

LGBT rights = Human rights?

An Examination of LGBT Rights and Human Rights Law in the Case of Uganda

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INTRODUCTION

Over the course of the last three decades, the tolerance of the lesbian, gay, bisexual, transgender (LGBT) rights movement has become a subject of considerable dialogue and debate in the Western world. However, the fact remains that in Africa, LGBT rights are not getting better—they are getting worse. African countries have mixed views on the right to freedom from discrimination of sexual orientation. In 2010, over 38 countries in Africa have legislated and legalized criminalization of homosexuality, some even promoting the death penalty for such offenses.¹ As LGBT rights have come under attack throughout Africa, recent international attention has led to a renewed discussion on whether or not LGBT rights should be considered human rights. The purpose of this paper is to argue that Uganda's stance on LGBT rights is in violation of human rights law, and that this violation persists despite having officially signed and ratified many international treaties promising to uphold human rights standards. In order to come to a conclusion, the paper seeks to investigate the issue from the perspectives of various African governments, political leaders, Non Governmental Organizations (NGOs), religious organizations, and individuals in Uganda, all of whom have spoken on this highly contentious debate.

The argument of the situation of LGBT rights in the case of the country of Uganda is outlined in the following four sections. First, it will draw upon the historical and present views of LGBT rights in Africa. Second, it will look at the view of homosexuality in Uganda up to 2009. Third, it will examine the context and objectives of the 2009 "Anti-Homosexuality" Bill submitted to

Uganda's parliament. Fourth, it will outline the various reactions from actors related to the Bill including the President of Uganda, religious groups, the media, the United Nations, and various NGOs. Fifth, it will argue that Uganda is in violation of human rights law, despite having signed and ratified many international treaties and making pledges to uphold human rights standards. Lastly, the paper will conclude with a call for the reform of all of Uganda's stances towards LGBT rights, especially of the torture, discrimination, abuse, and inequalities that the Penal Code and government place upon LGBT individuals within Uganda.

LGBT RIGHTS IN AFRICA

There have been some historic wins for LGBT rights in Africa but multiple disconcerting losses in the second half of the 20th century. For example, in South Africa the LGBT movement is considered a success, where gay marriage is now legal. The movement has failed, however, to institutionalise and protect LGBT rights in many other countries.² In Africa, homosexuality is still a topic which carries many negative connotations; it is perceived as a 'western thing' or not important, denoting the extremities of existing social conservatism.³ The African LGBT community is increasingly under threat and has been for quite some time. Cultural scholar Marc Epprecht stated that by the mid-1990s, equal rights had become a:

"watershed for gays, lesbians, and transgendered people in the southern Africa. On the one hand, South Africa's 1996 constitution included the right to freedom from discrimination on the basis of sex, gender, and sexual orientation. On the other hand, the presidents of Zimbabwe, Namibia and other African nations, vehemently denounce homosexuality and equality gay rights with western imperialism."⁴

¹ Gilbert Ongachi, "Africa: Gay rights-the Ninth MDG?" *AllAfrica.com*, September 21st, 2010, <http://allafrica.com/stories/201009220858.html>.

² Ongachi, "Africa: Gay rights."

³ Samantha Spooner, "Africa: No Pro-Gay Theology, This is Africa," *All Africa*, June 3rd, 2010, <http://allafrica.com/prinatble/201006031133.html>.

⁴ Marc Epprecht, "What an abomination, a rottenness of culture: Reflections upon the gay rights movement in sub-Saharan Africa," *Canadian Journal of Development Studies* 22 (2001 Special Issue): 189.

Today, 38 of 54 countries in Africa still criminalize homosexuality.⁵ While South Africa has become the first African nation to legalise same-sex marriage, the International Lesbian, Gay, Bisexual, Trans, and Intersex Association state on their website that the countries Mauritania, Nigeria, Sudan, and Somalia all have legislation which punishes homosexuality by penalty of death.⁶ In contrast, more than 85 countries around the world criminalize consensual homosexual conduct between adult men, and often between adult women.⁷ More than half of these laws stem from the implementation of British colonial law's Section 377.⁸ Section 377 is recognized as the first "sodomy law", and was integrated into the British penal code and adopted by the following African countries during colonization:

