

Dying for Love: Uganda's Anti-Homosexuality Bill

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Abstract

Uganda has a history of repressing sexual minorities, who are often targets of violence and persecution. Legislatively, it is among the nations least tolerant of homosexuality in the world. This paper examines Uganda's culture of homophobia and how it impedes the country's progress toward the full recognition of human rights. It explores the historical roots of homophobia in Uganda, which appear to be largely imported from European evangelical values. It further looks at the steps that are being taken to improve the lives of sexual minorities in Uganda by activists and human rights organizations, and what steps can be taken to resolve this issue. By reviewing the cultural influences that have led to state-sponsored repression, as well as the figures who have fought for and against it, this paper reveals the ongoing struggle in Uganda for the acceptance of sexual minorities.

Introduction

On February 20, 2014 Ugandan President Yoweri Museveni signed into law one of the most restrictive sexuality laws in the world: The Anti-Homosexuality Bill (AHB). According to its text, the principle objectives of the AHB were to strengthen Uganda's capability to respond to the perceived "emerging internal and external threats" posed by homosexuals¹ and homosocial culture.² The bill, however, did not introduce new legal prohibitions as homosexual activities were already criminalized under the Penal Codes of 1950. Instead, the law reinforced anti-homosexual sentiments and cemented state-sponsored homophobia in Uganda.

Homophobic legislation is not unique to Uganda. In fact, the majority of countries in Sub-Saharan Africa criminalized homosexuality or homosocial activities to varying degrees. Further, the international community has shown repeated resistance towards the gay rights movement. The ease with which the AHB gained mass popularity coupled with the relative unwillingness of the international community to interfere highlights the disjunction between human rights and sexual acceptance. This paper seeks to bridge the conceptual gap between the universality of human rights and the fundamental understanding of the cultural and political means in which these rights are expressed. In doing so, this paper will begin with an overview of the current state of the gay rights movement around the world. Next, it will provide an in-depth investigation of Uganda's Anti-Homosexuality. Then the paper will consider the current discord between human rights and sexual acceptance. Finally, the paper concludes with the author's opinion on the future of sexual acceptance and state-sponsored homophobia in Sub-Saharan Africa.

Deconstructing the Dichotomy between Sexual Acceptance and State-Sponsored Homophobia around the World

The first major victory for the Gay Rights Movement in the 21st century occurred when the Netherlands became the first state to legalize marriage equality in 2001; since then, more than a dozen nations around the world have passed similar legislation.³ Among Sub-Saharan African countries, only South Africa recognizes same-sex marriage; however, Burkina Faso, Cape Verde, Chad, Côte d'Ivoire, Djibouti, Gabon, Guinea Bissau, Madagascar, Mali, Niger, Rwanda, and São Tomé e Príncipe have all removed prohibitions against same-sex sexual activities.⁴

Although the gay rights movement has enjoyed tremendous success during the 21st century, progress has either halted or turned against the movement in much of the world. Currently, 75 countries outlaw homosexuality in some regard; further, homosexuality is punishable by death in six countries,⁵ several provinces in Nigeria and Somalia,⁶ and all areas under

¹ For continuity with the language of the Anti-Homosexual Bill, "homosexual" will be used exclusively throughout this paper and shall refer to lesbian, gay, bisexual, transgendered, intersexed, and queer individuals. Any deviation from this declaration will be noted.

² *Uganda: The Anti-Homosexuality Act*, Parliament of Uganda, 2014.

³ International Lesbian, Gay, Bisexual, Trans and Intersex Association, *State Sponsored Homophobia 2015*, 41.

⁴ Library of Congress, *Laws on Homosexuality in African Nations (2016)*, 3-5, 7, 9, 11, 12, and 14.

⁵ Iran, Iraq, Mauritania, Saudi Arabia, Sudan, and Yemen.

