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### **Homosexuality in Uganda:** The Paradox of Foreign Influence

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# **Homosexuality in Uganda: The Paradox of Foreign Influence**

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# Homosexuality in Uganda: The Paradox of Foreign Influence<sup>1</sup>

‘The people of every country have always been eager to associate sexual perversions with some other country than their own’ (Ellis and Symonds 1897:57-58.)

‘The most vocal supporters of the antigay bill were conservative Christian religious groups in Uganda, who claimed that homosexuality in Uganda was a product of Western influences. Nevertheless, some of their strongest support and encouragement came from US fundamentalist Christian organisations’ (Tripp 2010:96).

‘That was the irony of Bahati’s antigay fantasies, his vision of homos from Europe and North America trolling the streets of Kampala, trading iPods for blow jobs. It was Bahati who had been seduced, recruited for a foreign agenda, compromised’ (Sharlet 2010:46).

Alienation strategies are central to the religious politics of homosexuality in Uganda. While antigay camps vociferously accuse foreigners for imposing homosexual practices and their normalization in society onto locals, pro-gay camps highlight the continuities between the introduction of homophobia into Uganda through colonial anti-sodomy laws and foreign impetus fomenting the Anti-Homosexuality Bill’s genesis. The age-old polemical debate about the African-ness of homosexuality holds deep currency. Claims that homosexuality is un-African are wielded rampantly as a tactic for othering (see Nyanzi 2013a). Rebuttals based on showing evidence for the existence of same-sex practices in diverse areas of Uganda and Africa during the pre-colonial era, are flung back. A heuristic summation of the complexities of the two basic positions reveals the absurdity and over-simplification inherent in each:

“Your homosexuality is foreign, but our homophobia is indigenous,” the antigay camp asserts.

“No, your homophobia is foreign, but our homosexualities are indigenous,” the pro-gay camp retorts.

When the Christian Right declares that homosexuality is antithetical to African culture and tradition, then authentic Ugandan or African identity is defined using a homogenized, narrow and uni-linear heterosexual script. Sexuality – the practice and identity – proffers boundaries

<sup>1</sup> This paper is one draft chapter drawn from a book-in-progress that is entitled *Politicising the “sin of Sodom and Gomorrah”* by Christian Rightists in Uganda. The chapter was presented during a seminar at Makerere Institute of Social Research held on 6<sup>th</sup> March 2013. Dr. Antonio Tomas and Dr. Pamela Khanakwa discussed the paper, and the audience gave engaged commentary. Funding for the research was provided by the Special Initiative for Democratisation and Freedom of Expression of the Swedish International Development and Cooperation Agency (SIDA) No. 5403011901, a Tujenge Grant No. TJ-3040/UHAI/11 from UHAI-EASHRI and a post-doctoral fellowship from the African Humanities Program of the American Council of Learned Societies.

through which exclusion and inclusion, indigenesness and foreignness, insiders and outsiders are delineated. As we have seen in the previous chapter, diverse frames of recognizing and claiming a form of Africanity are employed by both pro-gay and antigay factions in Uganda's religious war on homosexuality. Claiming indigenesness, Africanity and local origin seems to be perceived as useful towards combating alienation by either camp. It seems to render a measure of credibility and authenticity, regardless of its essentialist, reductionist and narrow conceptualization of what it means to be Ugandan or African for that matter.

On the other hand, there is a widespread essentialist expectation that foreigners, particularly if they are from Europe or America and white, are progressive and thus in support of sexual minority rights. However, my experience on the ground disrupts this simplistic binary association. An experience during fieldwork further highlights how outsiders to the Ugandan queer scene wrongly imagine and caricature the politics of this debate in stereotypical, racialised and over-simplistic binaries of class and geo-political location. To them, the white body of an educated Westerner is automatically stereotyped to be pro-gay. In this rationale, lacking whiteness, being un-educated, belonging to a lower class and being an insider to Africa (especially rural remote areas) stereotypes one as having higher chances of being opposed to sexual minority rights.

A stranger introduced herself as an American post-graduate student who was working in the national archives in Uganda. I also learnt in our first interaction that she was a committed and practicing Christian. In subsequent communication using email, she proceeded to ask me questions about the social activities and personal details of local sexual minority rights activists. I ignored her emails because it was not only professionally unethical to discuss confidential information about my research participants, but it also potentially compromised their security and safety. Moreover, I did not know enough about this Christian American postgraduate student to conclusively determine her stance towards homosexuality in Uganda. After a few months, I accidentally met her at a conference in Kampala on forced migration studies. She was in the company of a few members of the local LGBTI movement. She expressed her disappointment and displeasure at my non-response to her inquiries. Irritated at her sense of entitlement, I put her in her proper place:

**“I did not respond because I do not trust you as yet,” I said unabashedly.**

Obviously put aback and astonished at my forthrightness, she asked what gave me reason to doubt her. I clearly remember asking back why she would think I trusted her well enough to divulge information that could potentially jeopardize the security of my research participants. She told me she was American – meaning white American. Recognizing this display of evolutionary stereotyping for what it was, I gave this white American Christian post-graduate student a nuanced perspective about the roles of other educated white American Christian preachers, evangelists and ministers in fanning aflame vengeful pockets within the antigay movement in Kampala. I took the time to explain how some white American

Christian journalists and academics conducted interviews to justify their broadcasts and publications supporting the death penalty in the recriminalizing of homosexuality in Uganda. I explained that while some educated white Americans are definitely appalled by the Anti-Homosexuality Bill and supported efforts against it, some others most certainly contributed towards its conception, tabling and sustenance in parliament. I showed her that for those of us on the ground in Uganda, everyday experience proved that the ‘educated white American Christian’ card can be pro-gay and it can be antigay. We learnt to ascertain which side anyone was on, before determining how to engage with them. By the time I was finished explaining, Ms. Ashley Rockenbach was a bit more educated and better in touch with a nuanced reading of the complexities of transnational flows and the racialised geo-politics of the homosexuality debate in Uganda. Much later, she thanked me for calling her out on her assumptions.

Katyal (2010:1434) captures eloquently the hegemonic projection of the West as the location of sexual liberation and modernity to which all other cultures and peoples must look:

*‘Nevertheless, popular discussions of sexuality in Asia and elsewhere tend to suggest the West as the source of sexual modernity... At times, LGBT advocates stress the “homophobia of third-world traditions,” implying that “modernization” will make the non-Western world more liberated for queers.’*

**Wilson (2006) further develops this critique of the West:**

*‘Even when they are critical of Western dominance in the world, as is the case with many nationalists and sexual-rights advocates, this interpretation recapitulates Western hegemony, by locating the origin and agency of modern queer life squarely in the West.’*

In this chapter, I examine the complex entanglement of foreign influences in the religious politicization of homosexuality in Uganda. Ramos (2009) stresses the importance of stretching analyses beyond the local and context-specific unfolding of the anti-homosexuality movement in any one national context. He advises that ‘... any effective response to religious homophobia and the persecution of LGBT people will require transnational vision and action (Ramos 2009:iii).’ Thus, in this chapter, I identify some transnational flows influencing the politicization of religious interpretations of homosexualities in Uganda. Furthermore, through systematic literature review and analysis of ethnographic data, I disrupt simplistic bipolar categorizations and stereotypes of relationships to and roles of either foreign or local Ugandan players to the homosexuality debate. I highlight the turgid tension between the role of foreign influence in both supporting and opposing the Anti-Homosexuality Bill and the wider antigay movement in Uganda. Therefore the chapter casts into sharp relief the complex, convoluted, unpredictable and dynamic politics of foreign influence in both the pro-gay and antigay battles in Uganda.

Firstly, I describe developments in the international arena relating to sexual orientation including debates within the United Nations, decriminalization and re-criminalization of non-heteronormative gendered sexualities, and the growing global sexual and reproductive health and rights (SRHR) movement.

Thereafter, I contrast the foregoing with an examination of the role of foreign players in articulating or enacting pro-gay rights interventions in contemporary Ugandan society. I describe the context and examine the content of the interventions in favor of homosexuality or the rights of sexual minorities, in addition to analyzing their effects on the local society at large.

Finally, I examine the role of foreign influence in diverse components of antigay mobilization by the Christian Right in Uganda. In addition to describing the context and examining the content of these foreign interventions against homosexuality or the rights of sexual minorities, I also analyze their effects on the broader Ugandan society.

## **International developments around sexual orientation and gender identity**

The global articulation and contestation for the recognition, fulfillment and protection of the rights of individuals and groups practicing non-heteronormative sexual orientations and gender identities has grown from invisibility to visible victories internationally (Kollman and Waites 2009, Narrain 2001, Sanders 1996). While many of these victories have been achieved in the global North – i.e. North America and Europe, some others were in the global south i.e. Asia, South America and Africa. Furthermore, the UN platform witnessed diverse developments regarding alternative sexual orientations and gender identities.

### **The United Nations platforms**

Many battles have been enacted at the international level of the United Nations. Since the early 1990s, the framing of contestation for sexual minorities at the international level has largely appropriated a human rights framework, which is the source of ambivalent contextual applications<sup>2</sup>. Saiz (2004) highlights the stark contrast between the advances made by the United Nations' expert human rights mechanisms in addressing human rights abuses based on sexual orientation, and the denial and defiance of some governments that consistently bracket and write out any reference to sexual orientation in draft human rights texts. I outline below some of the key platforms in the United Nations where sexual minority rights have been articulated.

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<sup>2</sup> Return to this in the discussion section where emphasis is placed on the tension between the universality of human rights claims and the specificity of sexual cultures and practices.

## The United Nations' Human Rights Committee

The Human Rights Committee is one of the United Nations' forums at the forefront of advancing international jurisprudence addressing sexual minority rights issues. Comprising eighteen independent experts, the Human Rights Committee monitors the compliance and implementation of the International Covenant on Civil and Political Rights (ICCPR) by its state parties<sup>3</sup>. Important cases handled by the Human Rights Committee have concerned freedom of expression, the right to privacy, right to same-sex marriage, and rights to recognition of same-sex partnership in public policies relating to pensions.

On 2<sup>nd</sup> April 1982, the Human Rights Committee ruled on *Hertzberg et al. v. Finland* case in which the Finnish government's censorship of radio and television programs discussing homosexuality was reported to have infringed upon the right to freedom of expression and information. The Human Rights Committee ruled in favor of Finland and decided that there were violations of the right to freedom of expression and information. They also argued that freedom of expression is not an absolute right, but is rather subject to restrictions that are necessary to protect public order, public health or morals. A committee member contested the assumptions of this ruling – specifically highlighting that public morals differ widely, lack a universally applicable standard, and are relative and changing.

On 31<sup>st</sup> March 1994, the Human Rights Committee made a landmark ruling in the case of *Toonen v. Australia* by stating that Tasmanian laws criminalizing same-sex-relations between men were in breach of the ICCPR which was broadly and innovatively interpreted to provide for protection from discrimination on grounds of sexual orientation. They ruled that Nicholas Toonen's rights to privacy which extended to cover adult consensual activity in private were violated. This juridical decision was significant because it introduced sexual minority rights as valid human rights concerns to which international human rights law was applicable (Saiz 2004, Morgan 2009). *Toonen v. Australia* marked a significant departure in the treatment of sexual minority issues at the United Nations level<sup>4</sup>. A critique of this case was its restriction of sexual minority rights to the private domain because of its emphasis on the violation of the right to privacy.

In the 1999 case of *Joslin v. New Zealand*, there was a test case of whether failure to provide for same-sex marriage in the New Zealand Marriage Act was discrimination on grounds of sex and sexual orientation because it violated the rights of the two lesbian couples (who

<sup>3</sup> As of September 2012, there were 167 ratified members. Uganda accessed the ICCPR on 21<sup>st</sup> June 1995.