Botswana, Gambia, Ghana, Lesotho, Malawi, Nigeria, Seychelles, Sierra Leone, Somalia, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe.⁹ African leaders have openly attacked the LGBT community, even going as far as to refer to homosexuals as "worse than dogs or pigs" as Zimbabwe president Robert Mugabe once did.¹⁰ These "sodomy laws" have been put into effect in various countries throughout Africa. Burundi, Uganda's close southern neighbor, has also taken steps towards banning homosexuality. In 2009, the president of Burundi signed into law a revision of the Penal Code which, for the first time in history, includes a prohibition of same-

sex relations by changing Article 567 to punish such relations with up to two years imprisonment upon conviction.¹¹ In addition, in October 2006, a United Nations agency urged the government of Cameroon to repeal its laws that criminalize homosexuality following the detention of 11 men

on the basis of their presumed sexual orientation.¹² However, it is the case of the country of Uganda that stands out, having made commendable strides towards the proliferation of human rights, yet also having taken steps in the opposite direction when it comes to LGBT rights.

THE CASE OF UGANDA

The case of LGBT rights in Uganda has been put into the limelight given that the immediate climate of politics in the country has

reached greater international attention. In Uganda, a climate of social and state-sponsored discrimination has developed to deny same-sex practising people from the practice of basic human rights and an equal footing with their heterosexual counterparts.¹³ For years, the government of Uganda has used criminalization of homosexual conduct to threaten and harass its citizens.¹⁴ In fact, in 2007, some citizens marched in the hundreds to threaten and endorse punishment for LGBT people, calling them "criminal" and "against the laws of nature."

¹⁵ Amnesty International has repeatedly reported on cases of torture and cruelty as well as inhumane

"For years, the government of Uganda has used criminalization of homosexual conduct to threaten and harass its citizens. In fact, in 2007, some citizens marched in the hundreds to threaten and endorse punishment for LGBT people, calling them 'criminal' and 'against the laws of nature.'"

⁵ International Gay & Lesbian Human Rights Commission, "Call by African Civil Society: Reject the Anti-Homosexuality Bill," Accessed October 16th, 2010. <http://www.iglhrc.org/cgi-bin/iowa/articles/takeaction/resourcecenter>.

⁶ International Gay & Lesbian Human Rights Commission, "Call by African."

⁷ Human Rights Watch, "This Alien Legacy: The origins of 'Sodomy' Laws in British Colonialism," Human Rights Watch, Accessed October 17th, 2010. www.hrw.org/en/publications.

⁸ Human Rights Watch, "This Alien Legacy."

⁹ Human Rights Watch, "This Alien Legacy."

¹⁰ Ongachi, "Africa: Gay rights."

¹¹ Human Rights Watch, "Forbidden: Institutionalizing Discrimination Against Gays and Lesbians in Burundi," Human Rights Watch, October 17th, 2010, <http://www.hrw.org>.

¹² International Gay & Lesbian Human Rights Commission, "Call by African."

¹³ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights of Lesbian, Gay, Bisexual and transgender people in the Republic of Uganda under the African Charter of Human and Peoples' rights: Gambia," International Gay & Lesbian Human Rights Commission. Accessed October 17th, 2010, <http://www.iglhrc.org>.

¹⁴ Human Rights Watch, "This Alien Legacy."

¹⁵ Human Rights Watch, "This Alien Legacy"

and degrading treatment perpetrated against members of the LGBT community in Uganda.¹⁶

As it now stands, Uganda's Penal Code includes the criminalization of homosexual acts. Article 140 criminalizes "carnal knowledge against the order of nature" and imposes a maximum penalty of life imprisonment.¹⁷ Article 141 punishes "attempts at carnal knowledge with a maximum sentence of 7 years imprisonment and article 143 outlaws acts of "gross indecency", imposing up to 5 years imprisonment by way of penalty.¹⁸ Despite the clear-cut ruling of the Human Rights Committee condemning sodomy laws, Articles 140, 141, and 143 remain intact and enforced in Uganda, with many LGBT citizens being arrested.¹⁹ Police and government officials are reported for having harassed and restricted the right to freedom of expression by repressing supporters of LGBT rights. Police arrested three LGBT activists on June 4 at the 2008 HIV/AIDS committee meeting in the capital after they peacefully protested the lack of an official government response to HIV/AIDS within LGBT communities.²⁰ Overall, it is reasonable to assert that the situation for LGBT rights in Uganda was already very poor until 2009, when the government of Uganda introduced a Bill that would take an even harsher stance against the human rights of LGBT citizens.