⁶ 12 northern states in Nigeria; Somaliland and the southern parts of Somalia.

control of Daesh.⁷ Tracing back to 2003, Human Rights Watch and the International Gay and Lesbian Human Rights Commission published the joint report *More Than a Name*, which documented state-sponsored homophobia and its consequences in Botswana, Namibia, South Africa, Zambia, and Zimbabwe.⁸ Countries in Europe have also been quietly implementing regulations on homosexuality and homosocial activities. For example, over the last decade multiple gay pride marches have been banned in Poland, Latvia, Serbia, and Russia.⁹ State-sponsored homophobia, thus, is not concentrated in only one part of the world. The illegalization of homosexuality and homosocial activities is spread across the developing and developed world and extends from East to West.

Explaining the basis for legislative legitimization for state-sponsored homophobia in Africa, legal and social theory scholar Carl Stychin explained that homosexuality is often viewed as a European import and that the “expulsion of homosexuals from the imagery of the nation state becomes metaphorically equated with the erasure of the white colonizer and, with him, his degenerate influence on a mythologized, pre-colonial, ‘pure’ African (hetero) sexuality.”¹⁰ History, however, strongly indicates same-gendered sexual activity was common throughout much of Africa – including Uganda – prior to colonization and the introduction of western cultural practices. In their book *Boy-Wives and Female Husbands: Study of African Homosexualities*, Stephen Murray and Will Roscoe refuted the claim that homosexuality did not exist prior to Western colonization in Africa.¹¹ Instead, Murray and Roscoe highlighted the prevalence of homosexuality in both the pre-colonial and modern eras. In addition, early bushman paintings appear to depict African men engaging in homosexual activities and colonial and postcolonial ethnographic texts suggest the Langi, Iteso, Baganda, Bahima, and the Banyoro – Ugandan ethnic groups – engaged in homosexual activities.¹² Further, there is overwhelming evidence to support homosexual activity between young men in Southern African mine compounds, including evidence of young miners being married to older miners and expected to perform wifely duties.¹³

It is improbable that homosexuality was a western import. As Murray explains, “There are no examples of traditional African beliefs systems that singled out same-sex relations as sinful or linked them to concepts of disease or mental health – except where Christianity and Islam have been adopted.”¹⁴ Thus, British colonialists did not import homosexuality to Uganda. Instead they introduced homophobia, intolerance of sexual minorities, and measures for regulating and suppressing homosexual activities.¹⁵ Further, the British used these laws to “inculcate European morality into resistant masses” as a means of exerting control over their colonial subjects.¹⁶ The British not only introduced homophobia to Africa, they provided the framework with which it could be used to create mass hysteria, religious fervor, and ultimately how to use homophobia as a tool for political conquest – a lesson that was not lost on Uganda.

⁷ International Lesbian, Gay, Bisexual, Trans and Intersex Association, *State Sponsored Homophobia 2015*, 28.

⁸ Rothschild, “Not Your Average Sex Story,” 170.

⁹ Holzacker, “State-Sponsored Homophobia,” 11-12.

¹⁰ Stychin, “Same-Sex Sexualities,” 956.

¹¹ Murray and Roscoe, *Boy-Wives and Female Husbands*.

¹² Msibi, “The Lies We Have Been Told,” 64.

¹³ *Ibid.*

¹⁴ Murray and Roscoe, *Boy-Wives and Female Husbands*, 270.

¹⁵ Englander, “Protecting the Human Rights,” 1269.

¹⁶ Pen Nigeria, “Silenced Voices, Threatened Lives,” 8.