<sup>4</sup> According to Saiz (2004:5)1, "Since *Toonen*, other treaty monitoring bodies of the UN have helped consolidate the principle that sexual-orientation discrimination is proscribed in international human rights law. The Human Rights Committee, the Committee on Economic, Social and Cultural Rights (CESCR), and the Committee on the Elimination of Discrimination against Women (CEDAW) have repeatedly and consistently called for the repeal of laws criminalizing homosexuality in countries around the world." Furthermore, according to Correa, Petchesky and Parker (2008:29), since the *Toonen* case, 'infringements and abuses related to sexual identity and conduct have gained relevance in the debates and procedures of treaty bodies that monitor the implementation of human rights conventions on civil, political, social and economic rights, on women and children, and on torture, and special rapporteurs on human rights have increasingly reported on perpetrations related to sexuality.'

were the applicants) to marry, to privacy and family life, and to equal protection of the law (Saiz 2004:53-54). However the Human Rights Committee found no violation of the ICCPR because of legal definitions of marriage as the union between a man and woman. This ruling contravened earlier views of the Human Rights Committee that highlighted the dynamic and continuously evolving definition of the concepts of marriage and family.

In 2003, the Human Right Committee's ruling in the case of *Young v. Australia* carried the principle of equal protection of the law from ICCPR beyond the private realm and also into the sphere of partnership rights. In this case, Edward Young was denied the pension benefits of his same-sex-partner who was a deceased war veteran. The Human Rights Committee ruled that Young was a victim of discrimination on the basis of sexual orientation and instructed the Australian government to reconsider his application for pension. In 2007, the Human Rights Committee made a similar ruling in the case of *X v. Colombia* which also pertained to the denial of pension transfers based on discrimination on the grounds of sexual orientation (Morgan 2009:9). According to Saiz (2004:54), these rulings of the Human Rights Committee transcend 'Toonen by moving the principles of non-discrimination and equal protection beyond the narrow confines of privacy and applying them to other arenas of civil, economic, and social entitlements.' These two cases pushed sexual minority rights beyond the purview of the private realm and into the realm of social and public policy.

## International Conferences

The International Conference on Human Rights that was held in Vienna in 1993 introduced a range of sexual rights, although it did not specifically refer to non-heteronormative sexual orientations or gender identities. The Declaration and Program of Action from the Vienna Conference dealt with the elimination of sexual violence, sexual harassment, systematic rape, sexual slavery and forced pregnancy. For the first time, the terrain of the sexual was brought into the space of human rights (Petchesky 2000:84, Morgan 2009:11). Furthermore, there was active participation of gay and lesbian individuals and advocacy organizations (Kukura 2005:182, Morgan and Walker 1995:215). However, illustrating Saiz's (2004) analysis above about 'bracketing and writing out references to sexual orientation', when Canada proposed adding "sexual orientation" to the list of grounds for non-discrimination mentioned in the draft document, "... this paragraph was altered to a general, open-ended prohibition of discrimination' (Sanders 2002:25).

The International Conference on Population and Development (ICPD) that was held in Cairo in 1994 and sponsored by the United Nations, articulated several sexual and reproductive health rights. Emphasis was on achieving complete reproductive health. Similar to its predecessor in Vienna, the ICPD was also not specific in addressing the issues of non-heteronormative sexual orientations and gender identities. However, this conference made visible the divide between the pro-gay rights camp and the antigay rights camps at the international level

because it witnessed the rift between delegates who stressed the importance of restricting the definitions of the foundation of the family to only heterosexual marriage. This position was articulated and strongly supported by delegates representing the Holy See, the Vatican, and the southern continents of Africa, Asia and South America.

The World Conference on Women held in Beijing in 1995 availed another international platform where more contestation against articulations of fluid genders beyond the normative polarized binaries of male and female was enacted. The draft version of the Platform of Action that was initially produced contained many references to sexual orientation, which were the source of impassioned heated debates. In keeping with Saiz' (2004) analysis, these references to sexual orientation were yet again bracketed and written out of the final document because of failing to arrive at consensus. The articulation of vehement opposition facilitated a robust discussion and debate about the label 'sexual orientation' and gave international visibility to the issues of the rights of sexual and gender minorities (Morgan 2009:12-13).

Massad (2002:379-380) critiques both the 1994 ICPD at Cairo and the 1995 World Conference on Women in Beijing for becoming platforms for forcefully promoting the agenda of "the Gay International" produced by American and European nongovernmental organizations. He reports that: '...Arab columnists began to rail against the "lobby of deviants" in America who want to impose their debauchery on the rest of the world' He continues his report that at the 1999 ICPD held in Hague, 'this "deviant lobby" showed its less than peaceful face by denying conference delegates translations of conference resolutions into languages other than French, English and Spanish.' Further expounding on the appropriation of this conference to advance the cause of sexual minority rights, Massad (2002:380) briefly reports about the experience of Bashshar al-Jammali's punishment for alerting Arab youth delegates about dubious and ambiguous translations of referents to sexual orientation in the Conference resolutions, which actions led to opposition and called for the words to be removed from the final documents (cf. Saiz 2004).

*'As punishment for his efforts, the UN conference coordinator denied al-Jammali journalistic access to the conference and instructed the UN security guards to take his press card and beat him. Unconscious and handcuffed, he was found and released by the Dutch police. Al-Jammali pressed charges against the UN, sent letters to the 187 UN delegates, and involved members of the U.S. Congress and the Dutch police in what became a cause célèbre condemning the machinations of the Gay International (Massad 2002:380).'*

## International Statements and Declarations

Brazil was the first country to table before the former United Nations Commission on Human Rights, a resolution specifically addressing human rights violations in the world based on sexual orientation. Presented in 2003 and again in 2004, this Brazilian resolution was abandoned due to fierce opposition from the United States, Holy See, the Vatican, and member states of the Organization of the Islamic Conference (OIC) such as Pakistan (Saiz 2004:57, O'Flaherty and Fisher 2008:230, Kollman and Waites 2009:5). The United Nations Commission on Human Rights repeatedly postponed voting on this resolution. The opposition hindered possibilities of arriving at the necessary consensus. In 2005, Brazil withdrew this resolution, igniting two unexpected important responses. Firstly, consequent to the withdrawal, New Zealand delivered a joint statement of regret at the failure to vote on the Brazilian resolution. This joint statement further called on states to condemn discrimination on grounds of sexual orientation. New Zealand submitted this statement on behalf of 32 other states. Secondly, in 2006, Norway submitted a statement on sexual orientations and gender identity that was supported by 54 states (O'Flaherty and Fisher 2008:230).

In July 2006, the Declaration of Montreal written by Joke Swiebel presented proposals and demands of the international LGBT movement (Swiebel 2009). This declaration was presented at the International Conference on LGBT Human Rights which accompanied the first World Outgames. The Declaration of Montreal included a proposal to create a United Nations Convention on Elimination of All Forms of Sexual Orientation and Gender Identity Discrimination (see Kollman and Waites 2009:5). The document was intended as a political document.

Yet again in November 2006, the Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity were agreed upon by 26 experts who are signatories to this statement. The Yogyakarta Principles represent the expert interpretations of existent human rights law and how it applies to non-heteronormative sexual orientations and gender identities. Kollman and Waites (2009:5) critique the exclusionary processes of writing both the Declaration of Montreal and the Yogyakarta Principles:

*'Both can, however, be criticized for the limited inclusiveness of processes leading to their articulation, and their content. The use of "LGBT human rights" to frame the Declaration of Montreal can be seen as employing more culturally specific categories than the broadly defined concepts of "sexual orientation" and "gender identity" utilized in the Yogyakarta Principles.'*

In December 2008, the proposed United Nations Declaration on Sexual Orientation and Gender Identity was presented to the United Nations General Assembly. It was initiated as a statement by the French and Dutch, and backed by the European Union. It clearly

articulates sexual orientation and gender identity as legitimate grounds for protection from discrimination in international human rights law. Furthermore, this proposed declaration names and condemns several human rights violations based on sexual orientation and gender identity, including violence, harassment, discrimination, exclusion, stigmatization, prejudice, killings, executions, torture, arbitrary arrest, deprivation of economic, social and cultural rights. It also called upon the Human Rights Council and treaty bodies to continue integrating the consideration of human rights violations based on sexual orientation and gender identity within their mandate.

**Morgan (2009:15) critiques this declaration based on its applicability:**

*“...while the Declaration condemns (emphasis in original) these human rights abuses and acknowledges human rights law applies to sexual and gender minorities, it does not formally enshrine (emphasis in original) sexual and gender rights. As such, the application of human rights principles to sexual and gender rights issues still remains a matter of broad interpretation, since the declaration offers no framework for assessing sexual and gender rights claims. While unquestionably a significant victory for advocates of sexual and gender rights, the Declaration represents a starting point rather than an end in itself.”*

Although it was intended to be adopted as a resolution, this proposed declaration was challenged by an opposing statement backed by the Arab League that criticized it as an attempt to legitimize same-sex marriages, adoption of children by same-sex couples, pedophilia and ‘other deplorable acts’. It was also opposed because it would hinder freedom of religious expression against homosexual behaviour. Presently, neither of the two statements is officially adopted by the United Nations General Assembly. Moreover, both statements are still open for signatures.

In June 2011, South Africa initiated a resolution<sup>5</sup> concerning sexual orientation and gender identity, in the United Nations Human Rights Council. The Commissioner of Human Rights was requested to commission a worldwide situational analysis study and generate a report about the situation of LGBT citizens that also considers how international human rights law can be used to end related violence. The resolution passed 23 to 19 with three abstentions. Later in November 2011, Navi Pillay – the High Commissioner presented the report (A/HRC/19/41) which documented numerous violations of the rights of LGBT people<sup>6</sup>. Navi Pillay called on countries to repeal laws that criminalize homosexuality, abolish the death penalty for offenses involving consensual sexual relations, harmonize the age of consent for heterosexual and homosexual conduct, and enact comprehensive anti-discrimination laws.

5 The resolution (A/HRC/17/L.9/Rev.1) is available at <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/G11/141/94/PDF/G1114194.pdf?OpenElement>.

6 The report is available [http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41\\_English.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41_English.pdf).

She further called for prompt investigations of all killing and violent incidents perpetrated because of sexual orientation or gender identity.

In his remarks<sup>7</sup> to the Summit of the African Union held in January 2012 at their new building in Addis Ababa, United Nations' Secretary General Ban Ki-Moon clearly articulated the need to address discrimination based on sexual orientation and gender identity.

*'Yes, trade and investment are crucial for development. But Africa's future also depends on investments in civil, political, economic, social and cultural rights. The Universal Declaration of Human Rights is a promise to all people in all places at all times. Let me mention one form of discrimination that has been ignored or even sanctioned by many states for far too long... discrimination based on sexual orientation or gender identity. This has prompted some governments to treat people as second-class citizens, or even criminals. Confronting this discrimination is a challenge. But we must live up to the ideals of the Universal Declaration.'*

Given that this two-day summit was set to elect a new Commission chair for the African Union, it was significant that the Secretary General chose to dwell on the issue of sexual orientation and gender identity in his remarks.

It is also noteworthy that the Human Rights Council presently undertakes universal periodic reviews of the human rights records of all UN states. Objections raised by Egypt and other states to address sexual orientation during this review were overruled (Kollman and Waites 2009:6).