ANTI-HOMOSEXUALITY BILL

In 2009, the rights of LGBT citizens experienced a dramatic downward turn in Uganda. The introduction of the "Anti-Homosexuality Bill" took place on October 14th, 2009 in Uganda's parliament by the Hon David Bahati, a member of Parliament from the Ndorwa county of West

Kabale.²¹ Also known as the "killing of the gays" bill, the draft proposed stricter penalties for homosexual acts—already illegal in Uganda—and the death penalty for anyone who is shown to have engaged in acts of "aggravated homosexuality."²² Acts of Aggravated homosexuality would fall under circumstances such as same-sex relations with children under 18, disabled people, or anyone who is HIV-positive while having gay sex.²³ The object of the Bill, stated in section 1.1 is outlined as follows:

"to establish a comprehensive consolidated legislation to protect the traditional family by prohibiting (i) any form of sexual relations between persons of the same sex; and (ii) the promotion or recognition of such sexual relations in public institutions and other places through or with the support of any Government entity in Uganda or any nongovernmental organization inside or outside the country."²⁴

The Bill also proposes a seven-year jail sentence for the "promotion of homosexuality."²⁵ The Bill is pending on the floor, and has not yet to come up for vote in parliament, however, discussion of the bill has created increasingly heated dialogue, with both national and international actors becoming involved.

REACTIONS

In order to fully understand the complexity of this issue, it is important to examine various reactions from a number of different actors related to the

¹⁶ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights," 4.

¹⁷ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights," 4

¹⁸ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights," 4

¹⁹ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights," 4

²⁰ Human Rights Watch, "World Report 2010: Events of 2009," Human Rights Watch. Accessed October 17th, 2010, www.hrw.org/en/publications.

²¹ Human Rights Watch, "Uganda: 'Anti-Homosexuality' Bill Threatens Liberties and Human Rights Defenders," Human Rights Watch. Accessed February 28, 2011 Human Rights Watch. <http://www.hrw.org/en/news/2009/10/15/uganda-anti-homosexuality-bill-threatens-liberties-and-human-rights-defenders>.

²² Mail & Guardian, "Rights groups blast Ugandan gay death penalty Bill" *Mail & Guardian*. October 16th, 2009. <http://mg.co.za/printformat/single/2010-01-16-rights-groups-blast-uganda-gay-death-penalty-bill>.

²³ Mail & Guardian, "Rights groups blast"

²⁴ Jim Burroway, "Sloughing Towards Kampala: Uganda's Deadly Embrace of Hate" *Box Turtle Bulletin*. December 15th, 2009. <http://www.boxturtlebulletin.com/slouching-toward-kampala>.

²⁵ Mail & Guardian, "Rights groups blast."

Bill. Reactions have been critical to the stream of debate that has erupted from the Bill and for understanding the actors in play on the debate of LGBT rights in Uganda. The reactions from the President, religious groups, the media, the United Nations, and NGOs together illustrate the varying perspectives on LGBT rights, suggesting that there is little common ground, on the opinion of LGBT rights in Uganda.

President Museveni

President Museveni has long been an outspoken critic of homosexuality from a survey his past actions, as in 1999 when he ordered the Criminal Investigations Department to “look for homosexuals, lock them up and charge them,”²⁶ it is easy to recognize that the President is not in favor of LGBT rights. In addition, President Museveni has put forth that “Ugandans are opposed to homosexuality because it is not part of African culture,”²⁷ and that resistance against homosexuality in Africa is historical, stating that “When they hear us fighting homosexuality, they think we do so because of religion. No. Even before religion came, we were against it and many other vices.”²⁸ These statements are troubling in that they come from a political leader, especially given his stance of firmly believing that homosexuality is in fact not natural to Africa believing Africa to be heterosexual, and because he is projecting a message of hate on the national political level in Uganda which in turn is being projected throughout the continent.

However, while President Museveni first supported the Bill, he has now distanced himself from it. In talking with his ruling party regarding the handling of the Bill he has stated that it “must take into account our foreign policy interests.”²⁹

²⁶ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, “Report on the rights,” 5.

²⁷ Ephraim Kasozi and Patience Ahimbiswe, “Opposed to Homosexuality- Museveni.” *Allafrica.com*. June 4th, 2010. <http://allafrica.com/stories>.