Uganda's Anti-Homosexuality Bill (AHB)

When signing the AHB into law, Ugandan President Yoweri Museveni claimed the bill would “protect the cherished culture of the people of Uganda, legal, religious, and traditional family values of the people of Uganda against the attempts of sexual rights activists seeking to impose their values of sexual promiscuity on the people of Uganda.”¹⁷ Instead, the AHB imposed strict sentences for homosexual activities ranging from “aiding and abetting homosexuality,” “promotion of homosexuality,” and “aggravated homosexuality.”¹⁸ The most contentious provision of the Act was the inclusion of “aggravated homosexuality,” which was defined as homosexual activities involving 1) a minor or person with a disability, 2) when the offender is the parent, guardian, or authority figure of the person whom the offense is committed, 3) when the offender is HIV positive or a serial offender, or 4) when the offender uses drugs or other substances to “stupefy or overpower” the person whom the offense is committed.¹⁹ The original draft of the AHB threatened offenders with the death penalty for aggravated “homosexuality,” earning it the nickname “Kill the Gays Bill” in the media.²⁰ Although the AHB was struck down by the Constitutional Court of Uganda on August 1, 2014, the basis of the ruling was due not to the content of the AHB, but instead the means by which it was passed.²¹ The passage of the AHB cannot be attributed to any one social, economic, or political reason; instead, the introduction, popularity, and passage of the Act can only be explained by numerous intertwining factors.

Originally introduced in October 2009 by parliamentary member David Bahati, the AHB gained national approval, including near-unanimous parliamentary support;²² however, President Museveni, recognizing the potential for international backlash, allowed the Act to expire before it could come to a vote by the end of the parliamentary session in 2011.²³ Although tabled during the Eighth Parliament, the AHB was reintroduced by Bahati and Speaker Rebecca Kadaga in late 2011. The bill proposed by Bahati and Speaker Kadaga was near identical to the one first introduced in 2009, with one exception – the maximum sentence for aggravated homosexuality had been downgraded from the death penalty to life imprisonment.²⁴ In the wake of reintroduction, mass demonstrations in support of the bill were held in Kampala and Jinja, the two largest cities in Uganda.²⁵ In addition, members of Parliament vocally expressed their approval of the bill as they chanted “our bill, our bill” during its reintroduction.²⁶ Mass public support motivated Speaker Kadaga to seek passage of the bill as a “Christmas gift” for its supporters²⁷ and led James Nsaba Buturo, the Minister of State for Ethics and Integrity, to vow passage of the bill “even if it meant withdrawing from international treaties and conventions such as the United Nation’s Universal Declaration on Human Rights.”²⁸

¹⁷ *Uganda: The Anti-Homosexuality Act*, Parliament of Uganda, 2014.

¹⁸ *Ibid.*, 8, 9, 6, respectively.

¹⁹ *Ibid.*, 6.

²⁰ Kretz, “From ‘Kill the Gays,’” 219; Awondo, Geschiere, and Reid, “Homophobic Africa?” 153.

²¹ *Oloka-Onyango & 9 Ors v Attorney General*, August 1, 2014, 1-2.

²² Englander, “Protecting the Human Rights,” 1281.

²³ Awondo, Geschiere, and Reid, “Homophobic Africa?” 158.

²⁴ Kretz, “From ‘Kill the Gays,’” 221.

²⁵ Cheney, “Locating Neocolonialism,” 78.

²⁶ Awondo, Geschiere, and Reid, “Homophobic Africa?” 147.

²⁷ Kretz, “From ‘Kill the Gays,’” 221.

²⁸ Englander, “Protecting the Human Rights,” 1280.

When President Museveni signed the AHB into law on February 20, 2014, much of Uganda celebrated; however, for the estimated half-million homosexual individuals living in Uganda and their countless supporters, the passage of the AHB marked the beginning of a period of constant fear of persecution as many worried it “could signal a looming gay genocide in Uganda.”²⁹ In fact, signs of a “looming gay genocide” began shortly after the introduction of the AHB. In 2009, the Ugandan tabloid *Red Pepper* published the names of 50 individuals suspected of engaging in homosexual activities³⁰ and the Ugandan tabloid magazine *Rolling Stone* published a list of Uganda’s “Top Homos” which prominently featured the names, addresses, and pictures of suspected homosexuals.³¹ David Kato, one of those listed in the *Rolling Stone* article, was beaten to death in his home following publication.³² In addition, a refugee in a Ugandan camp was locked in his house and burned alive after his fellow refugees became aware of his sexual orientation and two women were kidnapped from a Ugandan refugee camp for assisting homosexual individuals.³³

