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BRITAIN PARLIAMENT OKS GAY ADOPTIONS

LONDON (AP) Britain's upper chamber of Parliament voted November 5th to lift a ban on unmarried and gay couples adopting children, reversing its earlier defeat of the legislation.

The House of Lords approval came after the House of Commons voted for the measure, meaning it now is almost certain to become law. It will make Britain the fifth European country to allow gay couples to adopt along with Sweden, Denmark, Iceland and the Netherlands.

South Africa became the first African country to let same sex couples legally adopt children with a Sept. 10 court ruling.

Under British law, single heterosexuals and homosexuals may adopt children but unmarried and gay couples may not. The government says changing the law will help thousands of children currently awaiting adoption. Opponents say only marriage provides the stable environment children need.

The Lords _ mostly appointed to their legislative posts _ are traditionally more conservative than the House of Commons and defeated the bill last month. The peers' powers are limited, but they can amend and delay legislation put to them by the elected Commons members.

The Conservative leader in the Lords, Lord Strathclyde, said he was disappointed by the vote.

"I hope that in the fervor to promote more adoption outside marriage the needs of vulnerable children for a stable, lifelong background will still be remembered," he said.

The government's health secretary, Alan Milburn, said "as a result of tonight's vote, many children in care institutions will be able to hope for a life out of care and in a stable and loving family."

UK: TENANCY RULING ENDORSES GAY RIGHTS

BBC News, Tuesday, 5 November, 2002

A decision to allow homosexual couples the same rights as heterosexual couples in tenancy cases, is being hailed as a landmark victory for gay rights.

The Court of Appeal ruling will give same sex partners equal rights to heterosexuals to take over tenancies when their spouses die.

During the case, the first to be decided using human rights legislation, three judges agreed it would be inappropriate for the court to discriminate against gays and lesbians.

It could mean that many claims by homosexuals involving inheritance, property and family matters will have to be revisited by the courts, said lawyers.

Russell Conway, a solicitor representing a gay man who faced losing his home when his partner, the tenant, died, said: "This is a sensational judgment because the Court of Appeal has put itself above parliament and rewritten an Act.

"This is exactly what the Human Rights Act was designed to do."

Hugh Walwyn-Jones was granted a tenancy on a west London, flat in 1983 and shared it with his partner Antonio Mendoza.

When Mr Walwyn-Jones died, landlord Ahmad Ghaidan wanted to end the statutory tenancy which is subject to rent rise restrictions.

A west London County Court judge ruled that although Mr Mendoza was entitled to an assured commercial tenancy at the market rate, he could not have a statutory one because the Rent Act precludes the succession of same-sex partners.

Legal interpretation

Paul Staddon, representing Mr Mendoza, argued that to give a statutory tenancy to the survivor of a heterosexual relationship when the survivor of an equivalent homosexual relationship was limited to the less beneficial assured tenancy, constituted discrimination on grounds of sexual orientation.

Lord Justice Buxton, who acknowledged the inconsistency, said: "Sexual orientation is now clearly recognised as an impermissible ground of discrimination."

To set the record straight on the breach of the Convention in the Rent Act, the judge said the words "as his or her wife or husband" would also have to mean "as if they were his or her wife or husband".

He stressed that parliament had already removed the requirement that heterosexual partners must be married to inherit tenancies.

Lord Justice Keene said that in cases involving discrimination against a minority group, the courts had to be satisfied that there was a rational justification for the legislation.

"It is indeed a classic role of the courts to be concerned with the protection of such minority rights," he said.

"That being so, this court is entitled to ask whether there is any rational and proportionate basis for the distinction.

"For my part, I am not satisfied that any such basis has been established."

EUROPE'S NEGLECTED MINORITY

Joint open letter by the President of the Parliamentary Assembly of the Council of Europe Peter Schieder and the Executive Director of the European Region of the International Lesbian and Gay Association Ailsa Spindler on the occasion of the International Day of Tolerance, 16 November

For a European, to condemn human rights violations in distant parts of the world is a noble, but relatively comfortable thing to do. The Taliban treatment of women was emblematic of the kind of behaviour which was alien to our culture, to our traditions, to our beliefs. To raise a voice in indignation was a sign of our solidarity, but it said little about our tolerance. The real test of tolerance is in how we deal with our own, not somebody else's prejudice.

