



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

14.1.2014

B7-0048/2014

MOTION FOR A RESOLUTION

with request for inclusion in the agenda for a debate on cases of breaches of human rights, democracy and the rule of law

pursuant to Rule 122 of the Rules of Procedure

on recent moves to criminalise LGBTI people
(2014/2517(RSP))

Véronique De Keyser, Michael Cashman, Ricardo Cortés Lastra, Ana Gomes, Tanja Fajon, Pino Arlacchi, Liisa Jaakonsaari, Joanna Senyszyn, Lidia Joanna Geringer de Oedenberg, Mitro Repo, María Muñiz De Urquiza, Marc Tarabella
on behalf of the S&D Group

**European Parliament resolution on recent moves to criminalise LGBTI people
(2014/2517(RSP))**

The European Parliament,

- having regard to the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples' Rights (ACHPR) and the Constitution of India,
- having regard to UN Human Rights Council resolution A/HRC/17/19 of 17 June 2011 on human rights, sexual orientation and gender identity,
- having regard to the second revision of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Union and its Member States, of the other part (the Cotonou Agreement), and the human rights clauses contained therein, in particular Articles 8(4) and 9,
- having regard to Articles 2, 3(5) and 21 of the Treaty on European Union (TEU) and Article 10 of the Treaty on the Functioning of the European Union (TFEU), which commit the European Union and its Member States to upholding and promoting universal human rights in their relations with the wider world,
- having regard to the Guidelines to Promote and Protect the Enjoyment of all Human Rights by LGBTI Persons adopted by the Council of the European Union on 24 June 2013,
- having regard to the statement of 20 December 2013 by the High Representative of the Union for Foreign Affairs & Security Policy/Vice-President of the European Commission on the adoption of the Anti-Homosexuality Bill in Uganda,
- having regard to its previous resolutions of 5 July 2012 on violence against lesbians and LGBT rights in Africa, of 13 June 2013 on the draft Council decision on the conclusion of the Revised Cotonou Agreement, and of 11 December 2013 on Human rights in the world 2012 and EU policy on the matter,
- having regard to its previous resolutions of 17 December 2009 on Uganda: anti-homosexual draft legislation, of 16 December 2010 on Uganda: the Bahati Bill and discrimination against the LGBT population, and of 17 February 2011 on Uganda: murder of David Kato,
- having regard to its previous resolutions of 15 March 2012 and 4 July 2013 on the situation in Nigeria,
- having regard to its resolution of 11 May 2011 on the state of play in the EU-India Free Trade Agreement negotiations,
- having regard to Rule 122 of its Rules of Procedure,

- A. whereas all human beings are born free and equal in dignity and rights; whereas all states have the obligation to prevent violence and incitement to hatred based on individual characteristics, including sexual orientation, gender identity and gender expression;
- B. whereas as many as 78 countries continue to consider consensual activities between adults of the same sex a crime, and 7 foresee the death penalty for such ‘crimes’ (Iran, Mauritania, parts of Nigeria, Saudi Arabia, parts of Somalia, Sudan and Yemen),
- C. whereas consensual acts between people of the same sex were already punished by 14 years’ imprisonment in Uganda; were already punished by 7 years’ imprisonment (or the death penalty in the 12 states under Sharia law) in Nigeria; are not currently criminalised in the Democratic Republic of Congo; and had been decriminalised by a 2009 ruling by the Delhi High Court in India,
- D. whereas on 20 December 2013, the Ugandan Parliament adopted the ‘Anti-Homosexuality Bill’, which punishes support for LGBTI people’s rights with up to 7 years’ imprisonment, the non-denunciation of LGBTI people with up to 3 years’ imprisonment, and ‘repeat offenders’ or HIV positive offenders with life in prison,
- E. whereas on 17 December 2013, the Nigerian Senate adopted the ‘Same-Sex Marriage (Prohibition) Bill’, which punishes people in a same-sex marriage with up to 14 years’ imprisonment, and people witnessing same-sex marriages or running LGBTI bars, organisations or meetings with up to 10 years’ imprisonment,
- F. whereas on 11 December 2013, the Indian Supreme Court overturned a 2009 Delhi High Court ruling that Section 377, a colonial-era law outlawing homosexuality, violated the Indian Constitution’s equality principle, thereby re-criminalising homosexuality with up to life imprisonment,
- G. whereas the media, public opinion, and political and religious leaders in these countries increasingly seek to intimidate LGBTI people, limit their rights and legitimise violence against them,
- H. whereas numerous heads of states and governments, United Nations leaders, governmental and parliamentary representatives, the European Union including the Council, the Parliament, the Commission and the High Representative, and numerous other world figures sternly condemned laws criminalising LGBTI people,
 - 1. Strongly condemns these grave threats to the universal rights to life, to freedom from torture, cruel, inhuman and degrading treatment, to privacy, and to freedom of expression and assembly, for LGBTI people and anyone defending their human rights;
 - 2. Firmly condemns the adoption of ever more repressive laws against LGBTI persons; reiterates that sexual orientation and gender identity are matters falling within the remit of individuals’ right to privacy as guaranteed by international law and national constitutions; calls on those 76 countries to stop criminalising consensual acts between adults of the same sex;

3. Calls on the President of Uganda to refrain from signing the ‘Anti-Homosexuality Bill’ into law;
4. Reiterates previous grave concerns about the ‘Same-Sex Marriage (Prohibition) Bill’, which will make HIV/AIDS prevention even more difficult in a country with the world’s second largest HIV-positive population of 3.1 million;
5. Recalls that consensual acts between adults of the same sex are legal in Burkina Faso, Benin, Chad, Central African Republic, Congo, Democratic Republic of Congo, Equatorial Guinea, Gabon, Guinea-Bissau, Ivory Coast, Madagascar, Mali, Niger, Rwanda and South Africa, demonstrating that African approaches to the matter are diverse;
6. Asks the Commission, the External Action Service and Member States to express their strongest opposition to these three laws, and make clear that they will have significant implications for these countries’ bilateral relationships with the European Union and its Member States;
7. Welcomes the Indian government’s initiative to ask the Supreme Court to review its ruling because it violates the constitutional principle of equality; calls on the Parliament to abolish Section 377 should the Supreme Court fail to review its ruling;
8. Recalls that criminalising consensual activities between adults of the same sex, as well as the defence of LGBTI people’s human rights, systematically increases HIV transmission rates and the transmission of sexually transmissible diseases, since at-risk groups fear interacting with medical professionals;
9. Stresses that further criminalising consensual activities between adults of the same sex will make it even harder to achieve the Millennium Development Goals, especially with regards to gender equality and combatting disease, and any success in the post-2015 development framework;
10. Calls on the Commission, the External Action Service and Member States to use all existing channels, including bilateral and multilateral forums, as well as on-going negotiations for a Free Trade Agreement with India, to voice in the strongest terms their opposition to the criminalisation of LGBTI people;
11. Calls on the Commission, the External Action Service and Member States to lend all possible assistance to NGOs and human rights defenders using the Council’s LGBTI Guidelines and the European Instrument for Democracy and Human Rights (EIDHR);
12. Calls on the Commission and the Council to include an explicit mention of non-discrimination based on sexual orientation during the next revision of the Cotonou Agreement, as demanded multiple times by Parliament;

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13. Instructs its President to forward this resolution to the Commission, the Council, the External Action Service, Member States, the national governments and parliaments of Uganda, Nigeria, the Democratic Republic of Congo and India, and the Presidents of Uganda and Nigeria.