



## LGBTI Liberals of Europe – Resolution passed by the General Assembly 26 October 2019 in Athens

### Religions and LGBTI Rights: A Liberal Perspective

#### INTRODUCTION

Over decades, our history witnessed the fight of the LGBTI community for equal rights and equal dignity. It was – and is - a fight against traditional conservative forces that often refer to religious beliefs when arguing against equality of LGBTI.

In our societies we are familiar with anti-LGBTI positions from evangelical or strictly catholic communities. Today, our open society is facing an additional challenge from the increased immigration of people from conservative Muslim regions, leading to tensions both with Jewish citizens and LGBTI persons, including those with Muslim belief. Muslim LGBTI often face a multiple discrimination due to their sexual orientation or identity, their religion and their migration background

While the left of the political system plays down these tensions that result from the increased immigration of people with a conservative Muslim background, right wing populist parties try to instrumentalise this topic for their political purposes, creating fear and prejudice also inside the LGBTI community. We as liberals do neither accept that conflicts are swept under the carpet nor that those try to position themselves as defenders of LGBTI against Islam who themselves deny equality to LGBTI.

#### POLICY RECOMMENDATIONS<sup>1</sup>

- Human rights are individual, universal and non-negotiable. The main *raison d'être* of a liberal democracy is their protection;
- Public authorities at any level should stick firmly to the concept of secularism, thereby refusing any privilege for religions, whether of legal, economic or intellectual nature;
- No laws or policies should permit communities to enforce collective traditions upon the individual, freedom of religion can never be a pretext to question other basic rights.;
- Journalists, academics, policy-makers and intellectuals should never avoid discussing, and even criticising, religions and their tenets;

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<sup>1</sup> The following recommendations stem from the foregoing analysis, and take into account the proposals of the *Liberaler Schwule und Lesben* Resolution of 4/11/2018 adopting a position paper on 'LGBTI and Islam in Germany'.

- Law enforcement agencies at any level must ensure an adequate protection of LGBTI people against harassment, violence and discrimination, in all neighbourhoods, with special attention to those where most homophobic/transphobic episodes occur;
- Authorities should make sure that any religious actor involved in social services directly or indirectly supported or promoted by the State commits to the constitutional principles guaranteeing individual rights and does not promote discriminatory and autocratic narratives or the supremacy of religion above the law;
- We expect all religious communities and leaders to accept— regardless of their own personal belief or religious dogmatics - the application of our constitutional values for all state policies and individual rights;
- Media should work according to a code of conduct that includes the non-discrimination regarding LGBTI, regardless of the personal religious background of the journalist;
- Public authorities, political parties and NGOs, each in their own capacity, should promote and support liberal and progressive religious actors whenever they integrate religious groups in dialogues and activities;
- Schools shall educate on diversity, tolerance and LGBTI rights, including peer-education by LGBTI to reduce prejudices. The State should promote and not prohibit such education.;
- Governments have to ensure that LGBTI asylum seekers and refugees are treated in a non-discriminatory way and that no discrimination on them caused by any religious belief takes place ;
- Integration courses for newcomers should include compulsory education on liberal democratic values, including LGBTI rights;
- Awareness should be raised on the experience of LGBTI asylum seekers and refugees, in order to counter at once any theocratic views, as well as the populist argument whereby migrants are coming to “destroy European liberties”;
- We call for a dialogue with religious communities about acceptance of LGBTI and their individual rights.

## Narrative

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Project Leaders

*Every man has a property in his own person*

John Locke, 1690

### BACKGROUND

In both past and present times, LGBTI advocates have hardly found allies among institutionalized religions. The clock does not need to be turned back to the Middle or Victorian Age for disclosing a whole range of religiously inspired prejudices, hatred and violence toward homosexuals.