²⁸ Francis Kagolo, “Uganda: Museveni Warns of Dangers to Sodomy.” *Allafrica.com*. June 3rd, 2010. <http://allafrica.com/prinatable/201006040260.html>.

²⁹ Mail & Guardian, “UN Urges Uganda to scrap anti-gay legislation.” *Mail & Guardian*. January 16th, 2010. <http://mg.co.za/printformat/single/2010-01-16-un-urges-uganda-to-scrap-antigay-legislation>.

Therefore, it is reasonable to suggest that later discussions with Prime Minister Gordon Brown at the Commonwealth conference had changed his willingness to openly condemn the rights of LGBT citizens.³⁰ The Obama administration has also condemned the bill, suggesting that it would move against the tide of history.³¹ While leaders of other countries might have been successful in urging President Museveni to reconsider his open stance on the Bill, other political actors inside Uganda have not quieted their support for the Bill. The Ugandan Ethics and Integrity Minister James Nsaba Buturo has said that “the state of moral health in our nation is challenging and we are concerned about the mushrooming of lesbianism and homosexuality.”³² Ugandan politicians seem split on this issue and many have pledged continuing support for the Bill and seek to see it passed by parliament and legislated.

Religious Groups

There has been increased campaigning against and for LGBT rights in Uganda led by churches and anti-gay groups. Moreover, these religious groups have taken an extremely vocal role on the Bill. The Bishop of Harare Church in the province of Central Africa, Dr. Chad Gandiya, has condemned “the rapidly increasing” homosexuality in the world stating that “We are living in a world which is upside down...We need people to stand up for the truth and reject homosexuality.”³³ Another influential religious leader, Pastor Martin Ssempe, organized a rally to unite “Uganda people” in support of a draft bill, agreeing that homosexual acts should be punishable by life in prison, and death in some circumstances.³⁴ The American evangelist Scott Lively has also been linked to encouraging the creation of the Bill, having visited the nation numerous times advocating against homosexuality, as reported by

³⁰ Mail & Guardian, “UN Urges Uganda.”

³¹ Kerry Eleveld, “White House Condemns Antigay Uganda Bill.” *The Advocate*. December 12, 2009. <http://www.advocate.com>

³² Human Rights Watch, “World Report 2010

³³ Francis Kagolo, “Uganda: Museveni Warns.”

³⁴ Samantha Spooner. “Africa: No Pro-Gay,” 2.

Time magazine.³⁵

However, not all religious groups are behind the Bill. A coalition of 120 religious leaders has called on the government of Uganda to protect the human rights of LGBT citizens.³⁶ These faith leaders have submitted a letter, with signees including Nobel Peace Prize Laureate Desmond Tutu, Rev. Rebecca Voelkel, Rev. Dr. Jane Spahr, Rev. Troy Plummer, and Rev. Dr. Brent Hawkes, stating that:

“The African Charter on Human and Peoples’ Rights affirms the equality of all people and the International Covenant on Civil and Political Rights protects the right to equality, freedom of expression, freedom of conscience, freedom of assembly, and freedom of association. We are only asking that you hold up on the solid principles your government espouses.”³⁷

Furthermore, this group of religious and judicial officials point out that Uganda has the potential to become a model of compassion for, and understanding of LGBT citizens to the world.³⁸ Christopher Senteza, a committed Christian and gay activist, states from his experiences with outreach in the Ugandan community, that Ugandan society is split on the issue of homosexuality, between those in cities and towns and those in rural areas.³⁹ This strong social division highlights the heightened level of intolerance and acceptance within the society that has only been exasperated by the reactions from actors, such as religious groups within the community. These religious actors are playing a vital role on the ground in support and against LGBT rights.

³⁵ Huffington Post, “Ugandan Judge Orders Newspaper To Cease Gay Outings.” *The Huffington Post*. November 2nd 2010. <http://www.huffingtonpost.com>.

³⁶ International Gay & Lesbian Human Rights Commission, “Call by African Civil.”

³⁷ International Gay & Lesbian Human Rights Commission, “Call by African Civil.”

³⁸ International Gay & Lesbian Human Rights Commission, “Call by African Civil.”

³⁹ Smyth Harper, “My Life as a gay Ugandan Christian.” *BBC News*. October 27th, 2003. <http://news/bbc.co.uk/mpapps/pagetools/print/news/new.bbc.co.uk/>.

