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(Original Signature of Member)

111TH CONGRESS
2D SESSION

H. RES. _____

Expressing the sense of the House of Representatives that the “Anti-Homosexuality Bill, 2009” under consideration by the Parliament of Uganda, that would impose long term imprisonment and the death penalty for certain acts, threatens the protection of fundamental human rights, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. BERMAN submitted the following resolution; which was referred to the Committee on _____

RESOLUTION

Expressing the sense of the House of Representatives that the “Anti-Homosexuality Bill, 2009” under consideration by the Parliament of Uganda, that would impose long term imprisonment and the death penalty for certain acts, threatens the protection of fundamental human rights, and for other purposes.

Whereas, on September 25, 2009, legislation was introduced in the Ugandan Parliament entitled the “Anti-Homosexuality Bill, 2009” to strengthen and expand existing anti-homosexuality laws to prohibit any form of sexual relations between persons of the same sex;

Whereas the legislation would severely punish “homosexual behavior” and individuals who “attempt” homosexual acts, including by life in prison or the death penalty;

Whereas the legislation creates offenses and penalties for Ugandan citizens and other individuals who fail to report “homosexual behavior” within 24 hours of acquiring such knowledge, and imposes stiff fines and up to three years imprisonment for community members who fail to report suspected cases of homosexuality;

Whereas the legislation creates an offense of “aggravated homosexuality” that would impose the death penalty for certain same-sex acts, including acts in which the partner is HIV-positive;

Whereas the proposed legislation could severely curtail the ability of public health institutions and nongovernmental organizations to address effectively HIV/AIDS among vulnerable groups such as men who have sex with men (MSM), by subjecting such institutions to the revocation of their registration, certificates, and their directors to seven-year prison terms;

Whereas the proposed legislation would nullify any international treaties, conventions, protocols, agreements, and any other legal instruments signed by Uganda whose provisions “are contradictory to the spirit and provisions enshrined in the Anti-Homosexuality Bill, 2009”, such as those that protect the rights of individuals regardless of sexual orientation;

Whereas the legislation provides for jurisdiction of Ugandan courts in cases of homosexuality, including extra-territorial jurisdiction to cover Ugandan citizens outside of the geographic boundaries of Uganda, an extreme meas-

ure that currently only applies to severe criminal offenses in Uganda's penal code, including treason and terrorism;

Whereas the President's Emergency Plan for AIDS Relief (PEPFAR) Five Year Strategy released on December 1, 2009, asserts that "PEPFAR's prevention strategies must be responsive to the drivers of the epidemic and address the needs of most-at risk populations", and specifically prioritizes MSM as an at-risk "strategic population" in need of prevention, care, and treatment programs that are free from stigma and discrimination directed towards clients;

Whereas under PEPFAR, Uganda received approximately \$91 million in fiscal year (FY) 2004, more than \$148 million in FY2005, approximately \$170 million in FY2006, \$237 million in FY2007, \$284 million in FY2008, and \$286 million in FY2009 to support a comprehensive HIV/AIDS prevention, care, and treatment program;

Whereas United States assistance to Uganda to combat HIV/AIDS has resulted in 145,000 individuals receiving antiretroviral treatment as of September 2008, 393,200 HIV-positive individuals receiving care and support, 754,000 orphans and vulnerable children (OVC) served by an OVC program, 2,076,300 pregnant women receiving HIV counseling and testing services for the prevention of mother-to-child HIV transmission (PMTCT), 104,000 HIV-positive pregnant women receiving antiretroviral prophylaxis for PMTCT, 20,043,400 counseling and testing encounters in FY2008, and 6,256,800 individuals reached with community outreach HIV/AIDS prevention programs that promote abstinence or being faithful and condom use;

Whereas, according to the American Foundation for AIDS Research (amfAR), in low- and middle-income countries, MSM are 19 times more likely to be infected with HIV than the general population;

Whereas the United Nations Joint Programme on HIV/AIDS (UNAIDS) identifies elevated risk of HIV infection among MSM as one of the 6 key, overarching themes identified in the 2009 AIDS Epidemic Update, and asserts that “programmes to prevent new infections among these key populations must constitute an important part of national AIDS response”;

Whereas a 2009 joint report by the Uganda AIDS Commission and UNAIDS specifically called for a review of legal impediments to the inclusion of most-at-risk-populations in the national AIDS response;

Whereas countries whose laws do not criminalize homosexuality are generally regarded as better able to curb the transmission of the virus, and the ability to more effectively address HIV was a pivotal factor in the recent decision of the High Court of New Delhi to repeal section 337 of the Indian penal code outlawing sodomy;

Whereas both Democratic and Republican United States lawmakers have called on President Yoweri Museveni of Uganda to oppose the proposed “Anti-Homosexuality Bill, 2009” and, in a December 2009 letter, several Congressional leaders stated that the legislation is antithetical to the foundational belief in the “inherent dignity and worth of all men and women”;

Whereas Champions for an HIV-Free Generation, a group of former African Presidents and other influential persons,

has called for the withdrawal of Uganda’s “Anti-Homosexuality Bill, 2009”;

Whereas a broad range of religious leaders, including Catholic, Protestant, Jewish, and Evangelical leaders, have condemned publicly the proposed legislation;

Whereas the Catholic Bishops of Uganda have described the bill as “at odds with the core values of the Christian faith”;

Whereas President Barack Obama has stated that he “strongly opposes efforts, such as the draft law pending in Uganda, that would criminalize homosexuality and move against the tide of history”;

Whereas in December 2009, Secretary of State Hillary Clinton spoke out against the bill stating that “law should not become an instrument of oppression”;

Whereas the United States has declared its commitment to working internationally to end violence, detention, and execution based on sexual orientation; and

Whereas the proposed legislation violates the spirit of Article 2 of the African Charter of Human and People’s Rights adopted in 1981 and entered into force in 1986 that states, “Every individual shall be entitled to the enjoyment of rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status”: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) strongly believes that—

1 (A) all people possess an intrinsic human
2 dignity, regardless of sexual orientation, and
3 share fundamental human rights;

4 (B) the “Anti-Homosexuality Bill, 2009”
5 introduced in the Ugandan Parliament, which
6 includes the extreme penalties of death and life
7 in prison, poses a serious threat to the life, lib-
8 erty, and security of the person and, if enacted,
9 would set a troubling precedent for other coun-
10 tries; and

11 (C) the requirement that individuals report
12 suspected homosexual individuals to the Ugan-
13 dan Government could undermine Uganda’s ef-
14 forts to combat HIV/AIDS, and interfere with
15 care and counseling by family members, doc-
16 tors, pastors, teachers, and others; and

17 (2) calls upon the President and the Secretary
18 of State to—

19 (A) impress upon the Ugandan Govern-
20 ment the United States’ belief in the intrinsic
21 human dignity of all Ugandans, regardless of
22 sexual orientation;

23 (B) express unequivocal United States op-
24 position to the “Anti-Homosexuality Bill, 2009”
25 introduced in the Ugandan Parliament; and

1 (C) ensure that resources committed to the
2 global HIV/AIDS response are utilized in a
3 manner that is efficient, effective, and appro-
4 priate to the local epidemiology of the disease,
5 including in Uganda.