## **The global LGBT movement and international organizing**

The visible international movement for the recognition, protection and fulfillment of rights of sexual minorities has its genesis in America. The Stonewall Riots of 1969, when patrons and clients of Stonewall Inn, a bar popularly catering to gay men and some lesbians resisted a police raid, are a landmark in the mobilization of the American gay rights movement (D'Emilio 1998). Sanders (1996:77) traces the genesis of the "international 'gay liberation' movement" back to the Stonewall Riots in New York. The social movement that sprung from the Stonewall Riots inspired and yielded several other movements for the rights of sexual minorities in diverse locations around the world. These advances were not without their challenges. For example Massad (2002) examines how Western-based international efforts to liberate gay and lesbian people mis-conceptualise same-sex relations in the Arab and Muslim world because of imposed focus on homosexual identity which has no local relevance. Furthermore according to Lau (2008:71):

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7 The text of the speech is available at <http://www.un.org/apps/news/infocus/sgspeeches/statements-full.asp>.

*'The American roots of foreign SOGI rights movements have sometimes been a liability. In some countries, SOGI rights advocates have been frustrated by their governments, which have mischaracterized American influences, asserting that SOGI rights, and even homosexuality, are products of American culture, and thus incompatible with local culture.'*

There are two organizations that focus on international mobilization and advocacy for non-heteronormative sexual orientations. I briefly outline each below:

## **International Lesbian and Gay Association**

The International Lesbian and Gay Association (ILGA) was founded in 1978. Its aim is to lobby and work for the equality of LGBTI people from all forms of discrimination. ILGA seeks to achieve this aim through the world-wide cooperation and mutual support of its members. ILGA's focus is decidedly global in scope.

*'We focus public and government attention on cases of discrimination against LGBTI people by supporting programs and protest actions, asserting diplomatic pressure, providing information and working with international organizations and the international media' (ILGA website<sup>8</sup>).*

The ILGA secretariat is in Brussels. Membership consists of 1006 member organizations from 117 countries. There are five regional chapters including Pan Africa ILGA, ILGA-ANZAPI i.e. for Australia, New Zealand and the Asia Pacific Islands, ILGA-Europe, ILGA-LAC i.e. Latin America and the Caribbean, ILGA-Asia and ILGA-North America. The current seven-member interim steering committee of Pan Africa ILGA includes a member from Uganda.

ILGA was the first lesbian and gay organization to gain consultative status with the United Nations, specifically the Economic and Social Council (ECOSOC) in July 1993. This consultative status was questioned by the United States in September 1993, and resolved in June 1994, only to be suspended pending a review of the member organizations in September 1994. In July 2011, ILGA regained its ECOSOC consultative status with the United Nations. Discussing the discrimination of lesbian and gay people, Sanders (1996:68) asserts that "In the history of the United Nations no other nongovernmental organization has been treated similarly." However, Massad (2002:363-364) reveals some insights into the workings of ILGA during this period. In 1994, ILGA launched a new and aggressive universalization campaign. That year, which marked the twenty-fifth anniversary of the Stonewall Riots, ILGA convened its sixteenth annual World Conference which lasted from 23<sup>rd</sup> June to 4<sup>th</sup> July in New York. In commemoration of Stonewall, ILGA conducted the "International March on the United Nations to Affirm the Human Rights of Lesbian and Gay People," called for the proclamation of an International Year of the Lesbian and Gay people, and also called for the

8 For details see the ILGA website on <http://www.ilga.org>.

application of the United Nations' Universal Declaration of Human Rights to lesbian, gay, bisexual, drag and transgender people.

## **International Gay and Lesbian Human Rights Commission**

The International Gay and Lesbian Human Rights Commission (IGLHRC) was founded in 1991. Its mission is to protect and advance the human rights of all people and communities subject to discrimination or abuse on the basis of sexual orientation, gender identity, or gender expression<sup>9</sup>. In addition to human rights advocacy with partners around the world, IGLHRC also strengthens the capacity of the LGBT human rights movement worldwide to effectively document and respond to the violation of LGBT human rights. Their named partners include the United Nations, regional human rights monitoring bodies and civil society organizations. In July 2010, ECOSOC voted and accredited IGLHRC to participate in meetings. Thus IGLHRC holds consultative status at the United Nations as a recognized non-governmental organization representing the concerns and human rights of LGBT people worldwide.

IGLHRC headquarters are based in New York. There are satellite offices in Johannesburg, Buenos Aires and Manila. There are regional programmes including focus on Africa, Latin America and the Caribbean, Asia, Middle East and North Africa and the United Nations. IGLHRC's Africa Programme provides support to the growing sexual rights movement in the region and partners with local activists on the ground in several African states. Their work specifically involves 1) responding in crises e.g. involving arrests, attacks, expulsions or threats to people because of their actual or perceived sexual orientation, gender identity or gender expression, 2) conferring with African regional institutions including the African Commission on Human and People's Rights, 3) conducting research and documenting human rights abuses, 4) pursuing structural and institutional changes such as supporting domestic litigation challenging unfair laws, drawing attention to hate crimes, and 5) providing training, capacity building and political space for strategizing. After winning the seminal court case of *Victor Mukasa & Yvonne Oyo V. Attorney General*, one of Uganda's first sexual minority rights activists, Victor Mukasa served in the IGLHRC satellite offices in Johannesburg.

## **International Day Against Homophobia**

The International Day Against Homophobia (IDAHO) is marked annually on 17<sup>th</sup> May by the global LGBT movement. Initiated in 2004 by Louis-Georges Tin, a French university lecturer and campaigner for black and LGBTI rights, this day was chosen to commemorate the World Health Organisation's decision to declassify homosexuality as a mental disorder (see Nyanzi *forthcoming*). After a year's consolidated campaign, IDAHO was first marked in 2005 and has been commemorated every year since. Activities increasingly involve key

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<sup>9</sup> For details see the IGLHRC website at <http://www.iglhrc.org>.

influential people from all over the world. At the IDAHO website<sup>10</sup>, each year registers a growing volume of activity reports about national efforts to commemorate the day. This annual commemoration of IDAHO is a fulfillment of the Declaration of Montreal's appeal to all governments to recognize a day in support of the protection of the human rights of LGBTI people. However official national recognition is still restricted to a few nations.

As an ethnographer, I participated in IDAHO celebrations held in Uganda in 2012 and organized by the Sexual Minorities Uganda (SMUG) offices. The day's events witnessed many LGBTI individuals and organizations gathering to declare their commitment to denouncing homophobia in Uganda. Although community activities were limited in attendance, several local organizations, web blogs, web sites and mailing lists were abuzz with activities, posts, discussions and exchanges about IDAHO.

## Decriminalizing homosexuality

Beyond the international theatre of the United Nations, world conferences, international declarations, and international organizations for sexual minorities, legal advances have also been made at the regional, national and local levels of jurisprudence in favor of protecting non-heteronormative sexual orientations and gender identities. Numerous states in North America including Canada and Europe overturned different sodomy laws in the last century. The most recent development on this front is the legal recognition of same-sex unions in Britain and France.

The European Court of Human Rights (ECtHR) has handled many cases related to protection from discrimination on grounds of sexual orientation. Some of the notable cases include:

- *Lustig-Prean and Beckett v. United Kingdom* which ruled in favor of protecting the right to serve in the armed forces regardless of sexual orientation.
- *Mouta v. Portugal* involving custody disputes in which the right to non-discrimination of biological parents on the grounds of sexual orientation was established.
- *Karner v. Austria* established the right to equal treatment between unmarried same-sex couples and unmarried opposite sex couples in tenancy succession.

The ECtHR decided against sodomy laws in many of its cases (Katyal 2010:1445). Furthermore, the ECtHR decided several cases involving the rights of recognition of current sex of some transgender people, for example *Goodwin v. United Kingdom*, and *I v. United Kingdom*. It is noteworthy that in contexts of employment, member states of the European Union are required to prohibit discrimination on the grounds of sexual orientation.

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<sup>10</sup> For details see <http://dayagainsthomophobia.org>.

Furthermore, in the United States of America and Canada there are diverse approaches to legal cases of discrimination on the basis of sexual orientation. Some of the important cases include:

- *Lawrence v. Texas* was a landmark case which ruled that criminalization of private consensual same-sex sodomy in Texas violated the constitutionally protected liberty interests and right to privacy within the home of Lawrence. This case comprised vast constitutional borrowing from other jurisdictions including the citation of foreign precedent that overturned sodomy laws, referring to the Wolfenden<sup>11</sup> Report of 1957 that circulated in Britain recommending that sodomy laws be repealed, and also borrowing from decisions of the ECtHR<sup>12</sup>.
- *Romer v. Evans* was important for invalidating an amendment to the Colorado Constitution which banned antidiscrimination laws that protect sexual minorities.
- *Vriend v. Alberta* is a significant case that determined that a legislative omission of specifically stating that sexual orientation is among the prohibited grounds of discrimination, can cause the violation of the Canadian charter of rights and freedoms.

Immigration laws were revised in favour of protecting individuals from persecution on the grounds of sexual orientation and gender identity, particularly in the case of applications for asylum received from the nationals of countries whose constitutions criminalize and penalize same-sex conduct.

Besides Europe and North America, several states in Asia, Latin America and South Africa in Africa decriminalized laws related to non-heteronormative sexual orientation and gender identity.

Sodomy laws were overturned in Asian countries including Japan in 1882, Thailand in 1956, Hong Kong in 1991 and Fiji in 1997 (for details see Lau 2010:5-6, 2008, Katyal 2010:1455-1456, Sanders 1996). India joined these countries on 2<sup>nd</sup> July 2009 in the famous case of *Naz Foundation v. Government of NCT* in which the Delhi High Court ruled that section 377 which banned ‘crimes against the order of nature’ was contrary to international human rights principles, and also unconstitutional under India’s own privacy jurisprudence (Katyal 2010, Raghavan 2009, Khaitan 2009, Singh 2009). In Hong Kong, the *Leung v. Secretary*

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11 Sanders (1996:70) critiques this report for 1) being the product of an elite government appointed inquiry, 2) having unscientific analysis, and 3) having reasoning that was badly dated. However, he also acknowledges that this report gave respectability to campaigns to end criminal prohibitions of homosexual activity, distinguished between morality and criminality, and described homosexuality as a private moral issue.

12 Some of the cases cited from the ECtHR included *Dudgeon v. United Kingdom*, *Modinos v. Cyprus* and *Morris v. Ireland*.

*of Justice* case, the lower court and Court of Appeal both overturned buggery related laws<sup>13</sup> (Lau 2008). Asia has made advances in decriminalizing much more than sodomy laws involving same-sex acts to also cover non-conforming gender identities. Lau (2008:91-96) highlights the *Re Change of Name and Correction of Family Register* case in South Korea where the Supreme Court ruled in favor of legally recognizing the post-operative gender identity of transsexuals<sup>14</sup>. In Hong Kong, the government allows post-operative transgender persons to change their identity cards and passports to reflect their current sex which is also recognized for incarceration purposes. The government subsidizes surgery prescribed by doctors. However, transgender persons have no legal rights to change the sex designation on their birth certificates (Lau 2008:80-85, Emerton 2004). In Nepal and Pakistan, similar victories were recently won for the legal recognition of transgender identities.

In Latin America, there are jurisdictions in Argentina, Brazil and Mexico that allow same-sex couples to register for legal recognition. When registered, these couples attain rights that are similar to those of couples within heterosexual marital unions.