Media

The Ugandan media has played an extremely destructive role in the promotion of hate against LGBT citizens. Steps were taken against LGBT rights prior to the Bill, having publicly pointed out individuals they accused of being gay or lesbian.⁴⁰ In 2007, a Ugandan newspaper the *Red Pepper*, ranked 11th by popularity based in the city of Kampala, published a list of first names, workplaces, and other identifying information of 45 alleged gay men.⁴¹ The paper wished to “show the nation ...how fast the terrible vice known as sodomy is eating up our society.”⁴² In April 2009, the same tabloid featured another headline called

“In 2007, a Ugandan newspaper the *Red Pepper* [...] published a list of first names, workplaces, and other identifying information of 45 alleged gay men. The paper wished to ‘show the nation ...how fast the terrible vice known as sodomy is eating up our society.’”

the “killer dossier’ titled ‘Top homos in Uganda named.’”⁴³ In regards to the “Anti-Homosexual Bill” another Ugandan newspaper ran in 2010 a front-page story giving pictures, names, and addresses of Uganda’s “top homos,” beneath a

headline that read “Hang Them.”⁴⁴ Since the story ran on October 9th, in a newspaper called *Rolling Stone*—no relation to the American magazine of the same name— at least four gay Ugandans have been attacked, and many others have gone into hiding.⁴⁵ In addition, Western media outlets took a controversial role in the debate over the Bill, with

⁴⁰ Human Rights Watch, “Uganda: ‘Anti-Homosexuality’ Bill.”

⁴¹ Huffington Post, “Ugandan Judge Orders.”

⁴² Human Rights Watch, “World Report 2010.”

⁴³ Huffington Post, “Ugandan Judge Orders.”

⁴⁴ Jay-ar Mendoza, “Ugandan Newspaper Outs Gay, Suggests Lynching” *Allvoices*. Accessed October 19th, 2010. <http://www.allvoices.com/contributed-news/7073264-ugandan-newspaper-outs-gays-suggests-lynching>.

⁴⁵ Mendoza, “Ugandan Newspaper Outs.”

a poll taken by BBC asking its viewers “Should homosexuals face execution in Uganda?”⁴⁶ Lynne Featherstone, a liberal democratic member of British parliament, wrote to the BBC general director saying, “I would be the first person to stand up for open debate and free speech...[but] suggesting that the state-sponsored murder of gay people is OK as a legitimate topic for debate is deeply offensive.”⁴⁷ The role of media has played a role in bringing the debate of LGBT rights in Uganda to the international agenda, but NGOs have been the most outspoken on the issue.

Non-governmental organizations

On the day that the draft of the Bill was introduced into Uganda parliament, over 17 local and international human rights groups immediately condemned it, with the following organizations denouncing the Bill: Amnesty International, ARC International, Article 19, Center for Women’s Global Leadership, COC Netherlands, Eagle Canada, Human Rights Watch, International Gay And Lesbian Human Rights Commission (IGLHRC), LAMBDA Mozambique, Uganda Feminist Forum (UFF), and the World AIDS Campaign⁴⁸. Furthermore, over 63 African based civil society organizations have denounced the Bill including: African Men for Sexual Health and Rights (Cameroon), AIDS Law Project (South Africa), Centre for Human Rights and Rehabilitation (Malawi), Freedom and Roam (Uganda), Pambazuka News (Kenya), (Call for African Civil Society)⁴⁹. Victor Mukasa, of IGLHRC, argued strongly against the Bill stating that “[t]his inflammatory bill will be taken as further confirmation that it is OK to attack or even kill people perceived to be lesbian.”⁵⁰ NGOs have played and continue to play a vital role in promoting LGBT rights as human rights, and evidence suggests that they are not alone in this claim, with the given statements by officials from

the United Nations on this matter.