Anti-homosexuality legislation is not a new phenomenon in Uganda. Homosexual activities were criminalized in the Penal Codes of 1950,³⁴ Penal Codes of 2000,³⁵ and Constitution.³⁶ According to the Penal Codes of 1950, “unnatural offenses” – largely understood to encompass sodomy – were punishable by life imprisonment, “attempt to commit unnatural offenses” and “any act of gross indecency with another person” are both punishable by up to seven years imprisonment.³⁷ Thus, the AHB did not seek to criminalize homosexuality; instead, it sought to strengthen anti-homosexual sentiments and cement state-sponsored homophobia.

One of the most obvious reasons for the successful passage of the AHB was its overwhelming public support within Uganda. A study by the Pew Global Attitudes Project found 96 percent of Ugandans agreed with the statement “homosexuality should be rejected.”³⁸ While it is impossible to fully understand the factors influencing mass disapproval of homosexuality in Uganda, a discussion of Uganda’s national identity and centuries-old tale of 45 Ugandan martyrs provides some explanation. In 1886, Kabaka (King) Mwangi II executed 45 of his subjects – all of whom were recent Christian converts – for refusing his sexual demands;³⁹ of those killed, the 22 Roman Catholics were canonized in 1964 by Pope Paul VI.⁴⁰ For decades, the story of the martyrs highlighted their faithfulness to Christianity; however, the story has been “refigured in current discourse as a story about the martyrs’ willingness to die to defend their opposition to homosexuality.”⁴¹ Former President Yoweri Museveni cemented the connection between the Martyrs, Christianity, and anti-homosexual ideals when he stated “The African Church is the only one that is still standing against homosexuality. The Europeans are finished. If we follow them, we shall end up in Sodom and Gomorrah ... I hear there was homosexuality in Mwangi’s palace

²⁹ Ibid., 1263.

³⁰ Msibi, “The Lies We Have Been Told,” 59.

³¹ Englander, “Protecting the Human Rights,” 1282.

³² Kretz, “From ‘Kill the Gays,’” 220; Englander, “Protecting the Human Rights,” 1264; Msibi, “The Lies We Have Been Told,” 59.

³³ Kretz, “From ‘Kill the Gays,’” 218.

³⁴ Cheney, “Locating Neocolonialism,” 78; Strand, “Kill Bill,” 917.

³⁵ Kretz, “From ‘Kill the Gays,’” 219.

³⁶ Cheney, “Locating Neocolonialism,” 78.

³⁷ Englander, “Protecting the Human Rights,” 1267.

³⁸ Kretz, “From ‘Kill the Gays,’” 217; Strand, “Kill Bill,” 919.

³⁹ Cheney, “Locating Neocolonialism,” 80.

⁴⁰ Ward, “Same-Sex Relations in Africa,” 88-89.

⁴¹ Cheney, “Locating Neocolonialism,” 83; Ward, “Same-Sex Relations in Africa,” 88.

... but the martyrs refused these falsehoods and went for the truth.”⁴² Martin Ssempe, a Ugandan pastor and activist, penned a column for *The New Vision*, Uganda’s state-sponsored newspaper, deploring homosexuality and explaining:

Mwanga was intolerant once his pages became Christians and their new faith told them not to bend over one more time! The passion for his ‘lovers’ became the flames on which these very young ones were beheaded, and burned at Namugongo. It was a genocide, and one the entire gay community should remorseful reflect not unlike Hitler’s murders of the Jews.⁴³

Further commenting on the genocide of the martyrs, American evangelical activist Scott Lively reminded those opposed to the AHB that “despite all of the hysteria in the liberal media, it is important to remember that there is no death penalty for homosexuals in Uganda ... the only Ugandans who have been executed for their beliefs and actions about homosexuality have been Christians.”⁴⁴ Ssempe and Lively invoked modern interpretations of the martyrs’ story to cast homosexuality and the pedophilic king as the root cause of the martyrs’ execution. Further, by placing the moral of the story on the homosexual desires of King Mwanga, instead of the traditionally held moral of religious faithfulness, Ssempe and Lively contorted the story of Uganda’s national heroes to gain support for the AHB.

