

Dear Civil Society partners,

South Africa's failure to defend the rights of LGBTI people demands action

The United Nations Human Rights Council in Geneva has voted in favor of a resolution that will create a rapporteur who would serve as a watchdog of sorts as pertains to LGBTI rights worldwide. This independent expert would investigate root causes of violence and discrimination against LGBTI persons and working to find middle ground with governments who do not see LGBTI rights as human rights. Many are hailing the passing of this resolution as a milestone, as it is the United Nations' most blatant action in favor of LGBTI rights.

Key points of the resolution include the United Nations taking a strong stance against violence and discrimination towards LGBTI persons, the creation of the aforementioned rapporteur's office, as well as detailed instructions of what the rapporteur's duties would be and instructions for the member-states who will work with the rapporteur. The United Nations Human Rights Council charges the newly appointed rapporteur with assessing the effectiveness of instruments of rights protection for LGBTI persons already in place, working closely with member states to find effective ways to protect their LGBTI citizens without treading on sovereignty, researching causes of violence and discrimination on the basis of sexuality and gender expression worldwide, and reporting to the Human Rights Council once yearly about their findings. The resolution also encourages member-states to cooperate with the expert by providing them with necessary information and taking their suggestions and instructions seriously. Similarly, the resolution advises the United Nations and other bodies such as NGOs, donors and development agencies to cooperate with the expert's suggestions as well. Finally, the resolution states that the independent expert be provided with all necessary resources by the United Nations.

This resolution is closely linked to two other U.N resolutions from 2011 and 2014, respectively. The 2011 resolution, introduced by South Africa, was the first United Nations resolution to push for expanded rights for LGBTI persons. The document recognized ending discrimination against LGBTI individuals as a priority for member-states.

The 2014 resolution was passed under the leadership of several Latin American states, including Colombia, Brazil, Uruguay and Chile. The passing of the resolution affirmed that the push for LGBTI rights worldwide remained a priority, and that violence against LGBTI persons remained a cause for "grave concern" and demanded further investigation. South Africa voted in favor of the resolution, while many other members of the Africa block abstained from voting or voted against the resolution.

During the June 2016 vote, many Latin American states again emerged as leaders in the fight for human rights for all, with Argentina, Brazil, Chile,

Colombia, Costa Rica, Mexico and Uruguay acting as sponsors of the resolution.

Nations in favor included Albania, Belgium, Bolivia, Cuba, Ecuador, El Salvador, France, Georgia, Germany, Latvia, Macedonia, Mexico, Mongolia, Netherlands, Panama, Paraguay, Portugal, Republic of Korea (South) , Slovenia, Switzerland, UK, Venezuela, and Vietnam.

Nations against included Algeria, Bangladesh, Burundi, China (People's Republic), Congo, Cote d'Ivoire, Ethiopia, Indonesia, Kenya, Kyrgyzstan, Maldives, Morocco, Nigeria, Qatar, Russia, Saudi Arabia, Togo, and the United Arab Emirates.

Namibia, the Philippines, India, Ghana, Botswana and South Africa abstained from the vote.

South Africa's delegation to the UN state that it would abstain from the vote because of fears that it could cause divisions in the human rights council and because of what was called a confrontational and unhelpful style of the sponsors of the resolution.

This abstention is not only gravely concerning and insulting to LGBTI people in South Africa but could send a message to other countries in the rest of the continent about South Africa's respect for the human rights of LGBTI people. Furthermore, we believe that failing to support the resolution not only goes against the spirit of our constitution but other international and regional instruments that South Africa has played an important role in forging.

In March of this year, South Africa's Human Rights Commission and Department of Justice hosted the First Annual Regional Summit on Practical Solutions on Ending Violence and Discrimination Against Persons Based on Sexual Orientation and Gender Identity and Expression. The Summit, which was opened by the Minister of Justice and Correctional Services produced the Ekurhuleni Declaration, which includes the following:

State and non-state actors must desist from perpetrating, promoting, condoning and ignoring violence and discrimination against any person on any basis, including sexual orientation, gender identity and expression. State and non-state actors have been, and continue to be, complicit in violence and discrimination directly or indirectly, through omission and commission.

This commitment was made just a few months ago and we believe failure to vote in favour of powerful resolution to protect the rights of LGBTI persons is not in keeping with its spirit or letter.

The way forward

Triangle Project and Access Chapter 2 wish to consult broadly with LGBTI civil society on the way forward. Part of this process will involve arranging a meeting with government stakeholders to raise our concerns and seek

assurances of the role of the South African state in combatting homophobia, transphobia and all other forms of discrimination based on sexual orientation, gender identity or expression.

If your organisation is interested in being part of this process, kindly contact Matthew Clayton at the details below.

Sincerely,

Matthew Clayton
Triangle Project
matthew@triangle.org.za

Steve Mmapaseka Letsike
Access Chapter 2