South Africa, Fiji and Ecuador have got progressive constitutions which prohibit discrimination on the grounds of sexual orientation (Sanders 2002:35-36). In South Africa, Namibia, Mexico, Israel, New Zealand and New South Wales discrimination on the grounds of sexual orientation is prohibited. Coming from a history of multiple oppressions that originated in the inter-sectionalities of race, class and gender, legal reform in post-independence South Africa sought to address diverse forms of apartheid. Sexual minorities joined together with other minorities and ably contested for the inclusion of sexual-orientation among the prohibited grounds of discrimination listed within the Constitution. This was achieved not without opposition from some quarters. Today, South Africa is among the very few countries in the world that constitutionally protects sexual minorities from discrimination, and also recognizes same-sex unions (De Vos and Barnard 2007, Judge et al. 2008, Bonthuys 2008).

## **Homosexuality is a foreign imposition**

Given all these developments towards the recognition, protection and fulfillment of sexual minority rights at the international level and in many mainly Western countries, several conservatives in Uganda advance conspiracy theories about ‘the gay agenda’ of

13 William Roy Leung – a twenty-year-old gay man (i.e. locally called *tongzhi*) challenged four provisions of the Crimes Ordinance for violating privacy and equality protections enshrined in the Basic Law and Bill of Rights. These four provisions included a) buggery between men in the presence of more than two people, b) gross indecency between men even in private in contexts of more than two persons, c) age of consent for gross indecency between men when one partner is under twenty-one years, and d) age of consent for buggery set at twenty-one years and the penalty of life imprisonment for the offender. Not only was the crime different when between people of the opposite sex or between two women, but then the fines were considerably different.

14 Lau (2008:95) explains the grounds of this ruling: ‘To support its conclusion, the Court made two main points. First, relying on medical research, the Court stated that one’s sex is determined by more than just biological factors. Thus, the sex recorded at one’s birth, which is determined by biology alone, can be incorrect because it does not take into consideration emotional and social factors. Second, the Court stated that transsexuals’ human dignity is protected by the Korean Constitution and that maintaining transsexuals’ original sex designation in the register compromises that right to dignity.’

dominating the world by imposing pro-gay rights as the normative standard. Akin to the universal evangelizing objective of Christian missionaries going out into the whole world to convert native men and women, the gay activists' agenda is framed as attempting to spread homosexuality or the acceptance thereof to all the corners of the globe. Thus notions such as 'recruitment of heterosexuals into homosexuality', the universal 'gay agenda', and 'the gay international' fit squarely into this conservative emic understanding and framing of pro-sexual minority rights activism within Uganda. In describing responses to her public advocacy for sexual minority rights, Ugandan feminist professor of law, Sylvia Tamale aptly captures the assumptions undergirding local beliefs about the foreign ties around the homosexuality question:

*'Soon after the newspaper report referred to above, I received an SMS message on my cell phone from one of my friends: "Congs Sylvia; on your way to becoming a millionaire!" She later explained that there was an assumption that my support for the rights of homosexuals meant that money was going to pour in from gay and lesbian organizations in Western Europe and North America to "facilitate" my work. Many more comments along similar lines followed in the electronic and print media. Implicit in these was the supposition that I was involved in a campaign that was driven from the West. The public seemed to think that there was a network of homosexual organizations "out there" with an explicit agenda to "recruit" young African men and women into their "decadent, perverted habits". It is of course interesting that the public never seems to consider heteronormativity as a form of "recruiting" individuals into heterosexuality' (Tamale 2007a:17-18).*

Homosexuality is thus constructed as a foreign practice introduced and imposed upon local indigenous insiders who are assumed to be heterosexual and pro-natalist by default. In constructing the pure Ugandan nation, a caricature of pure heterosexual citizens who enjoy heteronormativity as the reigning social order is vital. In this framing, illusory boundaries of inclusion vis à vis exclusion are constructed based on the imagined sexualities, sexual orientations, desires, practices and behaviours of the citizens. It is asserted that Ugandans are only heterosexual because homosexuality is un-African, and thus not Ugandan. Drawing from this discourse, the Anti-Homosexuality Bill (2009) even went as far as proposing extradition of Ugandans who engaged in homosexuality abroad. Homosexuality is produced and circulated in public discourse as a decadent Western or Eastern practice introduced into an otherwise pure heterosexual Ugandan populace by foreign gay activists. Justifications for the claim that homosexuality is foreign are employed to exclude and further alienate same-sex loving individuals and groups from claiming their rightful citizenship as Ugandan. The sources of these alienating assertions are diverse and multiple. In addition to conservative culturalist, traditionalist, Africanist, nationalist, pro-natalist, pathologizing, and naturalist arguments against homosexuality, fundamentalist religious arguments are also circulated within the antigay movement in Uganda.

In the section below, I discuss some of the key sites of the production of the alienating strategy that asserts that homosexuality is foreign to Uganda specifically, and Africa more broadly.

## Presidential Rhetoric

As President Yoweri Museveni increasingly strengthens his stronghold over national power in Uganda, his speeches and propaganda are widely disseminated and circulated to inform the ideology of the ruling party and thereby influence the citizenry. In the last quarter century, the leadership of Uganda consolidated their position through mass production, dissemination, circulation and recycling of *siasa*. With Museveni at the helm of the National Resistance Movement, his perspective greatly influences the stance, position and values of the ruling party. President Museveni's attitude towards and relationship with same-sex loving people in Uganda has been variously broadcast in the international, regional and local press media. Most notably, President Yoweri Museveni has had a bewildering trend comprised of pendulum swings between blatant denial and acceptance of the existence of homosexuals in Uganda (Ssebagala 2011). During the International AIDS Conference in Durban, he stated that there were no homosexuals in Uganda. Shortly thereafter, he ordered for the arrest and detention of all homosexuals in Uganda after the local public media published the wedding of two gay men in Kampala city.

When he does acknowledge the existence of homosexuals in Uganda, the president mainly alienates them as copying a foreign practice. Katyal (2010:1443) describes him as: 'For example, President Museveni of Uganda, who has campaigned against LGBT rights for over a decade, has called homosexuality "a decadent culture... being passed by Western nationals," and has warned, "It is a danger not only to the Christian believers but to the whole of Africa."

More recently, in response to international pressure in the wake of the Anti-Homosexuality Bill (2009), President Museveni declared that historically homosexuals were tolerated although homosexuality was not encouraged in Ugandan societies (Ssebagala 2011:50, Tamale 2009:50). Toward the end of 2012, the president assured Ugandans and the rest of the world that although parliament was intent upon finalising the decisions about the Anti-Homosexuality Bill (2009), there would be no death penalty imposed upon adult homosexuals in Uganda. The change in Museveni's public stance is attributed to effective donor pressure. Ssebagala (2011:47-48) explains this linking it to the urgent need for donor funds to support the 2011 election campaigns:

*'In the run-up to an election year, Museveni thus needed a lot of money to pay for his campaign. Some estimates in the Ugandan press have placed his campaign spending at close to \$300 million. That money was (and still is)*

*channelled into his coffers by donors in the form of foreign aid and program grants to the Ugandan government. Having already been publicly embarrassed by the same donors in 1999, when he was forced to make a public retreat after he said that homosexuals should be arrested and imprisoned, Museveni would never have endorsed a bill that, as his experience had already told him, would ruffle donors' feathers in the midst of a crucial political season.'*

However, it is important to recognize that this homophobic rhetoric that alienates homosexuality from Africa is not unique to the Ugandan context. Many other national leaders have made similar utterances.

## **The history of Presidential Rhetoric about the un-African-ness of homosexuality**

The national leaders in different African countries have spewed homophobic hate-speech over the years. The presidents of Zimbabwe, Namibia, Swaziland, Zambia, Uganda, Malawi, Kenya, Cameroon, The Gambia, Nigeria and most recently Liberia are some notable examples. The tropes of their arguments draw from the reification of African tradition or culture, conservative religious interpretations, heteronormative moralities and a pro-natalist preponderance (Nyanzi 2013a). Some examples are briefly discussed below.

Starting in 1995, President Robert Mugabe infamously asserted that homosexuals were worse than animals living in the jungle, and worse than pigs and dogs which can differentiate between male and female. To him, homosexuality was 'an abomination, a rottenness of culture' and verily un-African (Epprecht 2004:4). Later in 1997 he candidly assigned the practice to the West and dissociated it from his own country.

*"Let the Americans keep their sodomy, bestiality, stupid and foolish ways to themselves. Let them be gays in the US and Europe. But in Zimbabwe, gays shall remain a very sad people forever' Mugabe said (quoted from Reddy 2002:164).*

In this narrative, homosexuality belongs in America and Europe but not in Zimbabwe. Sodomy along with bestiality belong to the Americans but not to Zimbabweans who are warned of perpetual sadness in the African country.

President Sam Nujoma of Namibia followed suit in December 1996 by calling for the condemnation and rejection of homosexuals who were described as negative influences. Building on the othering tactic of externalizing homosexualities to foreigners, namely Europeans, African homosexuals were thereby alienated.

*“It should be noted that most of the ardent supporters of these perverts are Europeans who imagine themselves to be the bulwark of civilization and enlightenment... We made sacrifices for the liberation of this country and we are not going to allow individuals with alien practices such as homosexuality to destroy the social fabric of our society’ Nujoma said (quoted from Reddy 2002:168).*

In 2001, he called for widespread purges against homosexuals. Addressing students at the University of Namibia, he declared:

*“The republic of Namibia does not allow homosexuality, lesbianism here. Police are ordered to arrest you, and deport you and imprison you.”<sup>15</sup>*

Presidents Arap Moi of Kenya and Chiluba of Zambia often combined the arguments that homosexuality is both un-African and against Christianity in their homophobic narratives.

President Yahya Jammeh of The Gambia threatened to behead homosexuals and gave them an ultimatum to leave the country within 24 hours (see Nyanzi 2013b for details). He threatened to introduce harsh legislation, promised public surveillance of sexual mores and the eradication of bad elements including thieves, drug abusers and homosexuals. Building on religious arguments, he asserted that the Gambia was a Muslim country and hence homosexuality was both ungodly and un-Gambian. This president’s opposition to homosexuality is unrelenting<sup>16</sup>.

Following the widely publicized marriage ceremony of Stephen Monjeza and Tiwonge Chimbalanga in December 2009 in Malawi, these gay men were arrested for breaking constitutional law. They were charged with three counts of gross public indecency and unnatural acts. On being found guilty, the two were sentenced to fourteen years in prison. After intense international pressure, President Bingu wa Mutharika extended presidential pardon to the two men in May 2010. However although he pardoned them, on their release, the president emphasized that homosexuality was alien.

*‘These boys committed a crime against our culture, our religion, our laws. However, as the head of State, I hereby pardon them and therefore ask for their immediate release with no conditions. I have done this on humanitarian grounds but this does not mean that I support this,’ he stated<sup>17</sup>.*

It is striking that President Bingu wa Mutharika was compelled to articulate his distance from supporting what these gay men stood for.

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15 Available at [http://www.afrol.com/News2001/nam008\\_gay\\_purges.htm](http://www.afrol.com/News2001/nam008_gay_purges.htm)

16 For details refer to [http://www.asylumlaw.org/legal\\_tools/index.cfm?category=350&countryID=233](http://www.asylumlaw.org/legal_tools/index.cfm?category=350&countryID=233)

17 Quoted from the Daily Telegraph and available at: <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/malawi/7782886/Malawi-president-pardons-gay-couple-after-UN-pressure.html>

President Ellen Johnson Sirleaf of Liberia most recently joined the entourage of presidents making public utterances on homosexuality. She boldly declared that she was not in favour of decriminalizing homosexuality in Liberia<sup>18</sup>. Her justification was steeped in ‘tradition’:

*“We’ve got certain traditional values in our society that we would like to preserve. We’re going to keep to our traditional values,” Sirleaf stated.*

After international reactions to her stance, President Sirleaf clarified her position as neither repealing the existent sodomy laws nor signing two new bills introducing tougher legislation on homosexuality in Liberia. Her later retraction was influenced by criticism around the contradiction caused because as a 2011 Nobel Peace Prize winner, this president was expected to espouse the ideals of tolerance amidst diversity, human dignity and individual liberties.