The distortion of the martyrs’ story highlights not only the plasticity of this tale to fit into the current cultural and political context, but also the distortion of Uganda’s history and interpretation. Many Africans view homosexuality as distinctly un-African and a western invention or import, brought to Africa during colonization.⁴⁵ Commenting on the AHB, a Ugandan citizen wrote, “As Ugandans let us strongly come out to condemn this primitive and inhumane practice that the west wants to plant in our uprightly moral African Society in the name of human rights.”⁴⁶ Noting Western pressure to strike down the AHB, the commenter underscores homosexuality as “primitive and inhumane” and subjectively unnatural in African society.

Unsurprisingly, Western influence not only introduced homophobia to Uganda, but also had a salient impact on the introduction and popularity of the AHB. Just prior to the introduction of the AHB, American evangelicals Scott Lively, Caleb Lee Brudidge, and Don Schmierer spoke at a three-day conference in Kampala which sought to “expose the homosexual agenda” and “focused on the threat homosexuals posed to Bible-based values and the traditional African family.”⁴⁷ Thousands of Ugandans attended the seminar in which the Americans discussed conversion therapy, the tendencies of homosexual men to seduce and sodomize young boys, and “how the gay movement is an evil institution whose goal is to defeat the marriage-based society and replace it with a culture of sexual promiscuity.”⁴⁸ In addition, while visiting Uganda in 2008, American pastor Rick Warren declared that “homosexuality is not a natural way of life and thus

⁴² Kagolo, “Museveni Warns on Dangers of Sodomy,” June 3, 2010.

⁴³ Ssempe, “When Faith,” June 2, 2005.

⁴⁴ Lively, “The Death Penalty in Uganda,” June 10, 2013.

⁴⁵ Awondo, Geschiere, and Reid, “Homophobic Africa,” 161; Kretz, “From ‘Kill the Gays,’” 226; Englander, “Protecting the Human Rights,” 1268; Cheney, “Locating Neocolonialism,” 78, 85.

⁴⁶ Boyd, “The Problem with Freedom,” 709.

⁴⁷ Englander, “Protecting the Human Rights,” 1272.

⁴⁸ Ibid.

not a human right.”⁴⁹ Warren’s remarks undoubtedly influenced Buturo’s vow to pass the AHB regardless of the UN’s Universal Declaration on Human Rights because, as Warren explained, homosexuals were not privy to human rights protections.

The influence of Lively, Brudidge, Schmierer, Warren, and other foreign religious leaders not only underscores the impact of foreign stakeholders on Uganda’s AHB, but also the important interplay of religion in society and politics. Missionaries have long held influence over the socio-political climate in Uganda as missionaries pre-date colonial authorities, and “in colonial and post-colonial Uganda, organized religion has played a critical role in national politics ... [The only difference now is that] religious institutions appear more significantly in the present than in the past.”⁵⁰ Janet Museveni, Uganda’s First Lady and Member of Parliament, has often used her personal views as a born-again Christian to influence politics in Uganda.⁵¹ First Lady Museveni founded the National Youth Forum, an organization that champions abstinence only sex education programs, and persuaded US lawmakers to provide nearly US\$1 billion in funding for its programs.⁵²

As a highly religious nation, much of Ugandan life is dictated by religion. A common belief in Uganda is everything that happens in the physical world has implications for the spiritual world;⁵³ thus, homosexuality is seen to have a direct impact on the spirituality of not only those engaging in the homosexual acts, but also their families. Further dividing homosexuality and spirituality, Ugandan pastors have used cunning tactics to incite fierce abhorrence of homosexuality; one well known instance occurred during a press conference in which Pastor Ssempe played scenes from an American male-on-male pornographic film for his congregation, local media, and visiting youth missionaries. Ssempe purposefully and directly sought to “portray [homosexuality] as secretive, insatiable, and dangerously uncontrolled” to reiterate to his congregation and the greater community the need to reject homosexuality and embrace the teaching of Christianity.⁵⁴

