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Violence against lesbians and LGBT rights in Africa

European Parliament resolution of 5 July 2012 on violence against lesbian women and the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons in Africa (2012/2701(RSP))

The European Parliament,

– having regard to the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (ACHPR),

– having regard to the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) and the Beijing Platform for Action, stressing that all women have the right to control and decide freely and responsibly on matters related to their sexuality, free of coercion, stigmatisation and violence,

– having regard to UN Human Rights Council resolution A/HRC/17/19 of 17 June 2011 on human rights, sexual orientation and gender identity, and the Report of the United Nations High Commissioner for Human Rights of 17 November 2011 on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity,

– having regard to the UN Human Rights Council panel discussion on human rights, sexual orientation and gender identity held on 7 March 2012,

– having regard to the statement by UN High Commissioner for Human Rights Navanethem Pillay to the panel discussion on human rights, sexual orientation and gender identity during the 19th session of the UN Human Rights Council on 7 March 2012,

– having regard to the Amnesty International annual report 2012 on the state of the world's human rights, claiming that intolerance towards lesbian, gay, bisexual and transgender (LGBT) people has increased in Africa,

– 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 Community 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 and Article 10 of the Treaty on the Functioning of the European Union, which commit the European Union and its Member States to upholding and promoting universal human rights, and the protection of individuals, in their relations with the wider world,

– having regard to the European Union Plan of Action for Gender Equality and Women's Empowerment in Development 2010-2015,

– having regard to the statements by the Vice-President of the European Commission/High Representative of the European Union for Foreign Affairs and Security Policy and of the President of the European Parliament on the International Day Against Homophobia in 2010, 2011 and 2012,

– having regard to the Council's Toolkit to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual and Transgender People (the LGBT Toolkit),

– having regard to the Commission proposal for a regulation of the European Parliament and of the Council establishing a financing instrument for development cooperation (COM(2011)0840), and the Commission communication of 13 October 2011 entitled 'Increasing the impact of EU Development Policy: an Agenda for Change' (COM(2011)0637),

– having regard to its resolutions of 17 December 2009 on Uganda: anti-homosexual draft legislation[1], of 16 December 2010 on Uganda: the so-called 'Bahati bill' and discrimination against the LGBT population[2], of 17 February 2011 on Uganda: the killing of David Kato[3], and of 28 September 2011 on human rights, sexual orientation and gender identity at the United Nations[4],

– having regard to its resolution of 7 May 2009 on gender mainstreaming in EU external relations and peace-building/nation-building[5],

– having regard to Rules 122(5) and 110(4) 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 sexual orientation, gender identity and gender expression, and to respect the principles of equality between women and men;

B. whereas the rights of lesbian, bisexual, transgender and intersex women are the same human rights as those of all women and all men, which must be protected regardless of their sexual orientation, gender identity or gender expression;

C. whereas some African countries have been at the forefront of action to uphold human rights and fundamental freedoms, whereas South Africa's post-apartheid constitution was the first in the world to outlaw discrimination based on sexual orientation and whereas South Africa was the initiator of UN Human Rights Council resolution 17/19 on human rights, sexual orientation and gender identity;

D. whereas there are political movements and leaders that will be able to lead the way to changes and to the strengthening of human rights, women's rights and the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons in Africa;

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1 OJ C 286 E, 22.10.2010, p. 25.
2 OJ C 169 E, 15.6.2012, p. 134.
3 OJ C 188 E, 28.6.2012, p. 62.
4 Texts adopted, P7_TA(2011)0427.
5 OJ C 212 E, 5.8.2010, p. 32.