The underlying principle of all these different presidents’ homophobic speeches is the emphasis that homosexuality is un-African. These contemporary African national leaders belabour to articulate the position that homosexuality is antithetical to African-ness either on grounds of location, race, origin, religion, culture, tradition, identity or social norms. However, it is also important to highlight that not all African presidents espouse this position. Indeed former President Festus Mogae of Botswana has variously argued for tolerance and protection from discrimination on grounds of sexual orientation. Situating his advocacy within HIV/AIDS prevention, President Mogae spoke against the criminalization of homosexuality. In addition, while visiting Uganda, former President Thabo Mbeki of South Africa clearly argued for the right to privacy, self determination, security and freedom from harm for consenting adults who engage in homosexual practices. Furthermore, in May 2012, the new Malawian president Joyce Banda promised to repeal anti-homosexuality laws specifically Sections 153, 156 and 137A of the penal code. In November 2012, she imposed a moratorium on antigay legislation until parliament debated and decided on the issue. Thus the police was prohibited from arresting or prosecuting anyone based on these laws.

## **Official government policy**

There is evidence that homophobic prejudice influences the actions and plans of key decision-makers, policy formulators and programme implementers operating at diverse national and public levels in Uganda. Some important examples are briefly described below.

Kihumuro Apuuli, the Director General of the Uganda AIDS Commission announced that due to limited funds, the national HIV/AIDS programs would not target homosexuals although men-who-have-sex-with-men (MSM) were a high-risk population group.

Nsaba Buturo, the former minister of Ethics and Integrity was a fervent supporter of the Anti-Homosexuality Bill (2009) and variously alleged that homosexuality was immoral,

<sup>18</sup> <http://www.guardian.co.uk/world/video/2012/mar/19/liberia-tony-blair-anti-gay-law-video>

unethical, unAfrican, outside our culture and a foreign practice (see also Oloka-Onyango 2012). Several other ministers, public officials, religious clerics and leaders have publicly issued homophobic speeches alienating homosexuality as not belonging to Uganda. Tamale's (2007b) edited compilation contains many examples published in the local *vox populi*.

So coercive are these presuppositions that in February 2012, the current Minister of Ethics and Integrity in the Office of the President, Right Reverend Father Simon Lokodo stormed uninvited into a Leadership Skills Building workshop organized for sexual minority groups, ordered the immediate closure of the workshop, and threatened to enforce the arrest of some leaders in attendance. Later in July 2012, Lokodo disrupted and closed another meeting organised for a cross-section of human rights defenders including some leaders of the local sexual minority rights movement. In retaliation, the leadership of the local Ugandan LGBTIQ community sued this Minister of Ethics and Integrity in the Office of the President, alongside the Attorney General for violating their constitutional rights to assemble. The case is ongoing in Uganda's court of appeal.

The law in Uganda forbids the registration of civil society organizations whose activities are criminalized. Because components of homosexual practice are criminalized in Uganda, non-government organisations that support same-sex loving individuals and groups face several challenges with officially registering. Many local LGBTIQ support organizations on the ground in Uganda, thus operate without the legitimacy and cover of registration with Uganda's NGO board. Since the advent of the Anti-Homosexuality Bill (2009), many LGBTIQ organizations were raided, vandalized and exposed to break-ins or theft of property at these office premises. Further arsons and threats of arson were directed at their staff and/or members. At the end of 2012, Fr. Simon Lokodo, the Minister of Ethics and Integrity publicized a list of thirty organizations working with LGBTI and threatened to de-register them. This confirms Alsop's (2009:2044) observation below:

*'Yet, as millions of foreign dollars continued to pour into the country's fight against HIV/AIDS, most programmes targeting sexual minorities were not allowed to register with the government and did not qualify for funding. The two biggest players in the global fight against HIV/AIDS, the US President's Emergency Plan for AIDS Relief (PEPFAR) and the Global Fund to Fight AIDS, Tuberculosis and Malaria, contributed nearly US\$ 300 million dollars into Uganda last year. Only one group seeking to do prevention work among sexual minorities was able to register with the government, and it received just \$5,000' (Alsop 2009:2044).*

The right to freedom of expression of sexual minorities has variously been violated by state agencies in Uganda. Early in 1999 when President Museveni publicly denied the existence of homosexuals in the country, a small group of LGBTI members broadcast a live phone-in radio show in which they self-identified as homosexual Ugandans and spoke out about

diverse issues that challenged their everyday lives. This radio station was fined for airing unsuitable material. The Uganda Media Council has variously banned artistic, theatrical and musical productions that addressed homosexual themes or else contained same-sex loving characters. Three recent examples include:

- i. *'Going Out'* – documentary produced in Uganda with support from several United Nations bodies was banned from showing its launch premiere at the National Theatre on the day of the show. The audience was banned from accessing the theatre because some of the content of this documentary was found to be unsuitable material for public showing. As I sat among a small group of LGBTIQ members waiting outside the theatre doors, we speculated about the eventual possibility of showing this documentary with the approval of the Uganda Media Council. This has not yet happened in Uganda.
- ii. Uganda Media Council also banned a theatrical production called *'The River and the Mountain'* from public showing at the National Theatre in August 2012. This play was based on two main male characters, one of whom was a gay businessman who gets killed because of rivalries at his workplace. The main plot of the play revolves around this character's situatedness within a network of diverse social relationships with family, friends, neighbours, colleagues, employers and factory employees. Although banned, the play was shown at two private venues – one at Tilapia Cultural Centre, a low-key theatre-cum-pub belonging to David Cecil the British produce or the place, and at Mishmash, a restaurant in upper-end Kololo. Shortly afterwards, David Cecil was arrested, tried, released and then rearrested and summarily deported from Uganda on grounds of disobeying the Uganda Media Council's edict not to show the play. Another British actor – Keith Prosser, who had a part in the play was also arrested and threatened with deportation.
- iii. Another musical production entitled *'Lighting the Darkness'* that was produced and performed by the LGBTIQ group called Talented Ugandan Kuchus (TUK) was disrupted and banned on the day of its premier launch at the National Theatre in 2012. After the opening speech delivered by Frank Mugisha – the Director of Sexual Minorities Uganda (SMUG) and an introductory music and dance performance, plain clothes policemen halted the performance and ordered the audience to disperse.

## **The Anti-Homosexuality Bill (2009)**

In addition to culturalist arguments that homosexuality is against the culture and tradition of Uganda, specifically the traditional heterosexual family (refer to Nyanzi 2013a), sexual minority rights activists are alienated from Uganda in the bill. The Anti-Homosexuality Bill is encoded with rhetoric that taints same-sex-loving individuals and sexual minority rights advocates working in Uganda as foreigners. Nyanzi's (2013a) analysis of the rhetorical

appeals of the bill shows that the draftsmen of the bill alienated the values of sexual rights activists from the so called ‘cherished culture of the people of Uganda’. The rhetoric of the bill also presupposes that sexual rights activists are excluded from the people of Uganda. One of the stated aims of the Anti-Homosexuality bill is worded thus:

*‘The bill further aims at providing a comprehensive and enhanced legislation to 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... ’*

It is noteworthy that while the values that sexual rights activists seek to impose on the people of Uganda are defined as sexual promiscuity, this is framed as being located outside the cherished culture, legal, religious and traditional family values. The false assumption that all sexual rights activists are external to Uganda is particularly alarming in its attempts at invisibilizing and totally erasing the growing local grassroots social movement of sexual rights activists operating in the country. In the wild imagination of the draftsmen of the Anti-Homosexuality Bill (2009), while these imagined foreign sexual rights activists are active, the people of Uganda are projected as passive powerless beings who are easily bullied or fooled into accepting whatever impositions are thrust their way. This representation is not only an injustice to the intelligence, innovations, resourcefulness and boundless energies of Ugandan sexual rights’ activists, but also exposes the pure arrogance and broad ignorance about local Ugandan lives on the part of the bill’s draftsmen. To suggest that sexual promiscuity in itself would be an imposition on the people of Uganda, is to miss the wide varieties of locally occurring sexual behaviours, practices, meanings, cultures and mores of diverse peoples of Uganda. For example Nyanzi et al.’s (2009) ethnographic examination explores the layers of the cultural significance and meanings of male promiscuity among Baganda men in the time of HIV/AIDS.

## **Sexuality Education**

Socially approved sexuality education programmes in Uganda are generally heterosexist and totally blind to the diversity of homosexualities enacted within the local LGBTIQ population. Efforts to reassert the overt heterosexualisation of sexuality education curriculum ostracise and incriminate materials produced to inform people about same-sex desire, more so if the targeted audience comprises minors below the age of eighteen. Even when produced in the context of safe-sex public health education, these materials are generally misrepresented as immoral, pornographic, criminal or alien. Under this context, the antigay movement in Uganda de-campaigned the circulation of a safe-sex education manual produced for children.

During a public dialogue organised by the Faculty of Law at Makerere University in 2009, Pastor Steven Langa decried the publication and massive circulation of this sex education book for teenagers that was produced and distributed through the Ministry of Education by UNICEF. This sex education book for teenagers did not condemn homosexuality, but rather referred to it as natural and one of the possible ways in which young people may experience their sexual selves. The antigay movement in Uganda gave this example as evidence that the gay agenda was infiltrating the country and recruiting children into homosexuality using powerful institutions of the United Nations.

Furthermore, Pastor Martin Ssempe also denounced this sex education book at a public seminar organised by the Uganda Human Rights Commission to discuss the Anti-Homosexuality Bill and attended by various stakeholders including parliamentarians, psychiatrists, medical doctors, HIV/AIDS counsellors, prison officials and wardens, civil society organisations, Muslim and Christian religious leaders, members of foreign missions, academics, lawyers and sexual minorities. During this public seminar, Ssempe emphasised that UNICEF hoodwinked the Ministry of Education sector which is responsible for assessing and approving the quality and standards of teaching materials distributed in institutions of learning in Uganda. The tactful manipulation and deception of UNICEF in order to advance the gay agenda in Uganda was presented to those of us in the audience.

Sharlet (2010:42) reported that Pastor Michael Kyazze of Omega Healing Centre also claimed UNICEF was a tool of the gay agenda in Uganda. During an interview Kyazze told Sharlet, “The homos use UNICEF – this is true – to attempt to colonize Uganda.”

## **Withdrawal of foreign aid in response to the Anti-Homosexuality Bill**

Ssebagala (2011:44) reports that ‘From the time of its induction to its final shelving, the anti-gay bill elicited a ferocious response from the international community.’ An important aspect of this response was the threats or actual withdrawal of foreign aid from bilateral and multilateral donors – a strategy undertaken to assert diplomatic pressure on the Ugandan government to effect a dismissal or rejection of the Anti-Homosexuality Bill (2009).

In December 2011, President Barack Obama of the United States instructed diplomatic missions and agencies using foreign aid to promote and protect the rights of LGBT citizens abroad. It was important for US officials to consider countries’ treatment of sexual minority populations when deciding about allocations of foreign aid. Eliminating the discrimination against LGBT – through combating criminalisation of LGBT status or conduct, protecting vulnerable LGBT refugees and asylum seekers, and engaging international organisations in the fight against stigmatisation - was firmly placed within America’s commitment to promote human rights. Earlier on during the annual National Prayer Breakfast held for politicians and

religious leaders in Washington in February 2010, Barack Obama clearly criticized the Anti-Homosexuality Bill (2009):

*'We may disagree about gay marriage, but surely we can agree that it is unconscionable to target gays and lesbians for who they are, whether it is here in the US or... more extremely, in odious laws that are being proposed more recently in Uganda.'*

In a speech delivered in Geneva to mark the International Human Rights Day in 2011, Secretary of State Hillary Clinton backed this directive of the president, further publicising the new leadership strategy of tying conditionalities of respecting LGBTI rights to donations of foreign aid.