United Nations

Actions taken by the United Nations are pivotal to the discussion as to whether or not LGBT rights should be seen as human rights, because many of the international treaties stem from definitions made by the UN bodies. Navi Pillay, the UN’s High Commissioner for Human Rights, has called on Uganda to drop the proposed Bill, condemning the Bill as discriminatory and called for homosexuality to be decriminalized in the country.⁵¹ Pillay stated “[t]o criminalize people on the basis of color or gender is now unthinkable in most countries. The same should apply to an individual’s sexual orientation.”⁵² Officials from the UN such as Pillay have noted that legislation which criminalizes homosexuality violates international laws that seek to protect individuals’ rights to privacy and protect individuals from discrimination.⁵³ The UN declared that sodomy laws are inconsistent with countries’ obligations to protect the right of non-discrimination under the International Covenant on Civil and Political Rights.⁵⁴ According to the UN Human Rights Committee, sexual orientation is a status protected under the ICCPR from discrimination, finding that the reference to sex in articles 2.1 and 26 is to be taken as including sexual orientation. Article 17 of the ICCPR states that:

No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, or to unlawful attacks on his honour and reputation.⁵⁵

Therefore, the UN has made the case that sexual orientation fall under the jurisdiction of freedom from discrimination under international humanitarian law. In addition, a stronger case for

⁴⁶ Rhonda Mangus, “BBC Defends, Ditches Controversial Uganda Gay Execution Poll.” *Now Public*. December 17, 2009. <http://www.nowpublic.com/world/bbc-defends-ditches-controversial-uganda-gay-execution-poll>.

⁴⁷ Mendoza, “Ugandan Newspaper Outs.”

⁴⁸ Human Rights Watch, “Uganda: ‘Anti-Homosexuality’ Bill.”

⁴⁹ Human Rights Watch, “World Report 2010

⁵⁰ Human Rights Watch, “Uganda: ‘Anti-Homosexuality’ Bill.”

⁵¹ Mail & Guardian, “UN Urges Uganda.”

⁵² Mail & Guardian, “UN Urges Uganda.”

⁵³ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, “Report on the rights,” 3.

⁵⁴ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, “Report on the rights,” 3.

⁵⁵ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, “Report on the rights,” 3.

LGBT rights exists with the backing of the UN in its stance that LGBT rights must be considered as equivalent to human rights.

LGBT RIGHTS = HUMAN RIGHTS

By violating LGBT rights, Uganda is currently in violation of various international obligations that its own government has signed and ratified. The *Report On The Rights of Lesbian, Gay, Bisexual and Transgender People in the Republic of Uganda Under the African Charter of Human Rights and Peoples Rights* was prepared to inform of such violations for the 40th session of African Commission of Human Peoples and People Right's Rights on November 26th, 2006. The report outlined the various international human rights conventions that Uganda has inscribed and ratified to, making its stance on human rights obligations public. The report pointed out that in addition to signing and ratifying the African Charter,⁵⁶ Uganda is a State party to the International Covenant on Economic, Social, and Cultural Rights (ICRESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention of the Elimination of All Forms of Discrimination against Women⁵⁷ (CEDAW) and the Convention on the Rights of the Child⁵⁸ (CRC).⁵⁹ All these treaties focus on improving the human rights obligations of its member countries. Uganda has promised to meet international standards of respect for human rights, such as declaring in its May 2006 report to the African Commission that "the foreign policy of Uganda shall be based on the principles of respect for international law and treaty obligations and opposition to all forms of domination, racism and other forms of oppression and exploitation."⁶⁰ This statement suggests that while Uganda is willing to make the needed steps towards respecting human rights, Uganda's actual actions of infringing on sexual minorities groups suggest that it is failing to uphold and respect international law.

⁵⁶ Signed on 18 August 1986, ratified on 10 May 1986.

⁵⁷ Signed on 30 July 1980, ratified on 22 July 1985

⁵⁸ Signed and ratified on 17 August 1990.

⁵⁹ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights."

⁶⁰ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights."

Furthermore, the fact that many international actors and agencies have condemned Uganda's actions makes it reasonable to suggest that LGBT rights are being considered as human rights by the international community. It has been stated that the most important universal human right is the right to not be discriminated against, yet sexual minorities in 38 countries of Africa suffer from these discriminatory everyday practices every day.⁶¹ According to the UN Human Rights Committee, states should be encouraged to offer their citizens legal protection against discrimination."⁶² State leaders and legislators should not discriminate or condone any type of discrimination. To do so is against international standards of law. Therefore, it is within reason that this paper suggests, that from this discriminating Bill, there is a stronger argument for LGBT rights to be considered equal to human rights. All that is needed now is the implementation of this idea by countries such as Uganda.

