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**United Nations Human Right Council 12th Session
Geneva, September 2009.
UPR Afghanistan – ILGA- Europe**

Mr President

We wish to address recommendations 1-10 in paragraph 97 of the Working Group report on Afghanistan. We regret that Afghanistan rejected these 10 recommendations to either abolish or reinstate a moratorium on the death penalty.

In addition, we note that Afghanistan retains laws which criminalise same sex relations between consenting adults, most notably Art 427 of the Penal Code, and the Shariat laws still continue to provide the death penalty for consenting homosexual sex.

Although we understand that the government in Afghanistan no longer follows the egregious practice under the former Taliban regime of executing same-sex partners who choose to engage in any form of intimacy, the laws which permitted these violations remain in place.

We note that Art 6 (2) of the International Covenant on Civil and Political Rights states that 'In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force.'

Resolutions of the General Assembly on both the death penalty and on extrajudicial executions have emphasized that homosexual acts do not fall within the definition of the "most serious crimes" and that the death penalty may therefore not be imposed for sexual relations between consenting adults. The UN Human Rights Committee has affirmed this position on many occasions, notably in concluding observations upon the review of Sudan.

Maintaining these laws in Afghanistan, regardless of whether they are implemented, sends the dangerous message that some lives are not fully human and do not deserve the protection of the State. This message when communicated through the existence of State law further emboldens vigilante groups to wreak violence against those who are perceived to be outside the pale of 'universal human rights'.

We urge the Government of Afghanistan to repeal these laws in accordance with its international human rights obligations, and thereby send the clear message that it does not endorse executions for consenting homosexual sex.