*'Gay people are born into and belong to every society in the world... Being gay is not a Western invention. It is a human reality,' Hillary Clinton said.*

Earlier on in June 2011, Clinton welcomed the UN resolution of the Human Rights Council on equal rights for all regardless of sexual orientation.

In October 2011, the United Kingdom's Prime Minister David Cameron reiterated that Britain was going to use diplomatic pressure to push for the protection of the rights of LGBTI people by tying this condition onto the giving of foreign aid. During a summit held for the Commonwealth Heads of Government (CHOGM) in Perth, Australia, David Cameron declared that countries that ban homosexuality risked losing aid payments unless they reformed. This echoed former Prime Minister Gordon Brown's opposition to the Anti-Homosexuality Bill (2009) that was declared during the preceding CHOGM meeting held in November 2009.

Other bilateral and multilateral donor partners to Uganda warned that they would withdraw their developmental aid if Uganda's parliament approved the passing of the Anti-Homosexuality Bill. The European Parliament, France, Sweden, and Germany are among the countries that publicly took a stance against this proposed legislation.

**Sharlet (2010:44) ably describes the impact on foreign aid:**

*'Prophecy isn't kind, but Bahati was Brave. He knew his bill, if passed – and in Uganda, voters wanted it passed – would lead to a great forsaking, indeed: of foreign aid, the lifeblood of what passes for an economy in a country where jobseekers outnumber jobs fifty to one. People would starve. There would be no money for AIDS. And it might be worse than that...'*

**Furthermore, Alsop (2009) captured another of Bahati's announcements related to foreign aid.**

*'Before ceding the podium, Bahati had one last point to make. "This is not a Ugandan thing," he said, his chest swelling with indignation. "Homosexuals are using foreign aid organisations to promote this. If an organisation is found to be promoting homosexuality then their licence should be revoked."'*

Responses to the criticism and pressure from foreign partners who highlight Uganda's cruel treatment of homosexuals are met with mixed responses in the country. A recent and widely publicized example is the diplomatic drama that ensued between the Ugandan Speaker of Parliament Rebecca Kadaga, and the Canadian Minister of Foreign Affairs John Baird in October 2012, during the 127<sup>th</sup> Inter-Parliamentary Union's Assembly held in Quebec. Baird criticized Uganda's treatment of homosexual people, the proposed Anti-Homosexuality Bill, and specifically cited the example of the brutal death of David Kato – a local gay rights activist who was bludgeoned to death in January 2011. In response, Rebecca Kadaga told off her host, reminding him that Uganda was a sovereign country<sup>19</sup>.

*'When we came for this Assembly, to which we were invited, we expected respect for our sovereignty, our values and our country. I, therefore on behalf of the Ugandan delegation, and indeed the people of Uganda, protest in the strongest terms the arrogance exhibited by the Foreign Minister of Canada, who spent most of his time attacking Uganda and promoting homosexuality. Mr. President, I was not aware that we had been invited to promote homosexuality in this Assembly... Let me take this opportunity to clarify that as a Speaker of Parliament, it is my responsibility to protect the rights of Members of Parliament, hence I cannot deny them the right to move Private Members Bills. The debate on homosexuality is not a settled matter. This debate began in the USA in 1967. To date 39 states in the USA prohibit same sex marriages. In the Anglican Church the matter is not yet settled. Indeed in the Anglican Church of the USA, some provinces pay allegiance to the Church of Uganda because they do not believe in homosexuality. Mr. President, if homosexuality is a value for the people of Canada, they should not seek to force Uganda to embrace it. We are not a colony or a protectorate of Canada. The subject under discussion is "Citizenship, Identity and Linguistic and Cultural Diversity in a Globalised World". Please stick to it. Please respect our sovereign rights, our cultural values and societal norms,' Kadaga stated, amidst audible support from some of the sitting members present at the assembly.*

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19 Full text of speech is available at <http://parliament.go.ug/new/index.php/about-parliament/parliamentary-news/124-speaker-clarifies-uganda-parliament-s-stand-on-homosexuality>

On her return to Uganda, the Speaker of Parliament and her delegation were welcomed at the airport by a throng of religious leaders, politicians, parliamentarians and ordinary citizens jubilating over how she admonished Canada and rejected its neo-colonialism projected through imposing the acceptance of homosexuality. Rebecca Kadaga was widely hailed in the local public media for vociferously defending Uganda's sovereignty in the public view and hearing of former colonisers. The emic associations made between opposition to LGBT rights and anti-colonialism are aptly described by Kaoma (2009:4) below:

*'Africans resonate with the denunciation of homosexuality as a postcolonial plot; their homophobia is as much an expression of resistance to the West as a statement about human sexuality.'*

The need to resist neocolonial imposition of Western morality and sexual culture is echoed in Katyal's discussion of what connected members of the American Christian Right with Ugandans into the antigay movement:

*'Yet unusually, the perception of LGBT visibility throughout the West, coupled with a deep colonial sentiment, fueled a camaraderie between Western evangelists and Ugandan officials, both of which joined forces against gay rights, motivated by a cultural fusion of religious intolerance and anti-Western sentiments, respectively' (Katyal 2010:1453).*

## **Pro-gay financial support channelled into Uganda's LGBTIQ social movement**

Beyond the foreign aid tied to conditionalities of respecting, fulfilling and protecting the human rights of LGBTI in Uganda, is the foreign funding targeted at eliminating all forms of discrimination on the grounds of alternative sexual orientations and gender identities. Donor funds channelled into Uganda to support the activities of the local LGBTIQ movement focus on the formation and establishment of grassroots organisations providing support to specified groups or individuals, provision of resources to cater for routine overhead costs of running offices and operational coordination sites, capacity building and skills development in a range of fields, protection and safety, evacuation, advocacy and awareness-raising, research and documentation, effective litigation and decriminalisation strategies, and service delivery in areas as broad as health, education, income generation, housing, etc. While some of these funders have an open policy about their funding, others prefer secrecy. The financial support received in Uganda by different members and groups of the LGBTIQ communities comes from diverse sources operating at a range of levels. These include multilateral bodies such as the Global Fund and the Global Fund for Women, bilateral bodies such as the development agencies of diverse foreign missions including Swedish International Development and Cooperation Agency (SIDA), United States of America International Development (USAID),

Department for International Development (DfID), Danish International Development Agency (DANIDA), non-governmental organisations, charities and foundations such as Arcus Foundation, ASTRAEA, Diakonia, Elton John Foundation, American Foundation for AIDS Research (AMFAR), Ford Foundation, Open Society Institute, Thiel Foundation, Human Rights Foundation, American Jewish World Services (AJWS) etc.

## **International awards received by LGBTIQ leaders**

The leaders of the local LGBTIQ movement have recently won a growing number of prestigious international human rights awards in recognition of their struggle for sexual minorities in Uganda. Some of these awards include:

- i. Human Rights First award given to Julius Kaggwa in 2010
- ii. Thorolf Rafta Memorial Prize given to Frank Mugisha in 2011
- iii. Martin Ennals Award for Human Rights Defenders given to Kasha Jacqueline in 2011
- iv. United States' Department Human Rights award given to the CSCHRCL in 2011
- v. Robert F. Kennedy Human Rights award given to Frank Mugisha in 2011
- vi. Clinton Global Citizen award given to Pepe Onziema and Bishop Christopher Ssenyonjo in 2012
- vii. Nuremberg International Human Rights award given to Kasha Jacqueline in 2013.

## **Offering asylum to persecuted LGBT from Uganda**

Starting in 1999, when President Museveni ordered police officials to arrest homosexuals, same-sex loving Ugandans have increasingly sought and obtained asylum to second countries in North America and Western Europe. This emergency response to outbreaks of state-instituted homophobic violence and purges through arrests, blackmail and extortion, became established within the foreign missions and visa consulates of some embassies. It generated a culture of euphoric fantasies of flight among some same-sex loving individuals living in Uganda. The possibilities of evacuation and asylum are widely circulated and interpreted within the public discourse as proof that homosexuality is sustained and protected by foreigners who even go to the lengths of offering refuge to their queer allies in Uganda in the event of threats and emergencies resulting from their alternative sexual orientations and gender identities.

## Homophobia is a foreign ideology

The complexity of analyzing the notion of foreignness as applied to the homosexuality question in Uganda is apparent from evidence of foreign influence over the endeavours of the antigay movement operating locally on the ground. As highlighted in the introduction to this chapter, the paradox of foreign influence is cast into sharp relief when LGBTI individuals who are accused of indulging in the ‘foreign practice of homosexuality’ respond that it is homophobia which is a foreign imposition onto the African continent and Uganda specifically.

In the following section, I turn to a discussion of the evidence for and public discourse about the foreign influences informing and sustaining the opposition to homosexuality in Uganda. At the core of this counter-narrative is the neo-imperialistic importation of cultural wars that are packaged as public policies or social policies to be acted upon by state agents and institutional representatives.

## Importation of outdated cultural wars as neo-colonial policy

American-based critique, Ramos (2009) appropriates the trade metaphor of exportation. Antigay campaigns that are fervently rolled out in Uganda are framed by conservative Christians based in America and then exported as political discourse and public policies to be implemented en masse.

*“Just as the United States and other northern societies routinely dump our outlawed or expired chemicals, pharmaceuticals, machinery, and cultural detritus on African and other Third World countries, we now export a political discourse and public policies our own society has discarded as outdated and dangerous (emphasis mine). Pending federal legislation in Uganda, would impose the death penalty for certain kinds of homosexual activity and also criminalize human rights advocacy by or for sexual minorities. Language in that bill echoes the false and malicious charges of a sinister western ‘gay agenda’ (emphasis in original) made in Uganda by U.S. antigay activist and Holocaust revisionist Scott Lively. Rick Warren, whose influence in Uganda extends to a close personal relationship with First Lady and member of Parliament, Janet Kataha Museveni, positions himself as a moderate on gay issues in the U.S. but declared in Africa in 2008 that, ‘Homosexuality is not a natural way of life and thus not a human right.’ That same year he christened Uganda a ‘Purpose Driven Country’. Africa’s antigay campaigns are to a substantial degree made in the U.S.A.” (Ramos 2009:iii).*

A Zambian priest based in America who conducted research in Uganda and attended the infamous seminar entitled “Exposing the Homosexual Agenda” which was an important precursor to the drafting of the Anti-Homosexuality Bill (2009) employs the analogy of

African religious leaders being proxy fighters in a cultural war launched by the American Christian Right against the equality of same-sex-marriages and the ordination of LGBT clergy.

*“U.S. conservatives mobilized African clergy in their domestic culture wars at a time when the demographic centre of Christianity is shifting from the global North to the global South, increasing Africa’s influence on Christianity worldwide. American conservatives who are in the minority within mainline churches depend on African religious leaders to legitimize their positions. The intensity of the resulting debates promotes the very real threat of schism in global church bodies, particularly within the global Anglican Communion of which the Episcopal Church, USA is a part” (Kaoma 2009:3).*

According to Kaoma (2009:3), American conservatives successfully recruited many prominent African religious leaders to a campaign restricting the human rights of LGBT people and consequently slowed down recognition of their equal citizenship status. A direct result of this campaign is the rise of homophobia in Africa from violence to antigay legislation that carries the death penalty.