Commenting on the pornographic film, particularly the scenes involving coprophilia, Pastor Ssempe declared, “As Africans, we want to ask Barack Obama to explain to us, is this what he wants to bring to Africa as a human right? To eat the poo poo of our children?!”⁵⁵ By directing his question at President Barack Obama, Ssempe revealed a poignant motivation for social and political leaders to preach anti-homosexual rhetoric: social and political capital. Homophobia has provided many politicians and social leaders with a platform to easily win popular support. Following his anti-homosexual sermons and seminars, Ssempe has become a popular and powerful leader in Uganda and has been made chair of the National Task Force against Homosexuality.⁵⁶

Ssempe is not the only one to benefit from homophobic attitudes; many Ugandan political and social leaders have embraced anti-homosexual stances as a means for political benefit.⁵⁷ Prior to introduction of the AHB in 2009, Bahati was a “backbencher in Parliament

⁴⁹ Cheney, “Locating Neocolonialism,” 85.

⁵⁰ Msibi, “The Lies we Have Been Told,” 59.

⁵¹ Awondo, Geschiere, and Reid, “Homophobic Africa?,” 153.

⁵² Cheney, “Locating Neocolonialism,” 85.

⁵³ Boyd, “The Problem with Freedom,” 714.

⁵⁴ *Ibid.*

⁵⁵ Cheney, “Locating Neocolonialism,” 86.

⁵⁶ *Ibid.*

⁵⁷ Kretz, “From ‘Kill the Gays,’” 231.

who had failed to distinguish himself as a legislator or opinion leader”;⁵⁸ since introducing the bill, Bahati has risen to the ranks of Chief Deputy Whip in parliament and the leading policy advisor for the National Resistance Movement.⁵⁹ In addition, prior to her involvement with the AHB in 2011, Speaker Kadaga had a poor governing resume and was not considered to be among the ruling elite; after the reintroduction of the AHB in 2011, Kadaga’s popularity surged and she was the frontrunner to replace Museveni as President. Although the AHB was tabled the first time, it was introduced and stalled for further research during its second introduction; neither Bahati nor Kadaga suffered any negative political or personal repercussions. Instead, through their activities to promote the AHB, both Bahati and Kadaga enjoyed increased social visibility and political power and had the opportunity to expand their social and political networks beyond the Ugandan border by collaborating with political and social leaders from the United States, Europe, and Asia.⁶⁰

Passage of the AHB served as a signpost of Ugandan attitudes toward homosexuality and homosocial culture. Although President Museveni’s decision to sign the AHB into law was overwhelmingly based on his personal beliefs and strong public support, it was partially influenced by the conclusions that homosexuality was caused primarily by nurture not nature. Speaking during a press conference on his signing of the AHB, President Museveni explained he was reluctant to sign the AHB in 2009 because he “thought it would be wrong to punish somebody because of how he was created.”⁶¹ In this, President Museveni suggested he thought passage of the AHB was only unjustified if his researchers could find an undeniable link between genetics and sexual preference. Failing to find such a link – although it should be noted the Ugandan research team was likely more concerned with proving their hypothesis than the null hypothesis – President Museveni confidently proclaimed, “Can somebody be homosexual purely by nature without nurture? The answer is: ‘No.’ No study has shown that. Since nurture is the main cause of homosexuality, then society can do something about it to discourage the trends. That is why I have agreed to sign the Bill.”⁶²

Although many in Uganda passionately advocated for the passage and enforcement of the AHB, the Bill was found unconstitutional less than six months after it was formally signed into law. The ruling of the Constitutional Court, however, was not grounded in human or civil rights; instead its repeal was due to a technicality: quorum was not reached in the House the day the AHB was passed.⁶³ Supporters of the AHB were not deterred by its repeal; less than three months after the Constitutional Court’s decision the *Prohibition of Promotion of Unnatural Sexual Practices Bill, 2014* was introduced to Parliament on October 29, 2014.⁶⁴ Although the *Prohibition of Promotion of Unnatural Sexual Practices Bill* was tabled, its introduction underscores the vehement polemic against homosexual acceptance in Uganda.