In an open letter written in April 2019, the Pope Emeritus Benedict blamed the Catholic Church's sexual scandals on both homosexuality and 1960s sexual revolution: 'In various seminaries, homosexual cliques were established, which acted more or less openly and significantly changed the climate in the seminaries.'<sup>2</sup>

Anti-LGBTI rhetoric has become the leitmotif for Eastern-European nationalists who wish to depict LGBTI rights as dangerous foreign threats ready to undermine the sanctity of their traditional Christian values: in August 2019, the archbishop of Krakow, Marek Jedraszewski was applauded for giving an anti-LGBTI sermon to mark the 75th anniversary of the Warsaw uprising by Polish resistance fighters against Nazi occupation, describing Poland as under siege from a 'rainbow plague' of LGBTI rights campaigners.<sup>3</sup>

A similar rejection of homosexuality may be found among most orthodox Jews.<sup>4</sup>

In Russia, Putin and the Orthodox Church have found a powerful ground of propaganda in the fight against LGBTI rights in defense of 'traditional values', and Moscow has, until now, avoided to take any

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<sup>2</sup> Philip Pulella, 'Ex-Pope says sexual revolution led to abuse crisis, sparking debate' <<https://www.reuters.com/article/us-pope-abuse-benedict/ex-pope-says-sexual-revolution-led-to-abuse-crisis-sparking-debate-idUSKCN1RN0WI>>

<sup>3</sup> Marcin Gocłowski, 'Liberals fear unrest as Poland Catholic Church doubles down on anti-gay rhetoric' <<https://www.reuters.com/article/us-poland-lgbt-bishop/liberals-fear-unrest-as-poland-catholic-church-doubles-down-on-anti-gay-rhetoric-idUSKCN1US1EN>>

<sup>4</sup> <https://www.myjewishlearning.com/article/judaism-and-the-lgbtq-community-an-overview/>

measures against, or even investigate, the anti-gay pogroms perpetrated by the Islamist Chechen regime.<sup>5</sup>

However fragile, liberalism and secularism still represent the best tools to protect the members of any society: in secular, liberal democracies no ideology can be placed above individual rights, not even religious-based ones.<sup>6</sup>

Unfortunately, this is not the case for most Muslim-majority countries in which same-sex relationships are still criminalized. In many Muslim countries of Africa and the Middle East, homosexuals face imprisonment, which is often – in the case of men – the outcome of anal tests.<sup>7</sup> Elsewhere, sharia-based laws even provide for death penalty, by stoning, shooting, hanging and beheading. This may happen in countries such as Afghanistan, Mauritania, Nigeria, Pakistan, Saudi Arabia, Somalia, Sudan and Iran (where, on the contrary, sex reassignment surgery is permitted). A recent global outcry has forced Brunei's Sultan Hassanal Bolkiah to rethink his newly introduced Islamic law that made sodomy punishable by stoning to death.<sup>8</sup> Furthermore, extrajudicial and honor killings are a common practice, perpetrated by Islamist militias (such as Isis, Hamas, Hezbollah, Houthis), or even relatives.

Far from such bigot and violent views, religious beliefs may also constitute a progressive force.

As early as 1972, the first Jewish organization was founded in London by the name of the Jewish Gay Group. Shortly after, Beth Chayim Chadashim became the first openly gay synagogue in Los Angeles, followed by the birth of many other gay and lesbian Jewish organizations in Boston, Miami, Philadelphia, San Francisco and, Washington D.C.<sup>9</sup> The minority Italian Protestant Waldensian Church started in the Mid 1970ies to adopt a liberal posture towards homosexuality.<sup>10</sup> In 2009, the Church of Sweden officially expressed its approval for same-sex marriage.<sup>11</sup> When in 2015 the U.S. Supreme Court

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<sup>5</sup> Yuri Guaiana, ed., *Il lungo «inverno democratico» nella Russia di Putin* (Turin: Diderotiana Editrice, 2019).

<sup>6</sup>Giulio Ercolessi, *Liberalism and Definitions* (conference paper, Southern European School of Liberalism, Santiago de Compostela, Galicia, Spain, Sept. 2013 published by ELF, Brussels 2013.)