CONCLUSION

Until the emergence of binding international instruments, LGBT Africans will continue to be persecuted, killed, beaten, arrested, and alienated because they choose to love.⁶³ While reports suggest that the death penalty and life imprisonment penalties are being dropped to attract support of religious leaders who are opposed to the penalties,⁶⁴ the end of the persecution of LGBT rights is not in sight and is currently getting worse in many countries. Marc Eppercht suggested in 2001 that "gay rights movement in southern Africa, while small and friable as it is, stands at the forefront of struggles."⁶⁵ The LGBT rights movement continues to struggle throughout multiple countries in Africa, but, while LGBT rights are getting worse, there is considerably stronger support of LGBT rights equalling human rights than ever before. Gilbert Ongachi, a reporter, has stated that "the only assistance homosexual people in Africa regularly

⁶¹ Human Rights Watch, "World Report 2010."

⁶² International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights."

⁶³ Ongachi, "Africa: Gay rights."

⁶⁴ Eleveld, "White House Condemns."

⁶⁵ Eppercht, "What an abomination."

receive comes via international media and diplomacy around major incidents,”⁶⁶ and this paper agrees that further action is needed then after the fact responses. While world leaders met in 2010 in New York to discuss accelerating progress toward achieving the Millennium Development Goals (MDGs), Ongachi has called into question why the LGBT community has been deliberately left out of these goals. He stated “what happens to all those gays and lesbians who don’t make international headlines but suffer discrimination on a daily basis...who are increasingly under threat.”⁶⁷ In this sense, Ongachi’s suggestion that LGBT rights should be the Ninth MDG in Africa is legitimate; in fact this paper implores the United Nations to adopt LGBT equality as the Ninth MDG. The International Gay and Lesbian Human Rights Commission and Sexual Minorities of Uganda have called for the needed reform of Uganda’s stance towards LGBT rights in the following five areas:

- (1) Reform of impunity for torture and cruel, inhuman and degrading treatment.
- (2) Reform of the police system to ensure accountability for abuse of police powers.
- (3) Reform of Uganda’s Penal Code to remove the discriminatory Articles 140, 141 and 143.
- (4) Reform of Uganda’s HIV/AIDS “Abstinence-until-marriage” policy.
- (5) Reform of the same-sex marriage prohibition recently added to the Ugandan Constitution.⁶⁸

These are the required standards that every country should strive to adopt if they wish to stand true to committing LGBT rights equal to human rights. While it might be getting worse for LGBT rights at the moment in Uganda, hopefully Africa can learn to accept LGBT rights as human rights.

An Evaluation of Waltz’s Structural Realism and the Suggestion of a Harmonized Theory

Cassandra Muldoon

International relations theory aims to understand, explain, and at times predict international events and their outcomes. Neorealist theory, from which Kenneth Waltz’s structural realism is derived, is no different. It aims to “define the structure of international political systems” through a revision of Morgenthau’s Realist theory and the establishment of an “autonomy of international politics.”¹ Morgenthau’s Realism, however, is faced with many limitations that are accentuated when contrasted with liberalism and constructivism. Hence, although an upstanding political theory, Waltz’s structural realism is exclusively effective in dealing with past events. However, in combination with the aforementioned theories, structural realism may contribute to the creation of a harmonized political theory. In this paper, Waltz’s structural realism will be outlined in order to set the parameters for its examination. Then, both liberal theory and constructivism will be presented as challenges to structural realism and to each other. Finally, this paper will suggest a revised structural theory that reforms its weaker points and moves towards the establishment of a harmonized theory.

Structural realism is predicated on the assumption that the “structure of the international political system is defined first by its organizing principle, which is anarchy.”² As such, units are “ordered” by the same fundamental forces making them “functionally alike”, for as they compete with one another, they will begin to “imitate each other and become socialized to their systems.”³

¹ Kenneth N. Waltz, *The Origins of War in Neorealist Theory* (Orlando: Harcourt Brace College Publishers, 1999), 49.

² “Kenneth Waltz,” 2003 episode of *Conversations with History* (University of California, Berkley, 1982-2011; youtube.ca) 23:16 – 23:30.

³ Robert Keohane, *Realism, Neorealism and the Study of World Politics* (New York: Colombia University Press, 1986), 14.

⁶⁶ Ongachi, “Africa: Gay rights.”

⁶⁷ Ongachi, “Africa: Gay rights.”

⁶⁸ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, “Report on the rights.”