E. whereas there is increasing stigmatisation of and violence against lesbian, bisexual, transgender and intersex women, as well as against women perceived as lesbian, bisexual, transgender or intersex, by state and police forces, by the women's families, and by community members in Africa, which is a shared concern, as exemplified by the numerous statements by UN Secretary-General Ban Ki Moon and UN High Commissioner for Human Rights Navanethem Pillay and by UNHRC Resolution 17/19 of 17 June 2011 on human rights, sexual orientation and gender identity;

F. whereas, in the UN Human Rights Council's annual discussion on women human rights defenders on 25-26 June 2012, UN Special Rapporteur on Human Rights Defenders Margret Sekaggya pointed out that violations suffered by women human rights defenders took a gender-specific form, ranging from verbal abuse based on sex, to sexual abuse and rape, that women were deemed to be challenging accepted social norms, culture or traditions or challenging religious prescriptions, and were as a consequence stigmatised, and that women human rights defenders needed specific attention because the suffering they underwent in their work sometimes exceeded that of their male counterparts;

G. whereas women who transgress social and cultural norms are liable to be labelled lesbian and risk becoming a target for male violent behaviour and/or degrading treatment, and whereas this has the effect of repressing the expression of all women's sexuality and freedom of choice, including that of heterosexual women; whereas sexual rights are related to the bodily autonomy and freedom of choice of all women;

H. whereas, in Africa, female homosexuality is legal in 27 countries and illegal in 27, whereas male homosexuality is legal in 16 countries and illegal in 38, whereas homosexuality is punishable by death in Mauritania, Sudan, parts of Somalia and Nigeria, and whereas a private member's bill before the Ugandan parliament provides for the death penalty for homosexuality;

I. whereas laws that criminalise same-sex relationships and sexuality contribute to creating a climate which encourages violence against women who are, or are perceived to be, lesbians;

J. whereas killings, torture, imprisonment, violence, stigmatisation and hate speech targeting LGBTI people, sometimes legitimised by law, are reported in all regions of the world; whereas there have been repeated acts of violence and aggression against lesbians in several African countries;

K. whereas the struggle for equality and justice and for the visibility and rights of lesbians is closely connected with the overall struggle for women's human rights; whereas lesbians are also, like many other women, subjected to violence, both for being women and on account of their sexual orientation;

L. whereas in Cameroon, ten women were arrested, and three charged for the first time, for practising homosexuality in February 2012; whereas arrests and beatings by the police are ongoing, with the latest recorded instance on 24 June 2012; whereas lawyer Alice Nkom has on numerous occasions been threatened with death and violence for defending people accused of homosexuality; whereas an LGBTI meeting in Yaoundé was violently broken up by a gang on 19 May 2012;

M. whereas the Liberian Senate is currently debating a proposal to extend further the ban on same-sex relationships foreseen by current law; whereas the media and general public are

increasingly seeking to intimidate LGBTI people; whereas two lesbian women in Liberia were recently attacked by armed men;

N. whereas in Malawi, female homosexuality was newly outlawed in January 2011; whereas the new President Joyce Banda has stated that she will ask the parliament to repeal laws criminalising homosexuality;

O. whereas Nigeria seeks to criminalise the registration, operation and sustenance of certain organisations and their meetings or processions, and outlaws activities that fall strictly within the bounds of private life;

P. whereas in South Africa, so-called 'corrective' rapes of lesbian and transgender women continue unabated; whereas ongoing debates about the constitutional protection of persons victimised because of their sexual orientation are fuelling violence against LGBTI people; whereas gay activist Thapelo Makutle was recently tortured and killed, 22-year-old lesbian Phumeza Nkolonzi was shot in the head because of her sexual orientation, and Neil Daniels was stabbed, mutilated, and burnt alive because he was gay;

Q. whereas in Swaziland, positive efforts are being made to prevent and cure HIV/AIDS in populations at risk, including women, and men who have sex with men, the country's criminalisation of homosexuality notwithstanding;

R. whereas in Uganda, in February and June 2012, police forces and the Minister for Ethics and Integrity, acting without warrants and in disregard of citizens' freedom of assembly, stopped private meetings of human rights activists; whereas the Minister plans to outlaw 38 organisations understood to work for the human rights of LGBTI people; whereas the Anti-Homosexuality Bill first proposed in 2009 is still under discussion, and may include unacceptable provisions including the death penalty; whereas lawsuits and enquiries in Uganda and in the United States have revealed the role of, among others, Scott Lively and the Abiding Truth Ministries, a fundamentalist US-based evangelical group, in spreading hate and intolerance on the basis of sexual orientation, and in having the law introduced;