<sup>7</sup><<https://www.humandignitytrust.org/lgbt-the-law/map-of-criminalisation/>> <https://www.hrw.org/report/2016/07/12/dignity-debased/forced-anal-examinations-homosexuality-prosecutions>

<sup>8</sup> <<https://www.bbc.com/news/world-asia-48171165>>

<sup>9</sup> Frank Giaoui *et al.*, *Kol Koleinu, From The Closet to the Bimah. A Legacy for Future Generations And All Communities*. 'Keshet Gavah: The World Congress, 2018).

<sup>10</sup> Ricca Paolo (ed.), *Omosessualità e coscienza cristiana*, Claudiana, 1976.

<sup>11</sup> <https://www.thelocal.se/20091022/22810>

ruled in favour of legalizing same-sex marriage for all Americans, the Episcopal Church decided to allow marriage equality for all Episcopalians as well.<sup>12</sup>

A few months ago, the London-based LGBTIQ charity organization Imaan started crowdfunding to finance the first LGBTI Muslim pride, at the cry of ‘we don’t just have one identity.’<sup>13</sup> This follows the creation of many ‘liberal mosques’ around the world, where men and women pray together, and LGBTI individuals are welcomed.<sup>14</sup> In France, we may even find a homosexual imam married to his partner.<sup>15</sup>

However self-referential, the desire of striking a balance between religious beliefs and civil rights is indeed a step forward in the path of reform for many religious communities within a secular society. Religion may neither be blindly accepted, nor simply dismissed as a reactionary force which tends to bring people back to darker times. Even in the eyes of many LGBTI people, religion is a key element in the shaping of their identity as individuals. It should be therefore discussed openly and frankly, in both its positive and negative outcomes.

## WHAT ARE ‘IDENTITIES’?

First of all, the complex relationship between LGBTI rights and religions needs to be put in the context of individual identities.

The definition of one's identity is indeed a long, profound and often intense process. A few aspects of it are biologically predetermined, others seem to be more fluid and therefore difficult to define.

Fragments of our identity sometimes undergo a perpetual and lasting proceeding. Defying the sexual orientation and gender identity can be challenging for many, while for others can be simply a fact often taken for granted. Sexual orientation and gender identity have been at the center of ever-lasting scientific and religious debates, leaving not much of universal consensus: “Sexual orientation and gender identity remain contentious issues for many societies and social institutions; this has been particularly evident for some religious traditions. In fact, the public debate over LGBTI rights has often been framed in terms of “religious people versus homosexuals.” Many religious leaders have indeed de-

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<sup>12</sup> <https://www.hrc.org/resources/stances-of-faiths-on-lgbt-issues-episcopal-church>

<sup>13</sup> Cherry Wilson & Michael Baggs, ‘LGBT Muslim Festival: We don’t have just one identity’ <<https://www.bbc.com/news/newsbeat-49796967>>.

<sup>14</sup> Rayana Khalaf, ‘Take a look at these progressive mosques around the world’ <<https://stepfeed.com/take-a-look-at-these-progressive-mosques-around-the-world-2287>>.

<sup>15</sup> Ibid.

nounced homosexual relations as immoral. Some find justification for their position in the sacred texts of their tradition. Others appeal to moral principles, official teaching or theological reasons for rejecting homosexual behaviour.<sup>16</sup>

With no prejudice to these considerations, it seems crucial to remark that religious and sexual orientation identities have indeed two very distinct natures. While the former is entirely the fruit of a choice, and may, therefore, be assimilated to a political or ideological affiliation, the latter enjoys the same degree of flexibility solely when it comes to sexual *acts*, but not in relation to sexual *attraction*, which is not the outcome of a deliberate, conscious decision.

In other words, if we place identities on a continuum, where one side is represented by immutable biological characteristics (eg: the skin colour), and the opposite side by purely voluntary affiliations (eg: a political party), we may certainly state that 'sexual orientation' and gender identity lie much closer to the former and 'religion' finds itself positioned towards the latter.