Sharlet (2010:37) likens Uganda to a testing ground upon which the American Christian Right experiments with its ideas of theocratic rule. He states that:

*‘For years, American fundamentalists have looked on Uganda as a laboratory for theocracy, though most prefer such terms as “government led by God.” They sent not just money and missionaries, but ideas, and if the money disappeared and the missionaries came and went, the ideas took hold. Ugandan evangelicals sing American songs and listen to sermons about American problems, often from American preachers. Ugandan politicians attend prayer breakfasts in America and cut deals with evangelical American businessmen.’*

The foundations of the antigay movement are reminiscent of colonial meddling in native affairs. Given that the current laws are remnants of British colonial legacy, it is noteworthy that the proposed legal reform contained within the Anti-Homosexuality Bill (2009) bears continuities of imperialism. If the genesis of the bill against homosexuality was indeed informed by foreign Westerners, and passively received by gullible Ugandan actors for implementation, then one of the pillars of the antigay movement is infused with the very foreignness the bill seeks to correct. Considering the virulent opposition to homosexuality as an indigenous practice, that is evident among the local antigay movement in Uganda, it is important to identify the grounds upon which claims for the foreignness of homophobia are based. What evidence is given to support the role of foreigners in exporting religious homophobic aggression which culminated into the drafting of the Anti-Homosexuality Bill (2009)?

## Seminar on “Exposing the Homosexual Agenda” in Kampala

Conception of the idea of stringent legislature against homosexuality is strongly linked to a seminar entitled “Exposing the Homosexual Agenda” that was organized in Kampala by Pastor Stephen Langa of Watoto Church, and the Executive Director of Family Life Network. This seminar ran for two days in March 2009. Key speakers at the seminar included prominent members drawn from the American Christian Right who were also members of the ex-gay movement that believed in healing homosexuality through deliverance by Jesus Christ. These speakers were:

- Scott Lively, the president of Abiding Truth Ministries in Massachusetts who co-authored *The Pink Swastika: Homosexuality in the Nazi Party* - a book that links Nazism to the gay agenda of dominating the world, and *Seven Steps to Recruit-Proof your Child* – a manual that guides against being indoctrinated into accepting homosexuality as a normal aspect of life.
- Rick Warren, the founder and senior pastor of Saddleback Church – a megachurch located in Lake Forest, California, who authored *The Purpose Driven Life* and preaches against same-sex unions.
- Caleb Burnbridge of Exodus International, a Christian organization that preaches that homosexuality is sinful abomination from which individuals can be healed through salvation in Jesus Christ.

The seminar’s emphasis on ‘the Gay Agenda’ to dominate Uganda by first enticing vulnerable populations comprising the youths, members of lower income brackets, and decision-makers, created moral panics driven by nationalist and anti-colonial sentiments of opposing neocolonialism. The fact that American Christians who were also leaders within the ex-gay movement were teaching about this foreign gay agenda that firmly located homosexuality as an outsiders’ imposition from the Western world, was convincing to the Ugandan audience. Some of these speakers presented themselves as former insiders of the Western LGBT movement who were divinely delivered from the stronghold of homosexuality and subsequently lived to testify about the inner schemes, ploys and workings of the implementers of the gay agenda. In their presentations, they revealed the strategies used to accomplish the gay agenda throughout the world, and specifically in Uganda. Conflating homosexuality with pedophilia, the different speakers compelled their audience to take a public stance against the perversion of homosexuality. As a development from the intense moral panic created particularly among parents and other adults intent upon protecting the nation’s children from predatory homosexual perverts, a massive campaign to obtain signatures for a petition to parliament was mounted. Two million signatures from Ugandan citizens were obtained and presented to the Speaker of Uganda’s parliament, petitioning the members of parliament to pass the Anti-Homosexuality Bill (see Wilson 2012 for details).

The literature has got evidence that links this seminar to consolidating efforts that went into drafting the Anti-Homosexuality Bill (2009). Kaoma (2009:2) asserts that the seminar was promoted by the U.S. Christian Right.

**According to Katyal (2010:1450):**

*'But perhaps the bill's most shocking aspect was that it has an American genesis of sorts; it was partly inspired by a visit to Uganda, a few months before the bill was introduced, by a group of evangelicals who have become involved in the "ex-gay" movement in the United States.'*

**Sharlet (2010:41) further explains that:**

*'...a small coalition of Ugandans, inspired by American fundamentalists, set out to "change the law." In the beginning they weren't shy about their American influences. They invited American antigay activists, most notably Scott Lively... to address Parliament and even drafted the bill with what appeared to be the concerns of their American friends in mind.'*

Analysts debate the plausibility of the projected redundancy and passive role of Ugandans who were unable to initiate their own processes of legal reform. However, the heavy hand of foreigners in instigating the genesis of the Anti-Homosexuality Bill (2009) is unmistakable.

## **Ugandan LGBTIQ sue Scott Lively using the Alien Tort Statue**

Further evidence that clearly reveals the role of foreign influence over local opposition to homosexuality is the recent contentious federal law suit of *Sexual Minorities Uganda (SMUG) v. Scott Lively*. Represented by the Center for Constitutional Rights (CCR) in March 2012, the umbrella organization Sexual Minorities Uganda (SMUG) sued Scott Lively for violating international law by inciting persecution of same-sex loving people in Uganda. This case uses the Alien Tort Statue which is a powerful legal tool that facilitates foreign victims of human rights abuses to seek civil remedies in courts in the United States of America<sup>20</sup>. Early this year (January 2013), members of the local LGBTIQ movement in Uganda travelled to the hearing of the proceedings of this court case. Scott Lively appeared in person to the hearings. His lawyers initially requested the judge for a motion to stay which was opposed by the complainants and denied by court. In response Scott Lively filed a motion to dismiss which was similarly opposed by SMUG. The present status of this case is pending the court's ruling on the defendant's motion to dismiss.

Whether or not the Ugandan LGBTIQ complainants win the case is immaterial. The significance of the *SMUG v. Scott Lively* case for the arguments of this paper is the fact that

<sup>20</sup> Details of the case are available at <http://www.ccrjustice.org/ourcases/current-cases/sexual-minorities-uganda-v.-lively>

concrete material is provided for the claim that foreigners indeed influenced the consolidation of opposition to homosexuality in Uganda. Identifying characters, naming persons, singling out processes of cause and effect, and publicly demanding individuals to give accountability for their actions that contributed to fomenting the widespread opposition to homosexuality are all facets of the significance of this case. Making an example of Scott Lively sounded a warning to other foreign Christian Rightists and may perhaps check on their future haste to further ignite anti-homosexual sentiments away from home. Indeed, the retaliation of the local LGBTIQ movement alongside appeals from human rights organizations, donor institutions and political leaders led to the retraction of support from some initial die-hard proponents of the antigay movement. For example Rick Warren later disassociated from Martin Ssempe and denounced support for the Anti-Homosexuality Bill on his website in 2009 and more recently in 2012 (Zaimov 2012). Likewise, the board of Exodus International issued a statement on the Anti-Homosexuality Bill (2009) in 2010 and later in 2012.

## **Legal technical assistance for drafting the Anti-Homosexuality Bill (2009)**

In Katyal's (2010:1422) discussion of constitutional diaspora which is created by borrowing legal principles across jurisdictions, she specifically refers to '...Uganda where **American evangelists reportedly offered legal technical assistance in crafting a vociferously antigay piece of legislation.**'

It is possible that the legal technical assistance offered by American evangelists in the drafting of the Anti-Homosexuality was designed as a counter-measure against replicating legal precedent that over-turned sodomy laws in other parts of the world including America. Advancing this line of argument, Katyal (2010:1444) explains the legal practice of constitutional non-borrowing as backlash to the advances made by *Lawrence v. Texas* in America:

*'Moreover, as the example of Uganda illustrates, accounts that attribute homosexuality (or LGBT liberation) to the West overlook the growing influence of antigay activists who travel from (emphasis in original) the West to other nations in hopes of enacting further legislation. Not only are these groups extraordinarily powerful within the West, but their influence in advocating for a kind of constitutional nonborrowing of principles of LGBT equality is steadily growing outward...'*

### **She further explains:**

*'...a powerful new trend of legal and statutory technical assistance across jurisdictions that stems from the growing role of American evangelicals*

*within the global movement against LGBT equality. I would argue that this trend represents, indirectly, a new strain of legal technical assistance, one that stems, not from the borrowing of legal principles after Lawrence, but from the nonborrowing, or rejection of them, by major players in postcolonial states, specifically Uganda... what may have informed Uganda's vociferous gay agenda stems from the desire, perhaps indirectly fed by Lawrence's outcome, to distinguish itself from the West generally, and from LGBT rights specifically (Katyal 2010:1449-1450).*

The principle of constitutional non-borrowing is evident in the spirit of re-criminalization that is embedded within the aim of the Anti-Homosexuality Bill (2009) of introducing stricter legislation to prevent the legal recognition of non-heteronormative sexual orientations and gender identities. Given that Uganda's Constitution was amended in 2005 to outlaw same-sex marriage unions (see Mujuzi 2009), in addition to the Penal Code's criminalization of 'carnal knowledge against the order of nature', one wonders about the impetus of this bill's re-criminalization efforts.

## **Antigay financial support from America to local political and religious leaders**

As discussed above, foreign money is widely associated with the local LGBTIQ movement - specifically with advocacy and interventions against discrimination based on sexual orientation and gender identity. There is significantly much less attention paid to the billions of foreign cash transferred into Uganda to support the opposition of homosexuality. According to Ssebagala (2011:57),

*'It goes without saying that, if Uganda's gay rights activists have benefitted from the generosity of overseas benefactors, so too have the enemies of Uganda's gay community, who have received ample patronage from abroad to fund their hate campaigns and pad their increasingly well-stuffed pockets.'*

Where this claim is made, it often goes unsubstantiated with evidence because the paths of these monetary transfers are often concealed or erased, and thus rendered untraceable. Systematic literature review uncovered some rare discussions of these transactions and flows of foreign cash to support the opposition of homosexuality in Uganda.

Kaoma (2009:3) identifies and names the Institute on Religion and Democracy (IRD) as 'one of the main organizations promoting homophobia in both Africa and the United States over the last decade'. He further characterizes this institute as 1) a well-funded neo-conservative think tank that opposed African liberation struggles, 2) presenting commitments to human rights as imperialistic attempts to manipulate Africans into accepting homosexuality which is characterized as a purely western phenomenon, and 3) having a long-term, deliberate

and successful strategy of weakening and splitting mainline denominations by blocking progressive social witness and instead promoting political and social conservatism. The Institute on Religion and Democracy promotes the antigay social position- ‘...sometimes through deception but **always through substantial financial incentives to African religious leaders...**’ (Kaoma 2009:3).