The aim of the AHB was not simply to reinforce prohibitions against homosexuality; instead, it was a disingenuous attempt to shift attention away from increasingly tolerant international opinions towards homosexuality and sexual acceptance. The AHB sought to

⁵⁸ Ibid., 233.

⁵⁹ Ibid.

⁶⁰ Ibid., 208.

⁶¹ Museveni, Speech at Signing of Anti-Homosexuality Act, Kampala, Uganda, 2014, para. 7.

⁶² Ibid., para. 10.

⁶³ *Oloka-Onyangó & 9 Ors v Attorney General*, August 1, 2014, 1-2.

⁶⁴ The Prohibition of Promotion of Unnatural Sexual Practices Bill, 2014.

crystallize within the Ugandan public conscience the notion that homosexuality was socially, politically, and culturally un-African, intolerable, and an emphatic threat to society.

The Discord between Human Rights and Sexual Acceptance

The passage of the United Nations' Universal Declaration of Human Rights in 1948 signified a shift in the legitimacy and recognition of human rights. Previously, marginalized groups – such as women, the disabled, and social/ethnic minorities – were generally denied rights and reduced to second-class citizens in many parts of the world. However, the passage of the UN Universal Declaration of Human Rights (UDHR) paints a false picture of the current status of human rights in the world. The near unanimous approval of the UDHR and the sweeping provisions within it would seem to suggest a marked shift in the global recognition and protection of human rights;⁶⁵ however, much of the world has yet to fully recognize or embrace the Declaration in its entirety. As Micheline Ishay eloquently sums:

Today, invoking the ... Universal Declaration of Human Rights ... one may think of human rights as universal, inalienable, and indivisible, as rights shared equally by everyone regardless of sex, race, nationality, and economic background. Yet conflicting political traditions across centuries have elaborated different visions of human rights rooted in past social struggles.⁶⁶

Chief among these “different visions of human rights” is the debate regarding sexual acceptance and equality. Article 16(1)⁶⁷ of the UDHR explicitly provides for marriage equality; however, sexual acceptance and the rights of sexual minorities are not addressed. This gap has allowed nations such as Uganda to either condone or criminalize homosexuality and homosocial activities based largely on their cultural understanding of sexual acceptance. Stychin observed the dichotomy between *de jure* and *de facto* international human rights in his analysis of the current gay rights movement. Commenting on the globalization of human rights and using same-sex sexual regulations as a guiding post, Stychin observed that while much of the world has embraced cosmopolitan claims to justice (the acceptance of “who we are”), there has been a harsh backlash from those advocating for communitarian (“not our way of life”) views and denouncing homosexuality as a legacy of colonial contamination.⁶⁸

International resistance toward the gay rights movement highlights the gaps in both the global understanding of what constitutes universal human rights and the basis by which the international community can and will respond to actions taken to limit the rights of minority groups. While many nations have come to embrace a more universal definition of human rights, others have come to see universal human rights as a threat to their traditional cultures and, acting in accordance, have sought to limit rights as a means of protecting the current status quo. The

⁶⁵ 48 UN General Assembly member states voted in favor of the Declaration, eight abstained, and none voted against it.

⁶⁶ Ishay, *The Human Rights Reader*, xxi.

⁶⁷ As stated: “Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.”

⁶⁸ Stychin, “Same-Sex Sexualities,” 955.

dichotomy between sexual acceptance and state-sponsored homophobia highlights the current divergence in universal human rights.