This premise is of utmost importance, insofar as it places the debate in the correct framework. Firstly, religious identity may be changed, reviewed, adapted upon a mere act of will, which is not the case for sexual orientation. Secondly, religion may be described as a system of tenets and values (similarly to political ideologies), while sexual orientation and gender identity, no different from race, are value-neutral. Therefore, while religious or political affiliation and principles may - actually: should - be subjected to rational scrutiny, sexual orientation in itself cannot, for it is beyond rational processes. Clearly, this does not impede a discussion on the attribution of rights descending from a specific sexual orientation or gender identity, be it heterosexual, bisexual, homosexual, cisgender, transgender or all the shades of grey in the middle. However, the debate should be contextualized as such: are there good arguments in religions' articulations of LGBTI rights (or lack thereof) that liberal democracies should take into account due to their *rational* merits?

## RELIGION AS IDEOLOGY

As argued above, any religion is a social, historical and moral construction. There is nothing innate about it unless we accept the apodictic argument of 'sacredness-' i.e., simply put, the will of God —,

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<sup>16</sup> Mark Barwick, 'LGBT People, the Religious and Human Rights in Europe' (conference paper, Human Rights Without Frontiers International, 2013) p. 7. For further definitions of the different sexual behaviors, *id.* pp. 9-10.

which is clearly inadmissible in a secular state based upon the premise of neutrality between immanent or transcendental worldviews.<sup>17</sup>

Appreciated as such, a religious creed is a system of tenets and dogmata that represents a legitimate target for scrutiny and criticism. While attacks against dogmas are often wrongly conflated with the stigmatization of believers, the two must be kept distinctly apart - just like criticism against a political party is not considered a direct discredit of its card-carrying members.

Hence, a secular state should firmly reject concepts such as 'Islamophobia', 'Christianophobia', 'Judeophobia' etc. as they are aimed to protect *religions* - not *believers* - from defamation, thereby representing surreptitious attempts to impose blasphemy laws upon a liberal democratic system and disguise orthodox censorship under the mantle of human rights.<sup>18</sup>

Conversely, a state has the duty to protect individuals from attacks and discrimination due to their faith or origin, with special care toward minorities. From this perspective, the official definitions adopted by the European Union in the fight against 'anti-Muslim hatred'<sup>19</sup> and 'anti-Semitism'<sup>20</sup> go in the right direction.

No ideology is beyond scrutiny, especially when entailing discrimination and human rights violations.

## ON INDIVIDUAL FREEDOM

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<sup>17</sup> Alice Donald and Erica Howard, 'The right to freedom of religion or belief and its intersection with other rights' (research paper, ILGA-Europe, January 2015).

<sup>18</sup> Leo, Leonard, Felice Gaer, and Elizabeth Cassidy. 'Protecting religions from "defamation": a threat to Universal Human Rights standards.' *Harvard Journal of Law and Public Policy* 34, n. 2 (2001) pp. 769-784. See also Haarscher, Guy. «Rhetoric and its Abuses: How to Oppose Liberal Democracy While Speaking Its Language.» *Chicago-Kent Law Review*, n. 83 (2008): 1225-1258.

<sup>19</sup> "The term 'anti-Muslim hatred' accurately describes the phenomenon which the European Commission intends to address. It consists of preventing and combating hate speech, hate crime as well as discrimination directed against groups or individual members of such groups based on their religion or ethnic origin." [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-anti-muslim-hatred\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-anti-muslim-hatred_en)

<sup>20</sup> Based on the working definition of the Holocaust International Remembrance Alliance: 'Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.' <[https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-antisemitism\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-antisemitism_en)>.

The very foundation of a liberal democratic state, described by John Stuart Mill almost three centuries ago, remains the same nowadays: ‘the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him or reasoning with him, or persuading him or entreating him, but not for compelling him, or visiting him with any evil, in case he do otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to someone else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign’.<sup>21</sup>

In other words, negative liberties<sup>22</sup> ought to be, in principle, absolute. No individual should suffer any coercion with regard to life choices and behaviours that solely concern him/herself – the expression of sexuality being the example *par excellence* of bodily autonomy.