Sharlet (2010:37) specifically identifies the Family – a cult of American Christian Right politicians, statesmen and high-ranking public officials as having developed, established and groomed linkages with parliamentarians and other politicians in the Ugandan government. He explains that:

*‘The fellowship is the Ugandan Parliament’s branch of an American evangelical movement of the same name, also called the Family. The Family differs from most fundamentalist groups in its preference for those whom it calls “key men,” political and business elites, over the multitude.’*

Outspoken American antigay activists who are longtime Family men such as Republican Senator Jim Inhofe of Oklahoma and former attorney general John Ashcroft frequent the Ugandan Fellowship’s weekly meetings. As a fundamentalist strategy, investing in leaders who influence the opinions, attitudes, knowledge and behaviour of the masses under them, produces long-term effects through diffusion. Sharlet (2010:37) further reports about The Family that:

*‘In the past ten years, it has poured millions into “leadership development” there, more than it has invested in any other foreign country, and billions in U. S. foreign aid have flowed into Ugandan coffers since a Family leader turned on the tap twenty-four years ago for President Yoweri Museveni, a dictator hailed by the West for his democratic rhetoric and by Christian conservatives for the evangelical zeal of his regime.’*

According to Sharlet (2010:42), Pastor Martin Ssempe’s church received USD 90,000\$ through the American federal anti-AIDS program. Ssebagala (2011:46) aptly surmises the Christian Rightists’ financial undertones undergirding the Anti-Homosexuality Bill:

*‘Bahati had put practically every outrageous clause he could think of in the bill. You couldn’t find a better example of a bill designed on the back of a tithing envelope in the midst of an Elmer Gantry feverish night prayer.’*

## **Targeted connections with influential political and religious leaders**

Leaders of the antigay movement in Uganda are associated with mentors from the American Christian Right. While Stephen Langa's senior pastor is Gary Skinner – an American who founded and heads the Watoto Church which was formerly known as the Kampala Pentecostal Church (KPC), Martin Ssempe was bosom-friends with Rick Warren, and Julius Oyet was mentored by the American New Apostolic Reform (NAR). David Bahati is mentored by Tim Kreutter, a member of the Family.

According to Sharlet (2010:43), Bob Hunter who formerly worked with the Ford and Carter administrations in America, initiated and established the Family's relationship with Museveni's government when it came into power in 1986. Hunter was also the Family's spokesman on the Anti-Homosexuality Bill and claimed it was not only the wrong way to address homosexuality in Uganda, but also created a public relations problem for the Family. Gay rights groups protesting the Anti-Homosexuality Bill called on President Barack Obama not to attend the 2010 National Prayer Breakfast in February. David Bahati reported to Jeff Sharlet (2010:43) that in attempt to control the pressure from the gay rights groups and the publicity of the link between the Family and Uganda's Anti-Homosexuality Bill, Bob Hunter cautioned against the disruption and embarrassment that the bill was causing.

David Bahati, who tabled the Anti-Homosexuality Bill (2009) as a private member's bill is described as "the de facto leader of the Ugandan branch of The Family" (Sharlet 2010:37). During an interview, Jeff Sharlet reports Bahati referring to words from Rick Warren: "He said homosexuality is a sin and that we should fight it," Bahati recalled of Warren's visits' (Sharlet 2010:37). Tim Kreutter who is Bahati's mentor is a Family man (Sharlet 2010:45).

There is evidence that Rick Warren and Martin Ssempe regularly visited. Sharlet (2010:42) reports that Martin Ssempe appeared at Rick Warren's Orange County megachurch in 2005 and 2006, soliciting a teary welcome from Warren's wife. Wilson's (2012) serialized analysis highlights how Bishop Julius Oyet, another stalwart of the local antigay movement is closely shepherded by the NAR.

## **Discussion: Paradoxes and ironies of foreignness within homosexuality debates in Uganda**

I have sought to unpack the multiple layers of paradoxical complexity surrounding the claims of foreignness in the homosexuality debate in Uganda. Advancing the discussion beyond the bipolar polemics of 'homosexuality is foreign to Uganda and Africa' versus 'homophobia is foreign to Uganda and Africa,' I have shown how the alienating idiom of foreignness is doubly implicated in diverse facets on both sides of the debate. By juxtaposing the foreign

attributes of the local LGBTIQ movement with those of the local antigay movement in Uganda, I have complicated and dismantled the foundations for any simplistic claims about the pure indigenesness and uncorrupted Africanness of either homosexuality or homophobia. Set against the backdrop of an outline of developments on the international scene pertaining to the recognition, fulfillment and protection of the human rights of people with non-heteronormative sexual orientations and gender identities, I discussed key components of local □ global transnational flows.

Although the Anti-Homosexuality Bill (2009) targeted same-sex loving individuals and groups in Uganda, it generated a much more globalised response, invoking the actions and interventions of multiple foreign actors beyond the boundaries of the Ugandan state. Transcending its target sphere of human sexuality, the homosexuality question in Uganda stretched its tentacles into the spheres of legal jurisprudence – at the international, regional and national levels, economic policy including donor funds for development aid, politics such as is relevant to foreign diplomatic relations, the impact of global organizing on local possibilities, the quest for fluid social cultural sexual norms amidst cultural conservatism vis à vis cultural imperialism, as well as questions of state sovereignty in a globalised world order. Thus, indeed the specifics of the local issues are very much implicated in and informed by the possibilities of the global, and vice versa. Likewise, in the debate about homosexuality in Uganda, the local indigenous terrain is defined, shaped and informed by diverse happenings in multiple foreign planes, just as the foreign is implicated in the indigenous.

Although I have only selected the more prominent cases that dealt with discrimination on the grounds of non-heteronormative sexual orientations and gender identities from different parts of the world, there is evidence that legal decisions are increasingly being made to overturn sodomy laws. Many of these cases are from international forums such as the United Nations Human Rights Committee (UNHRC) and regional courts especially the European Court for Human Rights (ECtHR). It is important to reiterate that this review of previous cases highlights that while many legal victories for sexual minorities were located in jurisdictions based in North America and Europe – i.e. the Western world, several other prominent cases that repealed sodomy laws were from non-Western countries in Asia, Latin America, and Africa. This evidence from legal review punctures the argument that legal reform and advocacy for sexual minority rights is necessarily an exportation imposed from the West. Indeed the far-strung examples of Constitutional reform to recognize non-discrimination on the grounds of sexual orientation in South Africa, the *Naz Foundation v. NCT* case which repealed section 377 in India, and the legal recognition of the post-operative sex of transsexuals in Hong Kong and Singapore attest to diverse non-Western jurisdictions advancing the protection of sexual minorities. Likewise, some of the test cases handled by the UNHRC and by courts in the West, did not decide in the favor of sexual minority rights, for example the right to freedom of expression and information was challenged when public media workers lost the case in which radio and television programmes focusing on homosexuality were censored by

state representatives in Finland, and same-sex unions in New Zealand were not recognized because of legal technicalities that defined marriage as union between a man and a woman. Indeed, an examination of this sample of legal cases disrupts the neat bi-polar classificatory association of the West with pro-gay rights and the non-West with the antigay movement. It echoes Katyal's (2010:1442) summation that:

*“...at times, non-Western jurisdictions are painted as pre-modern and constitutionally less developed, in comparison to the West. The migration of legal principles, particularly, as they often occur, from Western to non-Western jurisdictions, also tends to facilitate a similar kind of simplistic polarity that at times offers the West as analytically and constitutionally more sophisticated from other, non-Western jurisdictions, thus suggesting that Western legal principles are deserving of an unparalleled level of exportation.”*

As highlighted in the Indian example, in the legal battle for decriminalizing homosexuality, it is indeed possible to constitutionally borrow foreign precedent from countries beyond the West, including South Africa, Fiji, Ecuador, Japan, Hong Kong (*see also* Lau 2008, 2010). Legal reform in South Africa was intrinsically an African battle. Thus contestations for decriminalizing sodomy laws are not necessarily a Western importation.

Events unfolding in the international conferences organized by the United Nations – i.e. Vienna, Cairo, Beijing and the Hague reveal a surprising finding regarding the United States of America. Contrary to the propaganda spread by the antigay movement in Uganda about the automatic default position of the West in dogmatically advancing the recognition, protection and fulfillment of rights for sexual minorities, the United States seems to consistently align with the Vatican, Holy See and Organisation of Islamic Countries (OIC) to challenge the inclusion of sexual orientation when drafting conference resolutions. Furthermore, according to Sanders (1996), the suspension of the International Lesbian and Gay Association (ILGA) from consultative status at the United Nations was instigated and enforced by the United States. The previous role of the United States in opposing the advancement of efforts at the international level to prevent discrimination on the grounds of sexual orientation and gender identity sharply contradicts its more recent foreign policy – specifically the tying of conditions for protecting LGBTIQ rights to donations of foreign aid. Given that several American states still criminalize homosexuality, what moral authority does the United States have to issue ultimatums about and set the standards for the protection of LGBTI rights in the rest of the world? Isn't this a case of 'Do as I say but do not do as I do' – a failure to put their weight behind their mouth? The double standards apparent between the home and foreign policies of the United States compromise the potency of its threats to withdraw bilateral donor aid. Furthermore, the role of the United States in the homosexuality debate in Uganda is deeply troubled because while some Americans lobby for LGBTIQ rights, others – particularly in the form of conservative American Christian Rightists support the local

antigay movement. Thus the meddling hand of the United States is evident on both sides of the homosexuality debate in Uganda.

The United Kingdom provides another important case of a foreign country with a convoluted role in Uganda's homosexuality debate. Both the former and present British Prime Ministers issued statements against the Anti-Homosexuality Bill (2009). Similar to the United States, David Cameron's foreign policy also threatened to cut development aid to countries in which homosexuality is repressed. What the British leaders failed to publicly recognize was the irony of their ultimatums and threats to Uganda, particularly given that the present legal regime whose statutes criminalize homosexuality, is a legacy of British colonial rule. Prior to colonization, Uganda's customary law was not codified and ambivalent in its treatment of homosexual subjects. However, British colonial administrators introduced books of law fashioned along prudish Victorian moralities, in which same-sex behavior was criminalized under the crime of 'carnal knowledge against the order of nature'. This colonial law was inherited in October 1962, when Uganda gained flag independence. It was passed down from the colonial administrators to the post-independence legislators, and endures today with amendments here and there. Although Britain subsequently repealed the anti-sodomy and buggery laws in her own country, the same legal reform was not extended to her former colonies that now compose the Commonwealth countries. It would do a lot of good to the sexual minority rights cause and LGBTIQ movement in Anglophone countries if the United Kingdom took responsibility for her colonial role in originating the criminalization of homosexuality in her former colonies. If Britain was transparent, forthright and admitted her colonial role in imposing anti-homosexuality legislature, then Ugandan legislators and politicians would be forced to contend with the foreignness of the origin of the country's statute books. Perhaps, their anti-colonial passion and outcry for sovereignty would allow Uganda's leaders to be more open and willing to critically analyse, engage and reform the current national legal regime which criminalizes homosexuality.

In the light of the widespread acceptance of paraphernalia and symbols of the international gay culture in the local Ugandan LGBTIQ communities, the linkages and transnational flows between the global, regional and local levels of queer organizing, sociability and politicking are undeniable. Adoption of the rainbow flag, Mardi gras, the sacred reverence and remembrance of the Stonewall riots, the colour pink, labels such as Sappho, and even the very nomenclature of western LGBTIQ cultures, are some of the characteristics that reveal the influences of a globalised queer culture within local LGBTIQ communities in Uganda. Connections with ILGA, IGLHRC, IDAHO and several other global or foreign LGBTIQ advocacy organizations are variously evident in the LGBTIQ communities in Uganda. However, there is also a disparate and distinct sense of the formation and growth of a local LGBTIQ social movement in the country. Although it is informed and perhaps supported by the global LGBTIQ movement, the local Ugandan sexual rights movement is conceived and sustained in the crucible of diverse challenges, opportunities and realities on

the ground. Rather than the westernized battles for same-sex unions, adoption of children by same-sex couples, serving in the military, etc, the local Ugandan LGBTIQ movement tackles different battles that are peculiar to the unique social, cultural, political and economic context including fighting for their right to life, the right to non-discrimination on grounds of their sexual orientation and gender identity, freedom of assembly and organizing, the right to security and safety of person and property, freedom from arbitrary arrests, torture or inhumane treatment, the right to privacy and protection from libel and sedition in the public press.

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