Discrimination and violence against lesbian women in Africa

1. Strongly condemns all forms of violence and discrimination against lesbians in African countries where this is taking place, including extreme forms of violence, such as 'corrective' rapes, and other forms of sexual violence;

2. Expresses its strong support for campaigns and initiatives aimed at abolishing all discriminatory laws against women and LGBTI persons; calls on those African countries that still have discriminatory laws in place to abolish these immediately, including laws that prohibit homosexuality and laws that discriminate against women in terms of civil status, property and inheritance rights;

3. Confirms that the struggle for the fundamental and human rights of lesbians in Africa is closely linked to the protection of the sexual and reproductive health of all women; calls, therefore, on the European Union, in its work with partner countries in Africa, to make a firm commitment in terms of resources and policy in support of sexual and reproductive health;

4. Calls on the relevant authorities in Africa to effectively protect all women from murder, so-called 'corrective' rape and other sexual violence, and to bring the perpetrators to justice;

5. Notes that the stigmatisation of, and the violence directed against, lesbian, bisexual, transgender and intersex women are often closely connected with discrimination;

6. Expresses its solidarity with, and support for, all actors that mobilise for a stronger women's rights agenda;

7. Calls on the European Commission and the Member States to support women's organisations and LGBTI organisations in Africa in their struggle for the equality, bodily autonomy and right to freedom in sexuality of all women and LGBTI persons; highlights, at the same time, the need to give special attention to lesbians within the LGBTI and the women's movement, as well as in other social movements, in order to denounce the double or sometimes multiple discrimination faced by lesbians in African countries;

8. Calls on the European Commission, the European External Action Service and the Member States to step up the implementation of the goals set out in the EU Plan of Action for Gender Equality and Women's Empowerment in Development, and to pay particular attention to the rights of lesbian, bisexual, transgender and intersex women, both in their relations with third countries and when lending support to non-governmental organisations and human rights defenders;

LGBTI rights in Africa

9. Calls on all 76 countries worldwide where homosexuality is illegal, including 38 countries in Africa, to decriminalise homosexuality;

10. Denounces incitement to hatred and violence on grounds of sexual orientation, gender identity or gender expression; calls on the aforementioned countries to effectively uphold LGBTI people's right to life and dignity, and condemn all acts of violence, discrimination, stigmatisation and humiliation directed against them;

11. Calls on political and religious leaders to condemn persecution and discrimination based on sexual orientation and to take a firm stance against homophobia, hereby joining Archbishop Desmond Tutu's call against injustice and prejudice and for solidarity and justice;

12. Calls on the EEAS, the European Commission and the Member States, in their political dialogue with African countries, to remind them of their obligation to fulfil the commitments assumed under legally binding international human rights instruments and conventions, and in particular to respect and promote the right to non-discrimination based on sexual orientation and gender identity;

13. Welcomes the fact that some African countries, including Cape Verde, the Central African Republic, Gabon, Guinea-Bissau, Malawi, Mauritius, Rwanda, São Tomé and Principe, South Africa and Swaziland have made known their opposition to the criminalisation of homosexuality, have ensured access to healthcare for LGBTI people or have pledged to decriminalise homosexuality;

14. Calls on the ACP Group of States to engage in an open, constructive and mutually respectful discussion;

15. Calls on the African countries to ensure security for LGBTI human rights defenders, and calls on the EU to assist local civil society with capacity-building programmes in Africa;

16. Urges the European Commission, the EEAS and the Member States to make full use of the LGBT Toolkit to encourage third countries to decriminalise homosexuality, help reduce violence and discrimination and protect LGBTI human rights defenders;

17. Calls on the Commission, and notably on Catherine Ashton, High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the European Commission, to take concrete action, by mobilising all appropriate instruments, to exert pressure in order to protect people from discrimination and persecution on the basis of their sexual orientation, and to raise these issues in the course of the EU's relations and dialogues with third countries;

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18. Instructs its President to forward this resolution to the Council, the Commission, the High Representative/Vice-President for Foreign Affairs and Security Policy, the Member States, the Secretary-General of the ACP Group of States, all Ambassadors of ACP states to the European Union, the South African Parliament, and the African Union and its institutions.