In the context of our topic, it is crucial to recall that the principle of non-interference ought to apply not only vis-à-vis the state, but also vis-à-vis one's group. In concrete, this translates into the possibility for a religious community to excommunicate one of its members because of their sexual orientation or gender identity *on the plan of religion*, as this pertains to theological arguments that are outside the scope of this paper. But the group, the community, the church, or whatever collective entity, should never enjoy any coercive power over the individual on the civil plan.

This brings us to address the vexed question of group vs individual rights.

According to communitarian theories, ‘groups’ would be entities as real as ‘individuals’;<sup>23</sup> they should, therefore, enjoy specific entitlements not merely descending from the sum of the individual rights of the group's members, but even superseding the latter.<sup>24</sup>

At the societal level, this often translates into a multicultural outlook, viewing society as a juxtaposition of a number of ‘homogeneous communities’ with their own specific and often conflicting interests.

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<sup>21</sup> John Stuart Mill, *On Liberty*, 1859.

<sup>22</sup> Isaiah Berlin, *Four Essays On Liberty*, (Oxford: Oxford University Press, 1969)

<sup>23</sup> Modood, cit. in Anna Triandafyllidou, ‘The multicultural idea and Western Muslims’, in *Routledge Handbook of Islam in the West*, ed. Roberto Tottoli, (London ; New York, NY: Routledge, 2015), p 220.

<sup>24</sup> See Elham Manca, *Women and Shari'a Law* (London & New York: I.B. Tauris, 2016).



Since the early 1990s, a post-colonial and post-modernist discourse - initially confined within the walls of American Academia – has spread in mainstream public debates, promoting the regressive idea that ‘foreign’ cultures and traditions are entitled to receive protection and special rights for the sole reason of being minoritarian within a multicultural society; the introduction of Islamic law into the Western legal system (e.g. the Islamic Sharia Council and the Muslim Arbitration Tribunal in the U.K.) is a perfect example of how European citizens can still be treated not equally before the law: this is the case of a number of British Muslim women seeking divorce before the Islamic Sharia Council and being forced to give back their marriage dowry.<sup>25</sup>

Conceived as such, multiculturalism opens the door to the creation of parallel societies, often allowing extremist views to be tolerated in the name of cultural relativism. Even human rights are at risk of being sucked into the post-colonial critique of Western cultural imperialism,<sup>26</sup> which eventually fails to remember that ‘the political function of rights is precisely to protect minorities from oppression by majorities (and the smallest minority on earth is the individual).’<sup>27</sup>

In the words of the Muslim scholar and human rights activist Elham Manea: ‘when you look at the extent Islamists have embedded themselves in Muslim communities, you will see that the consequences are not only violence, as we often hear. Women, children, and minorities within these communities are the first to suffer. We must think about the effects of Islamism on the most vulnerable as well as the wider effect on social cohesion’<sup>28</sup>

Indeed, a collective conception of rights easily translates into the notorious ‘tyranny of the majority’,<sup>29</sup> namely a justified imposition of the majority’s values over the individual. These values may be shaped upon different cultures and ideologies, including a religious one.

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<sup>25</sup> Jane Corbin, ‘Are Sharia councils failing vulnerable women?’ <<https://www.bbc.com/news/uk-22044724>>.

<sup>26</sup> Tariq Modood, *Multiculturalism* (Cambridge: Polity Press, 2007).

<sup>27</sup> Ayn Rand, *The Virtue of Selfishness* (New York: New American Library, 1964).