The Future of State-Sponsored Homophobia and Sexual Acceptance: Bright or Bleak?

The future of sexual acceptance is at a crossroads. While an increasing number of states are moving toward greater sexual acceptance, a small but salient group of nations have reverted to draconian laws criminalizing homosexuality and homosocial activities. It is unlikely – but not improbable – that these laws and social norms will be soon overturned or abandoned. Nor is it likely that a universal, inalienable, and indivisible definition of human rights will come to be universally accepted across nations. If there is any hope for universal human rights, an internationally orchestrated and globally supported transition toward both *de jure* and *de facto* sexual acceptance must be made. Recognizing that homophobia is a deep rooted cultural, religious, or political legacy in many countries will be easier said than done. Reversing anti-homosexual sentiments will require a complete deconstruction of communitarian and colonial contamination views of homosexuality. This, however, is something that has already been accomplished in much of the world.

Stychin recognizes three main strategies that have proven effective in connecting sexual acceptance and human rights.⁶⁹ The first strategy is to change the conversation around homosexuality, nationalism, and religious traditions. Instead of allowing homophobia to be tied to nationalist identities, activists should highlight the harmony between homosexuality and history while challenging notions of homosexuality as a foreign import or mental illness. To dismantle communitarian claims of heteronormativity, the intersection of multiple identities (e.g. the existence of gay Ugandans) must be fully expressed. The only way to begin to dispel the myth that homosexuality is “un-African” is to begin to put a face to those who identify as both African and gay. Finally, the gay rights movement must align with other marginalized groups and work tangentially toward equality.

If Uganda is to mend the social and cultural divisions perpetuated by the AHB and encourage a more tolerant view of sexual minorities, Stychin’s abovementioned recommendations should be put into formal and targeted actions. First and foremost, the current national attitude toward homosexuality must be addressed. Until the view that homosexuality is “un-African” and “unnatural” is reversed, homosexual individuals will continue to be marginalized. In order to achieve this, homosexuality must become more visible in Ugandan society. To achieve this, gay rights activities – such as pride parades, public displays of affection, and open community dialogues – must be encouraged and tolerated.

Equally as salient are the freedoms granted to gay rights advocates and allies. Although gay rights advocacy groups are allowed to organize, excessive policing of their activities has stunted their ability to effectively promote their message of tolerance and acceptance. For instance, as recently as September 2016, Ugandan police have been blocking gay pride celebrations and arresting those participating in gay rights demonstrations.⁷⁰ Additionally, the murder of David

⁶⁹ Ibid., 958-960.

⁷⁰ “Ugandan Police Block Gay Pride Parade,” September 24, 2016.

Kato, the co-founder of Sexual Minorities Uganda (SMUG), has left many gay rights activists in Uganda fearing for their lives. Groups such as SMUG have been instrumental in building bridges between the homosexual community and general public through multimedia campaigns, targeted partnerships, and political and social campaigning; however, in order to achieve peak efficiency and effectiveness, these gay rights groups must gain financial and diplomatic support both domestically and internationally. If the gay rights movement is able to align with other marginalized groups or – better yet – partner with large multinational advocacy groups, their mission will gain much needed legitimacy, attention, and social and political clout.

International resistance toward the gay rights movement and sexual acceptance in general highlight the gaps in both the global understanding of what constitutes universal human rights and the basis by which the international community can and will respond to actions taken to limit the rights of minority groups. The case of Uganda demonstrates how sexual acceptance can be compartmentalized as both an issue of national identity and utilized as a matter of international politicking. Further, by dismantling the motivations and incentives behind state-sponsored homophobia, one can begin to understand the methods by which these laws and attitudes can be overcome. An overreliance on a communitarian discourse and the legacy of colonial contamination make this task straightforward, albeit not easy. Current trends point toward the eventual universal acceptance of homosexuality and homosocial activities. However, the global community must work to ensure these linchpin laws do not sustain state-sponsored homophobia into the next decade.

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