioner for Human Rights Louise Arbour has stated:²

"Fulfilling the promise of the Council will require a change of culture as much as institutional transformation. Countries must demonstrate the political will to put the defence of human rights above narrow interests. Human rights are neither a weapon nor a shield. They are the birthright of all people everywhere. If we lose sight of this fundamental fact, all

¹ In addition to the 7 NGOs in special consultative status jointly submitting this statement, the following 40 NGOs also share the views expressed herein:

Aizhixing Institute of Health Education, Alliance Rights Nigeria, Alternative Visions, Amigos siempre Amigos, ARC International, Arcigay, Asociación Hombres y Mujeres Nuevos de Panamá, Colombia Diversa, Common Language, Comunidad Homosexual Argentina, Egale Canada, El Closet de Sor Juana, Engender, Equal Ground, European Parliament's Intergroup on Gay and Lesbian Rights, European Pride Organisers Association, European Women's Lobby, Fundacion Arcoiris, GAYa NUSANTARA Foundation, Gays Without Borders, Het Holebi Overleg West-Vlaanderen, Holebi-Werkgroep van de Stad Oostende, Homosexuelle Initiative (HOSI) Wien, ILGA Europe, Inform, International Day against Homophobia Committee, International Gay and Lesbian Human Rights Commission (IGLHRC), International Lesbian and Gay Association (ILGA), International Lesbian and Gay Law Association (ILGLAW), La Colectiva Mujer y Salud, LSVD (Lesbian and Gay Liberation Front e.V.), Región latinoamericana de la Asociación internacional de Abogados Gays y Lesbianas, Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN), Riksförbundet för sexuellt likaberättigande (RFSL), Rights Australia, Samabhavana Society, Siberian Human Rights Network "Rights Society", Solidarity and Action Against The HIV Infection in India (SAATHII), Werkgroep Internationale Solidariteit Holebi/Workgroup International LGBT Solidarity, Women's Support Group.

² www.unhcr.ch/hurricane/hurricane.nsf/view01/335B04BC437FC02FC1257133002DC229?opendocument.

the work to create the council and reaffirm the central role of human rights will have been wasted".

Building on this affirmation, the Council will have important work to do in the area of standard-setting, and will need to rise beyond political and regional tensions to address emerging issues, particularly in areas such as sexual orientation and gender identity that have gone unaddressed or not yet received due consideration.

As Canada noted during its high level statement to last year's Commission:³

"What do we expect from a multilateral system for promotion and protection of human rights? ... This system should be flexible, so that we can make progress in new areas, such as fighting discrimination based on sexual orientation and gender identity".

Numerous UN Special Procedures have expressed concern about violations of the human rights of lesbians, gays, bisexuals and transgender people, including arbitrary arrests, deprivation of food and water, beatings, rape and murder. The Human Rights Council's success in addressing persistent human rights violations against marginalized groups will be a litmus test of the credibility and effectiveness of the reform process and the United Nations as a whole.

It will not be easy, and certainly there is cause for concern. Recently, for example, in the context of the five-year review of the UNGASS Declaration of Commitment on HIV/AIDS, States were unwilling to even acknowledge marginalized groups at risk for HIV, such as men who have sex with men, people who use drugs and sex-workers. Describing this approach as "short-sighted", UN Secretary-General Kofi Annan commented:⁴

"You cannot deal with a problem without confronting the issue of the most vulnerable who need assistance most. It's counter-productive. It's like putting your head in the sand and saying I don't want to know."

As the Secretary-General recognized, and as AIDS activists the world over have long understood, on this issue silence equals death.

Regrettably, the voices of lesbians, gays, bisexuals and transgender people have often been silenced or marginalized within the international system. As recently as last month, the ECOSOC NGO Committee rejected every application for consultative status by NGOs representing lesbians, gays, bisexuals and transgender people, thus denying these groups the ability to even speak with their own voice before this inaugural meeting of the Council.

Ultimately, however, these voices will not be silenced, and the message we bring to this Council is one of hope. In ever-increasing numbers, lesbians, gays, bisexuals, transgender people, their friends, supporters and allies are raising their voices, and just as NGOs are speaking out, so too we are encouraged at the increasing numbers of States recognizing that these persistent rights violations must be urgently addressed. We celebrate, for example, the statement in support of sexual orientation and human rights made at last year's session of the Commission on Human Rights by New Zealand on behalf of more than 30 States from 4 of the 5 UN regions.

³ <http://www.unchr.info/61st/docs/0314-HLS-Canada-En-Fr.pdf>.

⁴ <http://news.bbc.co.uk/go/em/fr/-/1/hi/world/5039948.stm>.

As this cross-regional grouping of States affirmed:⁵

“We cannot ignore the mounting evidence of serious human rights violations against individuals on the basis of their sexual orientation, reported by the human rights treaty bodies and the Commission's special procedures. It is beyond any doubt that in all too many parts of the world, individuals are being deprived of their rights to life, to health and to freedom from torture and violence. These human rights violations have been brought to our attention, and we must respond. To remain silent, is to condone some of the worst forms of discrimination.

...

Mr. Chairman, we recognise that sexuality is a sensitive and complex issue. But, we are not prepared to compromise on the principle that all people are equal in dignity, rights and freedoms. We urge all States to recognise this common ground and to participate in debate.”

We particularly wish to acknowledge those States which have opposed these issues in the past but have come to recognise that lesbians, gays, bisexuals and transgender people exist across regions, cultures and religions, and human rights violations against these communities must be squarely addressed within the UN human rights agenda. It is precisely this spirit of self-reflection and commitment to progressive change that gives hope for the future functioning of this Council.

This Human Rights Council will work if we, the international community, want it to work; if we, NGOs and States alike, join together to make it work.

We look to States to be proactive in raising issues of sexual orientation and gender identity. We look to States to safeguard the principle of universality, and ensure that all persons are truly treated as free and equal in dignity and rights. We look to States to cooperate with and support the work of the Special Procedures, and respond in a timely, meaningful and substantive way to address the human rights concerns they identify. We look to States to reflect forthrightly on how each can improve its own human rights record, and engage in the Universal Periodic Review in a spirit of openness and a commitment to genuine reform. And we look to States to welcome, indeed embrace, the role of NGOs as we support your efforts to meet these commitments.

In this way, the Human Rights Council can be successful in fulfilling its potential. We look forward to working with you towards a world in which all people can be treated with equal freedom, dignity and respect.

⁵ Statement delivered under item 17 by New Zealand, on behalf of Andorra, Argentina, Austria, Belgium, Canada, Chile, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Guatemala, Iceland, Ireland, Luxembourg, Mexico, New Zealand, Netherlands, Norway, Portugal, Republic of Korea, Romania, Slovenia, Spain, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela (15 April, 2005).