<sup>28</sup> <https://quillette.com/2018/05/09/elham-manea-fundamentalism-reform/>

<sup>29</sup> ‘So what is a majority taken as a whole, if not an individual who has opinions and, most often, interests contrary to another individual called the minority? Now, if you admit that an individual vested with omnipotence can abuse it against his adversaries, why would you not admit the same thing for the majority? Have men, by gathering together, changed character? By becoming stronger, have they become more patient in the face of obstacles? As for me, I cannot believe it; and the power to do everything that I refuse to any one of my fellows, I will never grant to several.’ Alexis de Tocqueville, *Democracy in America*, 1835.

## RELIGION MUST BE SUBORDINATED TO INDIVIDUAL RIGHTS

Secularism is not about mere separation between 'churches' and 'state'. The state needs to remain the guarantor of universalism and equality of rights, never giving a blank cheque to religious institutions and their communities to act as they please with their members.

This is the reason why 'interculturalism' seems to better guarantee the safeguard of human rights than 'multiculturalism'.

'Multiculturalism' allows different ethnic, religious and social groups to live alongside one another without much interaction and exchange. Sometimes authorities are asked to turn a blind eye on prevarications and abuses in order to ensure the 'peaceful cohabitation' between different groups. 'Interculturalism', instead, reasserts the universalism of human rights, and stresses the importance of interchanging experiences and traditions in order to find a common ground where every individual is equal before the law: no exception can be made in name of religious, social or political views.<sup>30</sup>

Religious belief should be recognized by liberal democratic countries as a fundamental right pertaining to the individual conscience, but not be given preeminence in the public sphere. In particular, no religious or non-religious ideology should be allowed to threaten individual rights. Therefore, the myth of an alleged contrast between 'freedom of religion' and 'LGBTI rights' has to be dispelled: on the one hand, the latter do not threaten the former; on the other hand, 'your freedom to swing your fist ends where my nose begins.' This implies that nobody may invoke their 'religious feelings' as a legitimate excuse to discriminate against LGBTI people, and deny their rights either to their private life or to openly manifest their identity in a public space.<sup>31</sup>

In a secular, liberal democratic society, individuals need to be protected against any form of discrimination and, if necessary, to be able to exit their own communities if they feel threatened by their members: Lyes Alouane, a French gay activist of Maghreb origin, living in Gennevilliers (northwestern suburbs of Paris), has recently taken part at a Pride march organized in June 2019 in Saint-Denis to denounce the proliferation of homophobia within his own Muslim community: 'Everyone knows, it is

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<sup>30</sup> Council of Europe, 'White Paper on Intercultural Dialogue "Living Together as Equals in Dignity"' <[https://www.coe.int/t/dg4/intercultural/Source/Pub\\_White\\_Paper/White%20Paper\\_final\\_revised\\_EN.pdf](https://www.coe.int/t/dg4/intercultural/Source/Pub_White_Paper/White%20Paper_final_revised_EN.pdf)>.

<sup>31</sup> To quote a fundamental verdict of the US Supreme Court, "Those in the Los Angeles courthouse could effectively avoid further bombardment of their sensibilities simply by averting their eyes". Supreme Court of the United States, *Cohen v. California*, 1971. The European Court of Human Rights seems much more cautious with "religious sentiments" from this viewpoint.

more difficult to live out your sexual orientation and your gender identity in working-class neighborhoods than it is in Paris. It's taboo to even mention it. [...] I was rejected by my family who told me that I was “haram” [impure], I was told that I was shaming the Algerians.’<sup>32</sup>

Turning a blind eye to such phenomena is not admissible. LGBTI people should be allowed to explore all avenues in their search for the origins of homophobia.

It is imperative that policy-makers and civil society stick together and raise their voices firmly against any form of intolerance and discrimination, no matter from which individuals, community or ideology (religious or not) they might descend.

‘Tolerating the intolerant’, from an authentic liberal perspective, is not an option.

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<sup>32</sup> Lyes Alouane, ‘Homophobie en banlieue ou stigmatisation ? Vif échange à la Gay Pride de Saint-Denis’ <<https://francais.rt.com/france/62908-homophobie-banlieue-ou-stigmatisation-vif-echange-gay-pride-saint-denis>>.