In Europe human rights are protected through an unparalleled international legal instrument, the European Convention on Human Rights - which not only sets human rights standards, but also provides a legal mechanism to enforce them. But in spite of that, at least some categories of European citizens continue to be discriminated against at the national level.

In fact, in several Council of Europe states - and even European Union states - lesbians, gays, bisexuals and transgender people continue to be discriminated against, as a category, and sometimes on the basis of law! They are victims of segregation for the sole reason of their sexual orientation on the basis of a legal system that should, in principle, serve to protect them from such discrimination.

Even if being a homosexual should no longer get you in jail in (almost) any of forty-four Council of Europe states, in several of them lesbians and gays are still not entitled to equal treatment in their access to employment, service in the armed forces, and enjoyment of parental rights. Social protection and benefits recognised to non-married partners in heterosexual relationships are often denied to partners of the same sex. Several European countries continue to maintain a discriminatory age of consent for homosexual relationships.

It is therefore absolutely necessary that lesbians and gays receive greater support from institutions mandated to protect equality and human rights at national and international level. The Council of Europe, as the foremost body on the continent with the task of protecting these values, has a specific responsibility here. The European Region of the International Lesbian and Gay Association (ILGA) enjoys consultative status with the organisation and is recognised as a valued partner in the effort to eradicate discrimination based on sexual orientation and to recognise the rights of lesbians, gays, bisexuals and transgender people as an integral part of human rights.

The Council of Europe was the first international body to speak up and act to protect the rights of lesbians and gays. The progress made has been considerable, largely thanks to the efforts of the European Court of Human Rights and the Parliamentary Assembly. The Court handed down a series of ground-breaking judgments, recognising that discrimination on the basis of sexual orientation was a violation of fundamental rights, and gradually expanding this general principle to areas such as employment and child custody.

The decisions of the Court are of the greatest importance because they oblige changes in national legislation which is found to be incompatible with the European Convention on Human Rights.

The Parliamentary Assembly's aim is not only to change laws, but also to try to change attitudes. It brings together parliamentarians from different backgrounds and of different political persuasions. Their views reflect the predominant opinions within their part of the electorate, be they progressive or conservative, tolerant or less so. In the debating chamber in Strasbourg they express themselves freely, but they do so against the background of the principles that the Council of Europe was set up to defend.

In June 2000, the Parliamentary Assembly of the Council of Europe adopted a report on the situation of gays and lesbians in Council of Europe member states. It con-

cluded that homosexuals were still all too often subject to discrimination or violence and that they were sometimes even perceived as a threat to the rest of society.

The Assembly blamed certain politicians and religious leaders as those primarily responsible for the propagation of homophobia, using this in turn to justify the continued existence of discriminatory laws and, above all, aggressive and contemptuous attitudes. It is regrettable that people belonging to institutions of considerable moral authority undermine - through their intolerant attitudes - the very values they claim to be protecting.

Europe's governments must do more than half-heartedly condemn such practices. Any lack of resolve in the fight against homophobia perpetuates intolerance in our societies - or even allows it to thrive. While long-standing democracies are far from being immune to bigotry, the situation is particularly serious in central and eastern Europe. Last year, the arrival of an openly gay United States ambassador to Romania triggered a wave of homophobic hysteria, while the first Gay Pride parade in Belgrade was violently broken up by a band of thugs, with bystanders cheering and laughing at the spectacle.

This year, a significant group of Russian parliamentarians supported a motion to criminalise homosexual relationships.

The advocates of gay and lesbian rights in Europe believe that Protocol No. 12 to the European Convention on Human Rights, banning all forms of discrimination, could considerably improve the situation of one of Europe's most neglected minorities. Yet today, almost two years since the opening for signature, only two countries - Cyprus and Georgia - have ratified the protocol. Eight more ratifications are necessary before it can enter into force. Fifteen Council of Europe member states - Albania, Andorra, Armenia, Azerbaijan, Bulgaria, Denmark, France, Lithuania, Malta, Norway, Poland, Spain, Sweden, Switzerland and the United Kingdom - have not yet even signed the text.

On the occasion of the International Day of Tolerance, we call on all the countries concerned to match their rhetoric with concrete acts and to sign and ratify Protocol No. 12 as soon as possible.